

STATE OF SOUTH CAROLINA
In the Supreme Court

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On Petition for Writ of Certiorari to the Court of Appeals
APPEAL FROM WILLIAMSBURG COUNTY **S.C. Supreme Court**
Court of General Sessions
W. Jeffrey Young, Circuit Court Judge

The State,

Respondent,

v.

Casey Lewis,

Petitioner.

Appellate Case No. 2014-001564

SUPPLEMENTAL APPENDIX

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ATTORNEYS FOR RESPONDENT

INDEX

Motion to Dismiss Notice of Appeal.....1

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Williamsburg County
W. Jeffrey Young, Circuit Court Judge

The State of South Carolina,

Respondent,

v.

Casey Lewis,

Appellant,

Appellate Case No. 2014-000144

MOTION TO DISMISS NOTICE OF APPEAL

Appellant, Casey Lewis, is attempting to appeal from the denial of an untimely post-trial motion from the Court of General Sessions. The State moves to dismiss. The notice of appeal was not timely served and the notice should be dismissed for lack of jurisdiction. *See White v. State*, 263 S.C. 110, 119, 208 S.E.2d 35, 39 - 40 (S.C. 1974) ("it is well settled that in the absence of a notice of appeal having been given and timely served [an appellate court] has no jurisdiction over such an appeal"). In support of the motion, Respondent would respectfully show the Court:

PROCEDURAL HISTORY

Petitioner is currently incarcerated in Broad River Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment from the Clerk of Court of Williamsburg County. Petitioner was indicted in February 1999 for murder, armed robbery, possession of a weapon during the commission of a violent crime, and carrying a pistol onto premises or business selling alcoholic liquors, beers or wines for consumption. Legrand Carraway,

Public Defender for Williamsburg County, represented Appellant on the charges. A jury trial on the charges of murder, armed robbery, and possession of a weapon, began on June 21, 1999, before the Honorable James E. Brogdon. On June 23, 1999, Appellant informed the court that he wished to enter a guilty plea. Judge Brogdon accepted the plea, and sentenced Appellant to fifty-five (55) years for murder, thirty (30) years for armed robbery, and five (5) years on the weapons charge. The remaining charge was dismissed. Appellant, through counsel, attempted to file a notice of appeal; however, the appeal was filed late and rejected by this Court. This Court issued the remittitur on January 4, 2000.

On May 26, 2000, Appellant filed an application for post-conviction relief ("PCR"). The Honorable Howard P. King found Appellant had not voluntarily waived his right to appeal, but denied relief on all remaining grounds raised in the action. On April 8, 2004, the Supreme Court of South Carolina allowed the review of direct appeal issues, but denied relief.¹ *Lewis v. State*, Memorandum Opinion No. 2004-MO-016 (S.C.Sup.Ct. filed April 8, 2004). The Court issued the remittitur on April 26, 2004.

Petitioner filed a second PCR action on June 30, 2004, which was dismissed as untimely and successive on January 29, 2007.

On or about February 11, 2013, Petitioner filed a document titled "Motion to Modify and Correct Sentence Pursuant to S.C. RCP Rule 29(b), Rule 60 (b)1, Rule 60 (b) 3, Rule 60 (b) 4, and § Title 17-23-110" with the Williamsburg County Clerk of Court in his General Sessions Case Number 99-GS-45-18. (Attachment 1). On August 17, 2013, the State filed a Motion to Quash Defendant's Motion to Modify and Correct Sentence. (Attachment 2). The State argued, as its first

¹ Respondent notes that within the PCR appeal, Petitioner attempted to raise a *pro se* issue that the murder statute did not support his fifty-five (55) year sentence. The *pro se* filing was dated June 19, 2003.

position, that Appellant's post-trial motion was untimely. (Attachment 2, p. 1). Appellant filed a response on September 23, 2013. (Attachment 3). A hearing on the State's motion was held September 12, 2013. (Attachment 4). The Honorable W. Jeffrey Young heard the motion and issued, that same day, an Order dismissing the action as untimely: "Post-Trial motions following a trial in the Court of General Sessions generally must be filed within ten days of the imposition of the sentence. See Rule 29 (a) SCCRimP." (Attachment 5, p. 2). Judge Young, rejecting the assertion of "newly discovered evidence under any definition of the term," concluded: "The sentence in this matter was imposed on June 23, 1999. This action was filed on February 11, 2013. Accordingly, this Court finds that this action is untimely and therefore must be dismissed with prejudice." (Attachment 5, p. 3).

Petitioner was provided notice of this ruling on September 12, 2013. (See Attachment 6). On September 23, 2013, Appellant filed a document, again in his General Sessions Case Number 99-GS-45-18, titled "Motion to Alter or Amend Pursuant to Rule 59(e)." (Attachment 7). Judge Young denied the motion to reconsider his ruling. (Attachment 8).

On or about January 21, 2014, Appellant served the Attorney General's Office with a notice of appeal and filed a copy of the notice with the Williamsburg Clerk of Court and with the Clerk of this Court. Appellant alleges within the notice and certificate that he "received written notice of entry of the order" denying the motion to reconsider on January 17, 2014. *Id.* By Certificate of Service notarized February 6, 2014, Appellant served the solicitor's office with a copy of the notice of intent to appeal. (Attachment 10).

DISCUSSION

"Service of the notice of intent to appeal is a jurisdictional requirement, and the Court has no authority to extend or expand the time in which the notice of intent to appeal must be served."

Conner v. City of Forest Acres, 348 S.C. 454, 461, 560 S.E.2d 606, 609 (S.C. 2002) (citing *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985)). See also *State v. Scott*, 351 S.C. 584, 587, 571 S.E.2d 700, 701 - 702 (S.C. 2002) (differentiating filing of notice and service of notice: “this Court has consistently held service of the notice of appeal is a jurisdictional requirement”); Rule 263, SCACR (b) (“The time prescribed by these Rules for performing any act *except the time for serving the notice of appeal* under Rules 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.”) (emphasis added). “[I]t is well settled that in the absence of a notice of appeal having been given and timely served [an appellate court] has no jurisdiction over such an appeal.” *White v. State*, 263 S.C. 110, 119, 208 S.E.2d 35, 39 - 40 (S.C. 1974). Consequently, untimely appeals should be dismissed.

The timing for appeal differs for Common Pleas and General Sessions cases. At issue here is a case from General Sessions. An appeal from General Sessions after a guilty plea must be served “on all Respondents” within ten (10) days from sentencing. Rule 203 (b)(2), SCACR. However, “[w]hen a *timely* post-trial motion is made under Rule 29(a), SCCrimP, the time to appeal shall be stayed and shall begin to run from receipt of written notice of entry of an order granting or denying such motion.” *Id* (emphasis added).

Rule 29(a), SCCrimP provides: “Except for motions for new trials based on after-discovered evidence, post-trial motions shall be made within ten (10) days after the imposition of the sentence.” Again, like Rule 203, SCACR, Rule 29(a) allows that “[t]he time for appeal for all parties shall be stayed by a *timely* post-trial motion....” (emphasis added). Rule 29(b) also provides, in the alternative, that a motion for new trial based on after discovered evidence must be made within one-year of the discovery of such evidence. There is no mechanism under Rule 29 to allow for further reconsideration of an order denying the motion beyond the ten (10) day period.

Appellant's notice of appeal is untimely. The "Rule 29" motion filed February 11, 2013, was not timely filed. Thus, by application of the plain language of the rule, the time for service of the notice of appeal was not stayed past the ten (10) days from sentencing. Judge Young found Rule 29, section (a) controlling as there was no "newly discovered" evidence at issue. (Attachment 5, p. 3). Consequently, the time to appeal ran from sentencing on June 23, 1999, and the February 11, 2013 filing was over thirteen years late.² The instant attempt to appeal from that filing is also not timely.³

Further, there is no authorized vehicle to seek reconsideration of the denial of a Rule 29 motion. Petitioner relies upon "Rule 59." (Attachment 7). There is, of course, no "Rule 59" in the Rules of Criminal Procedure. To the extent Petitioner would rely on the Rules of Civil Procedure, such reliance would be misplaced as those rules are limited to actions in Common Pleas. Rule 1, SCRCPP ("These rules govern the procedure in all South Carolina court in all suites of a civil nature..."); Rule 81, SCRCPP ("These rules, or any of them, shall apply to every trial court of civil jurisdiction..."); Rule 85, SCRCPP(b) (recognizing distinction between civil rules and rules governing criminal cases); Rule 40, SCRCrimP ("These rules shall take effect on September 1, 1988. They govern all proceedings in criminal actions brought after they take effect..."). Simply,

² The time in which Appellant could have timely filed extended to Tuesday, July 6, 1999, when the weekend and state holiday are considered. Between Tuesday, July 6, 1999 and February 11, 2013, four thousand nine hundred and sixty-nine (4969) days lapsed. Thus, Appellant is over thirteen years late.

