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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DALE SMITH,

APPELLANT

APPELLATE CASE NO. 2024-001014

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)	COURT OF GENERAL SESSIONS
)	
COUNTY OF RICHLAND)	Case No.: 2023-GS-40-03297
)	
State of South Carolina,)	
)	
vs.)	
)	
Dale Smith,)	
)	
Defendant.)	June 6, 2024

TRANSCRIPT OF GUILTY PLEA AND SENTENCING HEARING
BEFORE THE HONORABLE G.D. MORGAN, JR.
Circuit Court Judge, presiding

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P R O C E E D I N G S

(Proceedings begin on the 4th day of June 2024, at
11:39 a.m.)

THE CLERK: Will you raise your right hand,
please?

(Defendant is first duly sworn.)

THE COURT: All right. You are Dale Smith?

THE DEFENDANT: Yes, sir.

THE COURT: Dale Smith, you -- I have an
indictment here -- domestic violence of a high and
aggravated nature, pleading guilty to domestic violence
first degree.

THE DEFENDANT: Yes, sir.

THE COURT: States on September 21, 2022, that
you did physically harm Amber Murray, who was a
household member. Is that your understanding of why you
are here today?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Was it a true bill or
is it waiving and presenting?

MS. JOHNS: It's a true bill on the domestic
violence of a high and aggravated nature, and the state
has agreed to reduce it to domestic violence first
degree.

THE COURT: All right. Counsel, have you

1 advised Mr. Smith of the minimum and maximum he faces
2 and the elements of the charge?

3 **MS. MYERS:** Yes, Your Honor.

4 **THE COURT:** And if he went to trial, most
5 likely, he would be convicted?

6 **MS. MYERS:** Yes, Your Honor.

7 **THE COURT:** Mr. Smith, you understand the
8 minimum and maximum range of sentence you could face
9 here today?

10 **THE DEFENDANT:** Yes, sir.

11 **THE COURT:** You also understand the
12 enhancement provision of domestic violence, meaning that
13 if it happens again, it's enhanced and continues to be
14 enhanced each time you go and face higher sentences each
15 time. You understand that?

16 **THE DEFENDANT:** Yes, sir. This will never
17 happen again.

18 **THE COURT:** You under the influence of any
19 drugs, alcohol, or medication that keeps you from
20 understanding what you're doing?

21 **THE DEFENDANT:** No, sir.

22 **THE COURT:** Do you have any mental or physical
23 disability that keeps you from understanding what you're
24 doing?

25 **THE DEFENDANT:** No, sir.

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1 **THE COURT:** By pleading guilty here today,
2 you're waiving your Constitutional rights. Those
3 include your right to a jury trial, your right to
4 confront your accusers, and the privilege against
5 self-incrimination. You understand that?

6 **THE DEFENDANT:** Yes, sir.

7 **THE COURT:** And are you waiving those rights
8 and pleading guilty freely, voluntarily, and
9 intelligently?

10 **THE DEFENDANT:** Yes, sir.

11 **THE COURT:** Let me hear from the state.

12 **MS. JOHNS:** Thank you, Your Honor.

13 Your Honor, on September the 21st of 2022, the law
14 enforcement received a 911 call. They weren't able to
15 decipher what exactly happened. This is at [REDACTED] Kay
16 Road in Eastover, South Carolina.

17 Your Honor, I do have the 911 call that I
18 would like to play first before I get into the
19 recitation of the facts.

20 **THE COURT:** All right.

21 (911 call is played.)

22 **MS. JOHNS:** So when 911 received this call,
23 Your Honor, obviously, the dispatch had found the phone.
24 And the victim, in this case, Amber Murray, who's
25 present today, was able to tell 911 her location.

1 Upon arrival, what law enforcement did is they
2 observed Mr. Smith have the baby in one hand -- this
3 baby is two years old at the time -- he has the baby in
4 one hand. And he's got the victim, Amber Murray, in
5 another hold. And he's dragging her out of the car.
6 And he's pulling her back into the residence.

7 So once they got there, they had talked with
8 Ms. Murray. Ms. Murray said that what happened earlier
9 that morning is that she had to take her baby to the
10 doctor. When she got into her car, she found some items
11 in her car, which included -- included green leafy plant
12 substance in her car. She was not -- she'd never
13 partake or -- or participated in any drug use. And she
14 was upset because she had to take the baby to the -- to
15 the doctor or -- and so she took the items, and she
16 brought them back into the house.

17 She handed them to Mr. Smith. Mr. Smith then
18 lost it. She had her keys. She had her phone. She had
19 her baby. She went back to the car. He chased after
20 her. Once he chased after her, what he did is, he took
21 her keys from her.

22 After he took her keys from her -- and during
23 the midst of this, he was slapping her face, squeezing
24 her face together. He ended up choking her, strangling
25 her. He strangled her to the point that she lost

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1 consciousness, and she urinated on herself.

2 Now, at this time, Ms. Murray is pregnant with
3 their second child. And he knew that she was pregnant.
4 He did get the keys. He threatened that -- her that he
5 would take the keys and he was going to stab her in the
6 stomach. Because in his mind, she had, quote, cheated
7 on him, but there's no evidence of that. Not that that
8 matter.

