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Feb 28 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chesterfield County

Honorable Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ALVARO SELESTE MCBRIDE,

APPELLANT.

APPELLATE CASE NO. 2024-000988

RECORD ON APPEAL

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EXHIBITS

(NONE)

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1 P R O C E E D I N G S

2 THE PROSECUTOR: May it please the Court?

3 THE COURT: Yes, ma'am.

4 THE PROSECUTOR: Judge, this is the case of
5 State v. Alvaro McBride indicted for kidnapping on
6 2020-GS-13-1292; criminal sexual conduct first
7 degree on 1293; burglary first degree on
8 2020-GS-13-1383; breaking into a motor vehicle on
9 1290; financial transaction card theft on 1291; and
10 burglary third on 1384.

11 He was actually to be tried this week on the
12 kidnapping, CSC first, and burglary first. This
13 trial ended up getting continued, and I'll let
14 Ms. Little address that.

15 There has been two previous motions to be
16 relieved. The defendant appeared before Judge
17 Nettles and wanted Ms. Little removed as her -- his
18 attorney, and Judge Nettles declined. Ms. Little
19 appeared before Judge Culbertson and asked to be
20 relieved, and Judge Culbertson denied. I believe
21 there is a new motion to be relieved. The State
22 has no objection just based on what I have
23 witnessed in the courtroom after Judge Culbertson
24 denied. I actually witnessed -- as did other court
25 staff who can verify -- saying things to her in a

1 negative manner as he's being led out of the
2 courtroom. But I'll turn it over to Ms. Little at
3 this time.

4 THE COURT: Ms. Little.

5 MS. LITTLE: Thank you, Your Honor. May it
6 please the Court?

7 Your Honor, so the record will be clear,
8 Judge Holt -- I had -- Ms. Johnson-Lee was in
9 Darlington, and she and I went before Judge Holt.
10 At the time, I was under the impression -- well, my
11 client wanted to fire me, and we both agreed that
12 the relationship was not working out. So Judge
13 Holt was fine with it, and he wanted to have a
14 consent order. I signed it and Ms. Lee signed it
15 at the jail, but the defendant -- he's telling me
16 he didn't really understand what it said, so he did
17 not consent, and that's the reason that we're here
18 today, Judge.

19 Unfortunately, this is one of those times
20 when -- and I don't like to do this. I know this
21 is the second time today that I've asked to be
22 relieved. Normally, I will stick it out. This has
23 just gotten to the point now where it's kind of
24 antagonistic. He has in court said many nasty
25 things about me or about my competency as an

1 attorney, also out at the jail. I just don't feel
2 that I can give him the representation that he
3 needs.

4 He thinks -- I think it maybe has something
5 to do with the fact that I'm a female, and this is
6 a CSC case, and he would feel better with a male
7 attorney. I know he can't pick his lawyer, Judge,
8 but I'm just asking that it be another lawyer
9 besides me.

10 THE COURT: Well, whatever has been said, I
11 know, Ms. Little, the respect I have for you. You
12 are one of the most experienced attorneys we've got
13 in this area, and you've always done an excellent
14 job.

15 What would you like to say, Mr. McBride?

16 MR. McBRIDE: Judge Burch, it's been a long
17 time since I've seen you. Last time I was in the
18 courtroom when I was in front of was ten years ago
19 now. And I just want to say, Your Honor, you are
20 fair and you are a just judge.

21 As far as the matter and my lawyer, I have,
22 if it's okay -- I understand it's my right, you
23 know, to bring up a few issues pertaining to the
24 case. I have that right, I believe. And as far as
25 my attorney goes, I wouldn't call it antagonistic,

1 because I haven't pretty much discussed any type of
2 defense as far as my case with her. We have -- we
3 had one thing where she put me up in front of the
4 judge for a bond hearing that one time. It was
5 denied.

6 The second time, she told me it was a bond
7 hearing, but going in front of the judge -- what is
8 that judge back in November? I can't remember his
9 name -- Nettles I believe it was -- and it wasn't a
10 bond hearing. I don't know what it was. I know it
11 wasn't a bond hearing. I asked her for a few
12 different things about filing this and doing this,
13 and she never did it. Me and her discussed other
14 things, didn't have nothing to do with the case. I
15 believe her objectivity was compromised. I believe
16 her and Ms. Mary have some sort of relationship
17 outside the case, and that's just me. That's just
18 me. I'm not saying that is what it is. That's
19 just my belief, Your Honor.

20 And like she said, this is a CSC case. I got
21 a white victim and white attorney, white prosecutor
22 giving me something -- I feel like I'm not giving a
23 fair deal here. And this whole case has been
24 nothing but prejudice in my behalf. Everything
25 against me has been put together to keep me to have

1 an unfair trial and to prepare a proper defense,
2 You Honor.

3 Not only that, I had asked Ms. Little to file
4 a motion on behalf of the fact that I filed in a
5 timely manner for a preliminary hearing. I never
6 had that hearing. I've been incarcerated three
7 years now, Judge Burch. I never had that hearing.
8 I got up, I issued (inaudible) of the indictments
9 against me, and she never tried to do anything
10 about it.

11 So, I mean, I want to raise those issues
12 today, if I can, because I know I have a
13 preliminary hearing. I have proof right here and
14 the copies of the papers I filled out.

15 And not only that, Your Honor, it took them
16 14 months from the time I was arrested to appoint
17 me counsel.

18 THE COURT: All right. We're going to take
19 care of both. Let me clarify something for you.
20 Once an indictment is true billed, you don't have
21 any further right to a preliminary hearing.

22 MR. McBRIDE: (inaudible) true bill. I have
23 a copy of one of the indictments I have, because
24 the law states that in order for it to be true
25 billed, it has to have grand foreman's signature in

1 the application step of the true bill.

2 THE COURT: It wouldn't be on your copy. It
3 would be on the master with the clerk.

4 MR. McBRIDE: As far as the Brady and
5 (inaudible), I should have that copy. I don't have
6 that (inaudible), Your Honor.

7 THE COURT: Well, we can get you the true
8 copy of the ones that are on file with the clerk.
9 Please understand, once that is true billed by the
10 grand jury, and the supreme court has been very
11 clear on that, that there is no preliminary hearing
12 after that.

13 All right. I'm going to appoint a very
14 experienced contract lawyer to help you with this.

15 Somebody do me an order appointing Jay Ervin,
16 and you all get to work on it, and let's get this
17 thing tried.

18 THE PROSECUTOR: Yes, Your Honor. Thank you.

19 MR. McBRIDE: And I have one more question.
20 I've been -- me and her never prepared anything of
21 (inaudible), and you all talking about having a
22 trial here soon. How am I going to be able to have
23 time to prepare for a defense?

24 THE COURT: Mr. Ervin takes care of that.
25 He'll set it up.

1 MR. McBRIDE: I have a copy of the motion I
2 wanted to submit. Is it okay I give it to you to
3 submit this motion?

4 THE COURT: You do not give me anything. You
5 give it -- you give that to Mr. Ervin.

6 MR. McBRIDE: I give it to Mr. Ervin?

7 THE COURT: Yeah.

8 MR. McBRIDE: When will I hear from Mr.
9 Ervin?

10 THE COURT: You have to give him a little
11 time because we have to do an order and get it to
12 him.

13 If you are represented, you do not file any
14 motions on your own. You make sure you give it to
15 your attorney. We have had a problem with that
16 earlier this week.

17 MR. McBRIDE: Yeah. I just learnt that when
18 you have representation, you can't file a pro se
19 motion. But, technically, right now I don't have a
20 lawyer, right?

21 THE COURT: No. You have Mr. Ervin right
22 now, a verbal order.

23 MR. McBRIDE: Okay. Yes, sir, Your Honor.

24 THE COURT: It will keep things smooth if you
25 give that to Mr. Ervin.

1 MR. McBRIDE: You doing okay, Mr. Burch?

2 THE COURT: It's been a long week. I'm fine.

3 MR. McBRIDE: I bet it has.

4 THE COURT: Ms. Little, would you make sure
5 Mr. Ervin knows that he has been appointed so you
6 can get that to him?

7 MS. LITTLE: I certainly will, Your Honor.
8 And I'll prepare that order and get it to you.

9 THE COURT: He may be more comfortable if I
10 ask Madam Clerk to do that.

11 Do you want me to do that?

12 MR. McBRIDE: What? File a motion?

13 THE COURT: I'll have Madam Clerk contact
14 Attorney Ervin as soon as we can today to say that
15 you are his client.

16 MR. McBRIDE: That would be great. Thank
17 you, Mr. Burch. God bless.

18 (Whereupon, the hearing concluded.)

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CERTIFICATE OF TRANSCRIBER

Case Name: State of SC v. ALVARO McBRIDE

Case No.: 2020-GS-13-01383

Date of Hearing: April 27, 2023

* * * * *

I, Natalie Dahl, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; **that said proceedings were transcribed to the best of my ability from the audio recording.**

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

Natalie Dahl, RPR

Natalie Dahl, Registered Professional Reporter and transcriber for the State of South Carolina

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1 trial pursuant to Blair. He was found criminally
2 responsible in the opinion from the Department of
3 Mental Health. He was also found competent to
4 stand trial. I have the proposed order finding of
5 competence to stand trial and authorization to
6 proceed with trial with the attached opinion on
7 that matter to hand up, and would ask the Court to
8 find the same.

9 THE COURT: What say the defense?

10 MR. GODWIN: Judge, I do not have concerns
11 about competency to stand trial under Blair.

12 THE COURT: All right. Based on what we have
13 already on the record and this report, I'll read
14 the last paragraph: "In summary, it is our opinion
15 that Mr. McBride has a sufficient, factual, and
16 rational understanding of his current charge and
17 has the capacity to assist his defense attorney in
18 the preparation of the defense. (Inaudible)
19 Therefore, it is our opinion that Mr. McBride has
20 the capacity to stand trial pursuant to State v.
21 Blair."

22 The Court finds that the defendant, Alvaro
23 McBride, is competent to stand trial, and I have
24 signed the order.

25 All right, Madam Clerk.

1 THE SOLICITOR: Would you like to mark this
2 as an exhibit?

3 THE COURT: We will make that Court's Exhibit
4 1 -- or it would be State's Exhibit 1 -- no
5 objection, correct? Any problem with it being
6 State's Exhibit 1?

7 MR. GODWIN: No, Judge.

8 THE SOLICITOR: No, Your Honor.

9 (State's Exhibit 1 marked and admitted.)

10 THE COURT: Anything else, Solicitor?

11 THE SOLICITOR: Not until Your Honor goes to
12 lay out the plea.

13 THE COURT: Okay. Let me take a look at the
14 paperwork.

15 All right. Burglary first degree, true
16 billed. Indictment for kidnapping also true
17 billed.

18 All right. Mr. McBride, I need to make sure
19 your background information is correct.

20 **EXAMINATION**

21 **BY THE COURT:**

22 **Q** You are 39 years of age?