³ Respondent also notes that Appellant concedes in the Certificate of Service notarized February 6, 2014, that he failed to serve the solicitor's office until February 2014. Even if the motion to reconsider the ruling denying his motion to modify was properly filed, and if Appellant did not receive written notice of entry of the order until January 17, 2014 – in essence, using all the latest dates for the sake of argument – Appellant still did not timely serve the notice on the solicitor within ten (10) days. Arguably, not "all respondents" were properly served. Even so, the time to file expired at the end of ten days from the June 23, 1999 sentencing. The instant notice of appeal was not timely served at all and should be summarily dismissed.

the Rules of Civil Procedure do not apply in this context. *State v. Wren*, 470 S.E.2d 111, 113 (S.C.App. 1996) (“Because this was a criminal case, the Rules of Civil Procedure were not applicable.”). Consequently, impermissible and successive action filed under the theory of Rule 59 of the Civil Rules should not be allowed to toll the time to seek appeal from General Sessions rulings. *See generally Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 20, 602 S.E.2d 772, 778 (S.C. 2004) (in civil context: “An appeal may be barred due to untimely service of the notice of appeal when a party-instead of serving a notice of appeal-files a successive Rule 59(e) motion, where the trial judge’s ruling on the first Rule 59(e) motion does not result in a substantial alteration of the original judgment.”).⁴ Thus, even if the first post-trial motion was timely (which it was not) Appellant may not rely upon the date of his receipt of the second order as starting his time to appeal. Further still, even if the reconsideration would be allowable, the failure to file within the expiration of the term of court in which the order denying the motion to modify was entered (in this case in September 2013) deprived the court of jurisdiction. *State v. Campbell*, 376 S.C. 212, 215-216, 656 S.E.2d 371, 373 (S.C. 2008) (“It is a long-standing rule of law that a trial judge is without jurisdiction to consider a criminal matter once the term of court during which judgment was entered expires”) (citing *State v. Hinson*, 303 S.C. 92, 399 S.E.2d 422 (S.C. 1990)); *State v. Warren*, 392 S.C. 235, 236, 708 S.E.2d 234, 239 (S.C.Ct.App. 2011) (“The court does not retain authority to entertain a motion which is not made within ten days of sentencing.”). Again, the post-trial filings were not timely, and the notice of appeal, which is also untimely, should be dismissed.⁵

⁴ Respondent notes Judge Young found that Appellant made “no new legal or factual arguments sufficient to compel” amendment. (Attachment 8).

⁵ As the failure to timely file is dispositive, there is no need to reach the alternative basis for

WHEREFORE, having demonstrated the notice was not timely served, and timely service of the notice is a jurisdictional requirement of the appeal, Respondent respectfully moves this Court to dismiss the notice of appeal.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

MELODY J. BROWN
Senior Assistant Attorney General

BY: 

MELODY J. BROWN
S.C. Bar No. 14244

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

March 19, 2014.
Columbia, South Carolina.

ATTORNEYS FOR RESPONDENT

the 1999 sentencing did not allow for a term of years greater than the thirty minimum. The Supreme Court of South Carolina has plainly indicated rejection of such a reading. *See State v. Morgan*, 367 S.C. 615, 619, 626 S.E.2d 888, 889 (S.C. 2006) (“We therefore look to § 16-3-20(A) for guidance on how a person convicted of murder and who is not subject to the death penalty should be sentenced. Section 16-3-20(A) provides that ‘[a] person who is convicted of ... murder must be punished by ... imprisonment for life, or by a mandatory minimum term of imprisonment for thirty years.’ Therefore, on remand, the trial court may receive additional evidence on the question of whether appellant is entitled to receive a sentence less than life imprisonment and decide on a sentence *that ranges from a mandatory minimum imprisonment term of thirty years to life imprisonment.*”) (emphasis added). A similar allegation of error has also been rejected on application of basic statutory construction rules. *See, for example, Postell v. Bodison*, 2010 WL 4923108 (D.S.C. 2010) (“To read this code section as the Petitioner suggests, would read several words out of the phrase ‘a mandatory minimum term of imprisonment for thirty years to life.’”).

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Williamsburg County
W. Jeffrey Young, Circuit Court Judge

The State of South Carolina,

Respondent,

v.

Casey Lewis,

Appellant,

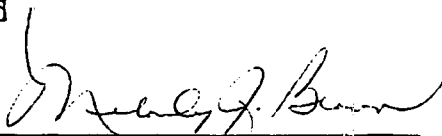
Appellate Case No. 2014-000144

PROOF OF SERVICE

I, Melody J. Brown, certify that I have served Respondent's Motion to Dismiss Notice of Appeal on Appellant (*pro se*) by depositing one copy of same in the United States mail, postage prepaid, to him addressed as follows:

Casey Lewis, #259254
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

This 19th day of March, 2014.



MELODY J. BROWN
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-6305

ATTORNEY FOR RESPONDENT

MOTION TO DISMISS NOTICE OF APPEAL
STATE V. CASEY LEWIS

APPELLATE CASE NO. 2014-000144

ATTACHMENT 1

Attorney General Office (Alan Wilson)
P.O. Box 11549
Columbia S.C. 29211


Casey Lewis #259254
Broadriver Ct. Wat. B#228
4460 Broadriver Rd.
Columbia S.C. 29210

JUL 23, 2013

To whom it may concern:

Enclosed is a Copy of the to Modify and Correct Sentence Pursuant to S.C. RCP Rule 29 (b) Rule 60 (b) 1, Rule 60 (b) 3, Rule 60 (b) 4, and § Title 17-23-110 which I filed with the Williamsburg County Clerk of Court. Although, I never received a Clerk Stamped filed copy, which I requested on several occasion, the Clerk of Court did send me a response advising me that my motion to Modify and Correct Sentence has been filed. Motion dated February 4th 2013

I am forwarding the abovementioned motion including the Clerk of Courts admission that abovementioned motion has been filed to you so we can resolve this matter swiftly. Also, I am forwarding this enclosed document since you are a Participating Part involved in this legal matter.


Casey Lewis #259254

Sworn to and Subscribed before me
this 23rd Day of July 2013
Susan N. Dry

Notary Public for South Carolina Commission Expires
March 5, 2018
My Commission Expires _____

RECEIVED

JUL 20 2013

Referred to _____
Answered _____

State of South Carolina
County of Williamsburg

State of South Carolina
Plaintiff

v.

Casey Lewis # 259254
Defendant

In The Court of General Sessions
Third Judicial Circuit

Case No. 99-05-45-18

Motion To Modify and Correct Sentence
Pursuant To S.C. RCP Rule 29 (b) Rule
60 (b) 1, Rule 60 (b) 3, Rule 60 (b) 4,
and § Title 17-23-110

Certificate of Service

Comes Now the defendant, Casey Lewis #259254, Submitting Certificate of Service to The Attorney General office, Alan Wilson, P.O. Box 11549, Columbia, S.C. 29211 with an enclosed Motion to Modify and Correct Sentence Pursuant To S.C. RCP Rule 29 (b) Rule 60 (b) 1, Rule 60 (b) 3, Rule 60 (b) 4, and § Title 17-23-110 and the enclosed response from the Williamsburg County Clerk of Court advising the defendant, Casey Lewis #259254, that the enclosed Motion/above fore mentioned Motion was filed by the Williamsburg Clerk Office. Motion Forwarded February 4th 2013.

