

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAVID BOYD,

APPELLANT

APPELLATE CASE NO. 2013-002119

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NO'S. 2013-GS-07-00804, 2013-GS-07-00888
2013-GS-07-00935, 02013-GS-07-01081
2013-GS-07-01082, 2013-GS-07-01096

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

AUGUST 29, 2013

TRANSCRIPT OF GUILTY PLEA

BEAUFORT, SOUTH CAROLINA

DAVID BOYD

DEFENDANTS

B E F O R E:

HON. CARMEN T. MULLEN, JUDGE

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

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BEGINNING 2:27 P.M.

BY THE COURT:

MR. SHELTON: The State calls David Boyd.

Thank you, your Honor. May it please the Court.

THE COURT: Yes, sir.

MR. SHELTON: Appearing before your Honor is Mr. David Boyd with his attorney, of course, Ms. Trasi Campbell, Chief Public Defender of Beaufort County.

Mr. Boyd is here today to enter his guilty plea to all indicted offenses without negotiation or recommendation. His indictment numbers are 2013-GS-07-00804, for bomb threat; threatening to kill, injure, intimidate by means of an explosive device. As well as 2013-GS-07-00888 for breach of trust with fraudulent intent, property crime enhancement; 2013-GS-07-00935 for forgery, less than \$10,000.00; also, property crime enhancement. 2013-GS-07-01081 for entering a bank with intent to steal South Carolina Statute of Bank Robbery. 2013-GS-07-01082, again for bank robbery. And finally, 2013-GS-07-1096 for another bomb threat charge, threatening to kill, injure, or intimidate by means of an explosive.

THE COURT: Does he have a prior record?

MR. SHELTON: Yes, he does, your Honor, please.

THE COURT: May I have his record.

1 MR. SHELTON: Yes, your Honor, please. I'll do it
2 by state, your Honor. Is Florida convictions are
3 passing forged checks for 1995. Grand theft, 1995.
4 Possession of Controlled Substance, 1994. Five checks
5 of worthless check for 1995. Possession of Controlled
6 Substance in 1996. Four other counts of fraud check in
7 1995. Possession of cocaine in 1996. A probation
8 violation in 1996. A grand theft out of Naples in 1005.
9 Uttering a forged instrument, two counts in 2005. Grand
10 theft of a motor vehicle in 2005. And burglary of a
11 structure in 2005.

12 In Rhode Island, he has Obtaining Money Under False
13 Pretenses, more than \$500.00. That is in 1987. He has
14 two federal convictions, two different incidents for
15 bank robbery in 1996 from two different victims. He
16 also has conditional release violation from his federal
17 conditional release in 2003. He received 96 motions
18 incarceration for those two bank robberies in 1996.

19 MADAM CLERK: Would you raise your right hand for
20 me, please. Do you solemnly swear to truthfully answer
21 all questions asked of you by this Court, so help you
22 God?

23 DEFENDANT BOYD: Yes, I do, ma'am.

24 THE COURT: For the record, tell me how he was
25 caught.

1 MR. SHELTON: Your Honor, he was caught fleeing a
2 bank robbery on Hilton Head Island. That was the Bank
3 of America. That's on Hatton Place, 21 Hatton Place in
4 Hilton Head on May 2nd. This was the day after he
5 committed the bank robbery in Bluffton at a Bank of
6 America on May 1st, 2011. I can tell you more facts.
7 He was caught while fleeing near the area of the Comfort
8 Inn and Burger King that is there, connected apartment
9 to Bank of America.

10 THE COURT: Did he give a confession at the time of
11 getting caught?

12 MR. SHELTON: He did, your Honor. He gave
13 confession to, actually, Officer Detective Investigator
14 Cyphert, Doug Cyphert, of the Beaufort County Sheriff's
15 Office. He's here today.

16 In that confession, -- do you want me to go into
17 the complete facts, your Honor?

18 THE COURT: Yes. Go ahead.

19 MR. SHELTON: Thank you. On May 1st and May -- May
20 1st of 2013, at around 3:40 p.m., the defendant entered
21 the Bank of America at 101 Windrush Lane in Bluffton,
22 South Carolina, unmasked. He got in line, jumped in
23 front of a witness, and approached the teller. The
24 teller was nine months pregnant and very visibly
25 pregnant.

1 While holding a black folding clipboard, he gave
2 the teller, whose name is Michelle [sic] Kaufman, a note
3 demanding cash and stating that he had a bomb. He told
4 the teller that he wasn't joking; that he had a bomb;
5 and not to put any dye packs in the cash. He kept
6 pointing to the fact that he had a bomb. This is all on
7 video tape and it's very clear video. It's obviously
8 him.

9 The witness behind, which was Ms. Kaufman, -- no,
10 excuse me. Another witness heard the defendant assert
11 that he had a bomb. The teller gave him around
12 \$1,200.00 cash. He took the money, placed it in the
13 clipboard and left, and kept his demandment note at the
14 time and left the bank. He fled that location.

15 Obviously, multiple jurisdictions were looking for
16 him at this time. They're able, through investigators,
17 to learn that he worked as a deli manager at the Piggly
18 Wiggly at the time, at Shelter Cove in Hilton Head. And
19 he had borrowed a co-worker's car that day, a green,
20 1997, Honda Civic, and never returned it.

21 The defendant was wearing the same clothes that
22 morning of the Piggly Wiggly that witnesses indicated he
23 was wearing, as they saw on the video that was posted by
24 law enforcement from the media.

25 Multiple witnesses informed investigators of the

1 defendant was the person contained in the images,
2 including people that wanted to be identified, people
3 that wished to be not identified.

4 On the next day, May 2, 2013, the defendant
5 attempted to return merchandise without an I.D. to the
6 Walmart in Hilton Head Island. Employees recognized him
7 and contacted law enforcement. The defendant fled that
8 location and hit another vehicle as he exited the
9 parking lot. Moments later, he entered the Bank of
10 America directly across from Highway 278 from Walmart,
11 and again demanded cash. And telling the teller,
12 Courtney Haynes, who is here and present today, does not
13 wish to address the Court, but I can address you on her
14 behalf. Using the note that stated he had a bomb
15 written on a piece of cardboard. He demanded no-dye
16 packs and to be place in the cash. Surveillance video
17 again clearly showed the defendant's face and physical
18 features, as well as the note. She gave him more than
19 \$14,000.00 [sic]. He took the money, kept the note, and
20 exited the store. The teller fell to the ground crying.

21 Law Enforcement from multiple agencies swarmed the
22 area and found the defendant running from a green, 1996
23 Honda Civic, not the same Honda Civic, parked at the
24 Burgher King, which is next to the bank.

25 Once they arrested him, after a brief foot chase,

1 they found a brown envelope containing over \$1,400.00
2 [sic] cash in his sweatshirt pocket. He wore the same
3 clothes that he had on during the bank robbery in Hilton
4 Head moments earlier. And subsequent investigation
5 shows that he had rented a room at the Quality Inn and
6 Suites by paying another unrelated individual an amount
7 of cash to rent it in his name.

8 Officers located the 1997 Civic that he had
9 borrowed and been driving. They find it parked in
10 Burgher King.

11 After obtaining a search warrant for the car, they
12 found two, white, plastic bags next to the car that
13 contained several empty money bands, as well as pieces
14 of crack rock and drug paraphernalia.

15 The defendant was *Mirandized*, and confessed to both
16 burglaries. He denied ever telling the teller that he
17 had a bomb in either robbery, but then, when confronted
18 with that fact, he admitted that he really didn't
19 recall.

20 He admitted to using the front cover of a book as a
21 second demand letter. Officers found a book inside of
22 the car he drove with the front cover torn off. No
23 demand letters were ever recovered.