23 **A** Yes, sir, Your Honor, I am.

24 **Q** And where are you from?

25 **A** From South Carolina, sir.

1 THE COURT: Madam Clerk, did we put him under
2 oath?

3 THE CLERK: No, Your Honor.

4 (ALVARO McBRIDE, having been duly sworn,
5 testified as follows:)

6 Q (BY THE COURT) What is your education?

7 A GED.

8 Q And what is your occupation?

9 A Unavailable right now, but I have many
10 skills. I can -- I can do electrician (sic), I
11 have certification in culinary arts. I can do
12 construction work. There is many other things I
13 can do. I'm an artist, do tattoos. Several
14 different things I can do.

15 MR. GODWIN: Judge, he's quite the skilled
16 tattoo artist I'm told.

17 THE COURT: Okay.

18 Q (BY THE COURT) Now, are you satisfied with
19 your representation?

20 A Highly.

21 Q If there is any problem with representation,
22 I need to hear it now.

23 A I have none.

24 Q Has Counsel answered all of your questions?

25 A Yes, he has.

1 Q Contacted everybody you asked him to contact,
2 if any?

3 A He has gone -- he has gone beyond what I had
4 expected.

5 Q With that said, do you understand his advice?

6 A Yes, sir.

7 Q Are you ready to enter pleas to these
8 indictments?

9 A Yes, I am, Your Honor.

10 Q All right. We'll take a look at them.
11 2020-GS-13-1383 is burglary first degree, allegedly
12 occurring in Chesterfield County, on or about June
13 the 11th of 2020. The indictment alleges that
14 you did in Chesterfield County on or about June 11,
15 2020, enter the dwelling of **Complainant** (ph),
16 located at **█** Kershaw Street in the Cheraw area,
17 without consent, with intent to commit a crime
18 therein, and the defendant did kidnap and sexually
19 assault the victim. All in violation -- the
20 burglary is in violation of 16-11-0311 of the Code
21 of Laws of South Carolina 1976, as amended.

22 How do you plead to the offense of burglary
23 first?

24 A Guilty, Your Honor.

25 Q The next indictment is 202-GS-13-1292 for

1 kidnapping. It alleges that Alvaro Seleste -- am I
2 pronouncing that correctly?

3 **A** Seleste.

4 **Q** Seleste, with an "E," McBride did, in
5 Chesterfield County, on or about June 11, 2020,
6 unlawfully seize, confine, inveigle, decoy, kidnap,
7 abduct, or carry away one **Complainant** without
8 authority of law, in violation of Section 16-3-0910
9 of the Code of Laws of South Carolina 1976, as
10 amended.

11 One thing I need to back up on, on the
12 burglary, you understand that the possible sentence
13 on that is anywhere from 15 years up to life?

14 **A** Yes, sir, I do, Your Honor.

15 **Q** How do you plead on the kidnapping
16 understanding that that could carry a maximum up to
17 30 years?

18 **A** I plead guilty, Your Honor.

19 **Q** Do you understand by entering these pleas
20 that you are waiving your Constitutional right to a
21 jury trial?

22 **A** Yes, I am, Your Honor.

23 **Q** Do you understand if you had a trial that the
24 State would have to prove your guilt beyond a
25 reasonable doubt and would have to convince 12

1 jurors -- that would be seated right over here to
2 my left, your right -- unanimously of your guilt?

3 **A** Yes, Your Honor, I understand that.

4 **Q** You understand that through your attorney you
5 could cross examine the State's witnesses and put
6 up your own defense and witnesses?

7 **A** Yes, Your Honor, I do.

8 **Q** At your defense, you could testify if you so
9 desired. You also would have a Constitutional
10 right to remain silent. If you elected not to
11 testify and invoke your Fifth Amendment rights, it
12 could not be held against you, and I would even
13 explain that to the jury that they couldn't hold it
14 against you.

15 **A** I do, Your Honor.

16 **Q** You understand that the State would have to
17 prove your guilt beyond a reasonable doubt?

18 **A** Yes, Your Honor, I do.

19 **Q** Okay. And the jury, if you were convicted --
20 in other words, you would have a right to appeal if
21 a jury did find you guilty?

22 **A** I do, Your Honor.

23 **Q** As long as you filed a Notice of Appeal
24 within 10 days of sentencing. The same applies to
25 guilty pleas. Do you understand that?

1 **A** Yes, I do, Your Honor.

2 **Q** Do you have any questions about your rights?

3 **A** No, I do not, Your Honor.

4 **Q** Okay. All right. We didn't discuss this,
5 and I normally don't, but I'll make sure we do it
6 since we have these sentencing sheets completed.
7 On the burglary first degree, you understand that
8 that is classified as a violent, most serious
9 offense?

10 **A** I do, Your Honor.

11 **Q** Do you have any questions about that?

12 **A** I do not, Your Honor.

13 **Q** Because if you do, I want to give you time to
14 talk to your attorney.

15 On the kidnapping indictment, you understand
16 that it's also classified as a violent, most
17 serious offense?

18 **A** I do, Your Honor.

19 **Q** And you've discussed these classifications
20 with your attorney?

21 **A** I have, Your Honor.

22 **Q** You fully understand?

23 **A** I do, Your Honor.

24 **Q** You understand I don't get into discussing
25 with you anything about prison credits, parole

1 eligibility, other than, you know, the general
2 classifications here? If you have any questions
3 about that, what I do is I pause, take a pause, if
4 you have any questions, whatsoever, concerning
5 those issues.

6 **A** I do not, Your Honor. I understand the SCDC.
7 Once I'm there, they'll answer all of those
8 questions.

9 **Q** Okay. Has anybody promised you anything or
10 threatened you in any way in order to get you to
11 plea?

12 **A** No, Your Honor.

13 **Q** All right. We know from the report that has
14 been presented to the Court, and the order signed,
15 that you are competent this time, but have you ever
16 had any mental health issues?

17 **A** I have.

18 **Q** Have you ever been hospitalized for any
19 mental health issues?

20 **A** No, I haven't, Your Honor.

21 **Q** Are you under the influence of any drugs,
22 alcohol, or medication, a combination of both, that
23 could possibly be affecting your understanding
24 today?

25 **A** No, I haven't, Your Honor. I haven't taken

1 my medicine this morning.

2 Q You fully understand what you are doing?

3 A Yes, Your Honor.

4 Q Are you entering these pleas of your own
5 freewill and accord?

6 A Yes, Your Honor.

7 Q Nobody has promised you anything?

8 A No, Your Honor.

9 Q Nobody has threatened you?

10 A No, Your Honor.

11 Q You fully understand if you had a trial now
12 the State would have to prove your guilt beyond a
13 reasonable doubt?

14 A I do, Your Honor.

15 THE COURT: All right. Counsel, are there
16 any questions that you all desire that I pose to
17 the defendant before I accept his plea?

18 MR. GODWIN: None from the defense, Your
19 Honor. I believe you have covered it.

20 THE COURT: Solicitor?

21 THE SOLICITOR: Your Honor, again, Complainant

22 [REDACTED] is seated here in the jury box. She is 71
23 years old now. She was a 67-year-old lady who
24 actually picked Cheraw out as a place to retire.
25 She had been in Cheraw less than a month. She

1 bought a house in the historic district. She was
2 at home on June 11, 2023, laying on her sofa with
3 her computer with her little Yorkie dog down at her
4 feet, and the defendant comes in her back door
5 without permission. (inaudible) he grabs her. He
6 struggles with her. She's trying to fight for her
7 life. He drags her to the kitchen, pushes her to
8 the floor.

9 Your Honor, during this entire struggle, he
10 at one point tied her hands behind her back while
11 he has her on her stomach. He did sexually assault
12 her. He -- the evidence that would have been
13 presented at trial is when she called 911
14 afterwards, one of the first things she said was
15 that he had put his penis in her mouth. During
16 this assault, he also -- after he (inaudible), he
17 forced her -- he tried to get her jeans open, but
18 he put her hand on top of his and forced her to --
19 I'm sorry, I don't know a better term, but to jack
20 him off. I'm sorry. I apologize to the Court, but
21 I don't know what else to say -- until he
22 ejaculated.

23 Your Honor, during the entire ordeal, he was
24 in the house at least 40 minutes at a minimum.
25 During this entire ordeal, she was very brave. He

1 would start to get upset and panicky. She would
2 speak to him in a calm manner and try to bring him
3 back down and get him calmed again. She didn't
4 want to die that day.

5 He dumped her purse out on floor, went
6 through it. He wanted money. He actually took her
7 debit card and (inaudible) to pay his light bill.
8 He found a check there, a canceled check, and
9 wanted to know if it was good. Of course it
10 wasn't, so he did not take that.

11 He dragged her to the bedroom and pulled
12 clothing out of her drawers, forced her to strip
13 down and put on clean clothes that he gave to her.
14 He dragged her to the bathroom and forced her to
15 wash her mouth out with mouthwash and rinse with
16 water.

17 He got a black trash bag and put all of her
18 clothes in it. He got a bottle of Spic-and-Span
19 and paper towels. He wiped down every surface he
20 touched. He got a thing of wipes and wiped
21 everything down, including the door and the knob.

22 When he left, of course she called 911. In
23 fleeing from the scene, he carried that bag with
24 him. When law enforcement first responded there --
25 it was Amy Stroud, Your Honor -- he is running

1 through backyards. He's actually picked up on the
2 camera. If you go on that block, all of the
3 backyards on four roads all come together. He
4 exited through those backyards in front of
5 (inaudible) house, who is actually an officer here
6 in Chesterfield. But he went by his house, and his
7 doorbell cam picked him up running through his
8 yard. So there is a video of him going through his
9 yard, and there is a still shot of him coming
10 through there.

11 He then crossed over Christian Street and
12 made his way through some other backyards and is
13 hanging out around the Baymount Inn across from
14 Hardee's. The Baymount cameras have him on camera
15 coming from between the fence and the building, and
16 coming around. By that time, he has stripped down
17 to just his shorts and sneakers, but he's carrying
18 a red shirt. On camera, you can actually watch
19 him. He has the red shirt on, looks around, and
20 then bolts across Market Street running in the
21 direction of the Out-go Gas Station.

22 He never was apprehended that day. He was
23 able to get away on the 11th. Because they knew
24 they were looking for a bag, Officer Jerry Mabry
25 got his dog, Nico, and actually went back to the

1 house and tracked from the house. They tracked to
2 a fence in one of the backyards and looked over,
3 and there is the black bag. So they did retrieve
4 that black bag.