Sworn To and Subscribed before Me
this 23rd Day of July 2013
Susan H. Frye
Notary Public for South Carolina

Respectfully Submitted

Casey Lewis #259254

My Commission Expires: _____

My Commission Expires
March 5, 2018

Circuit Court Division/RMC
Williamsburg County Courthouse
125 West Main Street
Kingstree, S.C. 29556
(843) 355-9321, ext 552
Fax (843) 355-7821

Williamsburg County
Clerk of Court
Sharon W. Stagers

Family Court Division
Williamsburg County Complex
147 West Main Street
Kingstree, S.C. 29556
(843) 355-9321, ext. 529
FAX: (843) 355-5813

Casey Lewis
TO: # 259254

Date: 2/11/13

In response to your request regarding:

- A PCR application.** Enclosed is a PCR application.
- Legal Advice.** The Clerk of Court is prohibited from providing legal advice. Contact your attorney for assistance. Enclosed is a Williamsburg County Bar Assn. Listing.
- Information from your file (s).** Records in this office are open to the public. Please contact a relative, friend or your attorney to research your case(s) and make copies at a minimum cost. Office hours are 8: a.m. to 5:00 p.m. Monday through Friday.
- Being relieved from your attorney.** The Clerk of Court has no authority to relieve a Defendant of his/her attorney. A Circuit Court Judge must address this request.
- Correction(s) on Sentencing Sheet.** The Clerk of Court has no authority to adjust or change information on a sentencing sheet. Please contact your attorney for legal advice.
- Forwarding information to the Solicitor/attorneys/judges/etc.** Your documents are being returned. The Clerk's Office accepts no responsibility for forwarding information to a third party.
- Clocking and filing motions/documents etc.** Contact your attorney to properly file motions/documents/etc. [This is a Pro Se case. Your document (s) have been clocked and filed].
- A copy of your disposition(s) and indictment is enclosed.**
- The status of your pending case(s).** Contact your attorney or the Solicitor's Office.
- Expungement information/application is enclosed.**
- A detainer.** Contact the Solicitor's Office.
- Information on the following warrant(s);** At this time, this office has no record of the warrant(s) in question. Contact the arresting agency.
- A copy of a transcript(s).** You will need to contact the Court Reporter,
- Other/Comments:** *Sorry for the Delay*

M. Morris
Clerk of Court/Deputy Clerk

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
)	
COUNTY OF WILLIAMSBURG	)	THIRD JUDICIAL CIRCUIT
)	
State of South Carolina,	)	CASE NO. <u>99-GS-45-18</u>
Plaintiff,)	
	)	MOTION TO MODIFY AND CORRECT
V.	)	SENTENCE PURSUANT TO S.C. RCP
	)	RULE 29(b), RULE 60(b)1, RULE
	)	60(b)3, RULE 60(b)4, and
Casey Lewis #259254,	)	§TITLE 17-23-110
)	
Defendant,)	
)	

COMES NOW the Defendant, Casey Lewis #259254, pursuant to S.C. RCP Rule 29(b), Rule 60(b)1, Rule 60(b)3, Rule 60(b)4, and §title 17-23-110, respectfully motions this Honorable Court to modify and correct the judgement sentence of incarceration imposed upon Defendant Casey Lewis #259254 in the Criminal General Session, 99-GS-45-18, on the date of 6-23-99.

On Feb. 1, 1999, the Defendant, Casey Lewis #259254, was indicted for the charge of murder under South Carolina Court of law 16-3-10. This indicted in the Feb. 1, 1999 period. The statue for the indicted charge of murder, 16-3-10, for that time period of "1999" reads verbatim in its most pertinent part with regards to the sentencing range allowed to be imposed on a defendant convicted of this offense, the following:

§16-3-20. Punishment For Murder: Separate sentencing proceeding to determine whether sentence should be death or life imprisonment.

A) A person who is convicted of or pleads guilty to murder must be punished by death, by imprisonment for life, or by a mandatory minimum term of imprisonment for thirty years.

On June 23, 1999, the Defendant, Casey Lewis #259254, was convicted of and sentenced to murder under statute 16-3-10 in the County of Williamsburg by Presiding Judge Honorable James E. Brogdon. Presiding Judge James E. Brogdon ruled not to sentence Defendant Lewis #259254 to death, although it is a punishment allowed under §16-3-20. Presiding Judge James E. Brogdon ruled not to sentence Defendant Casey Lewis #259254 to life imprisonment, although it is a punishment allowed under §16-3-20. Instead, the Presiding Judge James E. Brogdon determined and ruled to sentence Defendant Casey Lewis #259254 to a determinate number of years of incarceration to the South Carolina Department of Corrections. The determinate number of years of incarceration to the S.C. Dept. of Corrections that Presiding Judge James E. Brogdon imposed upon Defendant, Casey Lewis #259254, was fifty-five (55) years. [See Exhibit #1(a)].

The Defendant, Casey Lewis #259254, now motions the Honorable Court to modify and or correct this 55 years sentence of incarceration, because said 55 years of incarceration is void and constitutionally impermissible under the statutory construction of §title 16-3-20 underwhich Defendant Casey Lewis #259254 was indicted, convicted, and sentenced.

The statute §16-3-20 allows for only three punishments. Those punishments must be the following: Death, by imprisonment for life, or by a mandatory minimum term of imprisonment for thirty [30] years. This statute §16-3-20 is clear and unambiguous with outlining the punishment parameters of the offense of murder. When a statute is clear and unambiguous, the doctrine of "statutory construction" controls. In South Carolina, the Courts must strictly construe criminal statutes against the states and in favor of the Defendant. Williams v. State, 306 S.C. 89,91, 410 S.E.2d 563, 564 (1991); State v. Prince 335 S.C. 466, 472, 517 S.E.2d 229,232 (Ct. App. 1999). However, the cardinal rule of statutory construction is that

the Court must ascertain and effectuate the intent of the legislature, and in interpreting a statute, the Court must give their plain and ordinary meaning without resorting to a tortured construction which limits or expands the statute's operation. Mid-State Auto Auction of Lexington Inc. V. Altman 324 S.C. 65, 69, 476 S.E.2d 690, 692 (1996); Rowe V. Hyatt 321 S.C. 366, 369, 468 S.E.2d 649, 650 (1996). Moreover, we should give statutory provisions a reasonable construction consistent with the purpose of the statute. Jackson V. Charleston County Sch. Dist. 316 S.C. 177, 181, 447 S.E.2d 859, 861 (1994).

The Defendant, Casey Lewis #259254, does not have an issue with the Presiding Judge James E. Brogdon sentencing him to a determinate number of years of incarceration with regard to the substance of this motion to modify and correct sentence. The Defendant, Casey Lewis #259254, does take significant issue with the afixed number of fifty-five [55] years of determinate years of incarceration that Honorable Judge James E. Brogdon imposed upon him because this 55 year sentence is 25 years in excess of the mandatory minimum term of imprisonment for 30 years that is allowed by plain reading of §16-3-20. The Defendant, Casey Lewis #259254, respectfully motions this Honorable Court to modify and correct the void sentence of fifty-five [55] years incarceration and afix a new determinate term of incarceration for thirty [30] years incarceration for the case #99-GS-45-18.

As a matter of clarity, the Defendant, Casey Lewis #259254, asks this Honorable Court to take judicial notice that Defendant Casey Lewis is charged and indicted under the "1999" year version of §title 16-3-20, and this version varies significantly from the present day 2010 year version of §title 16-3-20. In its most pertinent parts, the 2010 year version §title 16-3-20 does allow a 55 year sentence by virtue of the plain language of the statute. For example:

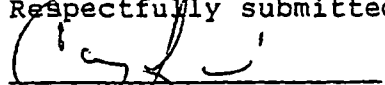
"A person who is convicted of or pleads guilty to murder must be punished by death or by a mandatory minimum term of imprisonment for thirty years to life."

This clause of "Thirty to life" which is written in the 2010 version of the statute §title 16-3-20 makes a 55 year sentence constitutionally and statutorily permissible under the sentencing provision of the state. This clause of "Thirty to life" is absent in the 1998 year version of §title 16-3-20. Therefore, the 55 year sentence is constitutionally and statutorily prohibited under the "1999" sentencing provision of the statute, in which Defendant, Casey Lewis #259254, was sentenced. The South Carolina Legislator's legislative intent in crafting the "1999" year version, in which Defendant, Casey Lewis #259254, was sentenced limits the determinate years of incarceration for violation of the statute §16-3-20 to one specific term of years, that being thirty [30] mandatory incarceration. The S.C. Legislator's legislative intent in crafting the "2010" year version of §title 16-3-20 was to expand and broaden the determinate number of years of incarceration for violation of this statute to any number of years between thirty [30] years to the natural life expiration of the violator. This is a very distinctive and significant variation between the "1999" year version, in which Defendant, Casey Lewis #259254, was sentenced, and the 2010 year version of §title 16-3-20. The Defendant respectfully asks this Honorable Court to take judicial notice pursuant to S.C. Rules of Crim. Proc. Rule 201.

WHEREFORE, the Defendant, Casey Lewis #259254, respectfully petitions this Honorable Court to grant modification and correction of his 55 year sentence under the case 99-GS-45-18 and to vacate the constitutionally and statutorily prohibited 55 year sentence and resentence Defendant, Casey Lewis #259254, to a constitutionally and statutorily permissible sentence

of thirty [30] years incarceration in this criminal case
#99-GS-45-18.

Respectfully submitted,



Casey Lewis #259254
B.R.C.I. Monticello A #228
4460 Broad River Rd.
Columbia, S.C. 29210

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 4th DAY OF February 2012

Susan N. Frye
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES _____ on Expires
March 5, 2018

Exhibit 1 (A)

Sentencing Sheet for the
Charge of Murder.

STATE OF SOUTH CAROLINA

DOA - 11-18

COUNTY OF Williamsburg

289

STATE VS.

