The South Carolina Court of Appeals

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May 6, 2026

Ms. Melody Jane Brown, Esquire
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Re: The State v. Don L. Brown
Appellate Case No. 2023-001336

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

Jasmine D. Smith, Deputy
CLERK

cc: Alan McCrory Wilson, Esquire
Donald J. Zelenka, Esquire
Jimmy A. Richardson, II, Esquire
The Honorable Benjamin H. Culbertson

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Don Leequin Brown, Appellant.

Appellate Case No. 2023-001336

Appeal From Horry County
Benjamin H. Culbertson, Circuit Court Judge

Unpublished Opinion No. 2026-UP-215
Submitted March 9, 2026 – Filed May 6, 2026

AFFIRMED

Senior Appellate Defender Kathrine Haggard Hudgins, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Deputy Attorney General Donald J. Zelenka, and Senior Assistant Deputy Attorney General Melody J. Brown, all of Columbia, and Solicitor Jimmy A. Richardson, II, of Conway, all for Respondent.

PER CURIAM: Don Brown (Appellant) appeals his sentences for murder and three counts of attempted murder. Appellant was one of six men the State alleged were part of the ambush of Jamie Johnson and his three passengers. Appellant and his co-defendants were all sentenced to forty-five years for murder and thirty years concurrent for each count of attempted murder. Appellant was seventeen years old at the time of the murder and had no prior record. He appeals his sentence on the ground that the trial court failed to consider the hallmark features of youth as required by *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014), (the *Aiken* factors). We affirm.

I. BACKGROUND

On September 12, 2020, Jamie Johnson was driving his Chevrolet Tahoe to a local Conway gas station accompanied by passengers Jacob Hill, Britney Milam, and Orlin Lopez. A Chevrolet Caprice occupied by Appellant, Tronahz Whittington, Travontae Mitchell, Che Ransom, Shamonte Graham, and Mikkie McLeod began following them. Appellant was driving the car. According to Graham, there was no plan to follow Johnson prior to getting in the car, but Whittington spotted Johnson and told Appellant to begin following him so they could rob him for money and marijuana. When the victims stopped at a stop sign, Whittington told Appellant to drive in front of Johnson, blocking him in. Whittington, along with three or four other young men, got out of the Caprice and began shooting at the Tahoe. Appellant stayed in the vehicle the entire time and was not one of the shooters. Johnson attempted to put the Tahoe in reverse, and when he turned to look behind him, he was shot in the back of the head and died at the scene. After the shooters got back in the car, Appellant drove away from the scene.

All six men in the Caprice were charged with murder and three counts of attempted murder. Whittington was tried first and found guilty. He was sentenced to forty-five years for the murder and concurrent thirty-year sentences for each attempted murder. Appellant was tried next, along with co-defendants Mitchell and Ransom. The State presented evidence that Mitchell and Ransom were the shooters, along with Whittington. Appellant's role as the driver was undisputed. Appellant's defense was to argue his "mere presence" at the scene and to discredit the State's claim of premeditation. At the close of the State's case, Appellant moved for a directed verdict on the grounds that the evidence showed Appellant was only following Whittington's direction to tail Johnson's car, there was no evidence he was part of any plan to harm Johnson, and he did not actually block Johnson's vehicle. The trial court denied the directed verdict motion, and the jury found the defendants guilty of all charges.

During sentencing, Appellant's attorney said the following:

> At the time of this incident, he was 17 years old. He was just a young guy, Judge. The sentence is going to be almost twice – if you do 30 years, it will be almost twice as old as – as long as they would have been alive. It's a very serious incident, but we would respectfully request that you consider the minimum sentence for [the defendants] based on their age.

The judge sentenced all three co-defendants to forty-five years for the murder and concurrent thirty-year sentences for each attempted murder. He told the defendants that he did not see any "justifiable reason" to sentence them to less time than Whittington or to sentence them differently from each other.[1]

Appellant's attorney made a motion for a new trial and a motion for the court to reconsider Appellant's sentence. A hearing on the motion took place on August 10, 2023. All three co-defendants requested a reduction of their sentences from forty-five years to thirty years. Appellant argued for a reduction based on his "age and criminal record and the involvement in the trial." Appellant stressed that he was only the driver and did not participate in the shooting. He did not present any evidence related to the *Aiken* factors or make any specific argument regarding Appellant's youth. The trial judge denied the motion, saying: "[i]t was hand of one is the hand of all, and the jury found that they were all acting together in aiding and abetting one another; so, therefore, the guilt of one is the guilt of all of them . . . ."