5 During the assault, at one time he wanted
6 something to drink. She had a small orange juice
7 bottle in her fridge that she had, and he drank out
8 of that as well. Your Honor, his DNA came back --
9 along with hers -- on that orange juice bottle.
10 His DNA came back on her blue jeans when he tried
11 to open those. There was also a bandanna near the
12 scene that was recovered. Because he had been
13 pulling his clothes off, what he was wearing
14 through this assault, as far as the hoodie --
15 during the assault, he had a hoodie on and he had
16 it tied so tight she could just see small portions
17 of his face; that was it. She could good give no
18 photo ID or line-up ID. She was not able to do
19 that.

20 He also kept telling her to look away. He
21 put a pillow over her face. He wrapped a shirt
22 around her face and put a plastic bag over her
23 face. Whenever he thought she was looking, he
24 would order her to look down.

25 There is an inmate at the jail, Your Honor,

1 later that he was housed with. That person is on
2 federal charges, who actually is coming in this
3 Wednesday pursuant to a writ. The marshals were
4 going to bring him this Wednesday, who was going to
5 testify to the confession that the defendant gave
6 him in the jail. The defendant gave him details
7 only the person could describe would have known.
8 They were not made public.

9 In his confession to him, he told him he
10 actually put his penis in her mouth, and then he
11 bragged to him about law enforcement never found
12 the clothes that he had discarded himself.
13 (inaudible), but they were somewhere else in the
14 woods.

15 Beg the Court's indulgence.

16 (A brief pause in the proceedings.)

17 THE SOLICITOR: I think that's a sufficient
18 (inaudible) at this time to satisfy the elements
19 for burglary and kidnapping, Your Honor.

20 THE COURT: All right. I'll hear from the
21 victim. I always prefer that the victim has the
22 last say.

23 All right. Two things: Any serious
24 disagreement with what the Solicitor has stated?

25 MR. GODWIN: Judge, I think Mr. McBride is

1 prepared to agree that the facts recited were
2 substantially true. Again, I think that's what is
3 required under the law, that he admit that they are
4 substantially true.

5 THE COURT: All right. There is a question I
6 left out, and I just now caught it. Do you
7 understand you are presumed innocent and that
8 presumption of innocence would stay with you
9 throughout the trial?

10 MR. McBRIDE: Yes, I do, Your Honor.

11 THE COURT: And I would even instruct the
12 jury that. All right.

13 I find that the pleas entered by the
14 defendant are freely, voluntarily, and
15 intelligently entered into. He also has been
16 represented by competent counsel, that I've known
17 for many years; therefore, I'll accept the plea.

18 Now, that jury panel is back there, and most
19 of them are standing up. Can we go ahead and let
20 them back in where they can be seated?

21 MR. GODWIN: Judge, rather than keeping them
22 here, can we give them the option to go or come
23 in -- however you want to do it.

24 THE COURT: I'll take care of it in a few
25 minutes.

1 (A brief pause in the proceedings.)

2 THE COURT: Ladies and gentlemen of the jury
3 panel, the first case we called to trial has just
4 resolved in the interest of a guilty plea. I know
5 many of you were probably standing up back there in
6 the magistrate's courtroom. As soon as I went
7 through the plea process, I asked you all to come
8 back in where you can be seated. But we're right
9 in the middle of the mitigation portion of this
10 plea. We've already heard partially from the
11 State.

12 Anything else from the State?

13 THE SOLICITOR: Prior record, Your Honor, the
14 defendant has been in state prison a minimum of
15 four times, as well as federal prison. He went to
16 state prison in -- beg the Court's indulgence --
17 2013 on forgery. He's been in the State prison
18 burglary second grand larceny. He's been -- in
19 2007 a parole revocation using (inaudible) alcohol
20 test. 2009, he had parole revoked on multiple
21 cases and went back to prison, and that also
22 included a forgery and a driving under suspension.

23 In addition to that, he has convictions for
24 financial transaction card fraud, attempts to burn.
25 In 2014, he was convicted in federal court by

1 conspiracy to distribute crack cocaine. He
2 received 68 months in the federal prison, followed
3 by 48 months of federal supervision. He was
4 actually still under federal supervision when this
5 incident occurred.

6 THE COURT: Thank you, Solicitor.
7 Counsel.

8 MR. GODWIN: Ready for mitigation, Judge?

9 THE COURT: Yes, sir.

10 MR. GODWIN: Thank you, Judge. May it please
11 the Court.

12 Jacob Godwin along with co-counsel, Jamie
13 Scruggs on behalf of Alvaro McBride.

14 Judge, before I get into my mitigation, I
15 want to do this before I forget. Mr. McBride has
16 been incarcerated since he was arrested on this
17 incident. He's entitled to 1,453 days. That is
18 1453 days. Three years and 11 months, Judge.

19 Judge, I have not been doing this a long time
20 by the standards of a lot of our Senior members of
21 the bar, but I've been doing it long enough to
22 interact with a fair number of defendants, and I
23 will confess to you that sometimes when I meet with
24 defendants and look them in the eyes, I can see the
25 evil in their heart. I know it's hard to imagine

1 with what Mr. McBride is pleading guilty to, but I
2 will tell you, in the extensive conversations I've
3 had with Mr. McBride, I don't see that evil in his
4 eyes.

5 Now, that leads to the natural inclination,
6 well, then, how can somebody without evil in their
7 heart commit a crime so evil? And, Judge, I think
8 to answer that, we have to understand where
9 Mr. McBride was on this day, June 11, 2020. He has
10 had a long trouble in addiction with crack cocaine.
11 I think his record -- criminal record reflects
12 that. The Solicitor even mentioned some of his
13 probation revocations dealt with inability to stop
14 using alcohol. His federal conviction, which he
15 did significant time, was for crack cocaine, Judge.

16 When we look into the evidence in this case
17 and what was going to be presented, Mr. McBride was
18 arrested in the early morning hours, I believe
19 around 8:00 a.m., on June 12th. He was in an
20 interview room by 9:00 a.m. with Detective --
21 Investigator Redfern (ph), where he was subjected
22 to almost an hour of interrogation, Judge.

23 If you watch that video -- which the jury
24 would have seen, and you would have considered on a
25 Denno motion if Mr. McBride had not accepted

1 responsibility -- there is no question in my mind
2 that even more than 12 hours after the attack he
3 was high out of his mind. You can see it in the
4 video, Judge. The investigator even admitted that
5 he realized he was high.

6 In the facts of this case, Mr. McBride stated
7 to **Complainant** that he had taken ten Percocets the
8 night before this attack and tried to kill himself.
9 After waking up in his own vomit unsuccessful at
10 killing himself, in his high and drunken steeper,
11 for whatever reason, he was led to this house.

12 I think he and I and everyone regrets so
13 badly that the drugs have created the perversion in
14 our society that he thought to do something like
15 this, Judge.

16 To give you an idea without you having to
17 watch the video, at one point Mr. McBride breaks
18 down in the interview room, is laying on the floor
19 of the interview room with his head in the chair
20 sobbing to the investigator during his
21 interrogation. He looks up at the investigator and
22 he asks for his phone, and the investigator says,
23 Why do you need your phone? We have your phone.
24 Don't worry about your phone. You are here on some
25 serious stuff, man. He said, I want to call

1 somebody. The investigator says, Who do you want
2 to call? And Mr. McBride said, God. It is on
3 video, Judge. He was so high, he thought he could
4 call God from a cell phone.

5 Judge, to make the record clear, Judge, we
6 don't offer this to mitigate his responsibility.
7 He's accepted that. We offer this as an
8 explanation for why. Because, Judge, I think the
9 "why" is important here. It doesn't make it
10 better. It doesn't mean it didn't happen.

11 So the record is clear, Mr. McBride waived
12 his Miranda. They produced the Miranda form.
13 Detective Redfern went through every portion of it.
14 It is the first thing he did in the interview room.
15 So we don't offer it to question; we just offer it
16 to give you a snippet of what you would have seen
17 at trial and some of the difficult issues that we
18 were going to have to address in what was going to
19 be a grueling and uncomfortable trial for
20 everybody, Judge.

21 There's just no other way to put -- Judge, we
22 just ask for you to take that into account in
23 crafting your sentence. We ask you to reward
24 Mr. McBride -- even though we are doing this on the
25 eve of trial, we ask you to reward him for not

1 putting everybody through that, Judge. He
2 understands that your sentence is going to be
3 significant, and he understands he's going to go to
4 jail for a long time.

5 Judge, I would like to address a little bit
6 of the interview, which kind of answers why this
7 happened, leads into what would have been presented
8 in this case. I say that to you just to drive the
9 point home of what Mr. McBride is saving everybody
10 by not going to trial.

11 First thing we would have had is a Denno
12 hearing, Judge. He stands here now accepting
13 responsibility for that statement and accepting
14 that it is his statement, but I think it would be a
15 difficult Denno hearing.

16 Judge, we've also discussed with you in
17 chambers, but I would like to put it on the record,
18 the legal challenges that we think surrounded the
19 criminal sexual conduct indictment. Judge, that is
20 why he's not pleading to that offense today.
21 Because, Judge, as you know, penetration is an
22 essential element of criminal sexual conduct. We
23 would have challenged in a trial that there was
24 penetration. While there is no doubt he's admitted
25 to the sex nature of this crime, the challenge is

1 to penetration.

2 Judge, while she did say on the 911 that
3 there was penetration, the victim also denied it in
4 two different video interviews afterwards, and the
5 officers themselves in the incident report -- there
6 is a sentence in the incident report, which would
7 have certainly have been discussed at length on
8 cross examination -- that said there was no
9 penetration.

10 And so, Judge, this federal inmate that was
11 going to come testify, he has a written plea
12 agreement with the federal government that has
13 cooperation language. He is going to be sentenced
14 on June 12th, Judge. So, certainly, he would have
15 some incentive to meet the elements of his
16 cooperation language in his plea agreement, and we
17 think that that credibility would have been hard to
18 overlook, Judge.

19 And so -- Judge, also worth noting, ABHAN,
20 according to State v. Hernandez, supreme court case
21 of 2019, is no longer a lesser included. So if you
22 had to make that difficult decision on the CSC,
23 there likely would not have been a lesser included
24 to consider.

25 And so, Judge, that is hard to even hear it

1 now. I can't imagine having to go through it at
2 trial, but I say that to you not to mitigate his
3 responsibility. He has accepted responsibility. I
4 want to continue to drive that home. But I just
5 want to paint a picture, as much as I can for you,
6 of what the responsibility would -- what it means
7 Mr. McBride to accept that and what he is saving us
8 all having to undergo. Quite frankly, Judge, he is
9 being a man and standing up here and accepting
10 responsibility.

