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STATE OF SOUTH CAROLINA	IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON	NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA vs. MARK DWAYNE WALTON, DEFENDANT.	**State's Response to Defense's Motion to Reconsider Sentencing** Indictment #2024-GS-10-04730 Indictment #2024-GS-10-04731

Mark Dwayne Walton was convicted on Friday evening, November 7, 2025, by a jury of his peers, on the offenses of Accessory After the Fact to Murder (0 – 15 years) and Desecration of Human Remains (0 – 10 years). Sentencing was postponed until Monday morning, November 10, 2025, allowing the parties the weekend to prepare and provide the Court a thorough and complete sentencing presentation. Following a comprehensive sentencing presentation, the Honorable Charles J. McCutchen sentenced Mark Walton to fifteen years on the Accessory charge and a consecutive 10 years on the Desecration charge. After hearing about Mr. Walton's bond conditions, however, he afforded the defendant 851 days of time-served credit.

Importantly, as clearly stated on the record, this time-served computation included 61 days of actual incarceration and 790 days of time on "monitored house arrest," for a period the defendant was on strict house arrest and not allowed to work. Once the defendant was allowed to leave his home and work (later becoming merely a 7 p.m. to 7 a.m. curfew that was repeatedly violated), the Court denied credit, specifically finding that these bond conditions were not a meaningful equivalent to incarceration. The Court specifically held that the numerous violations by the defendant of his bond conditions were not a consideration to deny credit for this time period on bond, rather that the conditions themselves were too permissive for the Court to award discretionary day-for-day time-served credit, whether or not the conditions were strictly abided by.

According to the South Carolina Department of Corrections Release Date Calculation Tool (https://public.doc.state.sc.us/releaseDateCalc/disclaimer.do), the defendant's twenty-five year sentence with 851 days of time-served credit sets his likely release date at June 2, 2036, effectively an eleven-year active sentence.

The Defense has moved for the Court to reconsider the just and fair sentence given to Mark Walton following a lengthy trial and sentencing hearing. It is the State's position that this motion should be denied without a hearing pursuant to Rule 29, SCCrimP (motions can be "determined on briefs filed by the parties without oral argument") for the reasons outlined below.

ANALYSIS

Despite increasing attempts by the defense bar to make it so, a "Motion to Reconsider Sentence" is not intended as an automatic "do-over" after a valid sentencing hearing, to be granted as a matter of course to every criminal defendant unhappy about where his own choices have taken him. It is instead, in the interests of justice and the sentencing judge having all the relevant facts and circumstances before him, an opportunity for counsel to raise facts or issues that were not addressed during the initial sentencing due to counsel's mistake. This mechanism exists so that a criminal defendant does not suffer because his lawyer realizes after a hearing that that they inadvertently omitted a meaningful piece of mitigating information. If this was not true and sentencing reconsiderations were not so limited, then every criminal defendant unhappy with his sentence would have to be sentenced twice, whether after plea or trial. In short, the sentencing court would repeatedly find itself in the position of being asked "to do over what it thought it had already done correctly." State v. Higgenbottom, 344 S.C. 11, 17, 542 S.E.2d 718, 721 (2001) (quoting Colten v. Kentucky, 407 U.S. 104, 117 (1972)). A post-conviction "Motion to Reconsider Sentence" merely allows a party to promptly call the sentencing court's attention to matters that may have been missed or not presented in the original sentencing hearing by the mistake of the attorney. See, e.g., State v. Hicks, 377 S.C. 322, 325-26, 659 S.E.2d 499, 501 (Ct. App. 2008) (recounting with apparent approval the trial court's limitations placed on the motion to new information only). A system where every defendant is afforded two sentencing hearings is an absurd duplication of effort, causing great pain, anxiety, and financial burdens to those impacted by crime. It is decidedly not the intent of Rule 29 of the South Carolina Rules of Criminal Procedure to create an entitlement for all defendants to a second sentencing hearing after a first was properly conducted.