24 Your Honor, I also have his certified paperwork
25 from his previous bank robberies. And I think it's

1 important, if I may hand it up to the Court, I'm going
2 to, for the record, turn it to Page 13 and allow you to
3 read the facts of these bank robberies out of Florida.
4 And if I may, read it into the record:

5 *On March 1st, 1995, Boyd robbed the*
6 *First Union Bank at South Tamiami Trail,*
7 *Fort Myers, and took \$2,350.00 cash.*

8 *He approached the victim/teller,*
9 *Sandra Clark, and first asked for quarter*
10 *coin wrappers. He then handed Clark a*
11 *yellow folded note paper. The note read:*

12 *"Give me all your big bills. This*
13 *is not a joke. Give it to me now."*

14 *Boyd paused and stated: "I'm not*
15 *joking. Give it to me now."*

16 And I'm going to go down to March 6, 1995, on the
17 same page, Page 13, that says:

18 *Boyd robbed the Nations Bank on South*
19 *Tamiami Trail in Bonita Springs and took*
20 *\$1,418.00. He approached the teller,*
21 *Jacqueline Fairhurst, and asked for quarter*
22 *rolls. After receiving the quarter rolls,*
23 *Boyd handed the teller a note saying:*

24 *"This is a bank robbery."*

25 *The note was written on regular, lined,*

1 yellow paper. He then grabbed the note and
2 said:

3 *"This is for real. F you. Hurry up*
4 *and give me the money."*

5 These are almost the exact same statements that he
6 gave to tellers at the Bluffton and Hilton Head bank
7 robberies. And I bring that to your Honor's attention
8 because it really brings to light what the State is
9 going to ask for in this case and why. And we can state
10 that now, or we can also state it later.

11 Also, your Honor, I have a letter from the victim,
12 Megan Kaufmann. Ms. Hoffman would love to be here
13 today. She now lives on Long Island. And when this
14 incident occurred, she was in the process of getting
15 ready to move to Long Island, nine months pregnant. And
16 --

17 May I hand it up.

18 THE COURT: Mr. Shelton, I'm looking at the plea
19 agreement that he had back in federal court in Florida,
20 and in the agreement he was pleading, each of them
21 carried 20 years. What did he do there?

22 MR. SHELTON: Ninety-six months.

23 THE COURT: He spent 96 months.

24 MR. SHELTON: Yes, your Honor.

25 THE COURT: Under the federal grid.

1 MR. SHELTON: Under the federal grid of a first
2 offense for bank robbery. May I hand up the note from
3 Ms. Hoffman?

4 THE COURT: Certainly. Certainly.

5 MR. SHELTON: And I've already provided this for
6 Ms. Campbell.

7 THE COURT: All right. And have you explained and
8 does your client understand the charges against him, the
9 possible punishment, and his constitution rights?

10 MS. CAMPBELL: He does.

11 THE COURT: And have you explained to him at length
12 about a jury trial and whether or not he wishes to have
13 a jury trial? Clearly, he is facing 110 years, if I
14 were to run these all consecutively. Again, I want to
15 make sure he understands and appreciates and you all
16 have had this discussion. Is that correct?

17 MS. CAMPBELL: We have.

18 THE COURT: Okay. And you believe it's his choice
19 to waive his right to a jury trial and go forward on a
20 guilty plea.

21 MS. CAMPBELL: Yes, ma'am.

22 THE COURT: All right. Is that correct, Mr. Boyd?

23 DEFENDANT BOYD: Yes, ma'am.

24 THE COURT: All right. Ms. Campbell, based on your
25 investigation, does the State have adequate evidence to

1 prove your client's guilt on each of these charges
2 beyond a reasonable doubt?

3 MS. CAMPBELL: They do.

4 THE COURT: And Mr. Boyd, it's my understanding you
5 want to plead guilty to all six of these charges. Is
6 that correct?

7 DEFENDANT BOYD: Yes, ma'am.

8 THE COURT: And sir, are you pleading they to these
9 charges because you are, in fact, guilty?

10 DEFENDANT BOYD: Yes, ma'am.

11 THE COURT: Have you taken -- and excuse me -- have
12 you taken any medication or drank any alcohol within the
13 last 24 hours?

14 DEFENDANT BOYD: No, I haven't, ma'am.

15 THE COURT: Do you suffer from any mental or
16 physical infirmity that would prevent you from
17 understanding what we're doing here today?

18 DEFENDANT BOYD: No, ma'am.

19 THE COURT: You understand you're entering a guilty
20 plea. Is that correct, sir?

21 DEFENDANT BOYD: Yes, ma'am.

22 THE COURT: And you are 51 years of age?

23 DEFENDANT BOYD: Yes, ma'am.

24 THE COURT: Are you married?

25 DEFENDANT BOYD: No, ma'am.

1 THE COURT: Do you have any children?

2 DEFENDANT BOYD: No, ma'am.

3 THE COURT: Where are you from originally?

4 DEFENDANT BOYD: New England.

5 THE COURT: When did you come down here, sir?

6 DEFENDANT BOYD: Two thousand -- somewhere in 2010.

7 THE COURT: Do you do any type of work?

8 DEFENDANT BOYD: Yes, I do, ma'am.

9 THE COURT: What do you do?

10 DEFENDANT BOYD: Well, I was a manager -- I worked
11 two jobs at one point in Hilton Head Island. I was with
12 the Bonefish Grill as a cook and a trainer. And I was
13 assistant manager. I worked two days a week at Piggly
14 Wiggly part time, or seven days a week. And became
15 assistant manager and a manager there in the deli
16 bakery.

17 THE COURT: How far did you go in school?

18 DEFENDANT BOYD: I -- I got my GED when I was in
19 federal prison. Eleventh grade.

20 THE COURT: How old were you when you dropped out
21 of school?

22 DEFENDANT BOYD: Sixteen.

23 THE COURT: And that was in New England?

24 DEFENDANT BOYD: Yes, ma'am.

25 THE COURT: Okay. Sir, I'm going to go over and

1 read each of these indictments to you. My question's
2 going to be, are you pleading guilty to the indictments
3 because you are, in fact, guilty. I'm also going to
4 tell you the possible punishment as far as time. Okay?

5 DEFENDANT BOYD: Yes, ma'am.

6 THE COURT: Sir, the first one is for 2013-804. It
7 is for bomb threat. This indictment states that you
8 did, in Beaufort County, South Carolina, on or about May
9 2, 2013, did knowingly communicate false information
10 concerning an allegation to kill or injure someone, and
11 that you presented a note that stated that you had a
12 bomb to the teller while demanding money at the Bank of
13 America on Hilton Head.

14 Sir, do you understand the charge contained in that
15 indictment?

16 DEFENDANT BOYD: Yes, I do, ma'am.

17 THE COURT: How do you wish to plead to it, sir,
18 guilty or not guilty?

19 DEFENDANT BOYD: Guilty, ma'am.

20 THE COURT: Are you pleading by because you are, in
21 fact guilty?

22 DEFENDANT BOYD: Yes, I am, ma'am.

23 THE COURT: Sir, you understand that that charge
24 carries up to 15 years in prison.

25 DEFENDANT BOYD: Yes, ma'am.

1 THE COURT: And understanding that, sir, do you
2 still wish to plead guilty?

3 DEFENDANT BOYD: Yes, I do, ma'am.

4 THE COURT: You're also pleading guilty to
5 Indictment 2013-888. It's for breach of trust with
6 fraudulent intent with property crime enhancement. This
7 indictment states, sir, that you did, in Beaufort
8 County, on or about May the 1st of 2013, having been
9 entrusted by a Mr. McGlory with the car and keeping of a
10 1997 Honda Civic, and that you did fraudulently convert
11 and appropriate that 1997 Honda Civic to your own use
12 and purposes; and that you have previously been
13 convicted of at least two offenses for which a term of
14 imprisonment is contingent on the value of the property.