9 So then he leaves. She's able to call 911.
10 She slides the phone underneath the seat. So that's why
11 she was not responsive when they asked her whether or
12 not he had a weapon because she couldn't hear what they
13 were saying. After he gets into the house, he comes
14 back out. And then he strangles her again. And this is
15 what you hear on the 911 call.

16 When he strangles her a second time, he's
17 looking for the phone, which is evidence -- evidenced by
18 this call. She had the phone underneath the seat.
19 We -- I'm not sure -- and it's just because I have a
20 faulty memory at this point. I'm not sure whether or
21 not he got the phone. But I do believe that when they
22 arrested him, he did have a phone on him that did belong
23 to her. And I'll let her tell the Court more about
24 that.

25 Your Honor, this case was originally charged

1 as a domestic violence of a high and aggravated nature
2 due to the multiple aggravating factors that are
3 involved in this domestic case. At this point,
4 Ms. Murray had decided that she was within a minute of
5 death because she blacked out. She woke up -- she woke
6 up with urination all over her.

7 She's been very understanding of the -- of the
8 amount of work that goes into a case like this. She's
9 also been very vigilant, speaking with our office about
10 anything that he may be doing or may not be doing. He
11 was let out on bond at one time. He had a --
12 restrictions not to be around her.

13 And what he did is he showed up at this
14 child's third birthday party unannounced, uninvited, and
15 tried to put a Big -- Big Wheel toy together. And when
16 the police were brought -- were called, he was just as
17 belligerent to this group of officers as he was the
18 first group of officers. So we were able to get him
19 back in to court, and we moved to revoke his bond.

20 He's been in jail since the revocation of that
21 bond, Your Honor. And I'm sorry. I don't have the
22 date, but it was sometime last year. And the state has
23 decided that it might be a little bit easier on
24 Ms. Murray -- we offered domestic violence first degree
25 on this case so that she could actually try and get some

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1 sleep because she's not been able to do so.

2 He's finding ways to get in touch with her.
3 The last time, it was through an accident with his
4 lawyer that he ended up memorizing her cell phone
5 number. And -- but we feel like this is the time to
6 have him admit to what he did.

7 Your Honor, I also have her brother here DJ
8 Holmes who would like to address the Court along with
9 Amber Murray. But I also want to keep -- want the
10 Judge -- want the Court to keep in mind that this is --
11 this is a -- a major reduction in the charges, in my
12 opinion. And domestic violence first offense carries up
13 10 years. And Ms. Amber Murray was asking the court for
14 10 years, and the state is agreeing with that. So I
15 want you to keep that in mind.

16 Just so that you have the full story of
17 Mr. Smith without interruption, I can tell you that in
18 2010, he was convicted to assault and battery third. In
19 September of 2011, he was convicted of attempted armed
20 robbery -- or armed robbery, and received 10 years on
21 that. And in December of '22, he was charged with
22 driving under suspension. And in December of 2020, same
23 date, Your Honor, he was charged with possession of a
24 firearm by a convicted felon.

25 I would like for the Court to hear from DJ

1 Holmes first because he is the brother of this victim.

2 THE COURT: Yes, sir.

3 MR. HOLMES: Good morning, Your Honor. I just
4 would like to say that this entire case has been
5 (inaudible) my sister. And he's shown very little
6 remorse or any apologetic to the situation. And I just
7 would appreciate -- want you to know the severity of the
8 case.

9 This is my only sibling. I could have easily
10 lost my sister that day and I could have easily lost
11 my -- my niece. And I would love for him to stay as far
12 away as possible -- possible from her for as long as can
13 be and a permanent restraining order could be set in
14 place. That's all I would like to say.

15 THE COURT: Thank you, sir.

16 MS. JOHNS: And, Your Honor, this is Amber
17 Murray, the victim. She's also the mother of the
18 defendant's two children. I think their ages are three
19 and one. And she was pregnant with the baby. And the
20 baby's been born, and she's healthy. She did have to go
21 to the hospital also, Your Honor. (Inaudible).

22 MS. MURRAY: Good afternoon. My name is Amber
23 Murray. On September 21, 2022, I was brutally attacked
24 by Dale Smith Jr. I was getting ready to go to a
25 doctor's appointment to get my maternity leave paperwork

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1 situated because I was working full time while seven and
2 half months pregnant, but just very excited and ready to
3 give birth.

4 I was not expecting for him to assault me the
5 way he did. He chased me to the car. He -- I had
6 locked the car. He, somehow, managed to open the car.
7 And immediately, as soon as he got the car door opened,
8 he put both hands around my neck and began strangling me
9 to the point of unconsciousness and urination. When I
10 lost conscience, my keys that were, like, tightly in my
11 hands, I lost grip. And so he grabbed my keys. He ran
12 off for a couple of seconds, maybe a minute. And then
13 he came back out. By that time, I had already called
14 the police and put my phone under -- under the seat.

15 So he came out. Opened the passen -- I just
16 slid over to the passenger side. He opened the
17 passenger door and began strangling me again, repeatedly
18 saying, "B, I will kill you. I will kill you." And I'm
19 begging him and pleading with him that I'm pregnant.
20 And he's like, "I don't care. I don't care." And he
21 proceeds.

22 Then he bites my cheek. He bites my face and
23 locks on and shakes. And it's just very aggressive.
24 And when that didn't work, he took my car key that he
25 just stole from me -- he took it, wedged it between his

1 fingers, and threatened to stab me in my pregnant
2 stomach if I didn't give him the phone. That was
3 enough. I said okay.

