

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY

Stephanie P. McDonald, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LANELL GOODWINE,

APPELLANT

APPELLATE CASE NO. 2013-001948

RECORD ON APPEAL

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INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT (dated September 6, 2013)	1
PLEA COLLOQUY	2
GUILTY PLEA	20
SENTENCING	66
INDICTMENTS	70
SENTENCING MEMORANDUM	74
CERTIFICATE OF COUNSEL	122

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON) COURT OF GENERAL SESSIONS

State of South Carolina)
)
 v.)
)
 Lanell Goodwine,)
 a/k/a Landell Goodwine)
)
 Defendant)

Case No. 11-GS-10-4183 et al

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on September 6th, 2013, before The Honorable Stephanie McDonald in Courtroom 4D of the Charleston County Courthouse, 100 Meeting Street, Charleston, South Carolina; attended by counsel as follows:

APPEARANCES:

Shannon Elliott, Assistant Solicitor
 9TH CIRCUIT SOLICITOR'S OFFICE
 101 Meeting Street, 4th Floor
 Charleston, South Carolina 29401
 Appearing for State of South Carolina

Andrew Grimes, Public Defender
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State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

2

1 THE COURT: My understanding is
2 that we are here to take a plea as to the
3 armed robbery and attempted armed robbery
4 charges, and that the materials that y'all
5 sent relates to sentencing. Correct?

6 SOLICITOR: Yes, Your Honor.

7 MR. GRIMES: Yes, ma'am.

8 THE COURT: I'll start with the
9 plea colloquy and then I will hear from y'all
10 on sentencing.

11 Mr. Goodwine, raise your hand as
12 best you can.

13 DEFENDANT: (Complies).

14 THE COURT: Do you swear to tell
15 the truth, the whole truth and nothing but
16 the truth, so help you, God?

17 DEFENDANT: Yes, ma'am.

18 THE COURT: Mr. Grimes, I under-
19 stand that this is Mr. Goodwine. Do you
20 agree with his decision to enter these pleas
21 today? I've got one count of armed robbery
22 and one count of attempted armed robbery?

23 MR. GRIMES: Yes, ma'am.

24 THE COURT: All right. And does
25 Mr. Goodwine understand the significant

State of South Carolina v Lanell Goodwine

3

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 Constitutional rights that he waives by
2 entering the pleas, and the possible
3 sentences that he faces?

4 MR. GRIMES: Yes, Your Honor.

5 THE COURT: Mr. Goodwine, I am
6 going to go through some things with you to
7 make sure that any plea that you enter today
8 is entered knowingly, intelligently and
9 voluntarily. Okay, sir?

10 DEFENDANT: Yes, ma'am.

11 THE COURT: How old are you?

12 DEFENDANT: Twenty-two (22).

13 THE COURT: Honestly, I know the
14 answers to a lot of these questions because
15 Mr. Grimes sent me a presentencing
16 memorandum, but I'm going to ask you the
17 questions anyway because it just sort of
18 helps me to ---

19 DEFENDANT: Yes, ma'am.

20 THE COURT: --- make sure that you
21 feel well enough to go forward today. And it
22 helps to protect the record. Okay, sir?

23 DEFENDANT: Yes, ma'am.

24 THE COURT: How far did you do in
25 school?

State of South Carolina v Lanell Goodwine

4

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 DEFENDANT: Eleventh grade.

2 THE COURT: All right. And how
3 much time has he served on this? I know
4 y'all -- do we know that?

5 MR. GRIMES: I believe that it is
6 two hundred and eleven (211) days.

7 THE COURT: Sir, were you working
8 anywhere prior to that?

9 DEFENDANT: No, ma'am, but I have
10 a job -- I got two jobs after that.

11 THE COURT: Okay. What are those
12 jobs?

13 DEFENDANT: Working for Knudsen
14 Construction and working at the Charleston
15 Executive Airport.

16 THE COURT: All right. Mr.
17 Goodwine, have you ever been treated for any
18 kind of drug or alcohol problem?

19 DEFENDANT: No, ma'am.

20 THE COURT: All right. Ever been
21 treated for any kind of mental illness or
22 issue?

23 DEFENDANT: No, ma'am.

24 THE COURT: And are you under the
25 influence today, medication or any substance,

State of South Carolina v Lanell Goodwine

5

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 that would interfere with your ability to
2 understand what we are doing here in court?

3 DEFENDANT: No, ma'am.

4 THE COURT: Okay. Thank you, sir.

5 I have you here on two indictments. The
6 first is 11-4183, it alleges that on or about
7 October 17th, 2010, in Charleston County,
8 while in the area of Freshfields Drive on
9 Johns Island, you attempted to commit an
10 armed robbery upon Jamie Walling in violation
11 of South Carolina laws. Sir, attempted
12 armed robbery carries a penalty range of up
13 to twenty years. Do you understand that?