15 Sir, do you understand the charge contained in this
16 indictment?

17 DEFENDANT BOYD: Yes, I do, ma'am.

18 THE COURT: How do you wish to plead to it, guilty
19 or not guilty?

20 DEFENDANT BOYD: Guilty, ma'am.

21 THE COURT: And are you pleading guilty to this
22 charge because you are guilty?

23 DEFENDANT BOYD: I am guilty, ma'am.

24 THE COURT: And you understand it carries up to ten
25 years in prison.

1 DEFENDANT BOYD: Yes, ma'am.

2 THE COURT: Sir, you're also pleading guilty to
3 Indictment 2013-935 of forgery valued less than
4 \$10,000.00.

5 Sir, this indictment states that you did, in
6 Beaufort County, on or about April 29th of 2013, did
7 either make or draw a check on the account of Gail
8 Masoni or McConey in the amount of \$300.00; and that you
9 did forge or make a counterfeited check, again, drawn in
10 the amount of \$300.00.

11 Sir, can you tell me what you did.

12 DEFENDANT BOYD: That was my girlfriend. We lived
13 together in Hilton Head, and I took one of her checks
14 and I cashed it.

15 THE COURT: Okay. All right. I appreciate that.

16 Sir, do you want to plead guilty to this charge
17 because you are, in fact, guilty?

18 DEFENDANT BOYD: Yes, I do, ma'am.

19 THE COURT: You're also pleading guilty to
20 Indictment 2013 at 1081 with entering a bank with the
21 intent to steal. This indictment states you did, in
22 Beaufort County, on or about May 1st of 2013, did enter
23 the Bank of America in Bluffton, South Carolina, with
24 the intent to steal cash or money by force or threat or
25 intimidation.

1 Sir, do you understand the charge contained in that
2 indictment?

3 DEFENDANT BOYD: Yes, I do, ma'am.

4 THE COURT: And how do you wish to plead to it,
5 sir, guilty or not guilty?

6 DEFENDANT BOYD: Guilty, ma'am.

7 THE COURT: Sir, you understand that that charge
8 carries up to 30 years in prison.

9 DEFENDANT BOYD: Yes, ma'am.

10 THE COURT: And understanding that, sir, do you
11 still wish to plead guilty?

12 DEFENDANT BOYD: Yes, I do, ma'am.

13 THE COURT: Sir, additionally, I'm not sure I told
14 you, but the forgery charge, the enhancement carries up
15 to ten years in prison. Do you understand that, sir?

16 DEFENDANT BOYD: Yes, ma'am.

17 THE COURT: Sir, you're, again, pleading guilty to
18 entering a bank with the intent to steal under 2013-
19 1082. This indictment states you did, in Beaufort
20 County, on or about May 2nd of 2013, did enter the Bank
21 of America at 21 Hatton Place on Hilton Head Island with
22 the intent to steal cash by use of force, threats, or
23 intimidation.

24 Sir, do you understand the charge contained in this
25 indictment?

1 DEFENDANT BOYD: Yes, ma'am.

2 THE COURT: And how do you wish to plead to it,
3 guilty or not guilty?

4 DEFENDANT BOYD: Guilty, ma'am.

5 THE COURT: And are you pleading guilty because you
6 are, in fact, guilty?

7 DEFENDANT BOYD: I am guilty, ma'am.

8 THE COURT: All right, sir. You understand, again,
9 it carries up to 30 years in prison.

10 DEFENDANT BOYD: Yes, ma'am.

11 THE COURT: Lastly, you are pleading guilty to,
12 again, threatening with use of a bomb. This indictment
13 states that you did, in Beaufort County, on or about May
14 1st, 2013, did knowingly, intentionally communicate
15 false information; that you told a teller that you had a
16 bomb and you were demanding money. And that occurred at
17 the Bank of America in Bluffton, South Carolina.

18 Do you understand that, sir?

19 DEFENDANT BOYD: Yes, ma'am.

20 THE COURT: And understanding that charge, do you
21 still wish to plead guilty to it?

22 DEFENDANT BOYD: Yes, ma'am.

23 THE COURT: And you understand, again, that carries
24 15 years in prison.

25 DEFENDANT BOYD: I do, ma'am.

1 THE COURT: All right. Mr. Boyd, I want to make
2 sure you understand and recognize, in this case, there
3 is no negotiations or recommendations from the State;
4 and that you are facing up to 110 year in prison if I
5 were to run all of these charges consecutively, which
6 just means one after the other. Do you understand and
7 appreciate that?

8 DEFENDANT BOYD: Yes, ma'am.

9 THE COURT: And understanding that, do you still
10 wish to go forward and plead guilty?

11 DEFENDANT BOYD: Yes, I do, ma'am.

12 THE COURT: Sir, you have the right to have a jury
13 trial on each of these incidents. At a jury trial,
14 first and foremost, you are never required to testify
15 against yourself. When you plead guilty, you waive that
16 right. You understand you come forward and you are, in
17 fact, telling me you are guilty.

18 Additionally, were you to go to a jury trial, your
19 attorney, Ms. Campbell, would have the opportunity to
20 cross-examine the witnesses and also, present witnesses
21 in your defense. I want to make absolutely sure, Mr.
22 Boyd, that you understand and appreciate that, by
23 pleading guilty, you are waiving your constitutional
24 rights to a jury trial on all of these cases; you
25 understand you're coming forward; you're going to have

1 convictions on your record; and you're subject to being
2 in prison from zero to 110 years. Do you understand and
3 appreciate that, Mr. Boyd?

4 DEFENDANT BOYD: Yes, ma'am.

5 THE COURT: And understanding all that, sir, do you
6 still wish to plead guilty?

7 DEFENDANT BOYD: Yes.

8 THE COURT: Are you completely satisfied with how
9 Ms. Campbell's represented you?

10 DEFENDANT BOYD: Yes.

11 THE COURT: Has she done everything you've asked
12 her to do?

13 DEFENDANT BOYD: Yes, she has.

14 THE COURT: Have you understood all of your
15 conversations with her?

16 DEFENDANT BOYD: Yes, ma'am.

17 THE COURT: Has anyone promised you anything or
18 held out any hope of reward to get you to plead guilty?

19 DEFENDANT BOYD: No, ma'am.

20 THE COURT: Has anyone pressured you or threatened
21 you or told you, you had to plead guilty?

22 DEFENDANT BOYD: No, ma'am.

23 THE COURT: Has anyone from law enforcement or the
24 solicitor's office mistreated you in any way?

25 DEFENDANT BOYD: No, they haven't, ma'am.

1 THE COURT: Have you understood all my questions,
2 Mr. Boyd?

3 DEFENDANT BOYD: Yes, I have, ma'am.

4 THE COURT: Have you been truthful in your
5 responses to the Court?

6 DEFENDANT BOYD: Yes, I have, ma'am.

7 THE COURT: You have the right to appeal this
8 guilty plea and the sentence of this Court. You must do
9 so within ten days of today's date. If you can't afford
10 an attorney for an appeal, one will be appointed for you
11 at no cost to you, if you request it. Do you understand
12 that, sir?

13 DEFENDANT BOYD: Yes, I do, ma'am.

14 THE COURT: All right, Solicitor, you've already
15 put all the facts on the record; you've already told me
16 what his prior record is. Again, Mr. Boyd, you've
17 admitted that you did, in fact, did these crime. Is
18 that correct, sir?

