



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

March 26, 2014

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

RECEIVED
MAR 27 2014
SC Court of Appeals

Re: State v. Luther Tollie Norris, 2011-GS-41-283; 2011-GS-41-284
Appellate Case No.: 2012-212431

Dear Ms. Kitchings:

I am in receipt of your letter dated March 14, 2014. Please accept this letter as my report to the Court on my position as to continuance of the appeal.

Mr. Norris was convicted of distribution of crack cocaine and distribution of crack cocaine within proximity of a park. He was sentenced to 15 years for the distribution charge and to life on the proximity charge. After I filed the initial brief, Christina Catoe and I agreed to a remand, and this Court ordered the matter remanded for disposal of an outstanding motion for reconsideration of sentence.

Judge Newman presided over the remand hearing in December 2013. Judge Newman reconsidered the distribution charge and sentenced Mr. Norris to 13 years and issued a new sentence sheet. At the hearing, Judge Newman agreed with all of the parties that Mr. Norris could not be sentenced to life on the proximity charge because the notice of the state's intent to seek life referred to a rape charge, but Mr. Norris had not been convicted of rape. Therefore, that sentence on the proximity charge was vacated. However, Judge Newman did not issue a new sentence at that time because trial counsel, Charles E. Johnson, raised an additional issue that Judge Newman took under advisement. It is important to note that Judge Newman did say that the sentence would not be longer than 13 years and would concurrently. Concerning the additional issue raised at the hearing, Judge Newman refused to dismiss the charge, and issued an order to that effect last month. However, Judge Newman did not issue a new sentence on the proximity charge. I was unaware of this until I wrote to the Clerk of Court requesting a sentence sheet on the proximity charge and was informed that the only one in the file was for the life sentence.

I wrote to Judge Newman yesterday about this matter and copied this Court. Therefore, I am requesting **thirty days** to accomplish the purpose of the remand – resentencing on the proximity

charge. I have discussed with Mr. Norris whether we will continue the appeal; however, it is imperative that we obtain a new sentence sheet prior to making any final decisions in that regard.

Please feel free to contact me if you have any questions about this matter. I will be out of the office from March 28 through April 4.

Sincerely,

A handwritten signature in black ink that reads "Susan B. Hackett". The signature is written in a cursive, flowing style.

Susan B. Hackett
Appellate Defender

SBH/

cc: Christina Catoe, Esquire
Luther Tollie Norris



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March 26, 2014

The Honorable Clifton Newman
P.O. Box 516
Kingstree, S.C. 29556-0516

RECEIVED

MAR 27 2014

SC Court of Appeals

Re: State v. Luther Tollie Norris, 2011-GS-41-283; 2011-GS-41-284
Appellate Case No.: 2012-212431

Dear Judge Newman:

On May 21-22, 2012, Mr. Norris appeared before you for a trial on two charges – distribution of crack cocaine, and distribution of crack cocaine within the proximity of a park. He was found guilty, and you sentenced him to fifteen years for the distribution charge and to life imprisonment on the proximity charge. The life sentence was based on the recidivist statute.

This matter was remanded by the Court of Appeals for consideration of Mr. Norris's argument that the notice for LWOP was invalid due to the state's use of a rape conviction that was actually a conviction for ABHAN. You entertained arguments on December 5, 2013. Charles E. Johnson appeared on behalf of Mr. Norris, and H. Franklin Young, III appeared on behalf of the state. You agreed that Mr. Norris could not be sentenced to life based upon the notice. See Tr. 8, lines 8-22. Although, you did not impose sentencing on the proximity charge at that time because Mr. Johnson made an additional motion, which you took under advisement you stated that the sentence would be "a concurrent sentence that would not be more than the distribution charge." Tr. 36, lines 16-23.¹

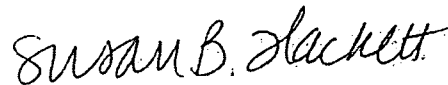
On February 7, 2014, you issued an order denying the additional motion; however, it does not appear a new sentencing sheet on the proximity charge was issued at that time. I have contacted the Saluda County Clerk of Court requesting a sentence sheet on the proximity charge reflecting a sentence other than life, but I have been told there is not one in the file. Therefore, I am writing to you now asking that you complete a new sentence sheet reflecting the sentence you orally imposed on December 5, 2013. I have enclosed a sentence sheet I downloaded from the Court's website for your convenience.

¹ Additionally, you modified the sentence on the distribution charge from fifteen years to thirteen years. See Tr. 36, lines 11-15; Sentence sheet dated December 5, 2013.

I have spoken with Christina Catoe, Esquire in the Attorney General's Office, and she is in agreement with this request. If the sentence sheet meets with your approval, I will be happy to handle the filing of it if Your Honor would like.

I have copied all of the attorneys on this request. I hope that I have enclosed all documents that you may need. However, if I have neglected to provide you with some materials, please contact me and I will do so immediately. If you have any questions about this request, please feel free to contact me.

Sincerely,



Susan B. Hackett
Appellate Defender

SBH/

Enclosures: Transcript dated December 5, 2013
Sentence sheet dated December 5, 2013 for 2011-GS-41-283
Sentence sheets dated May 22, 2012 for 2011-GS-41-283; -284
Blank sentence sheet

cc: Court of Appeals (w/o enclosures)
Christina Catoe, Esquire (w/ enclosures)
H. Franklin Young, III (w/ enclosures)
Charles E. Johnson, Sr., Esquire (w/ enclosures)
Luther Tollie Norris (w/ enclosures)