14 DEFENDANT: Yes, ma'am.

15 THE COURT: Sir, it is also
16 classified as a violent and most serious
17 offense. Have you had a chance to discuss
18 what that means with Mr. Grimes?

19 DEFENDANT: Yes, ma'am.

20 THE COURT: And you understand
21 that the "violent" designation would affect
22 the way that SCDC calculates the time that
23 you would actually serve and affects parole
24 eligibility. Do you understand all that?

25 DEFENDANT: Yes, ma'am.

State of South Carolina v Lanell Goodwine

6

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 THE COURT: Mr. Grimes, what did
2 y'all discuss about that?

3 MR. GRIMES: I told him a little
4 bit differently. I told him that he would
5 not be eligible for parole because it's an
6 eighty-five percent ---

7 THE COURT: Eighty-five percent.

8 MR. GRIMES: Same with armed
9 robbery.

10 THE COURT: Right.

11 MR. GRIMES: Initially I didn't
12 think -- they could have LWOP'ed him, life
13 without the possibility of parole, but in
14 discussions with Ms. Elliott, she provided me
15 with some additional case law that -- and
16 they probably would have done that if he
17 hadn't pled.

18 THE COURT: But they have not
19 served him with any kind of intention to seek
20 life without the possibility of parole?

21 MR. GRIMES: No, ma'am. We just
22 mentioned it.

23 THE COURT: I appreciate that.
24 Mr. Grimes was exactly right to talk with you
25 about that, sir, because that is what -- what

State of South Carolina v Lanell Goodwine

7

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 you potentially face when you have most
2 serious offenses. I sometimes call them
3 strikes. I think that's an easier way to
4 look at it.

5 Because these offenses, as I
6 understand it, happened on separate dates ---

7 MR. GRIMES: Three days apart.

8 THE COURT: Three days apart. The
9 State would have potentially argued that the
10 second offense subjected you to a sentence of
11 life without the possibility of parole. Mr.
12 Grimes would have argued against that.

13 But you will have at last one
14 occasion of most serious offenses on your
15 record when you enter this plea. If when you
16 get out you were to ever pick up another one,
17 another charge classified as most serious,
18 the State would be able to serve you with a
19 notice they intend to seek life without the
20 possibility of parole. Go you understand
21 what that means?

22 DEFENDANT: Yes, ma'am.

23 THE COURT: Understanding that, as
24 well as the sentence on attempted armed
25 robbery, how would you like to plead today?

State of South Carolina v Lanell Goodwine

8

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 DEFENDANT: Guilty.

2 THE COURT: I also have you here
3 on 11-4190. It alleges that on or about
4 October 14th, 2010, while in the area of
5 Gardner Circle on Johns Island, here in the
6 County of Charleston, that Mr. Goodwine
7 committed an armed robbery on Mr. Matthew
8 Kever, in violation of South Carolina law.
9 Sir, it appears that this occurred some three
10 days prior to the Freshfields incident.

11 Armed robbery carries between ten
12 and thirty years in prison. Do you
13 understand that?

14 DEFENDANT: Yes, ma'am.

15 THE COURT: All right. Again,
16 it's classified as violent and most serious.
17 I've explained the most serious to you, as
18 well as Mr. Grimes has explained it. He's
19 discussed with you the eighty-five percent,
20 no parole classification on those two
21 offenses. Do you understand that, sir?

22 DEFENDANT: Yes, ma'am.

23 THE COURT: And when I enter the
24 sentence, it can be run concurrent, which
25 means all at the same time, or consecutively,

State of South Carolina v Lanell Goodwine

9

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 which means in theory that if you were
2 pleading that the sentences could be stacked
3 on top of each other. I'm not going to do
4 that, but I just need to make sure that you
5 understand that that is a potential that you
6 could face in pleading. Do you understand
7 that, sir?

8 DEFENDANT: Yes, ma'am.

9 THE COURT: I will tell you now
10 that I will run whatever the sentence is on
11 these two charges concurrent, and give you
12 credit for the time served. But you are
13 facing between ten and thirty years on the
14 armed robbery charge. How would you like to
15 plead to that?

16 DEFENDANT: Guilty.

17 THE COURT: Okay. Let me hear
18 from Ms. Elliott and then I will hear from
19 Mr. Grimes, and then we will go through some
20 more about Constitutional rights.

21 SOLICITOR: Thank you, Your Honor.
22 As to the facts of the case, on October 14th,
23 2010, around 9:30 at night at 275 Gardners
24 Circle in Kiawah, the victim Matthew Kever,
25 who is present today, was leaving work. He

State of South Carolina v Lanell Goodwine

10

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 worked at Hege's restaurant.