19 DEFENDANT BOYD: I did, ma'am. I did. Yes, ma'am.

20 THE COURT: All right, sir. I do find a
21 substantial factual basis for this plea; that your
22 decision to plead guilty has been made freely,
23 voluntarily, knowingly, intelligently, with the consent
24 competent counsel with whom you tell me you're
25 satisfied, and I'm going to accept your plea.

1 Mr. Shelton, you gave me the one statement from the
2 victim in one of the robberies.

3 MR. SHELTON: Yes, ma'am.

4 THE COURT: Does anyone else wish to speak?

5 MR. SHELTON: I do not believe so, your Honor. As
6 I said earlier, Ms. Haynes is here. She's the other
7 teller that lives locally. And she said that she did
8 want me to tell you that she would like to see the Court
9 give him the maximum sentence. She's still the teller,
10 and this goes through her head every day.

11 THE COURT: Okay. All right. Well, thank you.
12 And we'll go ahead and make this a part of the record.

13 ITEM IDENTIFIED AS STATEMENT OF
14 MEGHAN KAUFMAN MARKED COURT'S
15 EXHIBIT NUMBER 1.

16 THE COURT: All right. Ms. Campbell.

17 MS. CAMPBELL: May it please the Court, your Honor?

18 THE COURT: Yes, ma'am.

19 MS. CAMPBELL: I have four points that I would like
20 to address with the Court in mitigation on behalf of Mr.
21 Boyd. But first, Mr. Boyd has a statement that he would
22 like to read to your Honor about himself and about his
23 life, and sort of his path that brought him to this
24 area, and to the brink where he committed both of these
25 crimes.

1 And I'll turn it over to Mr. Boyd at this time to
2 make his statement to your Honor accepting his
3 responsibility in this, and letting us all know who he
4 is and what brought him to this point. And then, I have
5 some other matters I'd like to address.

6 THE COURT: Thank you.

7 MS. CAMPBELL: Thank you.

8 THE COURT: Mr. Boyd.

9 MR. BOYD: Yes, your Honor. Well, your Honor, I
10 would like to start by saying I am ashamed and
11 embarrassed by my actions, and I am truly sorry for what
12 I have done. I apologize to the Court and everyone
13 involved.

14 I'd like to give you a little bit of my background
15 so you'll know how I ended up here today. I am 51 years
16 old. I grew up in a broken home. My parents were
17 divorced when I was twelve years old. At that time, I
18 looked up to an uncle as a role model, who was a fool,
19 and then I became a fool, also.

20 I've been addicted to drugs, pain killers, for many
21 years, and made some very bad choices when using.

22 This is not the first time my addiction took over
23 my life. Back in 2004, my life changed, and I had come
24 to a point in my life where I hated the man I had
25 become, and I didn't care if I lived or died. I was

1 once again arrested, and struggling once again with my
2 addiction. I was sent to a county jail in Fort Myers,
3 Florida.

4 While there, I signed up for a program called New
5 Direction, which is a *Bible* study program. I was
6 desperate at the time. And prior to that program, I
7 never believed in God. Today, I am a firm believer.

8 I was sent back into the system in the state of
9 Florida, but I was a different man at this time. I
10 continued to do what was right. As crazy as this may
11 sound to the Court, I seek to do what's right daily.

12 July 2010, I was released to a halfway house in
13 Tampa, Florida. While I was there, I got a job with ISS
14 Facility Services, who runs the Tampa Bay Buccaneers.
15 In time, I became a supervisor.

16 Then, I was offered a management position to work
17 in Phoenix, Arizona with the NBA team called Phoenix
18 Suns. I took -- I took that position and moved to
19 Phoenix with my girlfriend, who also worked for ISS
20 Facilities. But she was on federal probation, and
21 probation in Arizona didn't accept her.

22 So, we moved here to Hilton Head, where I started
23 working for Bonefish Grill as a cook and trainer. I
24 also worked part-time for Piggly Wiggly. I was working
25 seven days a week. This is where my life started to

1 unravel.

2 I fell down at Piggly -- at Bonefish Grill and
3 slipped a disc and chipped a bone in my back. At this
4 time, the doctors were giving me pain pills, and the
5 pain was getting worse, and the pills were getting
6 stronger.

7 Now, I am battling once again my addiction, which
8 led me to start buying pills on the streets. Now, I am
9 back to work at Piggly Wiggly, offered a full-time
10 position in the deli-bakery as an assistant manager. I
11 took the position and left Bonefish.

12 Before I knew it, I was asked to be a manager of
13 the deli-bakery. I accepted that offer and was
14 dedicated to Piggly Wiggly. But my addiction was
15 dragging me away from my church, my job, and my
16 girlfriend, once again, trapped in the same lifestyle
17 where I didn't want to be.

18 Your Honor, I am asking for mercy. I am -- I am
19 wrong for what I have done, absolutely. I was a working
20 man, and I worked up until two days before I was
21 arrested.

22 I thank you for your time, and I pray to God I will
23 be able to be back in the free world some day.

24 Your Honor, this is a brief history of my
25 struggles, my ups and downs, and who I am today. Thank

1 you.

2 THE COURT: Ms. Campbell.

3 MS. CAMPBELL: Thank you, your Honor. I would like
4 to ask that the plea agreement that Mr. Boyd entered
5 into some years ago in federal court be made a part of
6 the record. I don't think the State would object to
7 that. I believe your Honor has a copy of that.

8 THE COURT: I do.

9 MS. CAMPBELL: Which I have a copy of, as well.

10 ITEM IDENTIFIED AS FEDERAL COURT
11 PLEA AGREEMENT, CASE 95-22-CR-FTM-17,
12 USA VERSUS DAVID EDWARD BOYD, JR.,
13 MARKED COURT'S EXHIBIT NUMBER 2.

14 MS. CAMPBELL: I would also like to tell you that I
15 went to the federal sentencing guidelines, and I plugged
16 Mr. Boyd's situation into those guidelines. The federal
17 government decided not to pursue this as a bank robbery,
18 and to take him to Charleston and process him through
19 the federal system. They left the charges here in South
20 Carolina.

21 At a minimum level, you know, with the bank robbery
22 itself, and I'm going to make this a part of the record,
23 as well, and hand it up to your Honor. Mr. Boyd would
24 be facing between four and five years at a base level.

25 The next section deals with acceptance of

1 responsibility, which, clearly, Mr. Boyd has done. And
2 that moves it downward departure to three to four years.

3 The next category that the federal government
4 considers is his criminal history. And as I plug him in
5 to the guidelines for bank robbery, which is what we're
6 dealing with, at the highest possible level, there is no
7 higher level in the system, he moves up to between seven
8 and eight years.

9 When you plug in the final calculating factor,
10 which is career criminal offender, armed, dangerous, his
11 sentencing range in A federal court then moves to 17
12 years to 21 years. And I'll just pass this up to your
13 Honor, and ask to make that a part of the plea record,
14 as well.

15 ITEM IDENTIFIED AS A FREE U.S.
16 FEDERAL SENTENCING GUIDELINE
17 CALCULATOR MARKED COURT'S EXHIBIT
18 NUMBER 4.

19 MS. CAMPBELL: I think it's important, also, for me
20 to bring forward, on behalf of Mr. Boyd, the records,
21 and make this a part of the record, as well, the Bureau
22 of Drug Control Prescription Monitoring Program that was
23 provided to me through the State as they began their
24 investigation.