CASEY CARON LEWIS

AKA:

Race: Black Sex: Male

DOB: [REDACTED] Age: 23

SSN: [REDACTED]

DL#:

SID#:

IN THE COURT OF GENERAL SESSION:
INDICTMENT/CASE#:

99 -GS- 45 - 18

A/W#: F 620319

Date of Offense: 11-4-98

S.C. Code § : 16-03-0010, 0020

CDR Code #: 0111116

SENTENCE

PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: MURDER

in violation of § 16-13-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0111116

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-4:

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State

ATTEST:

[Signature]
Solicitor

[Signature]
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center for a determinate term of 55 days/months/years or under the Youthful Offender Act not to exceed _____ year and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The Defendant is to be given credit for _____ days/months jail time.

CONCURRENT or CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered

Total: \$ _____ plus 20% fee \$ _____

Payment Terms: _____

set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 - Assessments 100%..... \$ _____

§ 14-1-211 - Surcharge..... \$ _____

(Exceptions: See § 14-1-211)

§ 56-5-2995 (DUI)..... \$ _____

County (3%)..... \$ _____

TOTAL..... \$ _____

Clerk of Court/Deputy Clerk [Signature]

Court Reporter: Kathy Simpson

White - Clerk

Green - Corrections

Orange - Probation

PTUP _____
_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc Rehab. or Job Corps _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund.

Other: _____

PRESIDING JUDGE [Signature]

Judge Code: _____

Sentence Date: 6/18/99

State of South Carolina
County of Williamsburg

State of South Carolina
Plaintiff

v.

Casey Lewis
Defendant

In The Court of General Sessions
Third Judicial Circuit

Case No 99-65-45-18

Motion to Modify and Correct Sentence
Pursuant to S.C. RCP Rule 29(b) Rule
60(b) 1 Rule 60(b)3, Rule 60(b)4 and
§ title 17-23-110

Certificate of Service

Comes Now the defendant, Casey Lewis #259254, Submitting Certificate of Service to The Williamsburg County Clerk of Court, Madam Carolyn Williams, County 3rd Circuit to file enclosed Motion to Modify and Correct Sentence Pursuant to S.C. RCP Rule 29(b) Rule 60(b)1, Rule 60(b)3, Rule 60(b)4 and § title 17-23-110 with the Court of General Sessions 3rd Circuit in Williamsburg County to be before appointed Judge. Defendant would also ask Madam Carolyn Williams to return a file copy of above mention Motion to him [Casey Lewis].

Sworn To and Subscribed Me
This 4th Day of February 2013
Susan H. Frye
Notary Public for South Carolina
MY Commission Expires _____

Respectfully Submitted
Casey Lewis #259254
Bike II Mont. A#228
4460 Broadriver Rd.
Columbia S.C. 29210

MOTION TO DISMISS NOTICE OF APPEAL
STATE V. CASEY LEWIS

APPELLATE CASE NO. 2014-000144

ATTACHMENT 2

STATE OF SOUTH CAROLINA)
)
 COUNTY OF WILLIAMSBURG)
)
 State of South Carolina,)
)
 v.)
)
 Casey Lewis,)
)
 Defendant.)

IN THE COURT OF GENERAL SESSIONS
 THIRD JUDICIAL CIRCUIT

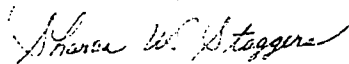
INDICTMENT NO: 1999-GS-45-0018

**MOTION TO QUASH DEFENDANT'S
 MOTION TO MODIFY AND CORRECT
 SENTENCE**

WILLIAMSBURG COUNTY
 CLERK OF COURT
 2013 AUG 17 AM 1:39
 FILED

COMES NOW, the Solicitor, Ernest A. Finney, III, by and through his Assistant Solicitor Tyler Bryant Brown, on behalf of the State of South Carolina, respectfully requesting that this Court quash the Defendant's motion to modify and correct the Sentence for which he is currently incarcerated in the South Carolina Department of Corrections. The Defendant is currently at Broad River Correctional Institute for the charges of Murder, Armed Robbery, and Possession of a Weapon during the Commission of a Violent Crime. The Defendant was sentenced on June 23, 1999 to fifty-five years for the charge of Murder, thirty years for the charge of Armed Robbery, and five years for the charge of Use of a Weapon during the Commission of a Violent Crime. These sentences were imposed by the Honorable James E. Brogdon, and were run concurrently for one fifty-five year sentence. Representing the State at the guilty plea was former Assistant Solicitor Clifton Newman, who is now a Circuit Court Judge for the State of South Carolina. The Defendant was represented by Legrande Carraway of the Public Defender's Office. The Defendant now argues that the Sentence is unconstitutional, arguing that the Judge was only entitled to sentence him to death, life in prison, or thirty years.

The basis of the State's motion to quash is that the Defendant failed to appeal his sentence in a timely manner, and that his appeal is without merit. As it pertains to the Defendant's failure to appeal within a timely manner, Rule 29, South Carolina Rules of Criminal Procedure provides that any post trial motions, other than those based on after-discovered evidence, must be filed within ten (10) days of the issuance of the sentence. Equally, South Carolina Appellate Court Rules provides in rule 203(b)(2) that any and all notice of appeal must be filed within ten (10) days of the conviction through the plea or the trial. Other than after discovered evidence, the State is unaware of any appeal venue which can be sought after ten days. Based upon the documentation provided to the State by the Defendant through the Attorney General's Office, the Defendant's motion was filed on February 11, 2013, and sent to the State on July 23, 2013. The Defendant was sentenced well over a decade prior to the filing of his appeal to his sentence, and there is no indication that any ground is based on after discovered evidence or information

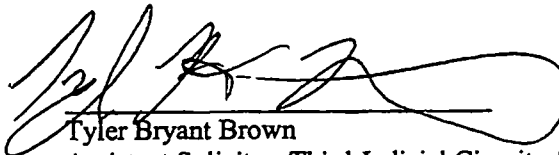
A CERTIFIED TRUE COPY

 SHARON W. STAGGERS
 CLERK OF COURT
 WILLIAMSBURG COUNTY

that was not available at the time of his plea and sentencing. Therefore, this motion is untimely filed and should be dismissed with prejudice pursuant to the above stated rules.

As it pertains to the motion to quash being based upon the defendant's motion lacking merit, the sentencing portion of the Murder statute in 1999, the year in which the defendant was convicted, reads as follows: "A person who is convicted of ... murder must be punished by death, by imprisonment for life, or by a *mandatory minimum* term of imprisonment for thirty years." S.C.Code Ann. § 16-3-20(A) (Supp.1995) (emphasis added). The Defendant reads this to imply that the Court only had the option to sentence the defendant to Death, to Life in Prison, or to thirty years of imprisonment. Where typically in Statutory construction, "or" implies that it must be one or the other, the State offers that the controlling words in regards to the defendant's motion is the phrase "mandatory minimum" sentence. The Court has in its history made distinctions between "mandatory" sentences and "mandatory minimum" sentences. see State v. De La Cruz, 302 S.C. 13, Footnote no. 4, (SC 1990). By providing that this mandatory sentence is the minimum, it only goes to reason that the legislature intended there to be a maximum, to wit, life in prison. The State contends a plain reading of the statute allows for the sentence imposed by Judge Brogdon, and should therefore not be disturbed twelve years later.

For the above stated reasons, we therefore ask that this Court quash the defendant's motion to amend his sentence with prejudice, and that the defendant's sentence continues as ordered.

Respectfully Submitted,



Tyler Bryant Brown
Assistant Solicitor, Third Judicial Circuit of South Carolina
215 North Harvin Street
Sumter, South Carolina 29150
(803) 436-2185
(803) 436-2236 (fax)
tbrown@sumtercountysc.org

This, the 14th day of August, 2013

Sumter, South Carolina

**MOTION TO DISMISS NOTICE OF APPEAL
STATE V. CASEY LEWIS**

APPELLATE CASE NO. 2014-000144

ATTACHMENT 3

State of South Carolina)
County of Williamsburg)
State of South Carolina)
Plaintiff)
v.)
Casey Lewis,)
Defendant)

In The Court Of General Sessions
Third Judicial Circuit

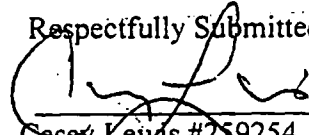
Case No: 1999-GS-45-0018

Answer To The Motion To Quash
Defendants Motion To Modify
And Correct Sentence

CERTIFICATE OF SERVICE

Comes Now, the Defendant , Casey Lewis, Submitting this Certificate of service to the Williamsburg County Clerk of Court , Madam Carolyn Williams, of the Third Judicial Circuit and to Tyler Bryant Brown Assistant Solicitor of the Third Circuit of South Carolina , 215 North Harvin Street, Sumter South Carolina 29150 to file enclosed " Answer To The Motion To Quash Defendant's Motion To Modify And Correct Sentence". Defendant would also ask these respected officials to return a filed copy of the abovementioned motion to him.

