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**Mar 18 2026**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Aiken County

Honorable Debra R. McCaslin, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

JONATHAN NOE,

APPELLANT

APPELLATE CASE NO. 2025-001778

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*ANDERS* BRIEF OF APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

Whether the trial court abused its discretion by imposing consecutive sentences as to several of appellants charges without providing sufficient reasoning underlying its decision or identifying a basis for the imposition of consecutive sentences?

## STATEMENT OF THE CASE

Appellant was indicted at the June 2024 term of the Lexington County grand jury for domestic violence first degree, commission of a crime while on bond, kidnapping, and criminal sexual conduct (CSC) first degree. R 32-39. Appellant was represented by Barry Thompson at his August 27, 2025, plea proceeding. R. 1. David Rittgers represented the state. R. 1. Judge McCaslin sentenced appellant to a total sentence of 45-years imprisonment. R. 30, ll. 9-10. The sentence was comprised of 30 years each as to kidnapping and CSC, set to run concurrently, 10 years consecutive for the domestic violence charge, and 5 years consecutive as to the commission of a crime while out on bond charge. R. 30, ll. 3-9.

On September 2, 2025, a timely notice of appeal and Rule 203(b) explanation was filed. R 40-42.

This appeal follows.

## STANDARD OF REVIEW

“In criminal cases, the appellate court sits to review errors of law only.” *State v. Vick*, 384 S.C. 189, 197, 682 S.E.2d 275, 279 (Ct. App. 2009) (quoting *State v. Wilson*, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001)). The appellate court is “bound by the trial court’s factual findings unless they are clearly erroneous.” *Id.* The reviewing court “does not re-evaluate the facts based on its own view of the preponderance of the evidence but simply determines whether the trial court’s ruling is supported by any evidence.” *State v. Slocumb*, 412 S.C. 88, 91, 770 S.E.2d 436, 438 (Ct. App. 2015). “A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law or a factual conclusion without evidentiary support.” *In re M.B.H.*, 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010).

## ARGUMENT

The trial court abused its discretion by imposing consecutive sentences as to several of appellants charges without providing sufficient reasoning underlying its decision or identifying a basis for the imposition of consecutive sentences.

### **Relevant facts**

During his plea proceeding, the plea court confirmed with defense counsel that there was no competency concerns related to appellant and inquired of appellant whether he understood his conversations with his lawyer about the case. R. 3, l. 10 – 4, l. 17.<sup>1</sup> Appellant stated that he understood the trial rights he would waive by entering a guilty plea. R. 4, l. 18 – 5, l. 18. The plea court discussed each charge with appellant, explained the penalty associated with each charge, and the Strike System. R. 5, l. 19 – 8, l. 15; 9, l. 22 – 10, l. 25.<sup>2</sup> The plea court did not discuss its discretion to impose consecutive or concurrent sentences with respect to each of appellant’s charges. Appellant pleaded guilty to each offense. R. 11, l. 1 – 12, l. 21. Appellant confirmed that he entered his plea freely and voluntarily and that he was not promised anything, forced, or threatened to plead guilty. R. 13, ll. 18-24. The state then presented a factual recitation, which appellant accepted. R. 14, l. 7 – 17, l. 2. The plea court thus accepted appellant’s plea as freely, voluntarily, and intelligently made with the advice of counsel. R. 17, ll. 3-5. The court heard an allocution from each complainant. R. 17, l. 6 – 23, l. 12.

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<sup>1</sup> Plea counsel later explained that appellant had been evaluated by the Department of Mental Health (DMH) for competency. R. 8, ll. 16-19. DMH determined that appellant was competent, and he was competent under McNaughton at the time the events occurred. R. 8, ll. 19-21. Plea counsel again stated that he had no competency concerns as DMH found appellant competent to stand trial after evaluation was ordered by the court. R. 8, ll. 22-25; *see also* R. 47.

<sup>2</sup> The court also discussed the requested permanent restraining orders (PRO) from each complainant. R. 12, l. 22 – 13, l. 17. The court ultimately signed the PRO’s. R. 29, ll. 20-21.

Plea counsel presented mitigation and noted that appellant wanted to take responsibility for his actions. R. 24, ll. 6-8. He argued that appellant was somebody “who worked really hard.” R. 24, ll. 20-21. He argued that appellant had “no excuses for you today,” and that he knew “what he did was wrong and he [knew] he [had] to face the consequences of his actions.” R. 25, ll. 20-23. Appellant then addressed the court and apologized to his family and to the complainants. R. 26, ll. 18-23. The state entered a recorded phone call between appellant and one of the complainants where appellant discussed the assaults. R. 28, ll. 11-17; R. 29, l. 7; *see also* Court’s Exhibit 1. Plea counsel did not object to the call. After playing the call for the plea court, the state did not request a particular sentence but argued there was “malevolence in the facts of this case,” and asked that appellant be sentenced accordingly. R. 29, ll. 12-15.

The plea court imposed a total sentence of 45-years imprisonment. R. 30, ll. 9-10. The sentence was comprised of 30 years as to kidnapping and 30 years as to CSC, set to run concurrently. R. 30, ll. 3-6. The court imposed a consecutive 10-year sentence as to the domestic violence charge. R. 30, ll. 6-7. Finally, the court imposed a consecutive 5-year sentence as to the commission of a violent crime while out on bond charge. R. 30, ll. 8-9. The court concluded by stating “you’re lucky I’m giving you 45.” R. 30, l. 10.