11 Judge, in researching the CSC issue, I did a
12 lot of reading and a lot of reading of other cases,
13 and a lot of reading about CSC cases. I'm told
14 criminal sentencing of this nature is one of the
15 hardest parts of your job, and so I have just a
16 brief summary of some of the cases I read, because
17 I hope that they will serve as guidepost to you in
18 how to craft the appropriate sentence.

19 State v. Eubanks, court of appeals case from
20 2022. The defendant was convicted of first,
21 second, and third-degree of CSC with a minor. The
22 abuse happened between the ages of 6 and 12 of the
23 minor child. There were allegations of
24 penetration. The case went to a jury trial, and
25 the sentencing judge sentenced the defendant to 25

1 years.

2 Thankfully, Judge -- I want to stress we
3 cannot -- we cannot mitigate the difficulty that
4 **Complainant** had to go through, and I'm personally
5 so sorry for it. Thankfully, Judge, we're not
6 dealing with a minor in this case. That is the one
7 distinction I'll draw.

8 State v. Hernandez, supreme court case from
9 2019. The defendant was convicted at trial of
10 second degree CSC with a minor, 11-year-old victim.
11 There were questions about penetration in that
12 case, and the sentence was 15 years.

13 State v. Dinkins (ph), court of appeals case
14 from 2021. The conviction at trial was CSC third
15 with a minor. There were allegations of kissing
16 and putting hands on private parts. Judge, that
17 sentence was a six-year sentence suspended to three
18 years imprisonment, and three years probation.

19 Judge, lastly, I think poignant on this is a
20 case from our circuit that I worked on this year,
21 State v. Hunter. It was a Darlington County case.
22 It was a burglary very similar to this one with an
23 elderly victim in her 80s. The victim was so badly
24 injured from the assault that she was hospitalized
25 for several days. He pled guilty the morning of

1 trial to a negotiated 25-year sentence.

2 Judge, I'm so thankful that medical treatment
3 was not necessary in this case because I think we
4 all know how badly this could have turned, and so I
5 just ask that you consider those distinctions and
6 those cases to try to help you do what we know is a
7 very difficult job.

8 Judge, lastly, I would like to tell you that
9 Mr. McBride's family is here. They are seated
10 right there.

11 If you guys want to stand up.

12 He has children and grandchildren. His
13 mother is in a skilled rehab facility right now.
14 We've had extensive conversations. Mr. McBride
15 knows he will not be out before his mother is
16 called home to the good Lord, and that has been a
17 very emotional thing for him. And, Judge, this is
18 the hard reality of the situation he finds himself
19 in, and he is here to answer, but that doesn't make
20 the emotional consequence of not getting to see
21 your mother again any better.

22 His grandkids -- his youngest grandchild is
23 three years old. If he gets out, if he can make it
24 through this long term in SCDC, that child will be
25 grown, and they will only know him as an adult.

1 So, Judge, he is going to pay a price for what he's
2 done.

3 THE COURT: You may be seated. Thank you.

4 MR. GODWIN: Is there anybody in the family
5 that wishes to speak on Alvaro's behalf?

6 Judge, I could --

7 THE COURT: Sure.

8 UNIDENTIFIED SPEAKER: Hi, Your Honor. I'm
9 his sister, baby sister. Let me start by saying my
10 brother is so smart. He is so talented. All of
11 this is new to us, and I'm so sorry. My brother
12 has let drugs (inaudible). We all have been
13 deprived from him. I don't know what else to say,
14 but I'm so, so sorry. Please have mercy on him
15 because he knows what he has done.

16 MR. GODWIN: Judge, I have two special
17 requests to wrap this up. Mr. McBride has
18 requested that you indicate inpatient ATU
19 treatment. I don't think there is any doubt that
20 that would be helpful to him.

21 And, Judge, my last request is somewhat
22 unusual, but I would like to say I'm thankful for
23 all of the folks in Chesterfield County who take
24 what we do, being so difficult, are still able to
25 see a human factor in this. And, so, if you will

1 allow it, we're going to try to facilitate an
2 ability for him to see his mom before he leaves to
3 go to the South Carolina Department of Corrections.
4 I have spoken with the jail administrator about it,
5 and they are going to assist in that. If you are
6 able -- and I don't even know if you are able to do
7 it, Judge -- if you are able to find that he can
8 stay in Chesterfield County in the custody of the
9 detention center until Friday, that would be
10 helpful to accomplishing him getting to see her
11 very briefly. If you are able and willing to put
12 that on the sentencing sheet, we will greatly
13 appreciate it.

14 And, Judge, I'll conclude with -- we
15 discussed all of the judges coming through this
16 county, and Mr. McBride said he knew you to be a
17 good man because you were from Chesterfield County,
18 and he -- he knew that you would give good
19 consideration.

20 And, so, Judge, with all of that, we will
21 respectfully -- we understand the recommendation of
22 25 years. We are respectfully asking you to
23 consider a 15-year sentence. I understand the
24 State will oppose that. We understand why, but
25 with all of the mitigation we've given you, that is

1 what we're asking you to consider.

2 And I do think that Mr. McBride would like to
3 address the Court whenever you think it is
4 appropriate.

5 THE COURT: Thank you, Counsel.

6 Mr. McBride.

7 MR. McBRIDE: How are you doing, Your Honor?
8 I just stand here and, you know, I listen to
9 everything, and it's a lot I didn't even know that
10 I did, you know. I am so sorry for what that lady
11 went through, and I apologize. I didn't know. I
12 was high. I was outside of my mind, and whoever
13 she is, I apologize.

14 I got grandkids, Your Honor. I got five
15 girls, one son. They all grown up. I've been
16 locked up most of my live, Your Honor. I never get
17 to hold my grandbabies as a baby because my
18 stupidity and my love for drugs.

19 I apologize once again to that lady. I'm so
20 sorry. I don't wish that on nobody.

21 MR. GODWIN: That concludes the defense's
22 case, Judge. Thank you.

23 THE COURT: Thank you.

24 THE SOLICITOR: Your Honor, first of all, the
25 State did the 25 years in good faith. He honestly

1 deserves more than that. And if convicted at
2 trial, we would have requested life in prison.

3 Your Honor, the thing about praying, during
4 this assault, when he breaks into this woman's
5 house and sexually assaults her, and ties her up,
6 forces her to change clothes, during that entire
7 time he's in her house, he's asking her to pray for
8 him. So she starts praying, and he fusses at her,
9 No, don't pray for yourself, you pray for me. He
10 didn't even want her to pray for herself. He
11 wanted her to pray just for him. That's how
12 narcissistic he is. She was just trying to keep
13 (inaudible) her own life. And every time he became
14 agitated, she had a presence of mind to calm him
15 down so he wouldn't kill her.

16 Your Honor, the next day -- he's finally
17 apprehended the next day. He's been gone all that
18 night. The next morning they realize it is him,
19 because they are looking for him for another matter
20 that occurred earlier in the day on June 11th.
21 Someone calls in and says, Hey, I just saw him at
22 the Money Saver store. So all law enforcement
23 immediately head in that direction. He sees them
24 coming, he takes chase. They are chasing him. He
25 actually runs into the Carolina Canters (ph) trying

1 to get away from them. That was the burglary third
2 that would have been a part of this trial, going to
3 the Carolina Canters Pepsi plant trying to get away
4 from law enforcement.

5 Your Honor, he may have been on drugs, I
6 don't know. He did tell her that he tried to kill
7 himself the night before by taking all of those
8 Percocets and woke up and vomit, but he had the
9 presence of mind, Your Honor, throughout this
10 ordeal to think about what he wanted to steal. He
11 wanted money to pay his light bill. He had the
12 presence of mind to make her change her clothes,
13 which he picked out for her. He had the presence
14 of mind to drag her to the bathroom and make her
15 wash her mouth out with mouthwash, and then still,
16 further, rinse it out with water. He had the
17 presence of mind to get paper towels, Spic-and-Span
18 and wipes to wipe down every area inside that house
19 he had touched and wiped down the door.

20 And, Your Honor, Jack Henderson, who is
21 sitting up here and who is now second in command at
22 the Charlotte Police Department actually did go in
23 and look for fingerprints. There were no
24 fingerprints, whatsoever, of anybody because he had
25 done such a great job at cleaning everything up.

1 Your Honor, that shows a great presence of mind.

2 He knew what he was doing that day.

3 During that interview, once he's captured, he
4 does at -- he denies everything, but at one point
5 he makes a comment about, Didn't she tell you what
6 I said? So he put himself there.

7 Your Honor, with regards to the CSC -- and of
8 course that is being dismissed just as a part of
9 the plea -- but the State has no doubt that the
10 jury would not have a problem with convicting him
11 on that.

12 As Your Honor is well aware, when traumatic
13 events happen to victims, they often develop a
14 Swiss cheese memory. It is a way to survive. It
15 is a way the brain helps them to survive what's
16 happened to them. But that 911 call, which was the
17 first thing she did after he breaks in her house,
18 she says, He put his penis in my mouth.

19 This federal inmate who was going to testify,
20 he knew details about what happened in her house
21 that day. Nobody but the Solicitor's Office, law
22 enforcement, the victim, and the defendant knew
23 those things, but that inmate knew those things,
24 and that inmate was going to testify that the
25 defendant said, I put my penis in her mouth and

1 ejaculated.

2 Also, the pictures from the bathroom where he
3 made her wash her mouth out, there was a mouthwash
4 bottle on the floor substantiating what she would
5 have testified to about how he made her wash her
6 mouth out.

7 Your Honor, the State has no objection to his
8 requesting ATU. The issue of wanting to stay in
9 the jail, I don't object to that; however, I would
10 ask that the first incident he has, that he be
11 taken straight on to SCDC. He has an escape
12 charge, Your Honor, from the jail here where he did
13 attempt to escape. He had two frame-type of metal
14 pieces that had been used to facilitate escape.

15 He's actually been in safekeeping in
16 Charleston during this case, and up until a week
17 ago, he was in safekeeping in Sumter and was
18 brought back here for purposes of trial. So we
19 would ask that if Your Honor does allow him to
20 stay, that the first incident, he is taken straight
21 to SCDC.

22 I would ask that the victim be allowed to
23 speak. And I just want to put on the record
24 present here is, obviously, Jack Henderson, who
25 responded to the scene, and primary investigator

1 Nicole Scott, who actually the next day when she
2 came on duty and immediately took over this case
3 and has been with it throughout, Your Honor.

4 THE COURT: I'll be glad to hear from any law
5 enforcement involved, if they would like to make
6 any statement to the Court.

7 Okay. All right.

8 THE SOLICITOR: Do you want to say anything?

9 VICTIM: Thank you, Your Honor. The
10 Solicitor has done an excellent job in laying out
11 what I went through that day, and what I went
12 through afterwards, and so I don't really have
13 anything to add to that. You can imagine, given
14 what she's told you, that it was a traumatic thing
15 to go through with a little fallout, so thank you.

