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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Darlington County
Unpublished Opinion No. 2025-UP-396 (S.C. Ct. App. filed December 3, 2025)
The Honorable Roger E. Henderson, Circuit Court Judge

THE STATE, PETITIONER

v.

ERIC ANTON GRAHAM, RESPONDENT

Appellate Case No. 2026-000776

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PETITIONER'S ISSUE PRESENTED

Did the Court of Appeals err in reversing and remanding this case for another *Aiken v. Byars* hearing solely on finding an insufficient expression of the judge's opinion on each of the *Aiken* factors where there is no requirement that the judge expressly set out his thoughts on each factor, and the record reveals that consideration of the *Aiken* factors was argued and the factors were acknowledged by the judge taking the matter under advisement?

STATEMENT OF THE CASE

On December 7, 1997, Eric Anton Graham (Mr. Graham) was arrested for the murder of Curtisha Wingate (victim). On February 20, 1997, the Darlington County Grand Jury indicted Mr. Graham for the offense of murder. (App. p. 587).

On August 28, 1998, Mr. Graham appeared before the Honorable Paul M. Burch for a trial before a jury of his peers. Mr. Graham appeared with his trial counsel Karl H. Smith. Representing the State of South Carolina was Assistant Solicitor Billie E. Blackmon of the Fourth Circuit Solicitor's Office. After a one-day trial, a jury of his peers found Mr. Graham guilty of murder. Upon conviction, Mr. Graham appeared before the trial judge for sentencing. The trial judge sentenced Mr. Graham to a period of incarceration for the remainder of his natural life for the offense of murder.

While serving this sentence the United States Supreme Court issued the opinion of *Miller v. Alabama,* 567 U.S. 460, 132 S.Ct. 2455 (2012). In *Miller,* the United States Supreme Court decided that a mandatory sentence of life imprisonment without parole for those eighteen years of age or younger violates the Eighth Amendment's prohibition on cruel and unusual punishment. Due to the *Miller* decision this Court granted certiorari in the case of *Aiken v. Byars* 401 S.C. 534, 765 S.E.2d 574 (2014). In *Aiken,* this Court decided to apply the *Miller* standards to South Carolina juveniles who were currently serving a sentence of life without parole. In *Aiken,* this Court also determined that the *Miller* decision must be applied retroactively. So any juvenile who was currently serving a life sentence was allowed to file a motion for resentencing within one year after the filing of the *Aiken* opinion. Mr. Graham petitioned the court for resentencing.

On January 19, 2023, all interested parties appeared before the Honorable Roger E. Henderson for a resentencing hearing pursuant to *Aiken v. Byars*. Appearing before the sentencing judge was Mr. Graham along with his counsel Ms. Elizabeth Franklin-Best. Appearing representing the State of South Carolina was Assistant Solicitor Kelley Jackson of the Fourth Circuit Solicitor's Office.

At the conclusion of this hearing the sentencing judge decided to take all of the evidence under advisement. On January 23, 2023, the sentencing judge issued a sentencing order. Mr. Graham was once again sentenced to a term of incarceration for the remainder of his natural life. (App. pp. 592-593).

Upon receiving this sentence Mr. Graham filed a notice of appeal before the South Carolina Court of Appeals. On December 3, 2025, the Court of Appeals issued an opinion vacating and remanding the case back to the sentencing court. Judges Konduros, Geathers, and Vinson decided that this case should be remanded to the circuit court for a new hearing and "a findings of fact and conclusion of law pursuant to *Aiken." State v. Graham,* Op. No. 2025-UP-396, 2, (S.C. Ct. App. Filled December 3, 2025).

On December 18, 2025, the State filed a petition for rehearing. On January 29, 2026, the Court of Appeals requested that Mr. Graham file a return. Mr. Graham filed his return on February 9, 2026. On February 27, 2026, the Court of Appeals denied the State's petition for rehearing. A petition for Writ of Certiorari was filed by the State before this Court on April 20, 2026. Mr. Graham filed his response on June 18, 2026. On September 16, 2026, this Court issued an order granting the State's petition for certiorari. The Brief of Petitioner presenting their arguments follows.

STATEMENT OF THE FACTS

On December 7, 1996, deputies from the Darlington County Sheriff's Office responded to a shooting at Mr. Graham's residence. Once they arrived they saw the seventeen-year-old victim slumped over on a couch covered with a blanket. (App p. 217 l. 10-13; p. 58 l. 5-10). Mr. Graham, also seventeen years of age, was the victim's boyfriend. When deputies arrived they saw an emotional Mr. Graham sitting on the floor being held by his uncle and cousin. (App. p. 217 10-13). Deputies then placed Mr. Graham in handcuffs. The murder weapon was found next to Mr. Graham, deputies took the weapon into evidence. (App. p. 247 l. 23-24; p. 248 l. 16-20).