4 So I reached under the seat. I gave him the
5 phone. And right within those minutes, that's when the
6 police came. And they were able to see him dragging us
7 to the car and -- I mean -- sorry -- to the house. And
8 as soon as they came out, he said, "See. See. Look
9 what you did. Now they're out here. Look what you
10 did." And he was, like, dragging me to the house.

11 And he's, like, fussing at them and getting
12 very hostile and saying, "You don't have the right to be
13 here. You don't have a warrant. You can't cross my
14 threshold." Just being very aggressive with them.

15 In the midst of them -- in the midst of their
16 dispute, I just grabbed my son and I went back to the
17 car because I wanted to get away from them. I didn't
18 know what was next. And I -- my whole focus was just
19 leaving, just getting away.

20 But I gave birth shortly after. I had my
21 daughter premature. She was born with complications.
22 She's healthy now, but I've been staying on top of
23 things; as well as my son, who was also traumatized. He
24 hasn't spoken since the incident. He's just now
25 starting to say a few words, and he's three going on

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1 four. He's severely traumatized.

2 I'm in therapy right now. I'm prescribed
3 antidepressants. Like it's been very hard to gain my
4 normal life or at least have some type of peace of mind
5 because I'm always wondering, When is he going to come
6 back? When is he going to finish the job?

7 He has sat in front of the courtroom in the
8 last hearing and told Judge Newman -- when he asked him,
9 "Well, do you love her?" He sat there and looked him in
10 his eyes and said, "No, I don't love her."

11 After two children. After being, in my
12 opinion, the best girlfriend that I could be to you,
13 this is how low you think of me. You don't even think
14 enough of me to just let me go on. You would rather
15 take my life from me. I could -- I could easily not be
16 here, and life would still go on. He would still be
17 without me. My kids -- I wouldn't even have my
18 daughter. And my son would just be left distraught, as
19 well as the rest of my family.

20 I don't -- I don't have any record, any
21 priors, or anything like that. I just, like, work and
22 go home and just try to have a regular life. And I
23 thought that he was the same and that we had the same
24 goals and the same paths, but absolutely not. We
25 absolutely don't. And me not properly vetting him and

1 taking into account his prior history and everything
2 that's tied with that has caused just so much
3 destruction. And I just really pray and plead with you
4 and to God that he would just stay out of my life, stay
5 away from our children, and just keep all of his
6 violence and abuse away from us.

7 He has abused me mentally -- like lastly,
8 physically, but emotionally, spiritually, in every way,
9 shape, and form. And I -- I just don't -- I don't see
10 any change in him. I don't see any -- any progress.

11 He was out for -- he bonded out immediately
12 after this happened. I didn't even get the opportunity
13 to go to the bond hearing because I was in the hospital
14 checking on the health of my baby. And he bonded out,
15 and he stayed out. Within the whole time, a little over
16 a year, he has not contributed anything towards either
17 child, just nothing, except him trying to contact me to
18 somehow gain sympathy.

19 But he has harassed me nonstop. And he has
20 bypassed the order of protection, the "no contact"
21 order. Just everything that it has been set in place,
22 he has disrespected it.

23 And for his attorney to show my messages
24 saying that I'm not interested in dropping any charges,
25 and for him to memorize my number from that and still

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1 reach out and call me after all of this, is so
2 disrespectful. It's so wrong.

3 And I just ask you to just, please, take all
4 of this into consideration when you're making your
5 decision. Thank you so much.

6 **THE COURT:** Thank you, ma'am.

7 **MS. MURRAY:** You're welcome.

8 **THE COURT:** All right. Anything else from the
9 state?

10 **MS. JOHNS:** Nothing from the state,
11 Your Honor.

12 **THE COURT:** Okay.

13 Mr. Smith, you agree with the facts set forth
14 by the solicitor in this plea here today?

15 **THE DEFENDANT:** Yes, sir.

16 **THE COURT:** All right. Has anybody promised
17 anything, threatened you or forced you to come in here
18 and plead guilty?

19 **THE DEFENDANT:** No, sir.

20 **THE COURT:** Have you had a chance to speak
21 with your lawyer?

22 **THE DEFENDANT:** Yes, sir.

23 **THE COURT:** Have you understood everything she
24 has told you?

25 **THE DEFENDANT:** Yes, sir.

1 **THE COURT:** And are you satisfied with her
2 advice and her representation?

3 **THE DEFENDANT:** Yes, sir.

4 **THE COURT:** And are you pleading guilty here
5 today because you are guilty?

6 **THE DEFENDANT:** Yes, sir.

7 **THE COURT:** All right. I accept the plea. I
8 find the defendant is freely, voluntarily, and
9 intelligently pleading guilty with the advice of his
10 attorney, he is satisfied with her advice, and that the
11 state has the facts to support a plea. All right.

12 Yes, ma'am.

13 **MS. MYERS:** Yes, Your Honor. May it please
14 the court. Katherine Myers on behalf of Mr. Smith.

15 I do have some information to share about him,
16 Your Honor, to share about another procedural matter I
17 want to make sure is closed, but I'm going to do things
18 in a little bit of a different order. We also have his
19 mother and father here today who would like to address
20 the court, but I'd actually like to start with
21 Mr. Smith.