25 ITEM IDENTIFIED AS BUREAU OF DRUG

1 CONTROL PRESCRIPTION MONITORING
2 PROGRAM RECORD, FAX DATED MAY 3,
3 2013, MARKED COURT'S EXHIBIT NUMBER 3.

4 MS. CAMPBELL: I took some time with Mr. Boyd and
5 with this case, and we went through what happened to Mr.
6 Boyd when he became injured on the job. In May 2012,
7 his physicians prescribed him -- and these are Oxycontin
8 and Hydrocodone, opiate medications, 290 pills.

9 In June 2012, they prescribed him 300 pills. In
10 July 2012, 270. In August 2012, 540. In September
11 2012, 400. In October 2012, 150. In November 2012,
12 250. In December 2012, 300. January 2013, 350. And in
13 February 2013, 525 pills in that month alone.

14 This is when the doctors also started prescribing
15 him Diazepam, which would be normally treating anxiety.
16 And I believe, based on my conversations with Mr. Boyd,
17 at that point, after eight to nine months of this level
18 of intoxication from the medications he was being
19 prescribed, he was having serious anxiety issues, and
20 then, the doctors topped it off with the Diazepam.

21 In March 2013, they again prescribed him 350
22 narcotic pills. And then, in April, they shot down to
23 130. And then, in May, we have the incident with the
24 two banks. And it was, as you can see, a building up of
25 the prescription medication, and then a drop-off, and

1 dropped Mr. Boyd off where he is today, at this Court
2 and with your Honor.

3 They went from 5 and 400 pills a month down to 130
4 for him, and he became extremely disoriented and
5 stressful, to the point of contemplating suicide. And
6 his mental faculties, while he has no defense, in terms
7 of that, it's relevant to the mitigation to the state of
8 mind that this man, this 51-year-old man, who is in the
9 category of men who are suffering with on-the-job
10 injuries, and this level and type of treatment, and then
11 face the cliff.

12 Now, I speak to the prior record of Mr. Boyd, as
13 well. Mr. Boyd is not, you know, a novice to the
14 criminal life. He knows that, but there was a period of
15 time in his forties when he began to experience the
16 liberty and the freedom and the fruitfulness that comes
17 from working hard and working a good job and developing
18 a lifestyle that he could be proud of.

19 And then, he fell off the cliff, basically, when he
20 injured his back, and when he became basically disabled
21 and debilitated from both the injury, and then the
22 treatment that was given to him.

23 What I'm asking your Honor to consider is his
24 acceptance of responsibility. The fact that, had the
25 federal government picked up this charge, Mr. Boyd would

1 be looking at between 17 and 21 years. I'm not asking
2 your Honor to give him some minor number of years
3 sentence on this. I'm asking your Honor to consider
4 something between 15- and 20-year sentence for Mr. Boyd.

5 As I said, he's 51 years old. A 20-year sentence,
6 Mr. Boyd would be 71 years old when he would be released
7 from the Department of Corrections. Thank you.

8 THE COURT: This is a non-violent charge.

9 MR. SHELTON: Your Honor, --

10 MS. CAMPBELL: No. They are no-parole.

11 MR. SHELTON: Your Honor, it's A, B, and C are all
12 non-parolable offenses.

13 THE COURT: Non-parolable.

14 MR. SHELTON: Yeah. Only on the bank robbery
15 statute, entering the bank with intent to steal by use
16 of threats, that is a non-parolable offense, per the
17 penalty statute.

18 MS. CAMPBELL: And so -- I'm sorry. And so, I
19 understand that the Solicitor is going to ask your Honor
20 to give Mr. Boyd a 30-year sentence. And in essence, on
21 the non-parolable offense, he would be required to do
22 twenty-eight-and-a-half years, which would be about ten
23 years longer than he would have received under the
24 federal sentencing guidelines.

25 At this point, that would be all that I would need

1 to address with your Honor in terms of mitigation. And
2 again, thank you for this opportunity for Mr. Boyd to be
3 here to accept his responsibility. Because you know,
4 there's no need to protract this, and I talked to the
5 Solicitor about that.

6 And you know, Mr. Boyd's only been in the detention
7 center a couple of months, and he and I worked on this
8 case really quickly. There was no need to, you know,
9 stand firm on a case that needed to move forward.

10 We were not going to trial. This was not going to
11 take two and three years. And we've come forward, and
12 we've resolved this matter expeditiously. And we'd also
13 like for your Honor to factor that into fashioning your
14 sentence. Thank you.

15 MR. SHELTON: Thank you. May it please the Court,
16 briefly?

17 THE COURT: Yes, sir.

18 MR. SHELTON: And for the record, we appreciate
19 that from Ms. Campbell and from Mr. Boyd, and the fact
20 that is saved the State a lot of resources from bringing
21 this case to trial.

22 That said, your Honor, everything that Ms. Campbell
23 has said, the State appreciates, and it is very sad,
24 because this is a man who had rehabilitated himself for
25 all intents and purposes. However, he has quite a

1 substantial history, and the State's position is that he
2 is kind of a ticking time bomb, and has shown that
3 through his history. And it's sad, but we believe
4 that's the case, because I think he has a lot of good in
5 him, as many people that appear before you do have.
6 However, he is prone to doing some very vicious things.

7 And in this case, your Honor, we understand and
8 appreciate the federal sentencing guidelines completely.
9 However, in this case, we have to consider how many
10 victims there are. There are multiple victims, and if
11 it goes to trial, we're going to ask for consecutive
12 time. We're not asking that. We're asking for a
13 consolidated sentence, because this was kind of a binge
14 situation of crime.

15 And I also would like your Honor to take into
16 consideration when sentencing, the fact that, of all
17 those prior crimes, and you've read the facts of his
18 previous crime, this is really the most heinous.

19 This previous crime did not involve a bomb threat.
20 These tellers did not know whether he had a bomb. He
21 approached a teller who he saw was nine months pregnant.
22 There's no way to avoid that. And she could have lost
23 her baby thinking this incident happened.

24 And I don't say it to be light; I don't say it to
25 be flippant. I say it that, in this situation, when he

1 was interviewing -- when Mr. -- Investigator Cyphert was
2 interviewing him, he asked to go to the federal system
3 because they had better salad bars. He was also very
4 honest, except for the bomb, and the State appreciates
5 that.

6 For all these reasons -- and one other thing is,
7 Investigator Cyphert informs me that the reason the
8 federal government did not take it, first of all, the
9 State was very interested in prosecuting it. Also, the
10 Federal -- the U.S. Attorney's Office, who I know very
11 well, is very busy right now, and they are focusing on
12 cases like this involve bombs or anything like that, a
13 lot of terrorism activities and not necessarily bank
14 robberies. That's according to what Investigator
15 Cyphert told me the FBI informed him of during the
16 incident.

17 The State is asking for a sentence of 30 years,
18 which would be the maximum sentence for bank robbery.
19 We're not asking for a consecutive sentence. We're
20 asking for a consolidated, concurrent sentence. We
21 believe that's -- we're trying to temper justice with
22 mercy in this case. We're not asking for consecutive
23 time. I mean, we, obviously, respect the wisdom of the
24 Court in any decision that the Court comes up with.

25 THE COURT: Anything further, Ms. Campbell?

1 MS. CAMPBELL: No, your Honor. Thank you.

2 THE COURT: Anything further from you, Mr. Boyd?

3 MR. BOYD: No, I don't -- well, your Honor, to be
4 honest with you, I didn't -- the lady, I didn't -- I
5 didn't know she was pregnant. You know, I don't even
6 recall what I was doing to those -- at that time.

7 THE COURT: Have you ever had any drug treatment?

8 MR. BOYD: Many years ago, yeah.

9 THE COURT: How about when you were in federal
10 prison? Did you attend any type of drug treatment
11 classes or?

12 MR. BOYD: Yeah, they had a -- I did, but it was
13 for a short period of time they had the class, you know.
14 And one more thing I would like to say, your Honor. I
15 really seek to do what was right when I -- in 2004, even
16 when I was in the system, I did what was right, and I've
17 never done that before.