16 THE COURT: I'm so sorry you had to go
17 through this.

18 VICTIM: Thank you.

19 THE COURT: And I appreciate all of you
20 working together to get it resolved.

21 VICTIM: Your Honor, the Cheraw police, the
22 prosecutor's office, my advocates have been
23 stellar. I cannot say enough about making me feel
24 safe, making me feel protected, ensuring that he
25 gets his justice due.

1 THE COURT: Thank you.

2 To everyone involved, I'm so sorry that all
3 of this occurred to bring it to a conclusion
4 whereby Mr. McBride is going to have to be
5 incarcerated. Every courtroom I go into nowadays
6 it seems like somehow or another a crime relates
7 back to drugs, and now it's gone from crack
8 cocaine, methamphetamine, now to fentanyl. So
9 whether you are on the prosecution or the defense
10 or part of the court, our job is not going to come
11 any easier until this country can get its hands on
12 this drug problem. I just foresee more violence,
13 more deaths, more serious injuries until our
14 populous wakes up.

15 Now, I want to thank counsel, both the State
16 and the defense, for resolving this matter. It's
17 not a negotiated plea. It is a recommended plea,
18 but I know that you all have gone through extensive
19 negotiations just to reach the recommendation. I
20 am going to go along with that recommendation that
21 has been presented to the Court because this is not
22 Mr. McBride's first offense. I heard what the
23 State said about the federal sentence, and that he
24 was still obliged to the federal government on the
25 previous sentence. This should have never, ever

1 happened.

2 So the sentence of the Court is two
3 concurrent sentences -- that is on 1383 and 1292,
4 those indictments -- 25 years as recommended.
5 Concurrent. Credit for 453 days.

6 MR. GODWIN: Judge, it is 1,453 days.

7 THE COURT: Oh, I'm sorry. I said that
8 wrong. 1,453 days. I had it written right, but
9 didn't say it right.

10 ATU Unit is recommended. I'm requesting that
11 the County not transport the defendant to SCDC
12 until after June the 6th, 2024, unless the
13 defendant becomes hostile in any way.

14 Thank you so much for resolving this.

15 Ladies and gentlemen of the jury, I'll come
16 down and talk to you in a minute, but this plea
17 just saved 12 of you four days of trial. All
18 right.

19 THE SOLICITOR: Thank you, Your Honor.

20 (Whereupon, the hearing concluded.)
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CERTIFICATE OF TRANSCRIBER

Case Name: State of SC v. Alvaro McBride

Case No.: 2020-GS-13-10383, 01292

Date of Hearing: June 3, 2024

* * * * *

I, Natalie Dahl, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; **that said proceedings were transcribed to the best of my ability from the audio recording.**

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

Natalie Dahl, RPR

Natalie Dahl, Registered Professional Reporter and transcriber for the State of South Carolina

STATE OF SOUTH CAROLINA) Court of General Sessions
) Fourth Judicial Circuit
COUNTY OF CHESTERFIELD) 2020-GS-13-01383; 1292

STATE OF SOUTH CAROLINA)
)
Plaintiff,)
vs.)
)
ALVARO S. McBRIDE,)
)
Defendant.)
_____)

Chesterfield, South Carolina
June 5, 2024

B E F O R E:

The Honorable Paul M. Burch

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

Ms. Mary Thomas Johnson-Lee, Esquire
Attorney for the Plaintiff

Mr. Jacob Godwin, Esquire
Attorney for the Defendant

Lisa S. Carter
Circuit Court Reporter

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I N D E X

WITNESSES

PAGE

(NO WITNESSES INTRODUCED DURING HEARING)

(EXHIBITS INTRODUCED DURING HEARING)

1 that's by State statute required.

2 MRS. JOHNSON-LEE: Thank, Your Honor.

3 THE COURT: All right. Thank you.

4 MR. GODWIN: Thank you, judge.

5 (CONCLUSION OF HEARING HELD ON JUNE 5, 2024)

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CERTIFICATE

I, the undersigned Lisa S. Carter, Official Court Reporter for the Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fourth Circuit for Chesterfield County, South Carolina, on the 5th day of June, 2024.

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

Lisa S. Carter

Lisa Carter

Circuit Court Reporter

September 23, 2024

General Sessions Order following Blair Hearing on Defendant's Competency To Stand Trial Finding Defendant Competent to Stand Trial §44-23-430(1)

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHESTERFIELD) Indictment No(s): 2020-GS-13-1290-1293,
1383-1384, 0393, 1248-1251,
2022-GS-13-1602-1603

A/Warrant No(s): 2020A1310101038-
2020A1310101041,2020A1320100020,
2020A1320100047-2020A1320101052,
2022A1310101118,2022A1310101119

The State of South Carolina,

vs.

Alvaro Seleste McBride
Defendant.

)
)
)
) FINDING OF COMPETENCE TO STAND TRIAL
) AND
) AUTHORIZATION TO PROCEED WITH TRIAL
)
)
)

2024 JUN -3 P 12:29
Christi E. Gaddy
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.


This matter is before me pursuant to S.C. Code Ann. §44-23-430 (1976) for a hearing on the issue of Defendant's competence to stand trial.

Defendant is charged with **Kidnapping, Criminal Sexual Conduct 1st Degree, Burglary 1st Degree, Burglary 3rd Degree, Grand Larceny, four (4) counts Resisting Arrest, Breaking into Motor Vehicle, Financial Transaction Card Theft, Escape/Attempted Escape, Malicious Injury to Courthouse or Jail.** Pursuant to a previous Court order, Defendant's competence to stand trial has been evaluated. In a report dated **May 21, 2024**, the examiners found that Defendant presently has sufficient mental capacity to understand the charges against him and assist in his own defense and thus is fully competent to stand trial pursuant to the standards set forth in S. C. Code Ann. § 44-23-410 and State vs. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981). The report was statutorily admitted into evidence pursuant to S.C. Code Ann. § 44-23-420(C), and a copy of the report is attached hereto.

Based upon the examiner's report, I find that Defendant is presently competent to stand trial, and the Solicitor is authorized to proceed with a trial in this matter.



IT IS SO ORDERED.



Presiding Judge

Fourth Judicial Circuit

Date: June 3, 2024

Solicitor's name: **Mary T. Johnson-Lee** Defense Counsel: **Jacob Godwin**

Telephone: (843)479-6516

Telephone: (843)623-2286

Email: mtjlee@solicitor4.com

Email: circuit4pdgodwin@att.net

2024 JUN -3 P 12:29
Christy F. Gaddy
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.



State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

Elliott E. Levy, MD, Chair
Carl E. Jones, Ph.D., Vice Chair
L. Gregory Pearce, Jr.
Bobby H. Mann, Jr.
Crystal A. Smith Maxwell, MD

Division of Inpatient Services
Forensic Evaluation and Outpatient Services
7901 Farrow Road, Building #8
Columbia, SC 29203
Information: (803) 935-5600

May 21, 2024

ACTING STATE DIRECTOR

Robert Bank, MD

Mary Thomas Johnson Lee
Assistant Solicitor
105 Green Street
Chesterfield, SC 29709

Re: The State of South Carolina vs. McBride, Alvaro
DMH #: 992-9936
Chesterfield County, Court of General Sessions

Dear Assistant Solicitor Lee:

In accordance with the court order issued by the Honorable R. Kirk Griffin, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 11 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

May 21, 2024
Date

Stacy Weatherington for
Kelly Gothard, Ph.D.
Director
Forensic Evaluation Services
Department of Mental Health

2024 JUN -3 P 12:29
Christy F. Gaddy,
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

cc: Jacob Goodwin, Attorney at Law, 101 W. Main Street, Chesterfield, SC 29153

KG/tw

CAPACITY TO STAND TRIAL EVALUATION
FORENSIC EVALUATION SERVICE
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)

Date of Interview: May 17, 2024

Defendant: Alvaro McBride
Date of Birth: [REDACTED]

Presiding Examiner: Matthew E. Gaskins, MD
Forensic Psychiatrist

Second Examiner: Lisa Smith, LISW-CP
Social Worker

Diagnoses: Antisocial Personality Disorder
Cannabis Use Disorder in a Controlled Environment
Stimulant Use Disorder in a Controlled Environment
Adjustment Disorder with Mixed Anxiety and
Depressed Mood

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Christy F. Gaddy
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CHESTERFIELD COUNTY, SC

Opinion Regarding Capacity to Stand Trial

It is opined that Mr. McBride has the capacity to stand trial.

Identifying Information

Mr. McBride was seen at Forensic Evaluation Service pursuant to a court order from the Chesterfield County Court of General Sessions. This court order requests an evaluation of the defendant's competency to stand trial pursuant to *State v. Blair*, 275 S.E. 529, 273 S.E. 2d 536 (1981) and S.C. Code Ann. §44-23-410 (1976). The defendant is currently charged with Grand Larceny, four counts of Resisting Arrest, Breaking into Motor Vehicle, Financial Transaction Card Theft, Kidnapping, Criminal Sexual Conduct First Degree, Burglary First Degree, Burglary Third Degree, Escape, Malicious Injury to Jail. According to the court order, it was issued for the following reasons:

Defendant's conduct during the alleged crime indicates that he may suffer from multiple personalities. Specifically, the alleged statements made to the victim indicate Defendant allegedly threatened to kill the victim and apologized to the victim moments apart, during the course of the same alleged crime. Additionally, Defendant has displayed problematic and concerning behavior while being housed on pre-trial detention at the Chesterfield County Detention Center. Defendant's behavior was so problematic that he had to be transferred to Sumter County for the

remainder of his pre-trial detention.

Statement of Non-Confidentiality

Prior to participating in the evaluation, the defendant was warned regarding the limitations of confidentiality. The defendant was informed that the evaluation was court ordered and was not for the purpose of providing treatment. The defendant was informed that the evaluators were employed by the South Carolina Department of Mental Health and were not paid by a defense attorney or the solicitor. The defendant was informed that after the evaluation a report would be submitted to the defense attorney, the solicitor, and the judge in this case. The defendant was also informed that the evaluators could be called to court to testify about the evaluation.