Mr. Graham was later taken to the Sheriff's department for questioning. After being read his *Miranda* rights he told Deputies he was guilty of voluntary manslaughter and that was what he'd plea to. (App. p. 187 l. 22 – p. 188 l. 2). Mr. Graham admitted that he shot the victim. (App. p. 188 l. 2-5). After he made that statement, his father came into the interrogation room and told Deputies that his son wanted a lawyer. All questioning ceased after his father informed deputies that his son would not be answering questions without the presence of counsel.

During the trial Dr. Edward Lee Proctor testified. Dr. Proctor was qualified as an expert in forensic pathology. (App. p. 385 l. 17). Dr. Proctor performed the autopsy on the victim on December 7, 1996. (App. p. 385 l. 24-25). Dr. Proctor testified that the imprint of the entrance site along the surrounding muscle was the actual imprint of the barrel of a gun. This imprint was around the wound. (App. p. 387 l. 18-22). This indicated that the wound was a contact wound. The gun was pressed up against the skin under the chin. (App. p. 388 l. 4-8). Dr. Proctor also testified that the bullet traveled straight through the entrance site, through the roof of the mouth, through the sinuses where it exited out of the frontal skull. (App. p. 390 l. 5-10; p. 230 l. 25 – p. 231 l. 1). Dr. Proctor determined that the victim died as a result of a gunshot wound to the base of the chin area.

The actual cause of death was a gunshot wound with the bullet subsequently passing through the brain, causing extensive swelling, fragmentation and hemorrhaging to the brain itself. (App. p. 392 l. 6-10).

After his conviction, while serving this life sentence, Mr. Greene filed a motion for resentencing pursuant to the *Aiken v. Byars* decision. An *Aiken v. Byars* hearing was scheduled and the hearing was held on January 19, 2023, before Judge Rodger E. Henderson.

During this hearing Mr. Graham's mother Bobby-Gene Graham testified as well as his father Raymond Graham. They testified how much Mr. Graham loved the victim, (App. p. 19 l. 16-25), that Mr. Graham was raised in a good home that was actually built by his father, (App. p. 33 l. 24), and that Mr. Graham attended church. (App. p. 23 l. 21 – p. 24 l. 4). Reverend William C. Daniels who was the pastor for Mr. Graham and the victim also testified. Reverend Daniels testified about how tight-knit Mr. Graham and victim's families were. (App. p. 36 l. 18-20). Reverend also testified about mercy and forgiveness. (App. p. 38 l. 9 – p. 40 l. 4). Dr. Elizabeth Cauffman also testified for Mr. Graham. Dr. Cauffman considered herself a "teaching expert." (App. p. 87 l. 7-9). She never examined Mr. Graham because she was brought in as a developmental psychologist, she was there to teach science and not give a diagnoses. (App. p. 107 l. 13-17). She was there to explain the hallmark features of youth. Dr. Cauffman testified that the brain of a teenager functions differently than an adult brain.

Testifying for the State of South Carolina was William Sumner of the Darlington Police Department. Officer Sumner was the resource officer for Darlington High School the high school Mr. Graham attended. (App. p. 66 l. 1-7). There was an incident involving Mr. Graham bringing a gun to school. This gun was taken off campus, and another person obtained the gun and fired a shot. (App. p. 67 l. 4-5). They were also stopped by law enforcement in a car being driven by Mr.

Graham. The car was registered to Mr. Graham's father. Law enforcement discovered that Mr. Graham was driving with a suspended license. (App. p. 68 l. 9-13). A pistol was also found inside the car under the driver's seat; however, this was not the gun used in the previous incident. (App. p. 71 l. 1-11). Mr. Graham later confessed that he threw that gun into a lake near Hartsville. (App. p. 68 l. 9-13). Mr. Graham was later charged with driving under suspension, unlawful possession of a pistol, and armed robbery.[1] (App. p. 711 l. 16-19).