2 He was approaching his vehicle
3 towards the back of the parking lot. He
4 noticed two black males exited their vehicle.
5 They both produced weapons, they started to
6 demand money, his phone, his keys. They put
7 their guns to his back and forced him into a
8 grassy, bushy area at the back of the parking
9 lot.

10 They demanded his debit card and his
11 ATM number. He at first said 'new card, I
12 don't know the PIN number.' They threatened
13 to shoot him if he didn't give it over. They
14 didn't believe that. So he gave them the PIN
15 number.

16 They had him lay on the ground. Mr.
17 Goodwine took the ATM card and went to a
18 nearby Wells Fargo, at the time it was
19 Wachovia, ATM to make sure that it worked, to
20 get money, while his codefendant, Jozeph
21 Lemon (phonetic) held the victim on the
22 ground with a weapon.

23 After a few minutes, Your Honor, Mr.
24 Lemon left, telling the victim, 'We know
25 where you live. If you call the cops, we're

State of South Carolina v Lanell Goodwine

11

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 going to kill you. Start counting down from
2 one hundred before you get up.' They then
3 fled the scene

4 Subsequently, as you've already
5 mentioned, on October 17th, 2010, at the
6 Piggly Wiggly at Freshfields Drive, the
7 victim, Jamie Walling, had just finished a
8 delivery at the grocery store. He was
9 getting up in his truck as he was approached
10 by this defendant, Mr. Goodwine. Jozeph
11 Lemon was in a nearby vehicle.

12 He pulled a gun on him, demanded his
13 wallet, his phone. Mr. Walling said, 'I
14 don't have anything.' "I know you got
15 something." He starts climbing up in his
16 truck as if he is going to retrieve the
17 wallet or phone from the defendant (sic),
18 when the victim kicked the defendant and was
19 able to escape the scene.

20 Mr. Goodwine was identified when he
21 used the ATM at Wachovia. It got a very good
22 picture of his face. The detectives went
23 through some prior incident reports,
24 comparing them at random to DMV photos and
25 mugshots, and was able to match up the faces.

State of South Carolina v Lanell Goodwine

12

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 He went to the defendant's residence. The
2 mother verified that the person at the ATM
3 was in fact. He came in and gave an initial
4 statement, in which he put most of the blame
5 on Mr. Lemon.

6 Mr. Lemon was brought in and gave a
7 statement. He identified that the two
8 weapons, the weapons used, were in his car.
9 They were recovered. One was, I think, a BB
10 gun and the other was a .22 caliber handgun.
11 He then implicated the defendant in the crime
12 at the Piggly Wiggly.

13 Mr. Goodwine then came in and gave a
14 full confession as to both of the offenses.

15 Your Honor, as we -- as I think you
16 know, this defendant has no prior record.

17 Mr. Keever would like to address the
18 defendant when it is appropriate.

19 THE COURT: Okay. Has Mr. Lemon
20 pled or been tried?

21 SOLICITOR: He has not, Your
22 Honor.

23 THE COURT: His trial date is
24 pending?

25 SOLICITOR: Yes, ma'am. We

State of South Carolina v Lanell Goodwine

13

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 believe that there will be a plea, Your
2 Honor.

3 THE COURT: Why don't I go ahead
4 and hear from the victim? Then, Mr. Grimes,
5 if you have anything that you want to tell me
6 before I go through the Constitutional
7 rights, we will. I will go ahead and take
8 the plea and then let you all have -- since
9 there is going to be extensive arguments
10 about sentencing and mitigation, I think that
11 that would be the more appropriate way to do
12 it. But I'm happy to -- if there is another
13 way that y'all prefer to make the arguments,
14 just let me know.

15 Let me go ahead and hear from the
16 victim. Sir, if you would, give me your name
17 first, for the record.

18 MR. KEEVER: Matt Kever.

19 THE COURT: Yes, sir..

20 MR. KEEVER: I did not suffer any
21 physical injuries besides minor scrapes and
22 bruises when the two men put me face down at
23 gunpoint. The cuts and bruises and heal but
24 I don't know if I will ever be the same
25 mentally.

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

14

1 Many changes in my life have
2 occurred since the incident on 10-14-2010.
3 I wake up every morning on edge. Before the
4 event, I was not a judgmental person at all
5 and now I feel as if I am judging everyone.

6 I now sleep with a loaded .357
7 beside my bed every single night. I now go
8 to shooting classes twice a week every single
9 week. A week after this event I got my
10 concealed weapons license and have been
11 practicing ever since.