Sources of Information

1. Expedited Chesterfield County Court of General Sessions court order for this evaluation received by the SCDMH Forensic Evaluation Service on April 23, 2024.
2. Arrest warrant 2020A1320100020 for Grand Larceny.
3. Incident report and accompanying documents for case number 2020-0301.
4. Criminal history provided by National Crime Information Center (NCIC).
5. Arrest warrant 2020A1320100049 for Kidnapping.
6. Arrest warrant 2020A1320100050 for Sexual Conduct First Degree.
7. Arrest warrant 2020A1320100051 for Burglary First Degree.
8. Arrest warrant 2020A1320100052 for Burglary Third Degree.
9. Incident report and accompanying documents for case number 2020-0870.
10. Arrest warrant 2020A1320100047 for Breaking into Motor Vehicle.
11. Arrest warrant 2020A1320100048 for Financial Transaction Card Theft.
12. Incident report and accompanying documents for case number 2020-0859.
13. Arrest warrant 2020A1310101038 for Resisting Arrest.
14. Arrest warrant 2020A1310101039 for Resisting Arrest.
15. Arrest warrant 2020A1310101040 for Resisting Arrest.
16. Arrest warrant 2020A1310101041 for Assault on Officer While Resisting Arrest.
17. Arrest warrant 2022A1310101118 for Escape.
18. Arrest warrant 2022A1310101119 for Malicious Injury to Jail.
19. The incident report and accompanying documents for case number 00002530.
20. Medical records from Tri-County Mental Health Center (MHC).
21. Medical records from Sumter County Detention Center.
22. Forensic psychiatric interview conducted May 17, 2024.

Review of Available Records

SCDMH Episodes of Care

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 CLERK OF COURT
 CHESTERFIELD COUNTY, S.C.

Mr. McBride had an open case from May 26 to September 23, 1999, for a primary diagnosis of Conduct Disorder; October 13 1999 through August 9, 2000, for Oppositional Defiant Disorder, and June 26 to September 13, 2001, for Unspecified Mood Disorder.

Tri-County MHC

During the summer of 1999, Mr. McBride was seen for Conduct Disorder after he was "expelled from school for persistent disobedience."

In 2000 Mr. McBride was treated for Oppositional Defiant Disorder while in the custody of SC DJJ. This diagnosis was based in part on "short temper, disobedient/resentment of authority figures, failing to obey rules, argues with adults." He was prescribed Prozac® (fluoxetine), an antidepressant.

During his treatment in in the summer of 2001, Mr. McBride was prescribed medications including trazodone, an antidepressant primarily used for sleep induction, and Prozac® (fluoxetine) for Unspecified Mood Disorder and Cannabis Abuse.

Chesterfield County Detention Center

Mr. McBride had a mental health screening completed on March 10, 2024. He reported a history of a depression and ADHD. He reported taking Wellbutrin® (bupropion), an antidepressant, and Remeron® (mirtazapine), an antidepressant primarily used for sleep induction. He reported a history of a head injury from a motor vehicle collision (MVC). He was noted to be easily distracted. He reported a history of alcohol, cocaine, and cannabis use. The records show that he has at times refused medications but has been mostly compliant. Additional records show he was prescribed Celexa® (citalopram), an antidepressant, in place of Wellbutrin® (bupropion) in 2023.

During his detention he has also received treatment for general medical complaints including abdominal pain, injuries from a fall, shortness of breath, spider bite, broken hand, chest pain, testicular pain, and prostatitis.

SCDMH Forensic Evaluation Service Social Work Assessment

To date, we have not been able to speak with a family member or friend to provide collateral information for the social work assessment.

NCIC Report

According to the criminal history provided by NCIC Mr. McBride has previously been arrested for charges including Conspiracy Crack Cocaine, Breaking into Auto, Grand Larceny, Forgery Less than \$10,000, Parole Revocation, Forgery No Dollar Amount, Possession 28G or Less Marijuana/10G or Less Hash, Paraphernalia, Petty Larceny, Driving Under Suspension, Criminal Domestic Violence, Resisting Arrest, Malicious Injury

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 CHRISTIE GADDY
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 CHESTERFIELD COUNTY, S.C.

to Property, Trespassing, Burglary First Degree, Attempts to Burn, Shoplifting, Violation of ABC Law,

Forensic Interview

Clinical Presentation and Psychiatric History

Mr. McBride reported the following information: He has been in detention centers for four years total. Currently, he has "been trapped in a room" in the Sumter County Detention Center. He has been held "in lock up" "because [he] was acting out." This included "talking shit to the officers" and "kicking the doors when [he] couldn't get [his] way." He does not have regular time outside the cell and has not been able to shower in "two months." He believes being in the cell has caused his "brain [to be] cloudy." He was not able to explain what he meant by this statement ("I can't explain it."). He thinks part of it is that he has a "hard time focusing." He was told by one of the officers in the past few weeks that a family member told the detention center that his "mother is on life support." He is not sure if this is true and has not been able to speak with a family member since being given this news. He is currently taking Wellbutrin® (bupropion) but previously took Celexa® (citalopram). These medicines have been prescribed "for behavior" and is "supposed to be a mood-stabilizer." He does not take it every day and had not taken it the morning of the interview due to fear of potential side effect of nausea or sedation. He says he is doing "horrible" right now showing his handcuffs. He believes his being in the detention center and lockup is a contributing factor to how poorly he is doing at this time. He has been in correctional settings multiple times which included being in the YOA program in state prison and spending time in federal prison "for selling drugs." His frustration is worse right now because he is "locked up on bogus charges."

Mr. McBride reported the following about his past psychiatric treatment: When he was 11 or 12 years old, he was prescribed Prozac® (fluoxetine), an antidepressant. At the time he was "having trouble with [his] mother and [his] father was not in [his] life." He "was very depressed and was cutting [him]self." He cut himself out of frustration and as a way to deal with stress. He would use his "mother's razor blade and started nicking because the pain felt good." He would sit and watch the bleeding. He believes he was feeling "alone" and that "nobody cared and nobody loved" him." After having "a dream with a white light" he decided to try to kill himself. He used a cord from a car sound system and fashioned a noose out of it. He took it and climbed a tree. He was leaning over and "fell off the branch." He was choking and saw "a white light" before waking "up in [his] mother's apartment." He was rescued and brought to his mom by "a crackhead." He was taken to a hospital to have his neck checked for injuries. This is when he was started on Prozac® (fluoxetine) which he took for "a few years." His "behavior started changing." He continued to take Prozac® (fluoxetine) while at DJJ. He left DJJ at 16 years old and did not take medicine again until he went to prison at 19 years old. He was then started on Celexa® (citalopram) "to change the behavior because [he] was acting out." These medicines have helped as he is not "as quick to act out" and is "pretty much normal."

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JUSTICE F. GADDY
CLERK OF COURT
CHEERFIELD COUNTY, S.C.

During the psychiatric review of systems, Mr. McBride reported experiencing symptoms of anxiety and having visual hallucinations but was not able to provide descriptions to what these symptoms meant. For example, when asked about *anxiety*, he said, "I stress a lot." He was asked about what he stresses, and he said, "I can't explain it." He added, "I get stressed and I get anxious." After several follow up questions asking about details (e.g., when it started, what makes it better, what makes it worse, topics about which he worries, etc.), he stated that his "heart flutters and [his] nose starts tingling." He said this has caused him to feel "shaky." These symptoms are "not long" and resolve after "three deep breaths." This most often occurs when he "anticipate[s] something to happen and it doesn't." When asked about possible hallucinations, he said, "I do see shadows." He then asks the examiners, "Do you believe in shadow people?" He quickly added, "It could be my mind playing tricks on me." He said he "believe[s] in the supernatural." He went to describe seeing the shadows of people "out of [his] peripheral" vision. He said that this "happens every few days or few weeks." He said it started after he "started going to prison." He said that other inmates in the detention center believe that there is "a ghost named *Fred*" in the Chesterfield County Detention Center. He said he does not find these incidents distressing and is able to quickly move on to something else.

Alcohol and Substance Use

Mr. McBride stated he started drinking alcohol at 14 years old, but alcohol has "never been [his] thing." He said he has not had problems related to alcohol use. He said he started smoking cannabis at the same time and quickly became a daily smoker. He has failed required drug tests as a result which has resulted in missed employment opportunities and probation violations. He said he continues to smoke it because "it relaxes" him. He reported first using "powder" cocaine at 16 years old which changed to "rock" at 24 years old. He said that his use of cocaine has caused significant problems including being "one of the major problems with [his] incarceration" history from "either violating probation or stealing stuff to get it." He said he has never been offered a drug rehabilitation program because "they would rather send [him] to prison." He said he has tried methamphetamine but has not used regularly. He said he has never used intravenous substances. He initially denied using non-prescribed medications stating, "I hate pills." However, when asked about other substances, he said that he has tried mushrooms which "felt like the Percocet." He said he does not like sedating substances stating, "I'm more of a stimulant guy." He said that his use of these substances has caused problems regarding safety. He stated, "Sometimes I would black out and ain't know I did stuff. Wake up in a park and didn't know how I got there."

Medical History

Mr. McBride reported he is going to the doctor for "prostate issues" but it could be bladder issues."

Family Medical History

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 CHESTERFIELD COUNTY, S.C.

Mr. McBride stated that multiple family members have had problems with cholesterol and diabetes. He said his mother has congestive heart failure. When asked about mental illness or substance use concerns in the family, he said, "I'm the only one."

Social History

Mr. McBride reported the following information: He was born and raised in Alexandria, Virginia, which is "right next to DC." He was raised by his mother and maternal grandmother. He has a brother, sister, and paternal half-sister. He had basic needs met and did not experience abuse or neglect. He thinks his depressive symptoms started in part because his mother was not there due to working all the time. The family moved to South Carolina when he was 15 years old. He left school in the ninth grade. He made "good grades" and "bad grades." He was suspended and expelled multiple times for behavioral infractions such as "talking back, fussing with classmates, fighting." While in prison, he completed his GED and has obtained trade certifications. He has worked for farms and a canning factory. He has spent time in both the federal and state prison systems. While in federal prison, he served time in North Carolina, Kentucky, Louisiana, Pennsylvania, and Florida. He has never been married ("I don't believe in marriage."). He has seven daughters and one son. These children "are pretty much grown except [his] two youngest girls." He has a grandson who is about to turn three years old in July.

Mental Status Examination

On May 17, 2024, Mr. McBride presented to the evaluation dressed in jumpsuit provided by the detention center. He was reasonably well groomed with appropriate hygiene. He made good eye contact and spoke with a normal rate, tone, and volume. He had a linear and goal directed thought process. He answered questions appropriately though he was notably self-protective when discussing past substance use and arrests. He was alert and oriented to person, place, and situation. He said he has trouble with the date because he has "been in that room so long." He said he thought it was likely March 2023. He demonstrated an intact memory by providing biographical information, reporting recent events, registering three unrelated words, and recalling one of the three words after approximately five minutes of distraction. He recalled a second when provided a hint and correctly selected the third when provided a list of answer choices. He had good concentration evidenced by attending to the evaluation, subtracting serial sevens from 100, and spelling a five-letter word correctly forwards and backwards. He demonstrated the ability to think abstractly by interpreting commonly used proverbs and grouping words into abstract categories. He described his mood as "I'm feeling blessed" and was observed to have a congruent affect (observed expression of mood matched description). He denied current suicidal or homicidal ideations. He denied current visual hallucinations. He said he was hearing "a humming sound" during the interview which he believes was due to his not being in his cell. He did not appear internally distracted and did not display signs of psychosis. He did not make statements believed to be due to a delusional thought process.

