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December 18, 2013

Honorable Jenny Abbott Kitchings
Clerk of Court, S.C. Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

RECEIVED
DEC 18 2013
SOUTH CAROLINA COURT OF APPEALS

Re: State v. Robert Nelson, Appellate Case No. 2012-212640

Dear Ms. Kitchings:

On November 13, 2013, Deborah Shupe, Esquire filed a motion to hold the appeal deadlines in abeyance. Within the body of the motion, Ms. Shupe explained that her office had learned that Mr. Nelson had agreed to enter a guilty plea to two murder charges and withdraw his pending appeal as part of the plea agreement.

Yesterday, Mr. Nelson's trial counsel, William McGuire, Esquire contacted me based upon contact from the solicitor's office. Specifically, the solicitor had asked for confirmation that the appeal had been withdrawn because the Attorney General had a brief due soon. Mr. McGuire provided me with a copy of the signed plea agreement and asked me to forward it to this Court.

I filed the initial brief and designation of matter in the above-referenced case on July 29, 2013. Please find enclosed a copy of a plea agreement entered into by Mr. Nelson subsequent to my filing the initial brief. The agreement is dated November 15, 2013 and is signed by Mr. Nelson. I draw the Court's attention to questions and answers five and six under part E of the agreement. Those questions state as follows:


5. Do you understand that you currently have an appeal pending from the trial you had in summer 2012, where you were convicted of Armed Robbery, Burglary, and Possession of a Weapon during the commission of a Violent Crime? Yes

6. Do you understand that part of your agreement with the state is that in exchange for a negotiated sentence of 45 years, you agree to withdraw the appeal? Yes

It is my understanding from Mr. McGuire that this agreement was placed on the record during the November 18, 2013 guilty plea hearing. If this Court would like for me to order a copy of the transcript of that proceeding, I will do so.

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Susan B. Hackett". The signature is written in a cursive style with a large, looped "S" and a distinct "B".

Susan B. Hackett
Appellate Defender

Enclosure: Plea agreement dated November 15, 2013

cc: Deborah Shupe, Esquire (w/ enclosure)
William McGuire, Esquire (w/ enclosure)
Robert Nelson (w/ enclosure)

STATE OF SOUTH CAROLINA
COUNTY OF DILLON

IN THE COURT OF GENERAL SESSIONS
FOURTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

Plaintiff,

v.

ROBERT LEE NELSON,

Defendant.

Warrant Nos.: J708947; J4708948

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SOUTH CAROLINA COURT OF APPEALS

PROVIDENCY FORM

A. Swearing of Defendant and Preliminary Questions

1. Mr. Nelson, the court will ask if you wish to plead guilty. Do you wish to plead guilty?
Yes

2. Before accepting your guilty plea, there are a number of questions the Court will ask you to assure that it is a valid plea. If you do not understand any of the questions, or at any time wish to consult with your attorney, you may do so, since it is essential to a valid plea that you understand each question before you answer. Do you understand?
Yes

3. The clerk will administer an oath to you by asking you if you swear or affirm to tell the truth. Will you tell the truth to the Court?
Yes



4. Do you understand that, having been sworn, your answers to the Court's questions will be subject to the penalties of perjury or of making a false statement if you do not answer truthfully?

Yes

B. Competence of Defendant to Plead

1. Mr. Nelson, how old are you?

23

2. What was the last grade you completed in school?

9th

3. What was your last job or occupation?

Smithfield

4. Write "yes" below if you understand that you will appear in court to plead guilty to two counts of Murder. You will be sentenced to 45 years, to run concurrent with the sentence you are currently serving. The 45 year sentence will begin when you were arrested in January 2010, meaning that you will receive credit for all of the time you have been incarcerated since the date of your arrest. In exchange for the negotiated plea and sentence of 45 years, you will plead guilty and waive your appeal of the related charges described below. This agreement will not be altered by the Court, as the Court has only the ability to accept or reject the agreement, and the Court is without power to modify the agreement.

Yes

5. Do you have any questions at this time about the agreement?

No

6. Have you taken any drugs or medication or consumed any alcoholic beverages in the past twenty-four hours, or are you now under the influence of any drugs or alcohol?

NO

7. Have you ever been treated for mental illness or addiction to alcohol or narcotic drugs of any kind?

NO

8. Do you understand what is happening today?

YES

9. State in your own words what entering a plea of guilty and being sentenced means.

I have to admit I did it.

10. Have you been mistreated in any way by the police, officers at the jail, or anyone in the Solicitor's Office?

No

C. Defendant's Right to Counsel (Attorney Competence)

1. Have you had the opportunity to discuss your case with Mr. Secor and Mr. McGuire?

YES

2. Are you satisfied with Mr. Secor and Mr. McGuire's representation?

YES

3. Have Mr. Secor and Mr. McGuire done everything you have asked them to do?

YES

4. Have they failed to do anything you asked them to do?

NO

5. Is there anything you would like them to do at this time?

NO

D. Defendant's Right to a Trial and the Nature Thereof

1. Do you understand that, under the Constitution and laws of the United States, as well as the Constitution and laws of the State of South Carolina, you are entitled to a trial by a jury, during which you would have the assistance of counsel?