12 Any time I'm in the Freshfields
13 area, I feel tension and anger towards the
14 lack of security of that area.

15 Besides all the financial losses, my
16 place of work has suffered as well. Due to
17 the events in the Freshfields area, many
18 people have stopped coming to that area
19 altogether. This has, in turn, affected
20 Hege's Bistro and my pockets as well.

21 The robbers called me a "rich boy"
22 but I make my bill payments day to day by the
23 cashflow from Hege's. I am far from a rich
24 boy. I come from a small town in North
25 Carolina. I do not come from a lot of money.

State of South Carolina v Lanell Goodwine

15

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 My profession is bartender and server. I
2 drive a 1997 Ford Ranger truck with over two
3 hundred thousand miles. What about these
4 details that would make me rich, I'll never
5 know.

6 Not only has it hurt my business but
7 every business in the area.

8 In the end, I really do not want any
9 financial restitution. I just want these two
10 individuals to get what they deserve.

11 When I was in high school, I played
12 baseball and paid for the majority of my
13 college tuition with my skill. Many of my
14 good friends still today, they played in the
15 Shrine Ball as well. They used their talents
16 in football to pay for their college
17 completely.

18 I would like to say that the economy
19 is the cause of these events, but when I did
20 not have money for college, I trained and
21 practiced harder every day and it was an
22 incentive to do better. I did not go out and
23 rob people. I played ball to better my
24 situation.

25 All I want is for these two men to

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

16

1 pay for what they've done to me and to other
2 victims. I would like to see them serve
3 maximum time for these robberies.

4 These men were eighteen, nineteen
5 years of age when this event took place.
6 They knew the difference between right and
7 wrong. The only way that I will sleep better
8 at night is to know that they've got what
9 they deserve. Thank you.

10 THE COURT: Thank you, sir.
11 Anything further from the State?

12 SOLICITOR: Not at this time, Your
13 Honor.

14 THE COURT: All right. Mr.
15 Grimes, go ahead and talk to your client as
16 his Constitutional rights -- anything that
17 you want to tell me before I continue with
18 the plea, that doesn't pertain to the
19 sentencing but anything else that I need to
20 know.

21 MR. GRIMES: Just to let the Court
22 know that I did advise him of the community
23 supervision program, that once he is released
24 that he will have to serve two years on that
25 and will have a fifteen percent -- that he

State of South Carolina v Lanell Goodwine

17

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 could go back to jail for a year if he
2 violates the conditions of that. I went over
3 that with him and essentially all the
4 conditions.

5 THE COURT: Thank you, sir. And,
6 uh, -- Mr. Goodwine, are those -- the facts
7 that the solicitor presented as to those two
8 events, the one on October 17th at Freshfields
9 and one on October 14th involving Mr. Keever
10 -- that address is Gardners Circle. Is that
11 address Freshfields as well? The Freshfields
12 area, as well?

13 DEFENDANT: Yes, ma'am. But when
14 they said that there were two guns, there was
15 only one gun and my codefendant had it. It
16 was a BB gun, and it was only one gun.

17 THE COURT: Okay. But are these
18 two incidents, the October 14th incident at
19 Gardners Circle, involving Mr. Keever, ---

20 DEFENDANT: Yes, ma'am.

21 THE COURT: Were you involved in
22 that incident?

23 DEFENDANT: Yes, ma'am.

24 THE COURT: All right. And then
25 the attempted armed robbery on October 17th,

State of South Carolina v Lanell Goodwine

18

Case No: 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 involving Mr. Walling, that you're pleading
2 guilty to attempted armed robbery, were you
3 involved in that as well?

4 DEFENDANT: Yes, ma'am.

5 THE COURT: Okay. Sir, I know Mr.
6 Grimes has explained all of this to you.
7 He's an excellent attorney. But I need to go
8 through a few more things with you for the
9 record.

10 You give up significant Constitu-
11 tional rights when you plead guilty. You
12 give up your right to a jury trial. If you
13 wanted to proceed with a jury trial, Ms.
14 Elliott would be required to call witnesses
15 and put up evidence and attempt to prove you
16 guilty beyond a reasonable doubt of these
17 charges.

18 You'd be presumed innocent through-
19 out any trial up and until and unless a jury
20 of twelve people unanimously agreed to find
21 you guilty of the charges.

22 You'd then have an opportunity to
23 appeal their conviction.

24 Sir, you give that up when you plead
25 guilty. Do you want to waive that right and

State of South Carolina v Lanell Goodwine

19

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 enter this plea today?