Several staff members from the South Carolina Department of Corrections also testified, Mr. Ernest Ray explained that while in custody Mr. Graham committed twenty-six infractions, eleven major and fifteen minor. Mr. Graham was given a "Level III" custody designation which is the Department's "highest level for our inmates," and had been transferred several times, which the Department does to manage difficult or "dangerous" inmates. (App. p. 82 l. 4-10; p. 83 l. 12-17). Mr. Brian Kendall warden of Leiber Correctional Institution, the prison where Mr. Graham began his sentence, also testified. Warden Kendall testified that Leiber is classified as a Level III institution. This means it is a closed custody maximum security prison. (App. p. 115 l. 20-24). There was a request for a transfer prisoners to Mississippi. Mr. Kendell recommended Mr. Graham for transfer. Warden Kendall felt that Mr. Graham should be transferred because he kept obtaining cell phones. (App. p. 116 l. 24 – p. 117 l. 3). Mr. Kendall testified that inmates could continue their illegal activity from the streets through the use of a cellphone, so possessing a cell phone is a great hazard. (App. p. 117 l. 7-13). Of the twenty-six infractions on Mr. Graham's prison record, five involved the possession of a cell phone. (App. p. 80 l. 13-14, 19-20, 21-22; p. 81 l. 3-4, 17-18).

Lastly, the State called two of the victim's family members. Wanda Wingate, the victim's mother, was allowed to address the court. She reminded the court that the victim was only

[1] The armed robbery was later nolle prossed.

seventeen at the time as well, and she did not use a gun against Mr. Graham. (App. p. 125 l. 11-16). She testified that her daughter was he only child, and that she had suffered greatly. (App. p. 125 l. 13 – p. 127 l. 8). Krystal Wingate, the victim's aunt, underscored that Graham took the victim not just from her mother, but from a loving, close family. Their pain continued in having to retrieve that loss, though it was always there. She, also, did not support any reduction in the sentence. (App. p. 129 l. 15 – p. 133 l. 24).

Mr. Graham then addressed the court and asserted that he held great remorse, pointing out that what he did "as a boy," and he had since matured and "holds [himself] accountable for [his] reckless actions" (App. p. 134 l. 24 – p. 141 l. 7).

Defense counsel argued for mercy, recognizing the horrific nature of the crime, but asking the court to consider Mr. Graham was "young man who was in trouble" having "never received any mental health treatment after a series of traumatic events in his life." (App. p. 144 l. 9-20). Counsel further argued for mercy based on the Mr. Graham's "profound remorse" (App. p. 145 l. 2-5).

The State argued that the Court should consider specifically "the five features of youth" as the purpose of the hearing. (App. p. 146 l. 4-5). The State then listed and argued each of the five factors this Court set forth in *Aiken*, discussed them at length including the evidence in relation to those factors. The State argued for Mr. Graham to receive a life sentence. (App. p. 146 l. 15 – p. 161 l. 8). On January 23, 2023, the sentencing judge signed a sentencing order. Mr. Graham was sentenced to a term of incarceration for the remainder of his natural life without the possibility of parole. (App. p. 592 – 593).

ARGUMENT

The Court of Appeals erred in reversing and remanding this case for another *Aiken v. Byars* hearing solely on finding an insufficient expression of the judge's opinion on each of the *Aiken* factors where there is no requirement that the judge expressly set out his thoughts on each factor, and the record reveals that consideration of the *Aiken* factors was argued and the factors were acknowledged by the judge taking the matter under advisement.

Relevant Factors

Mr. Graham, a minor when he committed this murder, was previously sentenced to a lifetime period of incarceration without the possibility of parole. Pursuant to the South Carolina Supreme Court decision of *Aiken v. Byars,* Mr. Graham was afforded a new sentencing hearing. During this hearing numerous individuals testified on behalf of Mr. Graham. The State also presented evidence against Mr. Graham. At the conclusion of this hearing the sentencing judge stated that he had reviewed all of the evidence that was presented. The sentencing judge also stated, "I will follow the law as it has been handed down to me and all other judges." (App. p. 162 l. 18-20). About two weeks later the sentencing judge imposed a sentence of life without the possibility of parole. This sentence was made per order without any further explanation. (App. pp. 592-593)

Standard of review

In criminal cases the appellate court sits to review errors of law only. *State v. Wilson,* 345 S.C. 1, 545 S.E.2d 827, 829 (2001). On appeal, the trial court's ruling will not be disturbed absent a prejudicial abuse of discretion amounting to an error of law. *State v. Smicklevich,* 268 S.C. 411, 234 S.E.2d 230 (1997). An abuse of discretion occurs when a trial court's decision is unsupported by the evidence or controlled by an error of law. *State v. Bryant,* 372 S.C. 305, 312, 642 S.E.582, 586 (2007). When considering whether a sentence violates the Eighth Amendment's prohibition on cruel and unusual punishment, the appellate court's standard of review extends only to the correction of error of law. *State v. Finley,* 427 S.C. 419, 423, 831 S.E.2d 158 (Ct. App. 2019). This

court has no jurisdiction on appeal to correct a sentence alleged to be excessive when it is within the limits prescribed by law. *State v. Bolin,* 209 S.C. 108, 110, 39 S.E.2d 197, 198 (1946).

