

STATE OF SOUTH CAROLINA
IN THE SOUTH CAROLINA COURT OF APPEALS
APPEAL FROM DORCHESTER COUNTY
HONORABLE MAITE ___ MURPHY
CASE NO.: 2014-000944

STATE OF SOUTH CAROLINA, RESPONDENT


VS.

TEVIN ___ HART

STATEMENT OF ISSUES

I represented the Appellant Tevin Hart on multiple charges from Dorchester County. Mr. Hart entered a guilty plea on January 23, 2014 to 40 years. A Motion to Reconsider was filed on January 30, 2014 and denied on April 7, 2014. The Motion and order have been included with this Statement of Issues. My Harts' sentence was excessive under the circumstances and the denial of the Motion to Reconsider was an abuse of discretion by Judge Murphy.

Mr. Hart testified at the trial of his co-defendant as a State's witness. The Solicitor in this case did not assist Mr. Hart in the manner in which the parties had agreed. Mr. Hart asserts that his guilty plea was not knowing and intelligently entered into under the circumstances. As an officer of the court, I am not aware of any issue as to the guilty plea process, however Mr. Hart asserts that his decision to enter into the guilty plea was tainted by the solicitor's misrepresentations.



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Other Counsel of record are:
Don Sorenson

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SC Court of Appeals


STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FIRST JUDICIAL CIRCUIT
 COUNTY OF DORCHESTER) WARRANT NO.: M-473265; M-473266;
) M-473267; M-473268; M-473269; M-473271
 STATE OF SOUTH CAROLINA)
)
 vs.)
) MOTION FOR RECONSIDERATION
 TEVIN HART,)
)
 Defendant.)

2014 JAN 27 11:00 AM
 COURT CLERK
 JUDGE: MAITE MURPHY
 COUNTY: DORCHESTER
 CASE NO: M-473265

YOU WILL PLEASE TAKE NOTICE that the Defendant through the undersigned attorney, will move for a Reconsideration of the Sentence of 30 YEARS AND 40 YEARS CONCURRENTLY imposed upon him by the Honorable Maite Murphy on January 23, 2014. This sentence was overly harsh in light of the Defendant's lack of any prior record and his participation in the State's prosecution of his co-defendant as a testifying witness.

The Court's failure to postpone sentencing until the Defendant's mother Ms. Rosemary Mazyck could be present was a violation of his due process right under both the State and Federal Constitution. Ms. Hart's failure to attend was not willful in light of her required presence in the Dorchester County family Court. Though the Defendant was an adult at the time of the sentencing, the Defendant was unable to adequately present mitigation to the court based on the absence of his mother Ms. Hart

AND IT IS RESPECTFULLY SUBMITTED this 27th day of January 2014 at St George, South Carolina.



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St George, South Carolina
 Dated: January 27, 2014

Denied 4/7/14

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STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)
)
STATE OF SOUTH CAROLINA)
)
 Vs.)
)
 Tevin Hart)
)
)
)
 Defendant.)
_____)

COURT OF GENERAL SESSIONS
FOR THE FIRST JUDICIAL CIRCUIT
Warrant No.: M-473265; M473266;
M473267; M473268; M473269; M4732271

**ORDER DENYING MOTION TO
RECONSIDER**

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FILED-RECORDED
4-7-2014 SC Court of Appeals
Cheryl Graham
Clerk of Court
Dorchester County

THIS MATTER came before the Court upon Defendant's Motion to Reconsider his sentence handed down by this Court on January 23, 2014 for Burglary in the 1st Degree, four counts of Kidnapping, and one count of Armed Robbery.

IT APPEARING that this Court sentenced the Defendant to a concurrent term of thirty (30) and forty (40) year's incarceration in the Department of Corrections. After considering the Defendant's Motion and a careful review of the record, the Court hereby DENIES Defendant's Motion to Reconsider for the reasons set forth below.

FINDINGS OF FACT

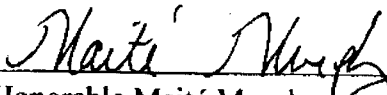
Defendant argues the sentence was overly harsh in light of the Defendants' lack of any prior record and his participation in the State's prosecution of his co-defendant as a testifying witness. Defendant further argues that the Court's failure to postpone sentencing until the Defendant's mother Ms. Rosemary Mazyck could be present violated his due process rights under the State and Federal Constitution.

The Court's failure to postpone sentencing until the Defendant's mother Ms. Rosemary Mazyck could be present is not a violation of the Defendant's due process rights. First, Mr. Hart is, and was an adult at the time of his sentencing. Second, Mr. Hart was accompanied by numerous family members, and each was given the opportunity to present mitigating circumstances to the Court.

In addition, the facts and circumstances of this particular case justify a concurrent sentence of thirty (30) and forty (40) years. Moreover, Mr. Hart's forty (40) year sentence fits well within the sentencing guidelines for Burglary in the 1st Degree, Kidnapping, and Armed Robbery. Accordingly, the Court does not find any circumstances justifying an alteration of Defendant's sentence.

THEREFORE, IT IS HEREBY ordered that the Defendant's Motion to Reconsider is denied.

AND IT IS SO ORDERED!


The Honorable Maité Murphy
Presiding Judge, 1st Judicial Circuit

St. George, South Carolina

April 3, 2014

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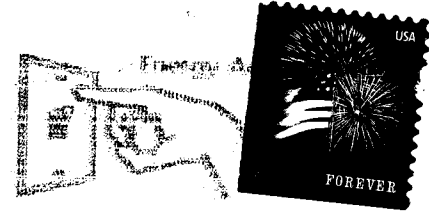
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SC Court of Appeals

S.C. Court of Appeals

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