STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYRASE AKIL COLLINS,

APPELLANT

APPELLATE CASE NO. 2024-001238

INITIAL REPLY BRIEF OF APPELLANT

GARY H. JOHNSON
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ARGUMENTS IN REPLY

I. The state's argument that the trial court properly applied the hallmark features of youth and other *Aiken v. Byars* factors by making mere passing references to the factors deprives appellant from a meaningful sentencing hearing on the impact of his youth and potential for rehabilitation before sentencing appellant to three consecutive life sentences without parole.

The state asserts the underlying three consecutive sentences life without parole sentences are constitutional. Certainly, it is true that the trial court may constitutionally sentence a juvenile offender to life without the possibility of parole *if the sentencing procedure allows for discretion to consider the impact of youth and impose a lesser sentence. See* Jones v. Mississippi, 593 U.S. 98 (2021).

In the state's view, the production of mitigation evidence during the sentencing phase and the trial court's summary reference to the factors outlined by our Supreme Court in Aiken v. Byars[1] passes constitutional muster:

> It was clear by the record that each of the *Aiken* factors were considered. The sentencing judge made the determination that the offense overrode the hallmark features of youth and decided the appropriate sentence was a life without parole, which both *Miller* nor *Aiken* allows for a juvenile.

Respondent Br. p. 16.

However, this Court has already rejected the cursory treatment of youth in sentencing decisions. *See* State v. Mack, 441 S.C. 526, 894 S.E.2d 820 (Ct. App. 2023). As argued in Appellant's Brief, the trial court's sentencing decision focused on appellant's age as a mere

[1] Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014).

chronological number that was close to eighteen (18) and the nature of the underlying crime in reaching the decision.

> The Defendant was less than 90 days as I calculate it from his 18th birthday at the time that he committed these heinous acts. He was convicted of the murders of three individuals, two via headshots that what can only be described as point-blank range execution type of hit. The remaining individual was shot, I believe, close to 35 times. This was not a spontaneous killing. This killing had to have been planned. No hallmark feature of youth can erase the plan.

Mistrial Tr. 87, ll. 14 – 23.

This cursory consideration of the hallmark factors of youth, and the nature of the crime blinding consideration of those factors, was reviewed and rejected by this Court in Mack. Courts in South Carolina, before sentencing a juvenile offender to life without parole (*or three consecutive* sentences of life without parole), *must consider*

As this Court noted in Mack:

> Under *Aiken*, *Miller*, and the entire line of authority about juvenile sentencing, the courts have made clear that seventeen-year-olds are not kind-of juveniles, or sort-of juveniles. They are juveniles.

Mack, 441 S.C. at 541, 894 S.E.2d at 828. Sentencing courts in South Carolina "must give effect to the proportionality rationale integral to *Miller*'s holding—youth has constitutional significance. As such, it must be afforded adequate weight in sentencing." Aiken v. Byars, 410 S.C. 534, 542–43, 765 S.E.2d 572, 576 (2014) (*citing* Miller v. Alabama, 567 U.S. 460 (2012)). As noted by the United State's Supreme Court,

> Although we do not foreclose a sentencer's ability to make that judgment in homicide cases, *we require it to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison.*

Miller v. Alabama, 567 U.S. 460, 480 (2012) (emphasis added). This is a case that counsels against irrevocably sentencing appellant to multiple lifetimes in prison.

Juveniles in South Carolina must be sentenced only upon consideration of

> (1) the chronological age of the offender and the hallmark features of youth, including "immaturity, impetuosity, and failure to appreciate the risks and consequence"; (2) the "family and home environment" that surrounded the offender; (3) the circumstances of the homicide offense, including the extent of the offender's participation in the conduct and how familial and peer pressures may have affected him; (4) the "incompetencies associated with youth—for example, [the offender's] inability to deal with police officers or prosecutors (including on a plea agreement) or [the offender's] incapacity to assist his own attorneys"; and (5) the "possibility of rehabilitation."

Byars, 410 S.C. at 544, 765 S.E.2d at 577.

While Respondent acknowledges evidence was submitted regarding these factors during the sentencing hearing, in excusing the trial court's cursory treatment of the factors, Respondent would have this Court eliminate any review in favor of blind deference to the trial court that they "must" have considered (and given proper weight) to the factors if the record contains evidence presented on those factors. As acknowledged by this Court in Mack and argued in Appellant's Brief, the law requires more.

Respondent's position presents an excellent argument on the need for a heightened standard of review of life sentences of juvenile offenders: this Court should "view the sentence as inherently suspect and demand rigor from the sentencing court in its factual findings, its application of the *Miller* factors, and the ensuing sentence." Davis v. State, 415 P.3d 666, 688 (Wyo. 2018). As argued in Appellant's Brief, he was denied that rigor and careful consideration of the hallmark feature of youth at sentencing and this Court should reverse and remand for a new sentencing hearing.

