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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Vernon Dunbar, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT TYRWICK HOFFMAN,

APPELLANT

APPELLATE CASE NO. 2025-002418

ANDERS BRIEF OF APPELLANT

SARAH E. SHIPE
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the plea court err in denying appellant's motion to reconsider his sentence where the plea court overlooked mitigating factors in his case?

STATEMENT OF THE CASE

On October 13, 2025, a Lexington County grand jury indicted appellant for domestic violence, second degree. R. 14-15. Appellant waived indictment for possession with intent to distribute methamphetamine. R. 3, ll. 4-7; 16-17. On October 30, 2025, appellant pleaded guilty to possession of methamphetamine, first offense and domestic violence, third degree before the Honorable Vernon Dunbar. R. 1-10. Erin Conroy represented appellant. R. 1. Whitney Taylor prosecuted for the state. R. 1.

Judge Dunbar sentenced appellant to time served for domestic violence, third degree and twenty-four months imprisonment for possession of methamphetamine, first offense. R. 8, l. 23—9, l. 8. Thereafter, appellant filed a motion to reconsider his sentence as to the drug offense. R. 11-12. On November 21, 2025, Judge Dunbar signed a written order denying appellant's motion to reconsider his sentence. R. 13.

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.* (quoting *Wilson*, 345 S.C. at 5-6, 545 S.E.2d at 829). 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 plea court erred in denying appellant's motion to reconsider his sentence where the plea court overlooked mitigating factors in his case.

Relevant facts

At appellant's guilty plea hearing the state alleged that in February 2025, appellant attempted to choke his girlfriend. However, the girlfriend did not cooperate with the prosecution and indicated to the state she wanted to resume the romantic relationship with appellant. R. 5, ll. 9-25. Additionally, the state alleged drugs were found in appellant's car during a traffic stop in August of 2025. R. 6, ll. 1-9. At the conclusion of the state's presentation, appellant admitted guilt. R. 7, ll. 4-7.

Defense counsel requested that the plea court consider a probationary sentence, asserting that appellant took accountability and indicated he would not resume his former romantic relationship. R. 7, ll. 14-25. In mitigation counsel offered that appellant hoped to resume employment at an auto mechanic shop and that he successfully completed a Lexington/Richland Alcohol and Drug Abuse Council (LRADAC)¹ program during his pretrial incarceration. R. 8, ll. 4-18.

In appellant's motion to reconsider appellant added that he was a father who is responsible for the welfare of his kids. Due to his continued incarceration, appellant lost his home and his employment. Appellant requested the twenty-four month sentence be reconsidered so that he could resume employment to financially care for his family. R. 11-12.

The plea court summarily dismissed appellant's motion without any findings stating, "the Court finds no basis upon which to modify the sentence." R. 13.

¹ LRADAC is a non-profit agency which provides programs to assist with prevention and recovery from substance misuse for individuals and families.

Discussion

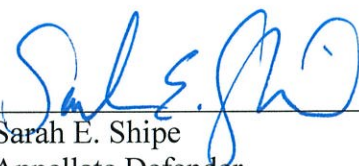
“The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion.” *State v. Hicks*, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008) (citing *State v. Smith*, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981)). “A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed.” *Id.* (citing *Wasman v. United States*, 468 U.S. 559, 563, 104 S.Ct. 3217, 82 L.Ed.2d 424 (1984)).

In a criminal prosecution, punishment of the offender is recognized as a proper motivation for a sentencing trial judge. *State v. Fletcher*, 322 S.C. 256, 471 S.E.2d 702 (Ct.App.1996). However, another legitimate interest at sentencing is the defendant's prospect for rehabilitation and restoration to a useful place in society. *State v. Tucker*, 324 S.C. 155, 478 S.E.2d 260 (1996). *See also* 24 C.J.S. Criminal Law § 1460 (rehabilitation is considered to be one purpose of sentencing).

The plea court had mitigating evidence before it during sentencing. However, the motion to reconsider added significant information including that appellant had a family that depended on him financially. Appellant chose to plead guilty and take responsibility of these charges without any recommendation from the state. Prior to his conviction appellant was a productive member of society, he worked at a mechanic shop and was financially responsible for his children. *State v. Tucker*, 324 S.C. 155, 478 S.E.2d 260 (1996). *See also* 24 C.J.S. Criminal Law § 1460 (rehabilitation is considered to be one purpose of sentencing). The court erred in summarily denying appellant's motion to reconsider without any stated reasoning.

CONCLUSION

By reason of the foregoing argument, appellant's sentence should be vacated, and this case remanded for resentencing.



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

This 9th day of July, 2026.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Robert Hoffman 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 Vernon Dunbar, 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 trial.

Wherefore, she asks the Court to relieve her as counsel for Robert Hoffman.

Respectfully Submitted,



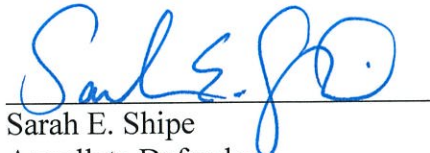
Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

This 9th day of July, 2026.

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."


Sarah E. Shipe
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