The defense's motion is brought before the Court pursuant to Rule 29 SCCrimP, which contemplates that many motions brought under it should be "determined on briefs filed by the parties without oral argument." Because a second sentencing hearing should typically be

unnecessary in most cases, it is appropriate for a sentencing judge to review the submitted materials and, if unconvinced that anything about their original sentencing actions were erroneous, deny the requested relief without putting grieving families and victims through the stress, emotion, and financial burdens of a second unnecessary sentencing hearing. The ability of the Court to deny relief without a hearing, specifically granted by the Criminal Rules, is not negated by an assertion by counsel that further additional grounds for relief may be later presented if the time frame for deciding these motions is extended by months in order to conduct a research project that could have been conducted in the years the case was pending.

In the present case, the Court properly gave the defendant the maximum sentence after six days of testimony outlining the defendant's role in covering up the gruesome murder of a young woman. Under the facts of this case, of which the Court is now deeply familiar, the guidance of Judge Anderson's dissent in State v. Brouwer, 346 S.C. 375, 389, 550 S.E.2d 915, 922-23 (Ct. App. 2001), quoted in the defense motion, offers powerful support and validation of the Court's sentence, not incongruity. As presented to the Court during the lengthy and complete sentencing presentation from both parties, the egregious nature of the defendant's actions here demanded a sentence more severe than the typical Accessory After the Fact Charge. Furthermore, the callous treatment of Celia Sweeney's remains by Mark Walton was deserving of separate acknowledgement in punishment, as was done by the Court here. All of this was specifically acknowledged by the State on the record during the hearing and adequately contested by the Defense, thus, a months long extension of time so that the defense may perhaps conduct a research project to present to the Court what the State and the Court have already acknowledged (that this case should properly receive a higher sentence than many charged with the same offense due to the unique characteristics of the case) is a fruitless exercise only practically serving the purpose of extending a family and other victims' grief and anxiety for months.[1]

As stated above, according to the South Carolina Department of Corrections Release Date Calculator (an imperfect, but meaningful and helpful guide), the defendant as sentenced could be released following an eleven-year active sentence, an appropriate result by nearly any rational measure. According to the same source, if the requested relief here is granted (that the sentences

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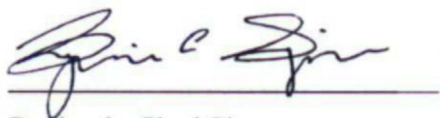
[1] The State is not asserting that victim pain is the motivation of the defense attorneys here, but merely that because the fact they seek to prove with a lengthy research project has already been acknowledged (that the defendant received the maximum sentence) – their requested continuance would have no other impact.

be changed to concurrent and credit for time served on the monitor be removed), the defendant's first potential parole date would be only approximately two and a half years away with his likely max-out release date in a mere eight years.

As to any expansion of time served credit (which does not appear to be specifically requested), the State opposed any credit for time served on bond at the initial hearing, but the Court instead fashioned a compromise, granting considerable credit for that time the defendant spent on bond that approximated strict house arrest. Granting further relief in this situation would, in the State's opinion, violate the spirit and purpose of the statute for allowing time served credit. There is no plausible argument that bond terms allowing free and unfettered movement for twelve hours a day constitutes 'monitored house arrest' as contemplated by the statute as the functional equivalent of incarceration for day-for-day time-served credit. Because the Court specifically found that the conditions of the defendant's bond were too permissive for this time period to grant discretionary credit, further hearings or evaluations of the defendant's numerous violations are unnecessary. The violations were expressly not a basis for the Court to deny the time-served credit, so a request to further analyze the violations to determine if they were employment based (as if that would make them okay) is wholly irrelevant and not a basis to grant additional hearings.

"A trial judge is allowed broad discretion in sentencing within statutory limits." Brooks v. State, 325 S.C. 269, 271-72, 481 S.E.2d 712, 713 (1997). Because, first, the defense's motion seeks merely to rehash issues previously competently raised before the court and properly decided, and second, the any expansion of time-served credit would violate applicable sentencing statutes in that permissive curfew requirements are not "monitored house arrest," this motion should be denied, pursuant to Rule 29, SCCrimP, without a hearing, i.e. without putting these families through yet another emotional and financially straining trial appearance on a matter previously properly decided. The defense's desire to conduct a months' long research project seeking to show what is already acknowledged, that the particular heinousness of the defendant's conduct warrants a more severe punishment than many facing the same charges, is not an adequate purpose for the extension of this matter any longer in the circuit court. As specifically allowed for in the text of Rule 29 SCCrimP itself, the defense motion should be denied without a hearing and the case allowed to proceed to appeal.

Respectfully Submitted,



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