Diagnostic Impression

It is opined to a reasonable degree of medical certainty that Mr. McBride meets the diagnostic criteria for Antisocial Personality Disorder, Cannabis Use Disorder in a Controlled Environment, Stimulant Use Disorder in a Controlled Environment, and Adjustment Disorder with Mixed Anxiety and Depressed Mood.

Mr. McBride has had a pervasive pattern of disregard for and violation of the rights of others starting in childhood or adolescence warranting the diagnosis of *Antisocial Personality Disorder*. Specific antisocial personality traits evident in the available information include a failure to conform to social norms with respect to lawful behaviors, impulsivity, aggressiveness, disregard for safety of self/others, consistent irresponsibility, and lack of remorse.

Mr. McBride has had a problematic pattern of cannabis and stimulants (e.g., cocaine, methamphetamine) leading to clinically significant impairment described above meeting the diagnostic criteria for *Cannabis Use Disorder* and *Stimulant Use Disorder*, respectively. The diagnostic modifier *in a Controlled Environment* is added to complete the diagnoses due to his access to such substances being limited by his current detention.

The diagnosis of *Adjustment Disorder* is used when a person experiences psychological symptoms following an identifiable stressor that do not meet the diagnostic criteria for a more specific mental health disorder. In these cases, the symptoms significantly improve or resolve when the stressor is removed. For Mr. McBride, the stressor appears to be related to his time in correctional settings. He reports symptoms of anxiety and depression that do not meet diagnostic criteria for a specific anxiety or mood disorder warranting the diagnostic modifier *with Mixed Anxiety and Depressed Mood*.

Police Description of Charges

February 19, 2020

The incident report and accompanying documents provide the following information: Police spoke with the complainant, **TQ**, who reported that Mr. McBride, a friend of her daughter's and her daughter's boyfriend, had stolen her 2006 Toyota Corolla" and that her keys were missing from her pocket book. On February 23, 2020, police were notified Mr. McBride was arrested in North Carolina.

June 10, 2020

The incident report and accompanying documents provide the following information: Police were called by alleged victim, **DB** who reported that early in the morning she heard her car alarm going off. She observed "the drivers window busted." She said she "saw a male subject with darker skin running toward the old Walmart." She reported that items were missing including a purse which "had 5 or 6 credit cards, a debit card from

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 CHESTERFIELD COUNTY, SC

Founders, her Social Security Card, insurance cards and her concealed carry permit." She said there was also a bottle of Percocet® (oxycodone/paracetamol) taken.

June 11, 2020

The incident report and accompanying documents provide the following information: Police were called by the alleged victim **Complainant** who reported that she was on her couch when a "black male with a red hoodie and possibly red pants entered through the unlocked rear door." She said the man "placed a black plastic bag over her eyes and they ended up on the floor between the couch and the coffee table and he then placed a fluorescent orange Under Armour rag over her eyes." She told police "that he would say I'm not going to hurt you and then I'm going to fucking kill you and then I'm a Christian man." She said he had her move to the kitchen and lay on her stomach before tying her hands behind her back. He said that he was not going to rape her but "he wanted her to give him a blow job and she refused." She said she tried to fight him and officers observed evidence of "bruising on her hand and wrist." He reportedly "took his penis out and put her left hand on it and said jack me off, she told him no and then he took his hand and put it around her hand and started making the motions back and forth while saying I'm almost there, you do it." She said that "continued until he ejaculated into a towel." She said he "told her to get back on her stomach and don't look at him." She said he then "went through the house opening closets and drawers saying where is the good stuff and I know you have money look at this house." He reportedly took a debit card, credit card, and money. She said he made her remove her clothing and put them in a trash bag while asking for cleaning supplies. He reportedly kept saying not to look at him while he wiped down several surfaces with cleaning supplies. She told police he said "I can't go to prison and he was god fearing" (internal quotation marks omitted). She said that he "took her in the bathroom and made her rinse her mouth with mouthwash and water." He reportedly "told her he had been watching her through the door for about five minutes before he decided to come in." He moved the curtains to cover the door "saying he didn't want the neighbors to see in." He reportedly "apologized multiple times to her saying that he had never done anything like this before." He told her "that last night he tried to kill himself and took 10 Percocet pills but got choked and vomited and woke up this morning in his vomit." Before leaving he reportedly "told her not to look and he left back out the rear door."

June 12, 2020

Mr. McBride was arrested on June 12, 2020 after he ran from police jumping a fence and "enter[ed] into the Industry of Carolina Cannery without permission." Police heard from "several employee's [sic]" who "informed [the officers] that McBride was inside the building hiding."

October 8, 2020

The incident report and accompanying documents provide the following information: Police were notified of an incident at Chesterfield County Detention Center. Reportedly

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 Clerk of Court
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Mr. McBride "kept covering the camera [in his cell] with a rag." When officers went to tell him to uncover it, he reportedly "assaulted Major Teal and Lt. Jacobs." Video of the alleged incident was obtained. He is seen "rush[ing] out to stop the door from closing" when the officers entered. This led to a physical altercation with the officers.

September 2022

The incident report and accompanying documents provide the following information: The cell containing Mr. McBride and two other inmates was found to have a hole cut into the ceiling of their shared cell which was covered by tissue paper. It was believed that this was an attempt to escape the detention center.

Conclusion Regarding Capacity to Stand Trial

The S.C. Code Ann. §44-23-410 states a defendant lacks capacity to stand trial if that defendant "lacks the capacity to understand the proceedings against him or to assist in his own defense as a result of a lack of mental capacity."


Mr. McBride identified his attorney as "Jacob Godwin." He stated that his attorneys have changed numerous times without him knowing. He said that Mr. Godwin has been "pretty upbeat" and "seems like a good person." He said, "I'm charged with CSC, First Degree Burglary, and Kidnapping." He said he is so charged because the police are "saying [he] went in some lady's house just to feel up on her." He was asked about other charges, and he said he did not know. He was told that one of the charges was Grand Larceny. He correctly described the allegations against him saying he is accused of taking a vehicle belonging to an ex-girlfriend or her family. He was told one charge was about another motor vehicle. He said he remembered they are "accusing [him] of breaking into someone's car at a doctor's office." He was asked about the charge of Burglary Third Degree. He said he has this charge because he is alleged to have "look off running and ran inside a plant" on the day of his arrest. He was asked about charges since he has been in custody. He said, "Assault on Officer" or "Assault on Staff at the jail." He said he thinks these charges have "been dropped." He correctly described the allegations leading to his charges. Lastly, he said he was charged "attempted escape" because there was a "hole in a ceiling" of a cell he had been in. He recognized the seriousness of the charges stating that the first three charges alone could carry "life" in prison if convicted.

Mr. McBride stated that potential pleas available include *guilty* and *not guilty*. He correctly defined *guilty* ("that you did it") and *not guilty* ("I didn't do it"). He recognized that a *guilty* plea would be followed by sentencing ("get sentenced and go to prison"). He had difficulty describing the next step after a plea of *not guilty* is entered (i.e., go to trial). He said that he would have to enter "pre-trial." During discussion he voiced understanding of the process and understood that a plea of not guilty meant that a trial would likely be needed to determine the defendant's guilty or innocence. He correctly described *plea bargain* ("you making a deal on your situation on whether you gonna take time or get time served," "you're guilty," "puts you in a better position for a sentence").

Mr. McBride identified important people present at court to include the judge, the solicitor, and his attorney. He stated that the judge oversees the court. He stated that he believes the judge is on "the State's" side in the case. He stated that this is based on his experience of multiple convictions. He correctly described the roles of the judge ("he's there to sentence," "to make sure both sides are on track," "he's there to make sure you have a fair trial and everybody's doing it according to law"). He recognized the adversarial role of the solicitor at trial ("he wants to get rid of you," "trying to prove that you committed the crime and you did it"). He correctly identified his attorney's role at trial ("to defend you and prove that you didn't do it"). He stated that the jury consists of "11" people who have to decide if the defendant is *guilty* or *not guilty* ("to listen to both sides and come up with a conclusion and come back with a verdict if they are guilty or not guilty"). He said he thought the verdict was based on the majority vote. Mr. McBride was provided additional education regarding the roles of the judge, officers of the court, and jury. During review, he recalled the information provided including the neutrality of the judge ("Supposed to be fair and impartial," "on both sides"), the number of jurors ("12"), and the need for a unanimous verdict ("all 12" must agree).

Mr. McBride correctly defined *evidence* ("they got something on you," "they found material they can use against you," "it can be used on your behalf to prove your innocence or used against you") and *witness* ("somebody who was there who saw something or they heard something," "could testify on your behalf or against you") providing examples related to his case ("they would have to have some type of DNA or fingerprint," "alleged victim," "hole in ceiling," "ex-girlfriend statement"). He had an understanding of the common rules of probation ("drug testing, reporting, paying money, staying out of trouble," "can't leave the state," "change of address you got to let them know") and the potential consequences for violating these rules ("they violate you and get sent to prison"). He described appropriate courtroom behavior ("remain calm, don't speak unless spoken to, and speak to the judge saying 'yes sir your honor' or 'no sir your honor,' and do what ever your lawyer says to do.") and recognized potential consequences for disrupting court ("you could be held in contempt," "I think I been held in Contempt before"). He voiced understanding of *perjury* ("lying," "you go to jail, buddy"). He stated he believed he could be made to testify in his case by "subpoena." He responded well to education on his Fifth Amendment right not to testify in court if he chooses not to do so.

In summary, it is our opinion that Mr. McBride has a sufficient factual and rational understanding of his current charges and has the capacity to assist his defense attorney in the preparation of a defense. There were few knowledge deficits noted during the interview, but Mr. McBride responded to education on these topics demonstrating the ability to take in, retain, and use new information provided. Therefore, it is our opinion that Mr. McBride has the capacity to stand trial pursuant to *State v. Blair*, 275 S.E. 529, 273 S.E. 2d 536 (1981) and S.C. Code Ann. §44-23-410 (1976).


 Matthew E. Gaskins, MD

JUN - 3 P 12: 29
 JUSTICE F. GADDY
 CLERK OF COURT
 HANCOCK COUNTY, S.C.

My name is Alvaro Seleste McBride. I'm writing on behalf of the Appeal or copy thereof that I received on or around about June 24th of 2024. It ~~is~~ IS my understanding I have (20) days to send a letter of argumentive basis for this appeal. I'm currently undergoing the Intake process here at Kirkland Correctional Institute and have no access to any legal books or library or documentation to craft any arguments to send in. I'm kept on 24/7 lock down

UNTIL classified to my
prison.