II. STANDARD OF REVIEW

"When considering whether a sentence violates the Eighth Amendment's prohibition on cruel and unusual punishments, the appellate court's standard of review extends *only to the correction of errors of law*." *State v. Mack*, 441 S.C. 526, 535–36, 894 S.E.2d 820, 825 (Ct. App. 2023) (emphasis in original) (quoting *State v. Finley*, 427 S.C. 419, 423, 831 S.E.2d 158, 160 (Ct. App. 2019)). "Therefore, this court will not disturb the circuit court's findings absent a manifest abuse of discretion. An abuse of discretion occurs when the circuit court's finding is based on an error of law or grounded in factual conclusions without evidentiary support." *Id*.

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[1] All of the co-defendants, including Tronahz Whittington, were teenagers at the time of the shooting.

III. LAW/ANALYSIS

Appellant alleges the court erred in sentencing him without giving him individualized consideration and without considering the *Aiken* factors. We disagree.

In *Roper v. Simmons*, the United States Supreme Court held that juvenile offenders (under the age of eighteen) could not be sentenced to death, as it violated the Eighth Amendment's prohibition against cruel and unusual punishment. 543 U.S. 551, 578–79 (2005). The Court found that minors (1) possess a lack of maturity and an underdeveloped sense of responsibility; (2) "are more vulnerable or susceptible to negative influences and outside pressures"; and (3) their characters are "not as well formed" compared to adults, and are instead "more transitory, less fixed." *Id.* at 569–70. The Court expanded upon *Roper* in *Graham v. Florida*, where the Court held that life sentences for juveniles who had committed nonhomicide crimes were unconstitutional. 560 U.S. 48, 82 (2010). *Miller v. Alabama* further held that mandatory life sentences for minors violated the Eighth Amendment. 567 U.S. 460, 470 (2012).

Although South Carolina does not mandate a life sentence for murder, our supreme court nonetheless held that *Miller* established "an affirmative requirement that courts fully explore the impact of the defendant's juvenility on the sentence rendered" before sentencing a juvenile to life without the possibility of parole. *Aiken*, 410 S.C. at 543, 765 S.E.2d at 577. The court held that sentencing judges may still sentence a juvenile to life, but they may do so only after an individualized hearing where the judge considers

> (1) the chronological age of the offender and the hallmark features of youth, including "immaturity, impetuosity, and failure to appreciate the risks and consequences"; (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 . . ."; and (5) the "possibility of rehabilitation."

Id. at 544, 765 S.E.2d at 577 (quoting *Miller*, 567 U.S. at 477–78). In *State v. Slocumb*, our supreme court declined to extend the *Roper-Graham-Miller* and *Aiken* rationales to aggregate sentences for multiple offenses amounting to a de

facto life sentence for a juvenile. 426 S.C. 297, 314–15, 827 S.E.2d 148, 157 (2019).

Appellant argues that under *Aiken* it is simply the *possibility* of a life sentence that requires a special hearing. Appellant contends that the conclusion in *Aiken*—which states that the requirements apply "prospectively to all juvenile offenders who *may* be subject to a sentence of life imprisonment without the possibility of parole"—means that a sentencing judge must carefully consider the *Aiken* factors in an individualized hearing for any juvenile offender convicted of crimes with a possible life sentence *even if that sentence is not imposed*. *Aiken*, 410 S.C. at 545, 765 S.E.2d at 578 (emphasis added). We disagree. As the court stated in *Aiken*, "*Miller* requires that before a life without parole sentence *is imposed* upon a juvenile offender, he must receive an individualized hearing where the mitigating hallmark features of youth are fully explored." *Id.* (emphasis added).[2] We decline to extend the holding in *Aiken* where a life sentence was not imposed.

The trial judge gave Appellant and his attorney an opportunity to present mitigating evidence prior to sentencing and then later granted a hearing on Appellant's post-trial motion for sentence reconsideration. At the reconsideration hearing, Appellant presented no evidence or testimony relevant to the *Aiken* factors other than mentioning Appellant's youth. Having given the trial judge no relevant information to consider, we find no grounds to set aside the court's sentence.

IV. CONCLUSION

For the above reasons, the sentence of the court is

AFFIRMED.[3]

GEATHERS, HEWITT, and CURTIS, JJ., concur.

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[2] We note that after Appellant's trial (and prior to the reconsideration hearing), our supreme court decided *Jones v. State* and specifically instructed circuit courts to consider the factors of youth when "sentencing juveniles falling under the ambit of subsection 63-19-20(1) [of the South Carolina Code]." 440 S.C. 14, 29, 889 S.E.2d 590, 598 (2023). South Carolina Code section 63-19-20(1) (2010 & Supp. 2025) is the definitional statute of the Juvenile Justice Code and defines "child" and "juvenile." Appellant's attorney did not raise *Jones* at the reconsideration hearing or on appeal.

[3] We decide this case without oral argument pursuant to Rule 215, SCACR.