22 You want to address the Court?

23 **THE DEFENDANT:** Yes, sir. I want to start
24 this letter off as an apology to my kids, family, yet
25 but not least, the mother of my kids. I never intended

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1 for none of the mishaps that occurred -- the day of
2 September 21, 2022, to occur, but the past is the past.
3 If I could take it all back, I would at the snap of my
4 fence. But I can't.

5 I refuse to feel any resentment towards the
6 mother of my kids. I'm sorry for making her feel
7 betrayed or hurt in any matter, whether emotional or
8 physical. So for that, I say I'm guilty. Even though I
9 may not agree with all that said happened, I just want
10 everyone in the courtroom to know I'm sorry with all my
11 heart.

12 I'm sending my deepest apology to Ms. Murray.
13 Life is 90 percent of the things that just happen to us
14 while we're here, but 10 percent of how we respond. I
15 agree. I could have responded better instead of going
16 off impulse. I'm sorry.

17 I've changed again now more than ever because
18 I have two children I need to raise. So it's definitely
19 on how I approach, needing to be more patient, more
20 understanding, more considerate, and more tolerant to --
21 to (inaudible) and antagonize.

22 I pray for forgiveness and lenience from the
23 courts. And I feel as though my prayers are answered
24 because I had 20 years over my head, now I'm facing 0 to
25 10.

1 I thank Ms. Johns and Ms. Myers. I've never
2 had any situation like this happen before. But like my
3 father told me, life is a lesson; just gotta learn from
4 it. And I've learned. Thank you, Your Honor.

5 **THE COURT:** All right. Yes, ma'am.

6 **MS. MYERS:** Yes, Your Honor. You've heard
7 from Mr. Smith that he has two children with Ms. Murray.
8 One is three years old; his other child was almost one.
9 He's from here in Columbia.

10 **THE COURT:** Is that the one that she was
11 pregnant with when this happened?

12 **MS. MYERS:** Yes, Your Honor.

13 **THE COURT:** Okay.

14 **MS. MYERS:** And he went to A.C. Flora High
15 School. He has his GED. He's been working with Labor
16 Finders since 2019 and has stayed employed. He's a
17 certified flagger, a forklift operator, a (inaudible)
18 machine operator. He's been a chef at Halls Chophouse.
19 He's worked at Hilton Garden Inn. And at the time of
20 this incident, he had recently been hired as the head
21 chef at -- yes, at Hickory Tavern. The day -- the day
22 of that incident, he had been hired, Your Honor.

23 We are grateful for the reduction that's been
24 offered by the state. We understand what his exposure
25 is today. And what we're asking for, Your Honor, is a

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1 suspended active sentence. We understand that 10 is the
2 max here, but we're asking for a suspended active
3 sentence of two to three years.

4 He's already served 206 days in Alvin S.
5 Glenn. He's done 419 days on monitored house arrest,
6 which if Your Honor is inclined to grant that -- we
7 understand it's discretionary whether he gets time
8 served for that 419 days. But if you did, Your Honor,
9 that would be a total of 625 days time served.

10 Solicitor Johns also did mention, I believe,
11 in his -- his criminal history, a charge where I believe
12 he got pulled over and had a firearm in his vehicle. In
13 my record, I do see a report from PPP. And I didn't
14 know if maybe Agent Jimenez could speak to whether that
15 was still open or not.

16 I do see the state's recommendation says
17 revocation is to run concurrent to any time served on
18 the new offense. The revocation will satisfy the
19 supervision fee and the drug test fee arrears, and roll
20 the Court fine to civil judgment. Recommend the
21 batterer's intervention program while in SCDC. But I
22 didn't get a chance to speak to Agent Jimenez to this
23 prior to this plea, Your Honor. But I did want to make
24 sure that everything got resolved at once, if that is
25 still open.

1 **THE COURT:** Anything else?

2 **MS. MYERS:** No, Your Honor. That concludes
3 our presentation.

4 Oh, I'm sorry. His mom and dad are here.
5 They would like an opportunity to address the Court.

6 **THE COURT:** All right.

7 **MRS. SMITH:** Good afternoon, Your Honor. My
8 name is Victoria Smith. I'm the mother of Dale Smith.
9 And I -- I humbly apologize to the Court, to Ms. Murray.
10 I have not seen my grandkids. And my grandkids are the
11 joy of our lives.

12 What they had going on shouldn't impact us,
13 Amber. We love y'all.

14 We love you, Dale, but we thank you for
15 becoming the man that you needed to become to own up to
16 what you have done.

17 We thank you, Your Honor, for listening to us
18 and for considering his apology to the court and to
19 Ms. Murray. Thank you.

20 **THE COURT:** Thank you, ma'am.

21 **MR. SMITH SR.:** Love you, son.

22 Good morning, Your Honor.

23 I commend you, son, for --

24 Oh I'm sorry. I'm Dale Leonard Smith, Sr.
25 And I commend my son for being the man that you are

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1 because not once have I heard anything to what provoked
2 you. Because there are things that happened at my house
3 that my son refused to speak of and -- where she showed
4 up with her family members wanting to jump on him and I
5 had to defuse the situation, where she took his phone
6 and took it to the restroom, and looking for his phone,
7 can't find his phone. There's just several incidents
8 that took place up to this point, but no one has yet to
9 speak on what provoked my son. Now I commend you for
10 protecting the mother of your children.