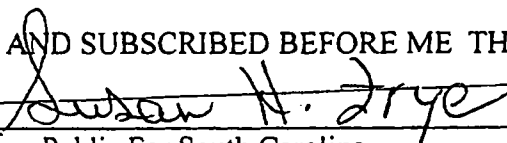
Respectfully Submitted



Casey Lewis #259254
B.R.C.I. Wateree B-228
4460 Broad River Rd.
Columbia, South Carolina 29210

State of South Carolina]
County of Richland]

SWORN TO AND SUBSCRIBED BEFORE ME THIS 5th DAY OF Sept. 2013



Notary Public For South Carolina
My Commission Expires _____

My Commission Expires
March 5, 2018

13 SEP 23 PM 2:07
SHERIFF'S OFFICE
COLUMBIA, S.C.

Rule 60(b)1, Rule 60(b)3, Rule 60(b)4, and Title 17-23-110. The Solicitor only addresses Rule 29(b) in his motion to quash and is silent concerning his position and defenses with regard to the Defendant pursuing his motion to modify and correct sentence pursuant to Rule 60(b)1, Rule 60(b)3, Rule 60(b)4, and Title 17-23-110. Because the Solicitor is silent on these specific alternative legal mechanisms under which Defendant can bring this Motion To Modify and Correct Sentence the solicitors silence is an acquiescence for Defendant to move forward on the Motion to Modify and Correct Sentence under Rule 60(b)1, Rule 60(b)3, Rule 60 (b)4, and Title 17-23-110 without opposition from the State of South Carolina. (see Upchurch v. Upchurch, 624 SE2d 643; Marden v. Bradford, 661 SE2d 390 (SC App. 2008); Thompson v. Thompson 661 SE2d 130 (SC App. 2008); Parrish v. Allison, 656 se2d 382 (SC App. 2007).

To answer the State's first ground for quashing the Motion to Modify and Correct Sentence, the Defendant is claiming grounds for relief After- Discovered evidence and information that was not available at the time of his plea and sentencing, (see Exhibit #1). Because the Defendant is moving on a post-trial motion based on after- discovered evidence the time frame for which to bring this motion is "within the one(1)year after the date of actual discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the exercise of the reasonable diligence." (see Rule 29(b)); (see also State v. Needs, 508 SE 2d 857).

To answer the State's second ground for quashing the Motion to Modify and Correct Sentence: the Defendant qualifies and meets each of the specific requisites of the Five(5) Prongs of Rule 29 (b):

1). The Defendant's evidence as such will change the sentencing result if a new trial is granted.

2). The Defendant's evidence has been discovered since trial.

3). The Defendant's evidence could not have been discovered prior to trial by the exercise of due diligence.

4). The Defendant's evidence is material.

5). The Defendant's evidence is not merely cumulative or impeaching.

(See Exhibit # 2)


Prayer For Relief

WHEREFORE, for the reasons set forth above, the Defendant, Casey C. Lewis, respectfully requests:

1. That this Court vacate the sentence in this matter and to resentence the Defendant in accordance to S.C. Code section 16-3-20.

2. That this Court grant any and other relief that it deems necessary and proper.

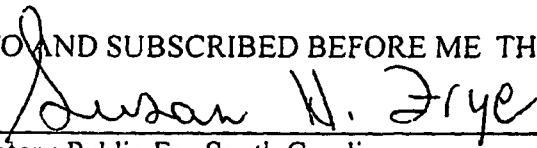
Respectfully Submitted,

By: 
Casey C Lewis, Defendant/Petitioner
B.R.C.I. Wateree b-228
4460 Broad River Rd.
Columbia, S.C. 29210

State of South Carolina]

County of Richland]

SWORN TO AND SUBSCRIBED BEFORE ME THIS 5th DAY OF September 2013



Notary Public For South Carolina My Commission Expires

My Commission Expires March 5, 2018

Exhibit #1
(AFFIDAVIT)

1 of 2

AFFIDAVIT OF CASEY LEWIS

I, Casey Lewis, do solemnly swear, attest, depose, and say the truth to the following:

On June 23, 1999 I was sentenced and convicted by Judge James E. Brogdon on the charge of murder, and armed robbery and the judge sentenced me to an incarcerated term of Fifty Five (55) years. I objected to the judge myself when he handed down the sentence and I made the objection on the grounds that he sentenced me to a sentence that above and beyond what the law allowed. The judge told me that his sentence is what his sentence is, like it or not. I told my attorney to appeal the sentencing and conviction because my sentence is above and beyond what the law allows. The attorney, Legand Carraway, advised me that an issue on this issue would be meritless because the Murder Statue of 16-3-20 allows for a sentence of Thirty years (30) to Life, meaning the judge can legally sentence me to any determinate number of years between Thirty years (30) to the expiration of my natural life.

This exchange of testimony between I and the judge and I and my attorney at the June 23, 1999 sentencing hearing is illegally omitted from my trial transcript and court records. I have challenged the content and accuracy of my transcript throughout my incarceration and I have been obstructed the state official from obtaining a correct transcript that reflects a true representation of all the testimony and all the occurrences that took place at my criminal proceeding from June 21, 1999 to June 23, 1999. Because the transcript is illegally tampered I have lacked direct proof of this issue of my sentence and conviction exceeding Statutory Law and therefore have been obstructed from fully and fairly and adequately developing and arguing this issue in state and federal filings.

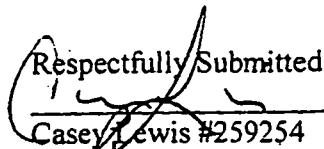
I have become aware through a witness that attorney Legrand Carraway ~~Did not have the legal knowledge to advise me that the 1998 version of Title 16-3-20 is written as thirty years (30) to life. Attorney Legrand Carraway was contacted by phone on February 2013 and in this phone conversation attorney Legrand Carraway was posed the question, is there a difference between the 1998 version of Title 16-3-20 and the 2010 year version of Title 16-3-20 because it seems the 2010 year version allows a sentence of thirty (30) years to life while the 1998 year version seems to only allow a thirty (30) year sentence, or life, or a death sentence. The attorney Caraway answered and gave his legal opinion that the 2010 year version of Title 16-3-20 does allow a sentence of thirty (30) years to life but it is questionable whether or not the 1998 year version of Title 16-3-20 allows a thirty (30) years to life sentence because it's plain language seems to only allow thirty (30)~~

Exhibit # 1

years, or life, or the death penalty. The attorney went on to explain that no S.C. Supreme Court case has yet been ruled upon to clarify this issue. The attorney Carraway gave an overall legal opinion that the 1998 year version of Title 16-3-20 may or may not allow a sentence of years between thirty (30) years to life.

It is after I became aware of this legal opinion of attorney Legrand Carraway that I realized attorney Carraway gave me direct misadvise and misrepresentation regarding my ability to bring a meritorious challenge to my Fifty Five (55)-years-sentence-based upon the judges sentence exceeding the Title 16-3-20 sentencing provision, the same issue I personally objected to the judge at the June 23, 1999 sentencing hearing which is illegally being omitted from my trial transcript and court records. I immediately filed the motion to modify and correct my sentence within a short span of time after I discovered the misadvise and misrepresentation on the part of attorney Carraway, my attorney at the time.

Respectfully Submitted



Casey Lewis #259254
B.R.C.I. Wateree b-228
4460 Broad River Rd.
Columbia, South Carolina
29210

State of South Carolina]
County of Richland]

SWORN TO AND SUBSCRIBED BEFORE ME THIS ____ DAY OF ____ 2013

Notary Public For South Carolina

My Commission Expires _____

MOTION TO DISMISS NOTICE OF APPEAL
STATE V. CASEY LEWIS

APPELLATE CASE NO. 2014-000144

ATTACHMENT 4

1 State of South Carolina

2 County of Williamsburg

3

4 The State of South Carolina,
5 Plaintiffs

Review of Sentence
1999GS4500018

6 vs.

7

8 Casey Lewis,
9 Defendant

September 12, 2013
Kingstree, S.C.

10

11

12

13 Before the Honorable W. Jeffrey Young, Judge.

14

15

16 A P P E A R A N C E S:

17 Mr. Tyler Brown,
18 Assistant Solicitor for the State

19

20

21 Margaret T. Sullivan,
22 Court Reporter

23

24

25

26

27

1 MR. BROWN: This is the State versus
2 Casey Lewis. Indictment 99-GS-45-0018.

3 Mr. Lewis wants you to review his sentence
4 under the belief or the conclusion that his
5 sentence was unconstitutional. The statute as
6 listed when he was convicted, stated that it
7 carried death, life or a mandatory minimum of 30
8 years. And he believes that his, I believe, his
9 55-year-sentence does not fall within the
10 parameters of that.