YES

2. Do you understand that, at a trial, you would be presumed innocent and the State would be required to prove your guilt beyond a reasonable doubt before you could be found guilty?

YES

3. Murder is a Class A Felony. Do you understand that, at a trial, the State would have to prove that you unlawfully killed a human being with malice aforethought?

YES

4. Do you understand that, in the course of trial, the witnesses for the State would have to come to court and testify in your presence, and Mr. Secor and Mr. McGuire could cross-examine the witnesses for the State, object to evidence offered by the State, and offer evidence on your behalf?

YES

5. Do you understand also that, at a trial, while you would have the right to testify if you chose to do so, you also would have the right not to testify, and no inference or suggestion of guilt could be drawn from the fact that you did not testify?

Yes

6. Do you understand that, at a trial, you would have the right to the issuance of subpoenas or compulsory process to compel the attendance of witnesses to testify in your defense?

Yes

7. Did you provide anyone from law enforcement with a statement, or statements, about your involvement in this case?

Yes

8. Do you understand that, at trial, Mr. Secor and Mr. McGuire would have the right to move before the Court to suppress evidence that may have been gathered by law enforcement in violation of your Constitutional Rights, including a statement about your involvement in this case?

Yes

9. If you plead guilty and the Court accepts your plea, do you understand that you will waive your right to a trial and the other rights referenced above, there will be no trial, and the Court will enter a judgment of guilty and sentence you on the basis of your guilty plea?

10. If you plead guilty, do you understand that you will also have to waive your right not to incriminate yourself, since the Court may ask you questions about what you did in order to establish that you are guilty as charged, and you will have to acknowledge your guilt?

Yes

11. Having discussed your rights with you, do you still want to plead guilty?

Yes

E. Nature of Charges and Possible Consequences of Plea

1. Have you received a copy of the indictments, that is, the written charges made against you in this case? Have you discussed with your counsel the charges in the indictments and the case in general?

Yes

2. Do you understand each charge?

Yes

3. Do you understand that the maximum possible penalty for two counts of murder is Life Without the Possibility of Parole? Yes Do you also understand that your plea agreement forbids the Court to impose the maximum sentence of Life Without Parole, and that you will be sentenced to 45 years, with credit for the time of incarceration since arrest?

Yes

4. Do you also understand that murder is a violent, most serious offense, and that you will not be eligible for parole if sentenced to 45 years for these charges? Yes Do you understand that a sentence for murder, in South Carolina, must be served "day for day," and there is no "good time" credit available to reduce a sentence for the crime of murder?

Yes

5. Do you understand that you currently have an appeal pending from the trial you had in summer 2012, where you were convicted of Armed Robbery, Burglary, and Possession of a Weapon during the commission of a Violent Crime?

Yes

6. Do you understand that part of your agreement with the state is that in exchange for a negotiated sentence of 45 years, you agree to withdraw that appeal?

Yes

7. Do you understand that by pleading guilty to Murder, you will be waiving any and all rights to appeal in the future?

Yes

F. Voluntariness of Plea and Plea Agreement

1. Has anyone threatened you, or forced you in any way to plead guilty?

No

2. Has anyone made any promise other than the plea agreement that induced you to plead guilty?

No

3. Has anyone made any prediction, prophesy, or promise to you as to what your sentence will be other than what is contained in your plea agreement?

No

G. Determining Factual Basis for Guilty Plea

1. Did you, as charged, commit two counts of Murder in Dillon County against Mr. and Mrs. Swaner?

Yes

2. State, in your own words, what you did with regard to the allegations of these counts.

I stabbed Walter. I stabbed Mary.
I hit Mary with the bowl.

During the plea hearing, the State will summarize the evidence concerning the facts they would be prepared to prove at trial in order to establish an independent factual basis for the offenses. You will be asked if you agree with the Solicitor's summary of what you did. If you do not agree, you will be asked to specifically state what facts you disagree with.

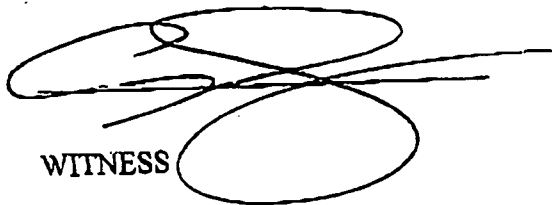
You will be asked if you wish to plead guilty to a sentence of 45 years for two counts of Murder (J708947 and J708948). The 45 year sentence will run concurrent with the time you are already serving, which began in January 2010.

Rn

I have read and I understand the questions presented in the preceding document.

Rn

I have reviewed in detail the evidence in my case and all possible defenses that I might employ. It is my desire to enter a guilty plea as outlined in the plea negotiation.


WITNESS

Robert Nelson

ROBERT LEE NELSON

11/15/13

DATE