11 But since the incident now -- we had our
12 grandson -- while Dale and Amber were -- I used to
13 babysit every -- we would have him three or four days at
14 a time, used to go to church every Sunday. And since
15 this incident, we have yet to see our grandchildren.
16 And this is a major issue with my wife and ourself. We
17 just -- we just gone from being pretty much they're sole
18 environment. At the beginning of their relationship,
19 they lived with us.

20 And she spoke to that he's not a -- he's not a
21 provider. I've gone to the house on multiple occasions
22 where they wouldn't answer to the door. We had to leave
23 gifts and items on the porch.

24 The day of his arrest -- well, he didn't get
25 arrested that day. But he went there -- he just

1 wanted -- he simply wanted his son to have a great
2 birthday party. We spent over \$400. My son and all the
3 uncles and the family members spent gifts. And he was
4 received at the door with a gun in his face. You know,
5 he simply wanted his child to have a great birthday
6 party. And -- and the things that happened with them, I
7 don't -- I don't quite get it. I don't know why there's
8 so much hatred.

9 This incident took place years ago. He moved
10 on with his life. He's involved in a new relationship.
11 He moved on. But this certain situation that transpired
12 years ago, they just won't -- at some point, they going
13 to have to forgive for the sake of the children. That's
14 all I have to say, Your Honor.

15 **MS. JOHNS:** Your Honor, if I may be heard?

16 **THE COURT:** Anything else from the defense?

17 **MS. MYERS:** Briefly, Your Honor. I believe
18 the state is asking for a permanent restraining order in
19 this case. We understand that; however, we did want to
20 see if there was a possibility for an exception, a
21 caveat, for the purposes of him co-parenting, or being
22 able to check on his children, even if that's through a
23 third party.

24 **THE COURT:** Any state response?

25 **MS. JOHNS:** Yes, Your Honor. First, let me

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1 address the permanent restraining order. Your Honor,
2 there is a family court that can deal with visitation
3 and support and set any other boundaries necessary,
4 where Mr. Smith can, at some later date, petition the
5 court for that. And I would ask that the permanent
6 restraining order be signed as is.

7 Now, as for -- with all due respect to
8 Mr. Smith's father, you can see the source of where this
9 is coming from. They resort to victim blaming when they
10 cannot accept the fact that they almost killed this girl
11 and her unborn child. They're thinking about the
12 children that they can't see. There was only one child
13 involved at that time. And Ms. Murray was under the
14 impression that this was the man that she was going to
15 share the rest of her life with and she's going to have
16 children with, and then this happens.

17 So whatever happened that, you know, may have
18 compelled him to think that this is the way that we
19 treat a woman is probably coming directly from the
20 family --

21 **MS. MYERS:** Objection, Your Honor.

22 **THE COURT:** Ms. Johns -- Ms. Johns, just
23 stay -- stay --

24 **MS. JOHNS:** Your Honor, I have also here from
25 the -- Christie Tolar. And she is with the victim's

1 ombudsman's office. And the reason she's here, Your
2 Honor, is because during the time that Mr. Smith was out
3 on bond, Ms. Murray kept getting harassed and contacted,
4 and him showing up at the three-year-old birthday party.

5 And Ms. Murray had contacted Ms. Tolar and had
6 told -- and shared some information with Ms. Tolar. And
7 Ms. Tolar took an interest in this case and is here
8 today. I don't know if she wants to speak about
9 domestic violence and how it's kind of swept under the
10 rug because victims are now responsible for making
11 somebody go off, but she is here if the Court would like
12 to hear from her. I think she did take time to be here
13 today. I'm sorry. I did not recognize her earlier,
14 Your Honor, but she is here to speak on behalf of
15 Ms. Murray.

16 **THE COURT:** Do you want to speak, ma'am?

17 **MS. TOLAR:** Thank you, Your Honor. I'll keep
18 it brief. I'm with the state's crime victim ombudsman's
19 office. I'm the senior victims' rights compliance
20 specialist. Her right is to be free from intimidation
21 and harassment (inaudible).

22 And I just briefly would like to remind Your
23 Honor that strangulation is a -- it's a (inaudible)
24 factor in domestic violence. And I don't want to see
25 Ms. Murray at next October's (inaudible) ceremony for

Sentencing of the Court

1 domestic violence deaths. Thank you.

2 THE COURT: All right. Thank you, ma'am.

3 Counsel, have you advised Mr. Smith that this
4 is a serious and violent offense and the effect of those
5 categories?

6 Mr. Smith, you understand what that means --
7 serious and violent?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Under 2023GS4003297,
10 the sentence of the Court will be the defendant will be
11 confined with the Department of Corrections for a period
12 of 10 years. The defendant has 206 days' credit. Ten
13 days to appeal. I'm also signing a permanent
14 restraining order in this matter. That will be the
15 order of the Court.

16 MS. MYERS: Yes, Your Honor.

17 MS. JOHNS: Thank you, Your Honor.

18 (Proceedings conclude at 12:10 p.m.)

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CERTIFICATE

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I, the undersigned, Teresa B. Johnson, Official Court Reporter, who listened to the digital recording created by DCRP, do hereby certify that said hearing is a true, correct, and verbatim transcript of said recorded, discernible proceedings, except for the portions noted where no transcript was possible due to the lack of discernible wording, noted by (inaudible): 7 times.