Discussion

The Eighth Amendment of the United States Constitution specifically states, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. U.S. Const. amend. VIII. The United States Supreme Court has made decisions regarding punishment in juvenile cases as they relate to cruel and unusual punishment under the Eighth Amendment. *Roper v. Simmons,* 543 U.S. 551, 125 S.Ct. 1183 (2005)(Supreme Court invalidated the death penalty for juvenile offenders); *Graham v. Florida,* 560 U.S. 48, 130, S.Ct. 2011 (2010)(The Eighth Amendment prohibits a sentence of life without parole for a juvenile who committed a non-homicide offense).

In *Miller v. Alabama,* 567 U.S. 460, 132 S.Ct. 2455 (2012), the United States Supreme Court held that a mandatory life sentence without the possibility of parole for a juvenile offender violated the Eighth Amendment prohibition against cruel and unusual punishment:

> Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features – among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him – and from which he cannot usually extricate himself – no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth – for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys.

Id. 567 U.S. at 477-478.

Miller, did not categorically bar life sentences for juvenile murderers; rather, the Court held that a sentencing court is required to "take into account how children are different, and how those

differences counsel against irrevocably sentencing them to a lifetime in prison." *Id.,* 567 U.S. at 476. The United States Supreme Court held that a sentencing authority must consider youth as "more than a chronological fact," but also a factor which carries with it immaturity, irresponsibility and recklessness. *Id.* The United States Supreme Court held a juvenile convicted of murder could still be sentenced to life without parole, but only after "a judge or jury had the opportunity to consider mitigating circumstances before imposing the harshest penalty for juveniles." *Id.,* 567 U.S. at 489.

The United States Supreme Court left it up to the states to figure a way to allow juveniles to have the hallmark features of youth considered. As a result, this Court decided the case of *Aiken v. Byars,* 410 S.C. 534, 765 S.E.2d 572 (2014). In *Aiken,* this Court applied the *Miller* factors to South Carolina juveniles sentenced to life without parole. They also ordered that *Miller* should be applied retroactively. *Aiken,* 410 S.C. at 540-541. This Court acknowledged that *Miller* applied only to mandatory sentencing schemes rather than discretionary schemes such as in South Carolina. However, this Court ruled, "whether their sentence is mandatory or permissible, any juvenile offender who receives a sentence of life without the possibility of parole is entitled to the same constitutional protections afforded by the Eighth Amendment's guarantee against cruel and unusual punishment." *Id.,* 410 S.C. at 544, 765 S.E.2d at 577. As such, juveniles previously sentenced under our discretionary scheme who received a life without parole sentence were nevertheless entitled to resentencing to allow them "to present evidence specific to their attributes of youth and allow the judge to consider such evidence in light of its constitutional weight." *Id.*

Specifically in *Aiken* this Court concluded:

> Consequently *Miller* establishes a specific framework, articulating that the factors a sentencing court consider at a hearing must include: (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 surround 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."

Aiken, 410 S.C. at 544, *quoting, Miller,* 132 S.Ct. at 2468.

Just as the United States Supreme Court in *Miller,* this Court explained that juveniles could still receive a sentence of life without parole, but only after "an individualized hearing where the hallmark features of youth are fully explored." *Id.,* 410 S.C. at 545, 765 S.E.2d at 578.

Mr. Graham argued that the sentencing court erred by not placing within the order specific findings of the *Aiken v. Byars* factors prior to issuing a sentence of life without parole. There is nothing in *Aiken* that states the sentencing judge must list detailed factors that were considered or state any findings of facts or conclusions of law. Mr. Graham was entitled to a separate sentencing hearing where the hallmark features of youth are considered. Mr. Graham was given this hearing.