2 DEFENDANT: Yes, ma'am.

3 THE COURT: You also give up your
4 right to remain silent. As you know, as I am
5 sure Mr. Grimes has explained, you have an
6 absolute Constitutional right to remain
7 silent. If you went to trial, you'd be able
8 to work with Mr. Grimes to decide if you
9 wanted to testify in your own defense or not.
10 If you chose not to testify, no one could
11 hold it against you. In fact, whoever the
12 judge was at the trial would tell the jury
13 that they couldn't even consider it, couldn't
14 mention it or even think about it in their
15 jury room. You waive that right when you
16 plead guilty, that right to remain silent.

17 You also waive the right to have Mr.
18 Grimes cross examine the State's witnesses
19 and challenge the remainder of the State's
20 evidence in a trial.

21 Do you want to waive those
22 Constitutional rights and go forward with
23 this pleas today?

24 DEFENDANT: Yes, ma'am.

25 THE COURT: Other than the

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

20

1 dismissal of the possession of firearm
2 charges, has anybody promised you anything or
3 done anything to try to force you to plead
4 guilty?

5 DEFENDANT: No, ma'am.

6 THE COURT: Are you pleading of
7 your own choice?

8 DEFENDANT: Yes, ma'am.

9 THE COURT: All right. Are you
10 happy with your attorney's work for you?

11 DEFENDANT: Yes, ma'am.

12 THE COURT: Do you have any other
13 questions for him?

14 DEFENDANT: No, ma'am.

15 THE COURT: You will have ten days
16 from today's date to appeal if you wish to do
17 so. I will accept the pleas. I do find that
18 Mr. Goodwine is pleading knowingly,
19 intelligently and voluntarily this afternoon.
20 He is competent to make these pleas. He's
21 been represented by an excellent attorney,
22 who has explained all of the potential
23 sentences and consequences of the sentence,
24 and the community supervision that will
25 follow any actual incarceration time to the

State of South Carolina v Lanell Goodwine

21

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 defendant, and he understands that. He has
2 also extensively briefed and provided the
3 court with a sentencing memoranda. The State
4 has been provided that information as well.
5 We will be discussing that in a minute. So I
6 will accept the pleas.

7 I do want to go forward now with the
8 arguments about sentencing. Sir, the reason
9 we are doing this today was because I wanted
10 to make sure that your lawyer had enough time
11 to argue to the Court. So you're welcome to
12 sit down while he argues the sentencing. You
13 don't have to stand up for that whole part.
14 But I am going to go ahead and hear from Mr.
15 Grimes and then from the State and we will go
16 from there.

17 MR. GRIMES: Thank you, Your Honor.
18 If I may approach the court reporter, I would
19 like to get this marked.

20 THE COURT: Come on up -- let me
21 know what you are marking.

22 MR. GRIMES: I have a copy of a
23 letter from several members of the community.

24 THE COURT: This will be defense
25 one and I have seen that.

State of South Carolina v Lanell Goodwine

22

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 (SO ENTERED AS DEFENDANT'S EXHIBIT 1)

2 MR. GRIMES: And new material, ---

3 THE COURT: This is for me?

4 MR. GRIMES: Yes. This is the
5 criminal history of Marvin Eugene Vandiver.
6 I would like to mark that as Defendant's
7 Exhibit 2.

8 THE COURT: Have you had a chance
9 to look at this?

10 SOLICITOR: I have.

11 MR. GRIMES: We provided Exhibit 1
12 to Ms. Shealy last week and provided Exhibit
13 2 to Ms. Elliott a few minutes ago.

14 THE COURT: Okay. I have reviewed
15 that. Tell me for the record, who is Mr.
16 Marvin Eugene Vandiver.

17 MR. GRIMES: Back in 2001, he was
18 the boyfriend of Lanell's sister, Deanna --
19 or "Peebles." In looking at the statements
20 and incident reports, apparently Mr. Vandiver
21 was telling them, you know, 'the way you can
22 make money is by doing robberies, that's the
23 way that I make money.' He says, 'you need
24 two men to do a robbery.'

25 I believe it's fairly to -- to this

State of South Carolina v Lanell Goodwine

23

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 case, it goes to peer pressure that juveniles
2 and adolescents face from negative influences
3 as discussed in Roper, Graham and Milling
4 (phonetic).

5 THE COURT: Okay.

6 MR. GRIMES: Ironically, Mr.
7 Vandiver has a pending charge for strong arm
8 robbery that is being prosecuted by Ms.
9 Compton.

10 THE COURT: Okay. Thank you.

11 MR. GRIMES: I think that I under-
12 stand where Mr. Keever is coming from. I
13 imagine that if I was in his shoes that I
14 would take the exact same position that he
15 took. I've never had stuff stolen from me,
16 I've had -- I've never been the victim of an
17 armed robbery. The closest that I think ever
18 occurred was in HUGO, I was at my friend's
19 house, me and him were hanging out before the
20 storm was coming, probably not the smartest
21 thing to do, and I guess his neighbor -- I'd
22 say he was a little crazy. You know, he saw
23 two guys out there in the dark and, uh, shot.
24 (phonetic) at us, pointed at us thinking that
25 we were looters or something. Initially I

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

24

1 thought it was a joke, then realized that
2 he'd got a real gun. I got real scared,
3 upset.