On September 2, 2025, plea counsel filed a timely notice of appeal. R 40. Plea counsel also filed a Rule 203(B) explanation wherein he asserted that he did not have a good faith basis to believe any issues were properly before this Court. R 42. He further stated that he did not object to the sentence or file a motion to reconsider the sentence. R 42.

## Discussion

Whether multiple sentences should run consecutively or concurrently is matter left to the sound discretion of the trial judge. *State v. Barton*, 325 S.C. 522, 531, 481 S.E.2d 439, 444 (Ct. App. 1997). However, “[i]t is an equal abuse of discretion to refuse to exercise discretionary authority when it is warranted as it is to exercise the discretion improperly.” *State v. Smith*, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981).

“A sentence is not excessive if it is within statutory limitations and there are no facts supporting an allegation of prejudice against a defendant.” *Brooks v. State*, 325 S.C. 269, 272, 481 S.E.2d 712, 712 (1997). Moreover, “[a]t sentencing, a judge has an obligation to consider information material to punishment.” *Hayden v. State*, 283 S.C. 121, 123, 322 S.E.2d 14, 15 (1984). “A sentencing judge may appropriately conduct an inquiry broad in scope, largely unlimited as to either the kind of information he may consider, or the source from which it may come.” *Id.* (citing *United States v. Tucker*, 404 U.S. 443, 92 S. Ct. 589 (1972) (internal quotation marks omitted)).

In this case, the trial court abused its discretion by imposing consecutive sentences without providing any justification or explanation as to its decision to do so. By failing to provide a basis for its sentencing decision, the plea court failed to exercise the broad discretion afforded to the plea court. *See State v. Hawes*, 411 S.C. 188, 191, 767 S.E.2d 707, 708 (2015) (“A failure to exercise discretion amounts to an abuse of that discretion.”); *see also* S.C. Code Ann. § 16-3-652(2) (CSC in the first degree is a “felony punishable by imprisonment for not more than thirty years, *according to the discretion of the court.*”) (emphasis added). Although the plea court heard the recitation of the facts underlying appellant’s guilty plea, allocutions, and arguments of counsel during the plea proceeding, the plea court made no indication of what it

considered or weighed in determining that consecutive sentences were appropriate. R. 14, l. 7 – 17, l. 2; R. 17, l. 6 – 23, l. 12; R. 24, l. 6 – 29, l. 15; *Hayden*, 283 S.C. at 123, 322 S.E.2d at 15. In fact, the only statement that the plea court made concerning its sentencing decision was that appellant was “lucky I’m giving you 45.” R. 30, ll. 9-10; *see also Barton*, 325 S.C. at 531, 481 S.E.2d at 444 (“Absent partiality, prejudice, oppression, or corrupt motive, this Court lacks jurisdiction to disturb a sentence that is within the limit prescribed by statute.”). Such a statement demonstrates partiality or prejudice as to the court’s decision to impose consecutive sentences, especially where, as here, the court provided no explanation of its underlying reasoning. *See State v. Heyward*, 441 S.C. 484, 494, 895 S.E.2d 658, 663 (2023) (citing *Fontaine v. Peitz*, 291 S.C. 536, 538, 354 S.E.2d 565, 566 (1987) (“When the trial judge is vested with discretion, but [her] ruling reveals no discretion was, in fact, exercised, an error of law has occurred.”). Even further, although the plea court discussed the penalties associated with each offense to appellant, the plea court did not fully explain all possible sentencing consequences because it did not inform appellant of its ability to impose consecutive sentences. R. 5, l. 19 – 8, l. 15; R. 9, l. 22 – 10, l. 25; *see also* S.C. Code Ann. § 17-15-270(A) (assigning the penalty for this offense as not more than five years and that the “sentence may be imposed concurrently or consecutively to the punishment or the principal offense.”).

Thus, the plea court’s silence as to its reasoning for imposing consecutive sentences amounted to a failure to exercise its discretion. *Barton*, 325 S.C. at 531, 481 S.E.2d at 444; *Smith*, 276 S.C. at 498, 280 S.E.2d at 202.

**CONCLUSION**

Based on the foregoing argument, appellant respectfully requests this Court to reverse his convictions and sentence and remand to the Court of General Sessions of Lexington for resentencing.



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Molly M. Keegan  
Appellate Defender

ATTORNEY FOR APPELLANT

This 18th day of March, 2026.

STATE OF SOUTH CAROLINA  
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APPELLATE CASE NO. 2025-001778


PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jonathan Noe states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Debra R. McCaslin, which was held on , and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the plea proceeding.

Wherefore, she asks the Court to relieve her as counsel for Jonathan Noe.

Respectfully Submitted,

  
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Molly M. Keegan  
Appellate Defender

ATTORNEY FOR APPELLANT

This 18th day of March, 2026.

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**SC Court of Appeals**

**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of my ability this *Anders* Brief of Appellant complies with Rule 211(b), SCACR, and 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.”



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ATTORNEY FOR APPELLANT

This 18<sup>th</sup> day of March, 2026.