II. The state's argument that appellant "knew" the foreperson and took his chances thereby waiving any claim related to misconduct misconstrues the underlying factual basis for this alleged "knowledge" and ignores the impact of the unknown information: that the foreperson purchased drugs from the co-defendant and had a relationship with the co-defendant.

The State argues that since appellant admitted "knowing" the foreperson during jury selection waives the issues surrounding juror misconduct. Respondent's Brief p. 21. This argument ignores the "context" of appellant's belief that he "knew" the foreperson from when he was a child and has no relationship to the alleged misconduct of the foreperson in failing to disclose his past history of drug dealing with co-defendant Boles.

During the hearing on juror misconduct, appellant testified that he thought he recognized the foreperson as a former Sunday School teacher:

> A. No, I never met him, but -- except like early on at church. I went to the same church they went to. He was a Sunday School teacher.
> . . .
>
> Q. He was your Sunday School teacher?
>
> A. Yeah, he was one of the Sunday School teachers.
>
> Q. And when he said that he doesn't know you, do you know for a fact that he does?
>
> A. I mean like you say, I don't know if he remembered me or not, but I -- I wasn't made aware until later on of who he was either.

Mistrial Tr. 43, ll. 1 – 18.

When asked if he shared his belief that he knew the foreperson as a former Sunday School teacher, appellant indicated that he and his attorney did not use a strike since he was uncertain of the old connection:

Q. Did you pay attention during jury selection?

A. Yes, sir, I paid attention.

Q. So what did you think when you saw Mr. Grant?

A. That he looked familiar, but I didn't know for sure if I knew him.

Q. You -- did you bring this up to your lawyer, Mr. Johnson?

A. He said if I didn't know for sure if I knew him, we couldn't do nothing about it.

Mistrial Tr. 46, ll. 6 – 16.

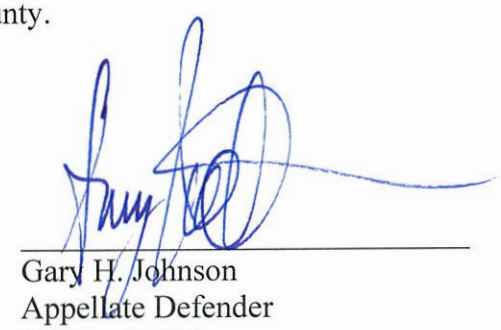
If appellant's argument before this Court was that the foreperson's failure to disclose a prior connection with appellant as a potential Sunday School teacher was misconduct warranting a new trial, Respondent's reliance on appellant's acknowledgement of knowing about this possible connection during selection would be probative and relevant. However, as argued in Appellant's Brief to this Court, the issue here has nothing to do with the foreperson maybe at one time in the past being a Sunday School teacher who interacted with a younger appellant on occasional Sundays. The issue surrounding the foreperson's misconduct centers on his actively purchasing drugs and interacting with co-defendant Boles.

"Where a party claims a juror has withheld material information in response to a *voir dire* question, the trial court must determine, preferably after a hearing, *whether the juror's withholding suggests bias*. This will typically turn on the nature of the information withheld, rather than the nature of the juror's state of mind in not disclosing it. The nature of the fox's disguise matters little to the chicken." State v. Rowell, 444 S.C. 109, 115, 906 S.E.2d 554, 557 (2024) (emphasis added). The sole issue before the trial court and this Court is whether the foreperson's failure to acknowledge his prior drug transactions and interactions with co-defendant Boles objectively "suggested bias."

The state's reliance on an unrelated connection between appellant and the foreperson clouds the issue. As argued in Appellant's Brief, the foreperson's failure to disclose his prior connections to co-defendant Boles "reveals a potential for bias and would have made an objectively material difference in the [appellant's] use of a peremptory strike or resulted in a successful challenge for cause." Rowell, 444 S.C. at 115–16, 906 S.E.2d at 557.

CONCLUSION

Based upon the foregoing arguments in Reply and the matters raised in Appellant's Brief, this Court should reverse appellant's convictions and remand this matter for further proceedings to the Court of General Sessions for Hampton County.



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ATTORNEY FOR APPELLANT

This 30th day of December 2025.

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Appeal from Hampton County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

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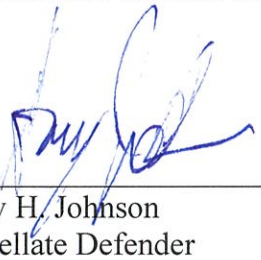
CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies true copies of the Initial Reply Brief of Appellant in the above-referenced case have been served upon Tommy Evans, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 30th day of December, 2025.



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From: Bast, Daniel
Sent: Tuesday, December 30, 2025 2:54 PM
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Cc: Johnson, Gary; brandyrankin@scag.gov
Subject: 2024-001238 - The State v. Tyrase Akil Collins
Attachments: 2024-001238 - The State v. Tyrase Akil Collins - Initial Reply Brief of Appellant.pdf

Good afternoon,

Attached is a copy of the initial reply brief of appellant in the above referenced case which will be filed today, December 30, 2025, with the Court of Appeals.

All the best,

Daniel Bast
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