4 Of course, that's not the trauma
5 that Mr. Keever suffered. But, luckily, no
6 one was hurt physically. Hopefully with
7 counseling he can recover from that trauma.

8 We are not here today thinking or
9 hoping that Lanell would not be punished. We
10 know that he is going to go to prison for
11 some time.

12 But what is a fair sentence? What
13 does he deserve? Mr. Keever believes that he
14 deserves the maximum. I am not sure what Ms.
15 Elliott's position is. We believe that
16 Lanell deserves five years. I think we will
17 try to lay out our argument here in a minute.

18 I do want to introduce the members
19 of his family. I think that they were here
20 last time:

21 Deanna Goodwine, his aunt.

22 Amber Sease, his sister, was here
23 last week.

24 Natasha Roper is here.

25 Peebles Goodwine.

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

25

1 Daphne Goodwine, his mother.

2 Albertha Sease, his grandmother.

3 And there are some other family
4 members here, that I don't have their names.

5 TONYA SEASE: Tonya Sease. I'm his
6 aunt.

7 BRITTARY SEASE: Brittany Sease.
8 I am his cousin.

9 MS. SEASE: Charmala (phonetic)
10 Sease, cousin.

11 ROLENA TAYLOR: Rolena Taylor,
12 cousin.

13 THE COURT: I couldn't quite hear
14 y'all.

15 MR. GRIMES: I did reach out to
16 some of his employers. I have not heard back
17 from them.

18 I talked with Mr. Hanger (phonetic)
19 on the phone. He provided an e-mail to the
20 court. He didn't know what Lanell was in
21 trouble for. I said, 'Would you be surprise
22 if you knew that he was being charged with
23 robberies?' He said that he would be very
24 surprised. He said that since Lanell --
25 until he got arrested on the bench warrant,

State of South Carolina v Lanell Goodwine

26

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 his work was so dependable, coming in and
2 doing a good job for him.

3 The core of our opposition here is
4 that the Eighth Amendment, as applied in this
5 case, makes the mandatory minimum of ten
6 years un-Constitutional. Because the
7 mandatory minimum deprives the Court of the
8 opportunity to make a individualized fact-
9 finding hearing in the Court -- the Court
10 could very well hear all the facts about Mr.
11 Goodwine, all the circumstances, aggravating
12 and mitigating, and find that he deserves a
13 sentence of less than ten years. Because of
14 the mandatory minimum, the Court would not be
15 able to impose that sentence and, therefore,
16 we believe that violates the Eighth Amendment
17 under the Federal Constitution and Article I,
18 Section 15 of the South Carolina
19 Constitution.

20 We have the Court with a copy of a
21 very length case, United States v. C.R., Page
22 153, and the Graham case, which says "lacks
23 any significant justification is by its
24 nature disproportionate to the offense" and
25 therefore un-Constitutional under the Eighth

State of South Carolina v Lanell Goodwine

27

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 Amendment.

2 THE COURT: If you would, tell us
3 the jurisdiction that case is from and what
4 the defense in that case was.

5 MR. GRIMES: It's from the Eastern
6 District of New York, Judge Jack Winestein.
7 The defendant there was charged with, I
8 believe, distribution of child pornography.
9 The Court found that there was a five-year
10 mandatory minimum and sentenced -- the Court
11 found that it was un-Constitutional as
12 applied in that case, given the sort of
13 unique factors of that in that he'd started
14 watching or viewing pornography when he was
15 fourteen up until he was nineteen. His
16 mother had been involved in drugs. His dad
17 had allowed him to watch porn.

18 THE COURT: Reconcile that for me,
19 if you would, with *State v. Johnson* from our
20 Court.

21 MR. GRIMES: Well, obviously *State*
22 *v. Johnson* on its face would require that the
23 Court deny the argument. *State v. Johnson*
24 is devoid of any analyses of why the ten-year
25 mandatory minimum is analogous.

State of South Carolina v Lanell Goodwine

28

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 THE COURT: Very short case, yeah.

2 MR. GRIMES: We believe that since
3 those cases have been decided that there's
4 evolved a standard of decency in our country
5 that has eroded the precedential value of
6 that case.

7 For example, we have *Roper* which
8 talks about youth. I think maybe fifteen
9 years before *Roper* the Supreme Court said
10 that you could execute someone who was on --
11 and then fifteen years later it said, 'no,
12 you can't.'