18 You know, I treated the system like I was on the
19 street and did the same things. But as of 2004, even in
20 the system, when I did get out in 2010, I succeeded for
21 almost three years. You know, I worked every day, you
22 know, multiple jobs, and I wasn't out there running the
23 streets.

24 THE COURT: Are you currently taking any medication
25 while you're in the jail?

1 MR. BOYD: No, ma'am.

2 THE COURT: On Indictment 2013-888, it is for
3 breach of trust, property enhancement, the sentence of
4 this Court is you be committed to the Department of
5 Corrections for a period of ten years.

6 On Indictment 2013-804, for a bomb threat, the
7 sentence of this Court is you be committed to the
8 Department of Corrections for a period of 15 years.

9 On Indictment 2013-935, for property -- forgery or
10 property crime enhancement, it's the sentence of this
11 Court that you be committed to the Department of
12 Corrections for a period of ten years.

13 On Indictment 2013-1096, for, again, conveying a
14 bomb threat, the sentence of this Court is you be
15 committed to the Department of Corrections for a period
16 of 15 years.

17 On Indictment 2013-1082, for bank robbery, the
18 sentence of this Court is you be committed to the
19 Department of Corrections for a period of 30 years.

20 On Indictment 2013-1081, again, for bank robbery,
21 the sentence of this Court is you be committed to the
22 Department of Corrections for period of 30 years.

23 Those are all to run concurrent to each other, and
24 you will get credit for the time that you've done. Good
25 luck to you.

MR. SHELTON: Thank you, your Honor.

END PROCEEDING 3:06 P.M.

CERTIFICATE OF REPORTER

AUGUST 29, 2013 TRANSCRIPT OF GUILTY PLEA

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, Wanda H. Rowe, CVR-M, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing August 29, 2013 Transcript of Guilty Plea is a true, accurate, and complete record of the proceedings had on said date and exhibits admitted in the case of State of South Carolina versus David Boyd, Beaufort County, South Carolina, Court of General Sessions, Case Numbers 2013-GS-07-00804, 2013-GS-07-00888, 2013-GS-07-00935, 2013-GS-07-01081, 2013-GS-07-01082, 2013-GS-07-01096.

I further certify that I am of neither kin, counsel, nor interest to any party hereto.

The original of this transcript, nor any copy of same, is not certified, nor authorized for use by me, to be true, accurate, and complete without my original signature and stamp affixed hereto.

Witness my signature May 19, 2014.


Wanda H. Rowe, CVR-M
Official Court Reporter

ORIGINAL

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NO'S. 2013-GS-07-00804, 2013-GS-07-00888
2013-GS-07-00935, 2013-GS-07-01081
2013-GS-07-01082, 2013-GS-07-01096

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

SEPTEMBER 9, 2013

TRANSCRIPT OF MOTION TO RECONSIDER

BEAUFORT, SOUTH CAROLINA

DAVID BOYD

DEFENDANTS

B E F O R E:

HON. CARMEN T. MULLEN, JUDGE

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

HON. BENJAMIN T. SHELTON
ASSISTANT SOLICITOR
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ON BEHALF OF DEFENDANT
DAVID BOYD:

HON. TRASI CAMPBELL
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EXHIBITS

No exhibits were admitted.

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BEGINNING 11:13 A.M.

BY THE COURT:

MR. SHELTON: David Boyd. Mr. Boyd. His wife is present. Your Honor, good morning.

THE COURT: Good morning.

MR. SHELTON: This is Defense motion to reconsider on the State versus David Boyd. You sentenced him on August the 26th of this year to 30 years concurrent on Indictment Numbers, I'll read them into the record. 2013-GS-07-0804, for bomb threat, for 15 years; breach of trust, 2013-GS-07-0888, ten years; property crime enhancement, that is 2013-0935, ten years; bank robbery, 2013-01081 for 30 years; bank robbery 2013-GS-1082 for 30 years; and again, another bomb threat, 2013-GS-01096 for 15 years.

I'll hand these up to you. And since it's Defense's motion, the State formally opposes the motion. I can make arguments if so required.

THE COURT: Okay. All right. Ms. Campbell?

MS. CAMPBELL: May it please the Court, your Honor? In reference to the motion, for the record, I did speak with my client on Friday, and he waives his presence at the hearing today.

In reference to the motion itself, I prepared and filed on behalf of my client Defendant's Memorandum in

1 Support of Motion to Reconsider and Reduce Sentence
2 Imposed by the Court, and basically placed in the
3 written motion the basis for our asking the Court to
4 consider reducing his sentence.

5 Mr. Boyd asserts that the sentence as imposed would
6 be a violation of his constitutional rights under the
7 *United States Constitution* and the *South Carolina State*
8 *Constitution*, in terms of due process and equal
9 protection. In addition, it would be a violation of the
10 *Eighth Amendment* to the *United States Constitution*.

11 The essence of the motion is that the State of
12 South Carolina cherry-picked Mr. Boyd up, put him in
13 state court, selected him out personally, not as part of
14 any standardized scheme of prosecution. The Solicitor
15 stated on the record that they took a particular
16 interest in Mr. Boyd, and contacted the federal
17 government, who basically acquiesced, as they were more
18 concerned with prosecuting terrorism.

19 We presented at the sentencing, your Honor, the
20 fact that Mr. Boyd expeditiously handled his guilty
21 plea. He had only been incarcerated a few months.

22 The sentencing range on the most serious of the
23 offenses was zero to 30 on a sentencing scheme. We
24 accepted the responsibility for the prior criminal
25 record of Mr. Boyd, which included a prior bank robbery

1 in Florida. Actually, I believe, two in Florida. I
2 believe the Solicitor would agree with me on that. Two
3 prior bank robberies in Florida.

4 And the essence of our argument to the Court was,
5 had Mr. Boyd not been personally selected by the
6 prosecution to bring to state court, that he would have
7 been prosecuted in federal court under the FDIC rules
8 and procedures for sentencing of those who rob
9 federally-insured institutions, and would have received
10 a sentence approximately twelve, thirteen, to ten years
11 less than he received in this Court.

12 And that's the basis of his motion, to ask your
13 Honor to consider sentencing him in the range of 17 to
14 21 years, which is, had the State of South Carolina not
15 taken a personal interest in Mr. Boyd, what he would be
16 serving now in the federal system.

17 Thank you, your Honor.

18 THE COURT: Ms. Campbell, just so I'm clear.

19 MS. CAMPBELL: Yes.

20 THE COURT: It isn't necessarily that the State
21 chose to prosecute him; it's that they have to give the
22 feds the opportunity first, and they declined. And we
23 seem to have that a lot here, as we have people sit here
24 and wait where we hear that the U.S. Attorneys Office
25 may or may not pick up some charges.

1 And so, our people sit here in Beaufort County Jail
2 and wait, and wait, and wait until they've made a
3 decision. And then, they either take them or they don't
4 take them. And in this case, it appears that the
5 federal government declined to take the case, and the
6 State went forward with it.

7 I will tell you, in my sentencing, my biggest
8 concern with Mr. Boyd, just like you had stated, that
9 there was a prior bank robbery. Quite frankly, he was
10 very sympathetic when he went through the rendition of
11 all the pain medication he had been prescribed over
12 time, based on an injury that occurred.

13 Part of that begs the question of is what doctor
14 was prescribing all of those drugs, and were they not
15 reported or turned in? Because, if it is just one
16 doctor -- I don't know if he was going and defrauding
17 different doctors and telling them. But long story
18 short, that, that was a concern I have, as well.