I do further certify that I am not a relative, employee, attorney, or counsel of any of the parties connected with the action, nor am I financially or otherwise interested in the outcome of the action.

Dated: 03/04/2025

/s/Teresa B. Johnson
Teresa B. Johnson
Official Court Reporter

RECEIVED

Jun 14 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Honorable G. D. Morgan, Jr., Circuit Court Judge

Case Nos. 2023-GS-40-03297

The State,.....Respondent,

v.

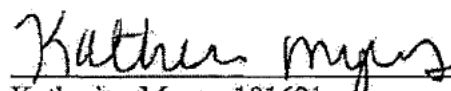
Dale Leonard Smith Jr.,.....Appellant.

NOTICE OF APPEAL

Dale Leonard Smith Jr. appeals his conviction and sentence in this case. The sentence was imposed by the Honorable G.D. Morgan, Jr. on June 06, 2024.

2023-GS-40-03297 – Domestic Violence, 1st degree - 10 years concurrent, 206 days credit for time served.

June 10, 2024


Katherine Myers, 101621
Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592
Attorney for Appellant

Other Counsel of Record:
Assistant Solicitor Theresa Johns
Office of the Solicitor, Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street
Columbia, South Carolina 29201
Attorney for Respondent.

RECEIVED

Jun 14 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Honorable, Circuit Court Judge

Case Nos. 2023-GS-40-03297

The State,.....Respondent,

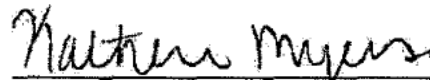
v.

Dale Leonard Smith Jr.,.....Appellant.

PROOF OF SERVICE

I hereby certify that a true copy of the Notice of Intent to Appeal & the Statement of Basis for Appeal from Guilty Plea Pursuant to Rule 203(d)(1)(B) in the above-referenced case has been served upon opposing counsel by delivering same this date to her office at the Office of the Solicitor, Fifth Judicial Circuit, Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina 29201.

June 10, 2024



Katherine Myers, 101621
Richland County Public Defender's Office
P.O. Box 192
Columbia, S.C. 29201
(803) 765-2592
Attorney for Appellant

Other Counsel of Record:
Assistant Solicitor Theresa Johns
Office of the Solicitor, Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street
Columbia, South Carolina 29201
Attorney for Respondent

The South Carolina Court of Appeals

The State, Respondent,

v.

Dale Smith, Appellant.

Appellate Case No. 2024-001014

The Honorable G. D. Morgan, Jr.
 Richland County
 Trial Court Case No. 2023GS4003297

ORDER

Appellant has failed to provide a sufficient guilty plea explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR) and as directed by the Court's letter of June 20, 2024. Accordingly, this matter is dismissed, and the remittitur will be sent as required by Rule 221(b), SCACR.

FOR THE COURT

BY


 CLERK

Columbia, South Carolina

cc:

Dale Leonard Smith, Jr., 00347549

Katherine Myers, Esquire

Robert Michael Dudek, Esquire

Theresa N. Johns, Esquire

Alan McCrory Wilson, Esquire

Mark Reynolds Farthing, Esquire

FILED
Jul 31 2024

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS

Warrant Number: 2022A4010204317

The State of South Carolina,)

vs.)

Dale Leonard Smith Jr.,)
Defendant.)

MOTION TO RECONSIDER

2024 AUG -6 PM 2:50
JEANNETTE W. MCBRIDE
C.C.P. G.S. & F.C.

RICHLAND COUNTY
FILED

Now into court comes Dale Leonard Smith Jr., through his attorney, Katherine Myers, and moves that this Court conduct an in-person hearing to reconsider and reduce Mr. Smith's Domestic Violence 1st degree in the above-captioned case.

In support, Counsel states:

1. On June 06, 2024, Mr. Smith Jr. appeared before the Honorable G.D. Morgan and was sentenced to 10 years which was the maximum sentence for the charge of Domestic Violence in the 1st degree with credit for 260 days served.
2. The Defendant believes the judge did not consider that he has no priors for DV;
3. Or that the victim's version of events changed multiple times.
4. The Defendant believes the judge should not have considered the statements of the SC AG's office regarding general statistics as they unfairly bolstered the witnesses' credibility;
5. Nor the negative statements of the victim's brother who was not present on the day in question and did not reside with the couple.

WHEREFORE, Mr. Smith Jr. respectfully asks the Court that a hearing be held to reconsider his sentence.

Respectfully submitted,

Katherine Myers

Katherine Myers, 101621
Attorney for Defendant
P.O. Box 192
Columbia, SC 29202
(803) 765-2592

This 6 day of August, 2024.

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 The State of South Carolina,)
)
 vs.)
)
 Dale Leonard Smith Jr.,)
 Defendant.)

IN THE COURT OF GENERAL SESSIONS
 Warrant Number(s): 2022A4010204317

CERTIFICATE OF SERVICE

RICHLAND COUNTY
 FILED
 2024 AUG -6 PM 2:59
 JEANETTE V. M. BRIDE
 C. P. G. S. J. F. C.