13 Then you have *Graham* saying that for
14 a juvenile who commits a nonhomicide offense,
15 that is per se unconstitutional to give them
16 life without parole.

17 Then the last term we had *Miller* --
18 or two terms ago, *Miller*, that said that --
19 that juveniles who commit homicides, they may
20 be eligible for life without parole but they
21 can't be mandatory. It has to be -- the
22 Court has to hear the aggravating and
23 mitigating factors and sort of look at them
24 on a piece by piece basis.

25 I think that when you take those

State of South Carolina v Lanell Goodwine

29

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 decisions, plus decisions in capital cases,
2 -- in capital cases the Court has said that
3 you have to weigh all the mitigating factors.
4 General Assembly, legislators say 'well, you
5 can't consider this or that' but you have to
6 give them the opportunity to say anything to
7 the jury in favor of mitigating a life
8 sentence. Some have been decided before
9 *Johnson*, some have been decided after
10 *Johnson*.

11 I am not -- I don't pretend to be an
12 expert on the Eighth Amendment but I know --
13 I know a lot of the case law in that area but
14 ---

15 THE COURT: It's pretty diverse.
16 I don't think any of us do.

17 MR. GRIMES: I find cases that say
18 twelve years is unconstitutional -- the
19 *Williams* case. Then there are cases out
20 there that say twenty is Constitutional.

21 I think the theme from *Roper*, *Graham*
22 and *Miller* show that -- talk about
23 individualized sentencing. I think in
24 *Johnson* they say, 'Well, if it is ten years,
25 that's fine, other states do it and we have

State of South Carolina v Lanell Goodwine

30

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 similar statutes' -- you know, it's similar
2 and therefore it's fine.

3 But I think in *Stalling* (phonetic) in
4 1983 the Supreme Court said that there is no,
5 per se, Rule of what is cruel and unusual
6 punishment.

7 I think that -- basically they say
8 that 'you know, ten years seems reasonable.'
9 And in some cases it is reasonable. If I
10 took a gun and pistol-whipped somebody, took
11 their money, maybe shot at them -- or, you
12 know, did something else, I'd probably
13 deserve ten years for that.

14 But if I take my finger out walking
15 and point it at somebody and say 'give me you
16 money' and I take a dollar or whatever from
17 them, it makes no sense for that person to
18 get ten years when I could take a real gun
19 and try to shoot 'Ms. Garrison' (court
20 reporter), try to kill her because she always
21 messes up my transcripts and she says I
22 mumble too much ---

23 THE COURT: Which she doesn't mess
24 up your transcripts, by the way.

25 MR. GRIMES: She may be the only

State of South Carolina v Lanell Goodwine

31

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 one who doesn't. But I could get probation
2 for that, because there is no mandatory
3 minimum for attempted murder.

4 I can forcibly rape a woman, beat
5 the -- beat her up badly, put her in the
6 hospital for that and get probation for that.
7 There is no mandatory minimum.

8 I've had a trial with Judge
9 Harrington, about four years ago, where my
10 client had a prior armed robbery conviction,
11 was charged with CDVHAN, assault with
12 criminal sexual conduct in the first degree,
13 was guilty of simple CDV, the assault with
14 intent to commit criminal sexual conduct and
15 Judge Harrington gave him probation. I am
16 not sure how that happened.

17 THE COURT: I am not sure how that
18 happened either.

19 MR. GRIMES: Wasn't served with
20 LWOP notice or anything. I think there were
21 a lot of appealable issues in that case. We
22 filed an appeal regardless but -- anyway.

23 You know, when Courts can look at
24 the whole thing and individualize and
25 consider the whole thing, they can come to an

State of South Carolina v Lanell Goodwine

32

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 appropriate sentence. Mandatory minimums
2 prohibit them from doing that.

3 Now, in this case, we're not saying
4 that per se it is unconstitutional. We're
5 saying as applied to Mr. Goodwine that it is.

6 One reason is age. I know in *Miller*
7 and *Graham* and *Roper* that we're talking about
8 juveniles. I think in the C.R. case by Judge
9 Weinstein that he references in there, at
10 Page 150, that the ages ranged between
11 fifteen and nineteen, a typical adolescent
12 range where people are subject to making ---

13 SOLICITOR: I hate to interrupt
14 but his page numbers are not matching up with
15 my page numbers. Do you have the cite page?

16 THE COURT: You know what? I've
17 read the case. He doesn't need to give me
18 the page numbers.

19 SOLICITOR: I was just trying to
20 follow along.

21 THE COURT: And they will be
22 going to differ depending on whether they
23 are Lexis, WestLaw or however.

24 SOLICITOR: All right.

25 MR. GRIMES: I apologize. I've got

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

33

1 a picture of it here.