19 He was looking at 110 years, based on all the
20 charges under the state court system. We did run
21 everything concurrent. And again, in my mind, the
22 biggest problem I have with the case, and I will just
23 tell you, is that he had committed a prior.

24 MS. CAMPBELL: I understand.

25 THE COURT: And that really was the hard part for

1 me. I certainly could have understood if this was the
2 first time out of the box, or if it had been something
3 different.

4 MS. CAMPBELL: Um-hmm.

5 THE COURT: But again, based on his age, him being
6 51, him having committed a prior bank robbery, --

7 MS. CAMPBELL: Um-hmm.

8 THE COURT: -- that was just, for me, that was the
9 sticking point. So, again, you and I both know that I'm
10 not held by the federal court sentencing guidelines.

11 I think it goes back to the question of whether or
12 not we should have them in state court. Obviously, our
13 legislature has decided that they do not wish to have
14 them, and that there are some sentencing ranges --

15 MS. CAMPBELL: Um-hmm.

16 THE COURT: -- that we've chosen not to adopt any
17 guidelines. I think, until and unless we do, I don't
18 think I am bound by them.

19 I will tell you, I did the best I could for Mr.
20 Boyd. So, again, I think he was sympathetic. I agree
21 with you. But anyway, I'm not going to reduce his
22 sentence. Thank you.

23 MR. SHELTON: Thank you, your Honor. And just for
24 the record, I'd like to state that the State has
25 contacted both victims for this case, and I'm going to

1 need to pass up a statement. And for your Honor's
2 information, there were, I believe, 32 different
3 providers that he got those drugs from.

4 THE COURT: Okay.

5 MS. CAMPBELL: Thank you, your Honor.

6 MR. SHELTON: Thank you.

7 THE COURT: Okay.

8 MS. CAMPBELL: Appreciate your time.

9 MR. SHELTON: Thank you.

10 MS. CAMPBELL: So, your Honor, and for the record,
11 the motion is denied, and my --

12 THE COURT: Yes.

13 MS. CAMPBELL: Thank you very much.

END PROCEEDING 11:19 A.M.

CERTIFICATE OF REPORTER

SEPTEMBER 9, 2013 TRANSCRIPT OF

MOTION TO RECONSIDER

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, Wanda H. Rowe, CVR-M, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing September 9, 2013 Transcript of Motion to Reconsider is a true, accurate, and complete record of the proceedings had on said date in the case of State versus David Boyd, Beaufort County, South Carolina, Court of General Sessions, Case Numbers 2013-GS-07-00804, 2013-GS-07-00888, 2013-GS-07-00935, 2013-GS-07-01081, 2013-GS-07-01082, 2013-GS-07-01096; that no exhibits were admitted.

I further certify that I am of neither kin, counsel, nor interest to any party hereto.

The original of this transcript, nor any copy of same, is not certified, nor authorized for use by me, to be true, accurate, and complete without my original signature and stamp affixed hereto.

Witness my signature May 19, 2014.


Wanda H. Rowe, CVR
Official Court Reporter

ORIGINAL

WITNESSES

Seifert, BCSO

ARREST WARRANT NUMBER

2013A0720300154

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

JUN 27 2013

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2013GS0700804

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

June Term 2013

THE STATE

vs.

David Boyd

Indictment for

Bomb Threat/ Threatening to kill, injure or
intimidate by means of an explosive

SC Code: 16-23-0750
CDR Code:2780

After being fully advised as to my legal
rights, I hereby waive presentment to the
Grand Jury.

Defendant

I
Hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2013GS0700804

At a Court of General Sessions, convened on June 27, 2013, the Grand Jurors of Beaufort County present upon their oath:

Bomb Threat/ Threatening to kill, injure or intimidate by means of an explosive

That in Beaufort County, South Carolina, on or about May 2, 2013, the Defendant, David Boyd, knowingly did communicate false information concerning an attempt or alleged attempt to kill, injure, or intimidate any person or to damage or destroy any real or personal property by means of an explosive, incendiary or destructive device; to wit: David Boyd did present a written note stating that he had a bomb to a teller while demanding money at the Bank of America, at 21 Hatton Place on Hilton Head Island; all in violation of Section 16-23-750, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

51

WITNESSES

Cooler, BCSO

ARREST WARRANT NUMBER

2013A0720300175

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

JUN 27 2013

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2013GS0700888

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

June Term 2013

THE STATE

vs.

David Boyd

Indictment for

**Breach of Trust with Fraudulent Intent, Property
Crime Enhancement**

SC Code: 16-13-0230 / 16-01-0057
CDR Code:3588

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)

INDICTMENT
 2013GS0700888

At a Court of General Sessions, convened on June 27, 2013, the Grand Jurors of Beaufort County present upon their oath:

Breach of Trust with Fraudulent Intent, Property Crime Enhancement

That in BeaufortBeaufort County, South Carolina, on or about May 1, 2013, after having been entrusted by Sandra McGlory, with the care, keeping, and possession of 1997 Honda Civic, a good with monetary value, the Defendant, David Boyd, fraudulently did convert and appropriate said 1997 Honda Civic to her own use and purpose, with the intent to deprive Sandra McGlory of possession thereof.

FOR NOTICE PURPOSES ONLY:

That, in addition, the Defendant has been previously convicted of at least two offenses for which the term of imprisonment is contingent upon the value of the property involved; in violation of Sections 16-13-230 and 16-1-57 of the South Carolina Code of Laws, (1976) as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

Babkiewicz, Bluffton PD

ARREST WARRANT NUMBER

2013GS0701081

ACTION OF GRAND JURY

True Bill

Redmond
Foreperson of Grand Jury
Date:

JUN 27 2013

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2013GS0701081

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

June Term 2013

THE STATE

vs.

David Boyd

Indictment for

Entering a Bank with Intent to Steal

SC Code: 16-11-0380
CDR Code:0257

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2013GS0701081

At a Court of General Sessions, convened on June 27, 2013, the Grand Jurors of Beaufort County present upon their oath:

Entering a Bank with Intent to Steal

That in Beaufort County, South Carolina, on or about May 1, 2013, the Defendant, David Boyd, did enter a building or part of a building occupied as a bank, depository, or building and loan with the intent to steal money or securities for money, either by force, intimidation, or threats, to wit: The Defendant did enter the Bank of America at 101 Windrush Lane in Bluffton, South Carolina with intent to steal cash or securities for money by force, intimidation or threats; all in violation of Section 16-11-380, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

55

WITNESSES

Seifert, BCSO

ARREST WARRANT NUMBER

2013GS0701082

ACTION OF GRAND JURY

True Bill

Bo
Foreperson of Grand Jury
Date:

JUN 27 2013

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2013GS0701082

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

June Term 2013

THE STATE

vs.

David Boyd

Indictment for

Entering a Bank with Intent to Steal

SC Code: 16-11-0380
CDR Code:0257

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

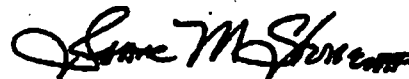
INDICTMENT
2013GS0701082

At a Court of General Sessions, convened on June 27, 2013, the Grand Jurors of Beaufort County present upon their oath:

Entering a Bank with Intent to Steal

That in Beaufort County, South Carolina, on or about May 2, 2013, the Defendant, David Boyd, did enter a building or part of a building occupied as a bank, depository, or building and loan association with the intent to steal money or securities for money, either by force, intimidation, or threats, to wit: The Defendant did enter the Bank of America at 21 Hatton Place, Hilton Head Island with the intent to steal cash or securities for money by force, intimidation, or threats; all in violation of Section 16-11-380, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

Babkiewicz, Bluffton PD

ARREST WARRANT NUMBER

2013GS0701096

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: JUN 27 2013

VERDICT

Foreperson of Petit Jury
Date:
INDICT

DOCKET NO. 2013GS0701096

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

June Term 2013

THE STATE

vs.