11 Your Honor, just for the court's records,
12 I have asked Mr. Carraway to be here, because he
13 represented him at trial. Mr. Carraway is
14 present, but Mr. Lewis says he is representing
15 himself pro se.

16 THE COURT: Okay.

17 MR. BROWN: And we are here today on my
18 motion to quash. Your Honor, if it pleases the
19 court, I will just address this on two separate
20 points. There are two merits of quashing this
21 motion. The first is, that the -- any appeals to
22 sentences under the South Carolina Rules of
23 Criminal Procedure and Appellate Court Rules,
24 dictate that this must be filed within 10 days.
25 We are now approaching about 12 years out.

1 THE COURT: Don't interrupt.

2 MR. BROWN: We are now approaching
3 approximately 12 years after the fact that this
4 motion is being filed. There is no known rule
5 that gives merit to that. He cited the Rules of
6 Criminal Procedure that provide for after
7 discovered evidence. But I do not believe that a
8 different reading of a statute that was clearly
9 available, would be after discovered evidence.
10 That being said also, I would provide to the court
11 that I do believe the sentence would have been
12 constitutional in the first place. When it says a
13 mandatory minimum that implies that there are
14 ranges above that, which it would go up to life.

15 At this time, Your Honor, I would ask
16 that his motion filed under Indictment
17 1999-GS-45-0018, be quashed with prejudice.

18 THE COURT: Thank you. Mr. Lewis.

19 THE DEFENDANT: Yes, I would like to first
20 and foremost, object to his Rule 201, because
21 that's dealing with the conviction. I am not here
22 to challenge the conviction or ask that the
23 conviction be overturned. I am just asking that
24 at the time that the 1999 version statute was
25 written, it was clear the legislative intent was

1 to be able to limit the determinant number of
2 years that a person was to be incarcerated. Prior
3 to June -- January 1st 1996, individuals was
4 offered death, life in prison or if they was
5 incarcerated for 20 years or more, they would be
6 given the opportunity for parole. Or if they were
7 incarcerated for 30 years, they was given the
8 opportunity for parole. They revised that statute
9 in 1996, to limit the terminate number of years
10 that a person will be incarcerated. One being
11 death, the other life in prison or a mandatory
12 minimum of 30 years.

13 Now recently in January 10th 2010, they
14 changed that statute to imply a man could be
15 convicted of sentence of life in prison or a
16 minimum mandatory 30 to life. That phrase 30
17 years to life, implies that an individual found
18 guilty of murder today, could be sentenced to 31
19 years, 32 years or 33 years.

20 THE COURT: Or 55 years.

21 THE DEFENDANT: Or 55 years. But that
22 phrase is absent in 1998 year version of that.
23 I'm just here up under 17-23-110 to ask you to
24 be -- to exercise your discretion to be able to
25 resolve this contradiction or this conflict.

1 Because I feel that the statute was clear. The
2 statute was unambiguous. And the court has
3 previously ruled on cases like this. What the law
4 of statutory construction applies.

5 THE COURT: What I am going to do is I am
6 going to read your brief and look at some law.
7 And I will give you, and I will look at it over
8 lunch, and I will give you a ruling early
9 afternoon.

10 MR. BROWN: Do we need to bring him back
11 early afternoon?

12 THE COURT: No, I will just issue an
13 order.

14 MR. BROWN: Thank you, Your Honor.

15 THE COURT: Thank you.

16 -----End of Requested Transcript of Record-----

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the General Sessions Court, September 12th, 2013, in Williamsburg County, Kingstree, South Carolina.

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

3/7/14
DATE

Margaret T. Sullivan
COURT REPORTER
My Commission expires: 9/7/2021

**MOTION TO DISMISS NOTICE OF APPEAL
STATE V. CASEY LEWIS**

APPELLATE CASE NO. 2014-000144

ATTACHMENT 5

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF WILLIAMSBURG) THIRD JUDICIAL CIRCUIT
CASE NO.: 1999-GS-45-0018

State of South Carolina,)
)
)
v.)
)
Casey Lewis,)
)
Defendant.)

ORDER

13 SEP 12 PM 12:58
SHERIFF ROBERT WAGGERS
COURT CLERK
WILLIAMSBURG, S.C.

This matter comes before the Court by way of a "Motion to Modify and Correct Sentence Pursuant to S.C. RCP Rule 29(b), Rule 60(b)1, Rule 60(b)3, Rule 60(b)4 and §Title 17-23-110" (sic), filed February 11, 2013, with the Williamsburg County Clerk of Court. Mr. Lewis pled guilty before the Honorable James E. Brogdon on June 23, 1999 and was sentenced on that date to fifty-five (55) years for Murder, thirty (30) years for Armed Robbery, and five (5) years for Use of a Weapon During the Commission of a Violent Crime. The sentences on all charges were to be served concurrently. The State was served at the Office of the Attorney General on or about July 23, 2013. The Third Circuit Solicitor's Office filed a response to the motion on August 17, 2013 after receiving a copy of the motion from the Office of the Attorney General. A hearing was convened before this Court on 12 September 2013 at the Williamsburg County Courthouse in Kingstree, SC. Present at the hearing was Mr. Tyler Brown, Assistant Solicitor, on behalf of the State, Mr. Casey Lewis, *Pro Se*. Legrande Carraway, Esq. of the Williamsburg County bar was present as standby counsel for Mr. Lewis. This Court has reviewed the filings of each party and the arguments made at the hearing in making its decision.

The substance of the argument by Mr. Lewis is that the sentence he received for the charge of Murder was illegal as it relates to the statutory scheme under which he was sentenced.

1 93 WJH

Mr. Lewis alleges that pursuant to the 1999 version of the statute under which he was sentenced, the only permissible sentences were death, imprisonment for life, or a term of imprisonment of thirty (30) years. See S.C. Code Ann. § 16-3-20 (1999) (“A person who is convicted of or pleads guilty to murder must be punished by death, by imprisonment for life, or by a mandatory minimum term of imprisonment for thirty years.”). Accordingly, it is his position that a sentence of fifty five (55) years is illegal. Though captioned as a motion pursuant to Rules 29(b) and 60(b)1-4 SCRCPP, this Court finds this motion is the type properly brought under S.C. Code Ann. § 17-27-20(1)&(3).

The State argued at the hearing that this motion was untimely, that any claim that there was “newly discovered” evidence was without merit as the “evidence” in this matter was simply a new interpretation of a statute by Mr. Lewis, and that the motion itself was without merit as a plain reading of the statute clearly indicates that a sentence of more than thirty (30) years is permissible but that no sentence of less than thirty (30) years may be imposed upon conviction or guilty plea under the statute.

This Court finds that the motion is untimely and must be dismissed. Post-Trial motions following a trial in the Court of General Sessions generally must be filed within ten days of the imposition of the sentence. See Rule 29(a) SCCrimP. In the case of newly discovered evidence, a ~~Post-Trial motion must be made within one (1) year of the discovery of the alleged newly~~ discovered evidence, or within one year of the date upon which that evidence “could have been ascertained by the exercise of reasonable diligence.” Rule 29(b) SCCrimP. Similarly, under the Uniform Post Conviction Procedures Act, in order to be timely a Petition for relief must be filed within one year of the imposition of a sentence or the remittitur from an appellate court, or, in the case of alleged newly discovered evidence, the Petition must be filed within one year of the date

Handwritten signature and date: WJG 2/13

on which the evidence could have been discovered by the exercise of reasonable diligence. S.C. Code Ann. §17-27-45(1976, as amended). In this matter, there is no evidence which qualifies as "newly discovered" under the Rules of Criminal Procedure or the Uniform Post Conviction Procedures Act. The alleged newly discovered evidence is a statute that was in existence and available prior to as well as on the date of conviction and imposition of the sentence. This Court finds that this does not amount to newly discovered evidence under any definition of the term. The sentence in this matter was imposed on June 23, 1999. This action was filed on February 11, 2013. Accordingly, this Court finds that this action is untimely and therefore must be dismissed with prejudice.

Next, this Court finds that the allegations made in this action are without merit and must be dismissed with prejudice. A plain reading of the statute under which Mr. Lewis was sentenced clearly indicates that an individual may be sentenced to a term of imprisonment for no less than thirty (30) years and up to life. The sentence of fifty five (55) years handed down to Mr. Lewis in this case is within the range contemplated by the statute and is therefore legal and permissible. Accordingly, this Court finds that this ground is without merit and must be dismissed with prejudice.

THEREFORE, this Court hereby dismisses this action with prejudice as untimely and without merit.

IT IS SO ORDERED.