1 WASNT ASK by the Judge
IF i would like to
withdraw my plea,

2 WASNT on my mental health
medications when i entered
the plea, the record will
show i was very unstable
and kept asking for my
needs.

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JUL 12 2024

SC Court of Appeals

Alvin S. McBride #309079
Kirkland Correctional Institution
4344 Broad River Rd.
Columbia, SC. 29210

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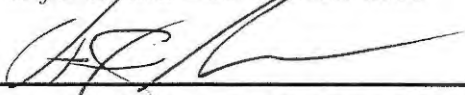


WITNESSES

SGT Nicole Scott

Cheraw Police Department

Law Enforcement Case #: 2020-0868
401



A True Copy Attest

Christy J. Gaddy

CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

DEC 17 PM

Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

DOCKET NUMBER:
2020-GS-13-1383

The State of South Carolina

County of Chesterfield

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

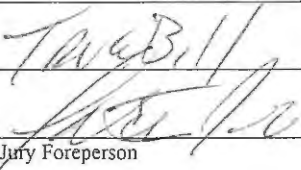
I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2020A1320100051

ARRESTED ON: 2020-06-11

ACTION OF GRAND JURY



Grand Jury Foreperson

Date 12-17-20

VERDICT

Petit Jury Foreperson

Date

COURT OF GENERAL SESSIONS

Term:
December 2020

THE STATE

vs.

Alvaro Seleste McBride

INDICTMENT FOR

Burglary - First Degree

§16-11-0311

CDR Code: 0079

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTERFIELD)

INDICTMENT FOR
Burglary - First Degree

§16-11-0311

At a Court of General Sessions, convened on December 17, 2020, the Grand Jurors of Chesterfield County present upon their oath:

BURGLARY, 1ST DEGREE

CDR: 0079 16-11-0311

That Alvaro Seleste McBride did in Chesterfield County on or about June 11, 2020, enter the dwelling of **Complainant** located at **█** Kershaw Street in the Cheraw area without consent and with the intent to commit a crime therein, and the defendant did kidnap and sexually assault the victim, in violation of Section 16-11-0311, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

WILLIAM B. ROGERS, JR.
SOLICITOR

1-2 years - LTR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Chesterfield

STATE

VS.

INDICTMENT/CASE#: 2020-GS-13-1383

Alvaro Seleste McBride

A/W#: 2020A1320100051

AKA: _____

Date of Offense: 6/11/2020

Race: Black Sex: M Age: 39

S.C. Code §: 16-11-0311

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 0079

Address: _____

City, State, Zip: _____

DL#: [REDACTED] SID#: _____

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Burglary / Burglary (After June 20, 1985) - First degree

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State. **25y**

ATTEST:
[Signature] 65347 [Signature] [Signature] 102720
Johnson-Lee, Mary T SC Bar # Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Correction, County Detention Center,

for a determinate term of 25 days/months/years/Time Served Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____ ; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 1453 days/months
 To include time spent on monitored house arrest prior to trial and sentencing.
 The Defendant Shall be Released from County Detention Center.

CLERK OF COURT, P. & G.S.
CHESTERFIELD COUNTY, SC
2021 JUN -3 12:35
Chief F. Gaddy
CLERK OF COURT
CHESTERFIELD COUNTY, SC
At True Copy Attest
Daisy S. Gaddy

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

- Substance Abuse Counseling *ATU recommended.* Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. or Job Corp No Contact with Victim Domestic Violence Intervention Program
- Mental Health Counseling May serve W/E beginning: _____
- Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: Do not transport to SCDE until after 6/6/2024 unless Defendant becomes hostile in anyway.

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:

| | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-----------|-------|------------------|
| Fine may be pd. in equal, consecutive weekly/monthly prmts. of | \$ _____ | Beginning | _____ | \$ _____ |
| §14-1-206 (Assessments 107.5 %) | | | | \$ _____ |
| §14-1-211(A)(1) (Conv. Surcharge) | | | | \$ 100 |
| §14-1-211(A)(2) (DUI Surcharge) | | | | \$ 100 |
| §56-5-2995 (DUI Assessment) | | | | \$ 12 |
| §56-1-286 (DUI Breath Test) | | | | \$ 25 |
| §14-1-212 (Law Enforce. Funding) | | | | \$ 25 |
| §14-1-213 (Drug Court Surcharge) | | | | \$ 150 |
| §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs) | | | | \$ 41 |
| §50-21-114(BUI Breath Test Fee) | | | | \$ 50 |
| §56-5-2942(J) (Vehicle Assessment) | | | | \$ 40/ea |
| 3% to County (if paid in installments) | | | | TBD |
| <input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees. | | | | \$ 500 |
| <input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund | | | | TBD |
| TOTAL | | | | \$ <u>128.75</u> |

Christy F. Gaddy
 CLERK OF COURT
 CHESTERFIELD COUNTY, SC.
 2024 JUN -3 P 12:35
 A True Copy Attest
 Christy F. Gaddy

Clerk of Court/ Deputy Clerk: Christy F. Gaddy
 Court Reporter: DCRP

Presiding Judge: _____
 Judge Code: 2048
 Sentence Date: June 3, 2024

A True Copy Attest

WITNESSES

SGT Nicole Scott

Cheraw Police Dept

Law Enforcement Case #: 2020-0868
401

**DOCKET NUMBER:
2020-GS-13-1292**

Christy J. Gaddy

**CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC**

2020 DEC 17 PM 2:18

The State of South Carolina

Wanda C. Miles
**CLERK OF COURT
CHESTERFIELD COUNTY, S.C.**

County of Chesterfield

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

COURT OF GENERAL SESSIONS

**Term:
December 2020**

THE STATE

vs.

Alvaro Seleste McBride

**ARREST WARRANT NUMBER
2020A1320100049**

ARRESTED ON: 2020-06-11

INDICTMENT FOR

Kidnapping

§16-03-0910

CDR Code: 0095

ACTION OF GRAND JURY

Grand Jury Foreperson

Date

12 17 20

VERDICT

Petit Jury Foreperson

Date

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTERFIELD)

INDICTMENT FOR

Kidnapping

§16-03-0910

At a Court of General Sessions, convened on December 17, 2020, the Grand Jurors of Chesterfield County present upon their oath:

KIDNAPPING

CDR: 0095 16-03-0910

That Alvaro Seleste McBride did in Chesterfield County on or about June 11, 2020, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one **Complainant** without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

WILLIAM B. ROGERS, JR.
SOLICITOR

0 - 30 years

STATE OF SOUTH CAROLINA

A True Copy Attest

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Chesterfield

Christy E. Gaddy

CLERK OF COURT C.P. & G.S. CHESTERFIELD COUNTY, SC

STATE

VS.

INDICTMENT/CASE#: 2020-GS-13-1292

Alvaro Seleste McBride

2024 JUN -5 P 12:52

AKA: _____
Race: Black Sex: M Age: _____
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL#: _____ SID#: _____

AW#: 2020A1320100049
Date of Offense: 6/11/2020
S.C. Code §: 16-03-0910
CDR Code #: 0095

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Kidnapping / Kidnapping

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State. 25 yrs

ATTEST: _____ 65347 _____ 102720
Johnson-Lee, Mary T SC Bar # Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Correction, County Detention Center,

for a determinate term of 25 days/months/years/Time-Served Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____ ; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

1453 (days/months) To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

2024 JUN -5 P 12:35
Christy E. Gaddy
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. or Job Corp No Contact with Victim Domestic Violence Intervention Program
- Mental Health Counseling May serve W/E beginning: _____
- Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: Do not transport defendant to SCDC until after 6/6/2024 unless he becomes hostile in any way

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:

| | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-----------|-------|------------------|
| Fine may be pd. in equal, consecutive weekly/monthly pmts. of | \$ _____ | Beginning | _____ | \$ _____ |
| §14-1-206 (Assessments 107.5 %) | | | | \$ _____ |
| §14-1-211(A)(1) (Conv. Surcharge) | | \$100 | | \$ 100.00 |
| §14-1-211(A)(2) (DUI Surcharge) | | \$100 | | \$ _____ |
| §56-5-2995 (DUI Assessment) | | \$12 | | \$ _____ |
| §56-1-286 (DUI Breath Test) | | \$25 | | \$ _____ |
| §14-1-212 (Law Enforce. Funding) | | \$25 | | \$ 25.00 |
| §14-1-213 (Drug Court Surcharge) | | \$150 | | \$ _____ |
| §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs) | | \$41 | | \$ _____ |
| §50-21-114(BUI Breath Test Fee) | | \$50 | | \$ _____ |
| §56-5-2942(J) (Vehicle Assessment) | | \$40/ea | | \$ _____ |
| 3% to County (if paid in installments) | | TBD | | \$ 3.75 |
| <input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees. | | \$500 | | \$ _____ |
| <input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund | | TBD | | \$ _____ |
| TOTAL | | | | \$ 128.75 |

Clerk of Court/ Deputy Clerk: Christy J. Gaddy
Court Reporter: _____

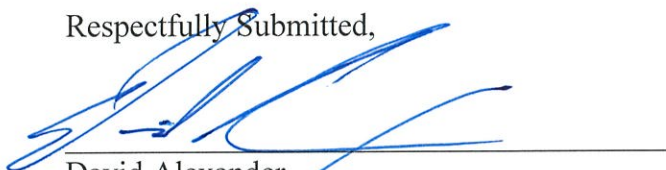
Presiding Judge: _____
Judge Code: _____
Sentence Date: 6/3/2024

A True Copy Attest
 Christy J. Gaddy
 CLERK OF COURT C.P. & G.S.
 CHESTERFIELD COUNTY, SC
 2024 JUN 5 P 12: 52
 2024 JUN -3 P 12: 35
 Christy E. Gaddy
 CLERK OF COURT
 CHESTERFIELD COUNTY, SC

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with 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.”

Respectfully Submitted,



David Alexander
Deputy Chief Attorney for Capital Appeals

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

ATTORNEY FOR APPELLANT

RECEIVED

Feb 28 2025

SC Court of Appeals

This 28th day of February, 2025.

RECEIVED

Feb 28 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chesterfield County

Honorable Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

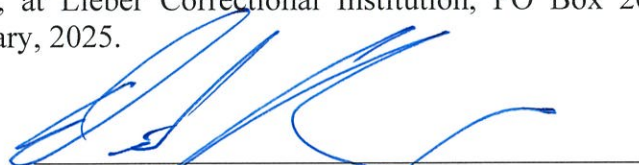
ALVARO SELESTE MCBRIDE,

APPELLANT.

APPELLATE CASE NO. 2024-000988

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Alvaro Seleste McBride, #309079, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 28th day of February, 2025.



David Alexander
Deputy Chief Attorney for Capital Appeals

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

ATTORNEY FOR APPELLANT