David Boyd

Indictment for

**Bomb Threat / Threatening to kill, injure, or
intimidate by means of an explosive**

SC Code: 16-23-0750
CDR Code:2780

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

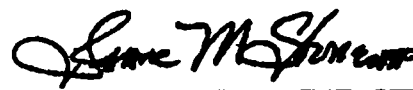
INDICTMENT
2013GS0701096

At a Court of General Sessions, convened on June 27, 2013, the Grand Jurors of Beaufort County present upon their oath:

Bomb Threat / Threatening to kill, injure, or intimidate by means of an explosive

That in Beaufort County, South Carolina, on or about May 1, 2013, the Defendant, David Boyd, knowingly did communicate false information concerning an attempt or alleged attempt to kill, injure, or intimidate any person or to damage or destroy any real or personal property by means of an explosive, incendiary or destructive device; to wit: David Boyd did present a written note stating that he had a bomb to a teller while demanding money at the Bank of America at 101 Windrush Lane in Bluffton, South Carolina; all in violation of Section 16-23-750, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

2013A0720300154
2013A0720300175
2013A0720300187

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) INDICTMENT NO.: DI DI DI
COUNTY OF BEAUFORT) 2013GS0700804,888,935,1081,1082,1096

STATE OF SOUTH CAROLINA,)
)
versus)
) DEFENDANT'S MEMORANDUM
) IN SUPPORT OF MOTION TO RECONSIDER
DAVID BOYD,) AND REDUCE SENTENCE IMPOSED BY
) THIS HONORABLE COURT
)
Defendant.)

2013 SEP 11 AM 9:15
BEAUFORT COUNTY
COURT

The Defendant, David Boyd, by and through his undersigned attorney, hereby moves this Honorable Court for a reconsideration and reduction in his sentence based upon the following grounds.

The State of South Carolina and the Sentence Imposed Upon the Defendant violates the Defendant's Due Process Rights and Equal Protection Rights guaranteed to the Defendant by the United States Constitution and the South Carolina State Constitution.

David Boyd was arrested by the Beaufort County Sheriff's Department, prosecuted by Ben Shelton, Assistant State Solicitor for the Fourteenth Judicial Circuit in South Carolina, and pled guilty to all indictments with the assistance of his appointed counsel, Trasi Campbell, Beaufort County Chief Public Defender. This guilty plea and sentencing issue relates to Mr. Boyd's indictments issued by the Beaufort County Grand Jury for his role in two incidents involving Mr. Boyd threatening the use of an explosive in an attempt to rob a bank. These incidents at the Bank of America occurred on May 1, 2013 in Bluffton, SC and May 2, 2013 on Hilton Head Island, SC. Mr. Boyd was arrested on May 2, 2013. Mr. Boyd entered his guilty pleas on August 29, 2013, just shy of four months after his arrest.

At the guilty plea and sentencing hearing on August 29, 2013, the State of South Carolina placed upon the record of this case the rationale for Mr. Boyd being brought to State Court and not being taken to Federal Court where such cases are normally situated and prosecuted per federal law. The State indicated that they sought out Mr. Boyd's case and took a special interest in prosecuting this case in State Court. The State of South Carolina argued that the Federal government was too busy prosecuting terrorists to pursue the prosecution of Mr. Boyd and, in any event, the State of South Carolina wanted to hold on to Mr. Boyd for prosecution in State Court. Thus, as this information was revealed, Mr. Boyd argues that the State of South Carolina violated his due process rights and his equal protection rights by "cherry-picking" him out specifically to prosecute in State Court and seeking to punish him in excess of the sentence he would have received in federal court. This is particularly relevant and important in terms of the sentencing which was imposed upon Mr. Boyd by the Circuit Court. At sentencing, Mr. Boyd argued that he should be given a sentence that would be in line with the sentence he would have received in Federal Court had the State of South Carolina not reached in and grabbed him for special prosecution in Beaufort County. Mr. Boyd provided the Circuit Court with the rough worksheet for the federal guidelines and placed that report in the record. The State did not argue against the validity of the federal guidelines in terms of the maximum sentence Mr. Boyd faced in federal court. Even if Mr. Boyd was held accountable to the top level of criminal history and the maximum calculations on armed career criminal (which he likely does not qualify for), he would still be facing only a maximum of between 17.5 years and 21.5 years. Thus, the thirty

year sentence handed down by the Circuit Court exceeded his Federal Sentencing Guidelines by approximately ten to thirteen years.

The State of South Carolina and the Sentence Imposed Upon the Defendant violates the Defendant's protections guaranteed by the Eighth Amendment to the United States Constitution.

Mr. Boyd respectfully asserts that the sentence of thirty years, as imposed, concurrent for all indictments in State Court violates the proportionality requirement of the Eighth Amendment to the United States Constitution.

The Federal Government is the primary agency for the prosecution of cases involving bank robbery. And, the federal bank robbery statute has clearly established a comprehensive scheme for prosecuting and punishing persons who rob federally-insured banks. The Bank of America in Bluffton, SC and the Bank of America on Hilton Head are both FDIC institutions.

Conclusion

In support of his assertions in both arguments, the Defendant relies on United States v. Ringgold, ___ F.3d ___, No. 06-10492, 2009 WL 1927597 (9th Cir. July 7, 2009) which focused on a narrow but key issue in the Federal Court and State Court matters related to disparate sentences. The appeal in that case concerned the question whether, after United States v. Booker, 543 U.S. 220, 125 S.Ct. 738, 160 L.Ed.2d 621 (2005), a district court abuses its discretion by declining to consider the disparity between a recommended Guidelines sentence and the maximum sentence a defendant would receive if convicted of the same conduct in state court. Under the circumstances presented by that case, the

appeals court held that the district court did not abuse its discretion or commit procedural error in declining to consider such a disparity. The difference in Mr. Boyd's case and the Ringgold case lies in the fact that the State of South Carolina actively sought to select Mr. Boyd out for special prosecution in State Court and this special selection creates a unique situation where Ringgold can be instructive for the Court bearing in mind that Mr. Boyd has the added layer of analysis of direct State action of "cherry-picking" him out for selective prosecution.

The Defendant, Mr. Boyd, hereby respectfully requests that he be given a sentence in State Court that is of the same proportionality as the sentence he would have received in Federal Court had the State of South Carolina not actively pursued him and specially selected him for prosecution in State Court.

Respectfully submitted,


Traci Campbell
Chief Public Defender
Attorney for the Defendant

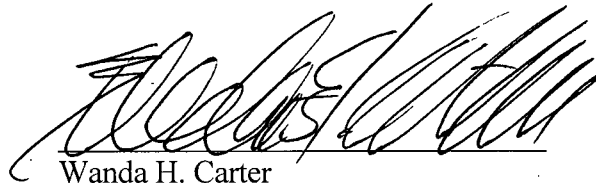
Beaufort, South Carolina

9/9, 2013

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with 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."

This 21st day of July, 2014.



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED

JUL 21 2014

SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Carmen T. Mullen, Circuit Court Judge

RECEIVED

JUL 21 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

DAVID BOYD,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. David Boyd, #356852, at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 21st day of July, 2014.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
This 21st day of July, 2014.

[Signature] (L.S.)

Notary Public for South Carolina
My Commission Expires: October 30, 2022

RECEIVED

JUL 21 2014

SC Court of Appeals