Hon. W. Jeffrey Young
Circuit Court Judge

September 12, 2013
Kingstree, South Carolina

3 of 3

MOTION TO DISMISS NOTICE OF APPEAL
STATE V. CASEY LEWIS

APPELLATE CASE NO. 2014-000144

ATTACHMENT 6

Copy
Mailed to Dy
1/13/14
Shm

Sharon W. Staggers
Clerk of Court
Williamsburg County
147 West Main Street
Kingsree - S.C. 29556

FILED
2013 DEC 30 PM 12:40
SHARON W. STAGGERS
CLERK OF COURT
KINGSTREE, S.C.

re: Copy of Motion to Alter and Amend Pursuant to S.C.R.C.P.
59(e) filed After Sept 12, 2013.

Madam Staggers:

On September 12, 2013, I went before the Hon. W. Jeffery Young in reference to Case No: 1999-63-45-0018. Judge Young issued his ruling on that same day (Sept. 12, 2013) before I was transported back to S.C.D.C. Upon my return I submitted a Motion To Alter and Amend Pursuant to S.C.R.C.P. Rule 59(e) in reference to Hon. W. Jeffery Young's order.

Madam Staggers, I have enclosed an envelope in hopes of receiving a copy of that Motion to Alter and Amend Pursuant to S.C.R.C.P rule 59(e). Your assistance in this matter is deeply appreciated.

Sincerely
Cecil Lewis # 259254
Bible Wat - b # 228
4460 Broad River Rd.
Columbia, S.C. 29210

MOTION TO DISMISS NOTICE OF APPEAL
STATE V. CASEY LEWIS

APPELLATE CASE NO. 2014-000144

ATTACHMENT 7

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG)	
)	
State of South Carolina	)	CASE NO : <u>99-GS-45-18</u>
Plaintiff)	
)	
v.	)	MOTION TO ALTER OR AMEND
)	
	)	PURSUANT TO RULE 59 (e)
Casey Lewis)	
)	
Defendant)	

COMES NOW the Defendant, CASEY LEWIS # 259254, pursuant to S.C. RULES of COURT RULE 59(e), respectfully move this court to find the specific finding of fact and conclusion of law to the following specific issues regarding the Rule 29(b) filed in this case:

1). ALTER and AMEND this Court's findings that " Though captioned as a motion pursuant to Rule 29(b) and 60(b) 1-4 SCRPC, this court finds this motion is the type properly brought under S.C. CODE. Ann. TITLE 17-27-20(1) & (3). (see Attached Order pg 2 paragraph 1). This ruling does not specifically address the motion under the S.C. Rules of Court Rule 60(b) 1-4 nor does it address the motion under Title 17-23-110. The defendant respectfully motion this court to analyze and determine defendant's case under Rule 60(b)1-4 and Title 17-23-110.

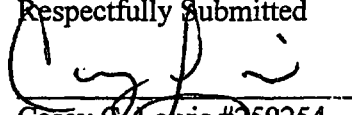
2). ALTER and AMEND this cour's finding that " In this matter, there is no evidence which qualifies as " NEWLY DISCOVERED " under the Rules of Criminal procedure or the Uniform Post Conviction Procedure Act ". (see Attached Order pg 3 paragraph 1). This ruling does not specicially address the " Answer to the

defendant's motion to Quash Defendant's Motion to Modify and and Correct Sentence", which was filed prior to the evidentiary hearing held on September 12, 2013 in this case . (see attached Exhibit #1). The defendant respectfully motions this court to analyze and determine and weigh as evidence the " ANSWER to the DEFENDANT'S MOTION to QUASH DEFENDANT'S MOTION to MODIFY and CORRECT SENTENCE", and after doing such render a proper decision taken into account all evidence submitted by the defendant.

3). AMEND this court's findings that " The sentence of fifty-five (55) years handed down to Mr. Lewis in this case is within the range contemplated by the Statue and is therefore legal and permissible. (see Attached Order pg 3 paragraph 2). This ruling does not cite any case law or precedent that supports this specific finding of the court. Whether or not the defndant's fifty-five (55) year sentence is legal and permissible is at issue in this case and the language and content of this Court's Order does not cite Authoritative Case Law to support it's ruling on this point. This Court's Order on this point is only a conclusory statement and makes no citation of Authority and is therefore lacking. The defendant respectfully motions this court to do a full analysis and to make a full determination that is supported by Authoritative citations established by SOUTH CAROLINA JURISPRUDENCE. (see STATE v. PORTER 698 S.E.2d 237 (SC APP 2010)). Wherefore the defendant respectfully motion this court to ALTER and AMEND it's previous order such that it reflects each and every issue filed in this case including all pre-hearing , the testimony and evidence presented at the evidentiary

hearing , and the RULE 59(e) motion.

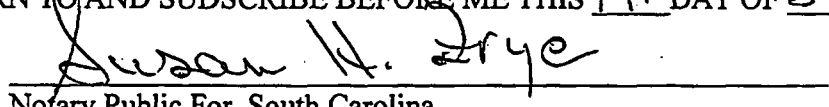
Respectfully Submitted



Casey C. Lewis #259254
B.R.C.I. Wateree B-228
4460 Broad River Rd.
Columbia , S.C. 29210

State of South Carolina]
County of Richland]

SWORN TO AND SUDSCRIBE BEFORE ME THIS 19th DAY OF Sept 2013



Notary Public For South Carolina

My Commission Expires _____ my Commission Expires
March 5, 2018

Answer To Motion
To Quash Submitted
Prior To hearing

**MOTION TO DISMISS NOTICE OF APPEAL
STATE V. CASEY LEWIS**

APPELLATE CASE NO. 2014-000144

ATTACHMENT 8

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

) IN THE COURT OF GENERAL SESSIONS
) THIRD JUDICIAL CIRCUIT
) CASE NO.: 1999-GS-45-0018

State of South Carolina,

v.

Casey Lewis,

Defendant.

ORDER

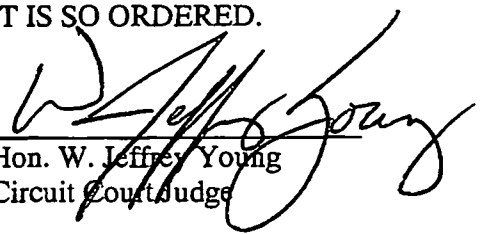
2013 OCT 24 AM 10:22
WILLIAMSBURG COUNTY
CLERK OF COURT
KINGSTREE, S.C.

This matter comes before the Court by way of a "Motion to Alter or Amend Judgment Pursuant to Rule 59(e) [SCRCP]," filed on or about September 23, 2013. Mr. Lewis appeared before this Court on 12 September 2013 at the Williamsburg County Courthouse in Kingtree, SC. Present at the hearing was Mr. Tyler Brown, Assistant Solicitor, on behalf of the State, Mr. Casey Lewis, *Pro Se*. Legrande Carraway, Esq. of the Williamsburg County bar was present as standby counsel for Mr. Lewis. This Court has reviewed the filings of each party and the arguments made at the hearing in making its decision.

Movant presents no new legal or factual arguments sufficient to compel this Court to amend its Judgment of 12 September 2013.

THEREFORE, this Court hereby DENIES the Motion to Alter or Amend Judgment.

IT IS SO ORDERED.


Hon. W. Jeffrey Young
Circuit Court Judge

Oct
September 22, 2013
Sumter, South Carolina



State of South Carolina
The Circuit Court of the Third Judicial Circuit

W. JEFFREY YOUNG
 JUDGE

215 NORTH HARVIN STREET
 SUMTER, SOUTH CAROLINA 29150
 TELEPHONE: (803) 436-2152
 FAX: (803) 774-6159
 E-MAIL: wyjuncj@sccourts.org

Tina M. Christmas
 Administrative Assistant

October 22, 2013

Sharron Richardson, Deputy Clerk
 Williamsburg County Clerk of Court
 125 W Main St
 Kingstree, SC 29556-3343

Re: State v. Casey Lewis, Rule 59(e) Motion to Alter or Amend
 Case No: 1999-GS-45-0018

Dear Ms. Richardson:

Please find enclosed, the order regarding the above referenced case. Please let me know if you need anything further. Thank you.