I certify that on this date I served the Motion to Reconsider in the above-captioned case on the State of South Carolina by delivering it copies of these documents to the State's attorney of record, Theresa Johns, by hand delivering said copies to The Office of the Solicitor, Fifth Judicial Circuit, Richland County Judicial Center, Third Floor, 1701 Main Street, Columbia, South Carolina 29201, and leaving them with a clerk or other person of authority at said office.



 DiJahne McPherson
 Paralegal
 Richland County Public Defender's Office
 P.O. Box 192
 Columbia, South Carolina 29202
 (803) 765-2592

Columbia, South Carolina
 This 6 day of August, 2024.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Aug 22 2024

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Honorable G.D. Morgan, Circuit Court Judge

Case Nos. 2023-GS-40-03297

The State,.....Respondent,

v.

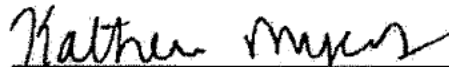
Dale Leonard Smith Jr.,.....Appellant.

NOTICE OF APPEAL

Dale Leonard Smith Jr. appeals his conviction and sentence in this case. The sentence was imposed by the Honorable G.B. Morgan on June 06, 2024.

2023-GS-40-03297 – Domestic Violence, 1st degree - 10 years concurrent, 206 days credit for time served.

August 22, 2024



Katherine Myers, 1016210
Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592
Attorney for Appellant

Other Counsel of Record:
Assistant Solicitor Theresa Johns
Office of the Solicitor, Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street
Columbia, South Carolina 29201
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Aug 22 2024

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

SC Court of Appeals

Honorable G.D. Morgan, Circuit Court Judge

Case Nos. 2023-GS-40-03297

The State,.....Respondent,

v.

Dale Leonard Smith Jr.,.....Appellant.

**STATEMENT OF BASIS FOR APPEAL FROM
GUILTY PLEA PURSUANT TO RULE 203(d)(1)(B)**

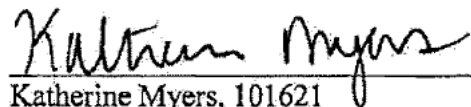
Pursuant to South Carolina Appellate Court Rule 203(d)(1)(B), the Defendant was dissatisfied with his sentence and insisted on appealing. I am of the opinion that if the client insists on appealing, I am constrained to file an appeal. Weathers v. State, 319 S.C. 59, 459 SE 2d 838 (1995).

I request for an appeal after the ten day deadline on behalf of Mr. Smith. I am filing this appeal as a reinstatement of the original Appeal Case no. 2024-001014 at the request of Chief Deputy Clerk Catherine Harrison made on August 15, 2024.

The reason I am seeking a reinstatement is because I failed to see the one email that arrived in my inbox on June 20, 2024. It is ultimately my responsibility to check all emails. However, I am able to manage the high email demand that I have with the assistance of my paralegal who is listed as my alternative email address is AIS and was copied on previous and other appeal emails.

I humbly beseech the court to allow my client an opportunity to be heard and not be punished by my oversight.

August 22, 2024



Katherine Myers, 101621
Richland County Public Defender's Office
P.O. Box 192
Columbia, S.C. 29201
(803) 765-2592
Attorney for Appellant

Other Counsel of Record:
Assistant Solicitor Theresa Johns
Office of the Solicitor, Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street
Columbia, South Carolina 29201
Attorney for Respondent

RECEIVED

Aug 22 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Honorable G.D. Morgan, Circuit Court Judge

Case Nos. 2023-GS-40-03297

The State,.....Respondent,

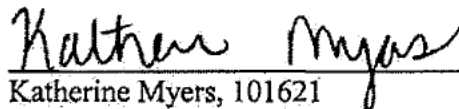
v.

Dale Leonard Smith Jr.,.....Appellant.

PROOF OF SERVICE

I hereby certify that a true copy of the Notice of Intent to Appeal & the Statement of Basis for Appeal from Guilty Plea Pursuant to Rule 203(d)(1)(B) in the above-referenced case has been served upon opposing counsel by delivering same this date to her office at the Office of the Solicitor, Fifth Judicial Circuit, Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina 29201.

August 22, 2024



Katherine Myers, 101621
Richland County Public Defender's Office
P.O. Box 192
Columbia, S.C. 29201
(803) 765-2592
Attorney for Appellant

Other Counsel of Record:
Assistant Solicitor Theresa Johns
Office of the Solicitor, Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street
Columbia, South Carolina 29201
Attorney for Respondent

The South Carolina Court of Appeals

The State, Respondent,

v.

Dale Smith, Appellant.

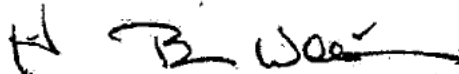
Appellate Case No. 2024-001014

ORDER

For good cause shown, this appeal is reinstated. Counsel must forward her guilty plea explanation to her client, along with a statement that the appellant has twenty (20) days from the date of the transmittal letter to inform this Court in writing of any arguable basis that there are issues preserved for appeal at the following address:

South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Counsel must send a transmittal letter to her client within 10 days of the date of this order or the appeal will be dismissed.