It is clear that the sentencing judge took into consideration all of the *Aiken* factors. At the conclusion of the *Aiken v. Byars* hearing the sentencing judge stated:

> "Counsel, ladies and gentlemen, I am not going to make a decision at this moment. I'm going to, what we call 'take this matter under advisement' and go back and consider all the testimony that I've heard here today. I know that's probably disappointing to both sides. I know you want this to be brought to some resolution, but I want you to try to put yourself in my shoes and realize what a difficult decision I have before me.
>
> I have had a chance to review the transcript of the first trial and looked at all the exhibits and whatnot, but I'm thrust somewhat, in a position of the jury. But there's only one of me and not 12 of me. I want to make sure that I do the right thing. I want to consider this matter carefully, because its important to everyone, to Eric Graham, and to the Wingate family.
>
> So if you could, put your disappointment aside for a couple of days. I'm not gonna take a long time, because I have a good strong feel for this matter. As I said, I've reviewed everything. I spent all last weekend going through everything. Spent about three days pulling through everything I had and I'm very familiar with the

> facts and I've had an opportunity today to hear from both sides and this is a very emotional matter. And for both sides, this is a very tough situation to deal with for the families and quite frankly for me as well.
>
> I want to commend the attorneys, Ms. Franklin-Best and Mr. Jackson for the outstanding job they have done, here today, presenting this matter to me in **covering all of the factors that I have to look at and consider in making my decision. And I will follow the law as it has been handed down to me and all other judges.**
>
> With that being said, this matter will be taken under advisement. I will let you hear from me very shortly. We've got a weekend coming up, so it may be first couple of days next week. I don't know if I'll be able to get everything out to the attorneys, but I'll certainly be able to get things taken care of, I'll say no later than Tuesday. So that gives you some idea, some timeline, as to when you can expect a decision from the Court." (App. p. 161 l. 12 – p. 163 l. 4).

In the United States Supreme Court case of *Jones v. Mississippi,* 593 U.S. 98 (2021), the United States Supreme Court determined that a judge does not have to make an on-the-record sentencing explanation with an implicit finding of an offender's permanent incorrigibility. The United States Supreme Court also determined that an on-the-record sentencing explanation is not necessary to ensure that a sentencer considers the defendant's youth. *Jones,* 593 U.S. at 114. In *Jones* the United States Supreme Court reasoned why it is not necessary for a court to establish that they considered the *Miller/Aiken* criteria. In *Jones* it states:

> If the sentencer has discretion to consider the defendant's youth, the sentencer necessarily *will* consider the defendant's youth, especially if defense counsel advances an argument based on the defendant's youth. Faced with a convicted murderer who was under 18 at the time of the offense and with defense arguments focused on the defendant's youth, it would be all but impossible for a sentencer to avoid considering that mitigating factor.

Id. (emphasis in original).

It is clear by statements of the court at the conclusion of this hearing that it had taken this sentencing very seriously. Any Circuit Court Judge faced with the possibility of placing a person in prison for the remainder of their natural life would take it seriously. Therefore, a judge would consider all of the criteria that are mandatory pursuant to *Aiken.* The sentencing judge made it clear

how much attention he placed on this case even prior to the hearing. The judge stated on the record that he spent the entire weekend going through all of the evidence, and three days "pulling through" everything. (App. p. 162 l. 7-8). This effort was exerted before the hearing. So can anyone doubt that sentencing judge considered the criteria, especially since it was brought before him by evidence submitted by both sides?

Within their opinion they ordered that this sentence be vacated and remanded for a new hearing and a finding of fact and conclusion of law pursuant to *Aiken. Aiken v. Byars* never ordered that a sentencing court must offer an explanation as to their life without parole sentence. The sentencing court is just obligated to reveal that the five factors were considered prior to sentencing. The Court of Appeals added an extra criteria not provided in *Aiken v. Byars*. The Court of Appeals was only obligated to reverse if there was an error of law. In criminal cases, this Court sits solely to review errors of law. *State v. Perez,* 423 S.C. 491, 496-497, 816 S.E.2d 550, 553 (2018). The five factors were clearly presented and considered by the trial court. That is the only criteria listed in *Aiken v. Byars,* that this Court makes mandatory prior to sentencing a juvenile to a life without parole. There are absolutely no criteria listed within *Aiken v. Byars* forcing the sentencing court to reveal a finding of fact or conclusion of law. There was no violation nor error in interpretating the law made by the sentencing court. Therefore, the Court of Appeals had no standing in reversing this case. Their reversal was done in error, so that decision should be reversed by this Court.

CONCLUSION

The sentencing judge made no error in their decision to sentence Mr. Graham to life without parole. The State respectfully requests this Honorable Court to reverse the decision of the Court of Appeals.

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