Sincerely,

J. Daniel Mallory IV
 Circuit Court Law Clerk
 S.C. Judicial Department for
 Judge W. Jeffrey Young

2013 OCT 24 AM 10:22
 J. D. MALLORY
 CLERK OF COURT
 SUMMER, S.C.

MOTION TO DISMISS NOTICE OF APPEAL
STATE V. CASEY LEWIS

APPELLATE CASE NO. 2014-000144

ATTACHMENT 9

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM WILLIAMSBURG COUNTY
COURT OF GENERAL SESSIONS

HONORABLE WILLIAM JEFFERY YOUNG CIRCUIT COURT JUDGE

CASE NO : 1999-GS-45-0018

THE STATE _____ RESPONDENT
CASEY LEWIS _____ APPELLANT

NOTICE OF APPEAL

CASEY LEWIS appeals his sentence in this case. The sentence was imposed by the HONORABLE JAMES BROGDON JR. on June 23, 1999. This appeal is taken from the order of the HONORABLE WILLIAM JEFFERY YOUNG, dated September 12, 2013 and MOTION to ALTER or AMEND JUDGEMENT pursuant to rule 59 (e) dated October 22, 2013 which denied appellant's MOTION for SENTENCE MODIFICATION PURSUANT to S.C. RCP RULE 29(b), RULE (b) 1, RULE 60 (b) 3, RULE (60) (B) 4, and Title 17-23-110. Appellant received written notice of entry of the order on September 12, 2013 and Final 59(e) ORDER dated January 17, 2014.

January 21 2014

Casey Lewis #259254
Broad River corr. Inst. wat b-228
4460 Broad River Rd.
Columbia, S.C. 29210

Other Counsel Of Record

Attorney General
Alan Wilson
P.O.Box 11549
Columbia, S.C. 29211

CC FILE: Sharon W. Stagers Williamsburg County Clerk of Court

ATTORNEY GENERAL'S OFFICE
RECEIVED 1-23-14
ADMINISTRATIVE INSTRUCTIONS
7 FILE OPEN
HALL OF RECORDS
RECEIVED
ROUTE TO _____
ORDER: _____
PEN RECORDS to Zachary/Am
OTHERWISE _____

IN THE COURT OF APPEALS

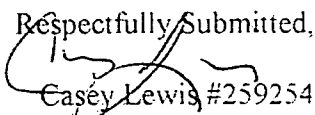
CASE NO : 1999-GS-45-0018

NOTICE OF APPEAL TO APPELLANT'S MOTION TO MODIFY AND CORRECT SENTENCE PURSUANT TO S.C. RCP RULE 29(b), RULE 60(b)1, RULE 60(b)3, RULE 60(b)4, AND TITLE 17-23-110, WHICH WAS DENIED PURSUANT TO THE HONORABLE JEFFERY YOUNG'S ORDER DATED SEPTEMBER 12, 2013 AND MOTION TO ALTER OR AMEND JUDGMENT DATED OCTOBER 22, 2013 WHICH APPLICANT DID NOT RECEIVED UNTIL JANUARY 17, 2014.

CERTIFICATE OF SERVICE

COMES NOW, THE APPELLANT, CASEY LEWIS submitting this Certificate of Service to the South Carolina Court of Appeals and to Alan Wilson to the South Carolina Attorney Generals Office and to Sharon W. Staggers of Williamsburg County Clerk of Court (to have the records forwarded to the South Carolina Court of Appeals.) The Appellant would also ask these respected officials to return a filed copy of the abovementioned notice of appeal to him.

Respectfully Submitted,

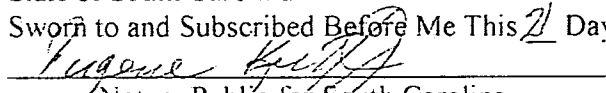


Casey Lewis #259254

Broad River Correction Institution Wat. 228B
4460 Broad River Road
Columbia, SC 29210

State of South Carolina

Sworn to and Subscribed Before Me This 21 Day of Jan 2014



Notary Public for South Carolina
My Commission Expires _____

My Commission Expires _____

CC FILE: Attorney General Alan Wilson
Sharon W. Staggers Williamsburg County Clerk of Court

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

) IN THE COURT OF GENERAL SESSIONS
) THIRD JUDICIAL CIRCUIT
) CASE NO.: 1999-GS-45-0018

State of South Carolina,

v.

Casey Lewis,

Defendant.

ORDER

2013 OCT 24 AM 10:22
WILLIAMSBURG COUNTY
CLERK OF COURT
KINGSTREE, S.C.

This matter comes before the Court by way of a "Motion to Alter or Amend Judgment Pursuant to Rule 59(e) [SCRCP]," filed on or about September 23, 2013. Mr. Lewis appeared before this Court on 12 September 2013 at the Williamsburg County Courthouse in Kingtree, SC. Present at the hearing was Mr. Tyler Brown, Assistant Solicitor, on behalf of the State, Mr. Casey Lewis, *Pro Se*. Legrande Carraway, Esq. of the Williamsburg County bar was present as standby counsel for Mr. Lewis. This Court has reviewed the filings of each party and the arguments made at the hearing in making its decision.

Movant presents no new legal or factual arguments sufficient to compel this Court to amend its Judgment of 12 September 2013.

THEREFORE, this Court hereby DENIES the Motion to Alter or Amend Judgment.

RECEIVED

JAN 17 2014

BRCI
MAILROOM

IT IS SO ORDERED.

W. Jeffrey Young
Hon. W. Jeffrey Young
Circuit Court Judge

Oct 22
September 22, 2013
Sumter, South Carolina

A CERTIFIED TRUE COPY
Sharon W. Staggers
SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY

MOTION TO DISMISS NOTICE OF APPEAL
STATE V. CASEY LEWIS

APPELLATE CASE NO. 2014-000144

ATTACHMENT 10

RECEIVED

FEB 06 2014

IN THE COURT OF APPEALS

CASE NO : 1999-GS-45-0018

NOTICE OF APPEAL TO APPELLANT'S MOTION TO MODIFY AND CORRECT SENTENCE PURSUANT TO S.C. RCP RULE 29(b), RULE 60(b)1, RULE 60(b)3, RULE 60 (b)4 AND TITLE 17-23-110, WHICH WAS DENIED PURSUANT TO THE HONORABLE JEFFERY YOUNG'S ORDER DATED SEPTEMBER 12,2013 AND MOTION TO ALTER OR AMEND JUDGMENT DATED OCTOBER 22, 2013 WHICH APPLICANT DID NOT RECEIVE UNTIL JANUARY 17, 2014

CERTIFICATE OF SERVICE

COMES NOW, THE APPELLANT, CASEY LEWIS submitting this Certificate of Service to the Williamsburg County Solicitor's Office. Appellant asks the Solicitor's Office to forward the notice of appeal to Mr. Clifton Newman's replacement since Mr. Newman is now a presiding judge. The appellant serves this notice in accordance with South Carolina Appellant Rules (SCACR).

State of South Carolina
Sworn To Before Me This 6 Day of Feb 2014
Eugene Scott
Notary Public for South Carolina
My commission Expires April 1, 2013

Respectfully Submitted,

Casey Lewis

Casey Lewis #259254
B.R.C.I. Wat A-185
4460 Broad River Rd.

CC Filed S.C. Court of Appeals Office
Attorney General Alan Wilson

RECEIVED

FEB 10 2014

Referred to Zelenka/dm
Answered _____

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM WILLIAMSBURG COUNTY
COURT OF GENERAL SESSIONS

HONORABLE WILLIAM JEFFERY YOUNG CIRCUIT COURT JUDGE

CASE NO : 1999-GS-45-0018

THE STATE _____ RESPONDENT

CASEY LEWIS _____ APPELLANT

NOTICE OF APPEAL

CASEY LEWIS appeals his sentence in this case. The sentence was imposed by the HONORABLE JAMES BROGDON JR. on June 23, 1999. This appeal is taken from the order of the HONORABLE WILLIAM JEFFERY YOUNG, dated September 12, 2013 and MOTION to ALTER or AMEND JUDGEMENT pursuant to rule 59 (e) dated October 22, 2013 which denied appellant's MOTION for SENTENCE MODIFICATION PURSUANT to S.C. RCP RULE 29(b), RULE (b) 1, RULE 60 (b) 3, RULE (60) (B) 4, and Title 17-23-110. Appellant received written notice of entry of the order on September 12, 2013 and Final 59(e) ORDER dated January 17, 2014.

January 21 2014

Casey Lewis #259254
Broad River corr. Inst. wat b-228
4460 Broad River Rd.
Columbia , S.C. 29210

Other Counsel Of Record

Attorney General
Alan Wilson
P.O.Box 11549
Columbia , S.C. 29211

CC FILE: Sharon W. Staggers Williamsburg County Clerk of Court



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1880
FAX: (803) 734-1839
www.sccourts.org

February 04, 2014

Casey Lewis, 259254
Broad River Correctional Institution
4460 Broad River Road
Columbia SC 29210

Re: The State v. Casey Lewis
Appellate Case No. 2014-000144

Dear Mr. Lewis:

Upon reviewing your notice of appeal, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter.

- The proof of service was not served upon Mr. Clifton Newman, solicitor for the State.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Salley W. Elliott, Esquire
Robert Michael Dudek, Esquire
Clifton Newman, Esquire