FOR THE COURT

Columbia, South Carolina

cc:

Dale Leonard Smith, Jr., 00347549
Katherine Myers, Esquire
Robert Michael Dudek, Esquire
Theresa N. Johns, Esquire
Alan McCrory Wilson, Esquire
Mark Reynolds Farthing, Esquire

FILED
Sep 30 2024

RICHLAND COUNTY PUBLIC DEFENDER

1701 MAIN STREET
POST OFFICE BOX 192
COLUMBIA, SC 29201

RICHLAND COUNTY JUDICIAL CENTER

PHONE (803) 765-2592
FAX (803) 929-6156

October 18, 2024

RECEIVED

Oct 21 2024

SC Court of Appeals

The State v. Dale Smith
Appellate Case No. 2024-001014

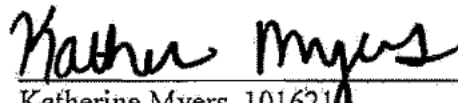
Pursuant to Rule 203(B)(iv), the issue to be raised on appeal is whether the trial court abused its discretion when it imposed the sentence for Dale Smith when the Appellant pled guilty to Domestic Violence in the First Degree and received a sentence of 10 years, which is the maximum punishment for that charge.

The victim's brother was allowed to speak negatively against the Appellant at the plea although he was not present in person or by any technological means on the day of the incident.

A representative from the Attorney General's Office spoke on behalf of the victim by giving data and information that bolstered the victim's version of events, without facts.

Appellant filed a motion to reconsider the sentence on August 6, 2024 and was denied.

Respectfully submitted,



Katherine Myers, 1016210
Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592
Attorney for Appellant

RECEIVED

Jun 14 2024

SC Court of Appeals

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

Defendant

Dale Smith Jr

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

DN 151 DECEMBER 30/11

[Signature]

Defendant

Witness

C.C.C. PLS. AND G.S.

DOCKET NO. 2023GS4003297

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

JUNE TERM 2023

159

THE STATE vs.

Dale Smith

Indictment for DOMESTIC/DOMESTIC VIOLENCE OF HIGH AND AGGRAVATED NATURE

SC Code: 16-25-886.5(A)

QDR Code: 3814

WITNESSES

(S) Audrey Cooper

Richland County Sheriff Dept

ARREST WARRANT NUMBER

2022A-401020-4317

ACTION OF GRAND JURY

TRUE BILL

[Signature] Date: JUN 15 2023

VERDICT

Forfeiture of Bail Jury Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on 6/13 2023, the
 Grand Jurors of Richland County present upon their oath:

DOMESTIC VIOLENCE HIGH AND AGGRAVATED NATURE

16-25-65

CDR Code 3814

That Dale Smith did in Richland County on or about September 21, 2022
 cause physical harm or injury to a household member, AMBER MURRAY,
 or did offer or attempt to cause physical harm or injury to a household
 member, AMBER MURRAY, with apparent present ability under
 circumstances reasonably creating fear of imminent peril and committed the
 offense, with or without an accompanying battery, under circumstances
 manifesting extreme indifference to the value of the human life and would
 reasonably cause a person to fear either great bodily injury or death in

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



BYRON E. GIPSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

Dale Smith

AKA: _____

Race: BLACK Sex: M Age: 30

DOB: 1992 SS#: _____

Address: Sunview Dr Apt

City, State, Zip: Columbia, SC 29209

DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2023 - GS - 40 - 03297

A/W#: 2022A4010204317

Date of Offense: 9/21/2022

S.C. Code § 16-25-0065(A)

CDR Code #: 3814

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: Domestic/Domestic violence ~~16-25-0065(A)~~ FIRST DEGREE

In violation of § 16-25-0065(A) of the S.C. Code of Laws, bearing CDR Code # ~~3814~~ 3811

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.

ATTEST:

Theresa Johns 15296 Johns, Theresa SC Bar # 15296 Defendant

Katherine Myers 101621 Katherine Myers SC Bar # 101621

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

for a determinate term of 10 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. 2060 (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.

STATE VS. Dale Smith INDICTMENT/CASE#: 2023 - GS - 40 - 03297

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: _____

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	\$ <u>100</u>
§14-1-211(A)(2) (DUI Surcharge)			\$100	\$ _____
§56-5-2995 (DUI Assessment)			\$12	\$ _____
§56-1-286 (DUI Breath Test)			\$25	\$ _____
§14-1-212 (Law Enforce. Funding)			\$25	\$ <u>25</u>
§14-1-213 (Drug Court Surcharge)			\$150	\$ _____
§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	\$ <u>3.75</u>
<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:
Court Reporter:

Jeanette W. McBride, ME
Brown

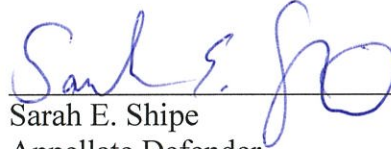
Presiding Judge:
Judge Code:
Sentence Date:

[Signature]
2773
6/6/24

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,



Sarah E. Shipe
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 28th day of July, 2025.

RECEIVED
Jul 28 2025
SC Court of Appeals

RECEIVED

Jul 28 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

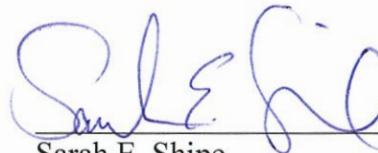
DALE SMITH,

APPELLANT

APPELLATE CASE NO. 2024-001014

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 Dale Smith, #347549, at Evans Correctional Institution, 610 Hwy. 9 West, Bennettsville, SC 29512, this 28th day of July, 2025.



Sarah E. Shipe
Appellate Defender

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

ATTORNEY FOR APPELLANT