2 THE COURT: Do you want to give
3 her maybe the keynote number? That might
4 help her find it.

5 MR. GRIMES: (Sidebar with Mr.
6 Grimes).

7 THE COURT: Okay.

8 MR. GRIMES: I have the Lexis.

9 THE COURT: Okay.

10 MR. GRIMES: It's a very long
11 Opinion. Page 150 of it, Lexis pages, -- the
12 fact that he was nineteen obviously takes him
13 outside of the holdings in Roper, Graham and
14 Miller, but the reason that it still applies
15 -- and this may be one of the reasons why
16 you're not allowed to go to a bar and buy
17 drinks, or go to a casino or gamble or some
18 other activities -- but, you know, he's
19 allowed to be on a boat, drive a car, be on a
20 jury, those type activities.

21 Our courts have applied Miller and
22 Graham under their constitutions. The Noel
23 Pearson (phonetic) case, I mean, those cases
24 -- if one is sixteen years old and ten
25 months, it makes it second degree murder

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

34

1 versus -- which could be analogous to an
2 armed robbery.

3 THE COURT: Is that -- second
4 degree robbery?

5 MR. GRIMES: First degree robbery,
6 second degree murder.

7 THE COURT: All right.

8 MR. GRIMES: And, uh, received a
9 sentence that would keep him in jail until he
10 was sixty-nine years old. The Court said
11 that sentence was unconstitutional, because
12 of his age -- which was basically, again, a
13 life without parole sentence.

14 In Pearson, the defendant there was
15 a seventeen-year-old juvenile, convicted of
16 two counts of first degree robbery and two
17 counts of first degree burglary and he
18 received a fifty-year sentence, eligible for
19 parole until he was thirty -- thirty years.
20 The Court struck that sentence down.

21 So you've seen it other -- where
22 other courts have applied it under their
23 Constitution. I think it was solely under
24 Iowa's (phonetic) rather than Federal. They
25 have a clause where it is written differently

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

35

1 than in ours.

2 THE COURT: Well, and -- I just
3 want to make sure that you understand partly
4 what my analysis is -- and I'll put the rest
5 of it on the record shortly. And I'm going
6 to hear from the State, as well.

7 But we have case law from South
8 Carolina -- and I realize that it predates
9 some of the Supreme Court cases that you have
10 cited. However, some of those apply
11 specifically to juveniles and, as I
12 understand it, your client was not a juvenile
13 at the time of this incidences, although he
14 is quite young.

15 I certainly appreciate your
16 distinguishing the South Carolina cases.
17 You know, you have the right to argue against
18 precedent, but our courts have said that
19 mandatory minimums do not violate the
20 separation of powers doctrine and in certain
21 cases are not cruel and unusual punishment,
22 as applied when they are short Opinions.

23 As I look at the attempted armed
24 robbery statute and the armed robbery
25 statute, 16-11-330, it has that magic

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

36

1 language that was identified in -- I think
2 that it was State v. Thomas regarding which
3 parts of the mandatory minimum may not be
4 suspended and when probation may not be
5 granted.

6 So do you want to talk to me about
7 those at all? And I know that there was some
8 other mitigation that you wanted to present.
9 Did you want to make the sentencing
10 memorandum -- I guess you filed it as part of
11 the record?

12 MR. GRIMES: Yes, Your Honor.

13 THE COURT: Okay. Then we don't
14 need to make it part of the court's file.
15 But I'm happy to hear -- talk to me about
16 that.

17 MR. GRIMES: One of the cases that
18 Ms. Elliott was probably talking about was
19 this ---

20 THE COURT: I'm got the stack of
21 cases in front of me.

22 MR. GRIMES: I know some involved
23 the separation of powers, but I haven't
24 raised that.

25 THE COURT: That was a different

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

37

1 case. This is a case from the Supreme Court
2 of our state, 2007, (reading): *"The general*
3 *power of suspended sentences arise from the*
4 *Code ... the power does not extent to offenses*
5 *where the legislature has specifically*
6 *mandated that no part of a sentence may be*
7 *suspended."*

8 Then the case actually deals with a
9 controlled substance distribution offense and
10 they did not have that legislative ---

11 MR. GRIMES: Judge Floyd's case, I
12 believe.

13 THE COURT: It is.

14 MR. GRIMES: I think that -- the
15 reason I was -- we realize that language is
16 in there and therefore the Court cannot
17 suspend the ten years.

18 THE COURT: Okay.

19 MR. GRIMES: If that language was
20 not in there, then I think that the Court
21 could suspend the ten years and would the
22 discretion to make an individualized
23 sentencing determination.

24 THE COURT: Okay.

25 MR. GRIMES: I think that might be

State of South Carolina v Lanell Goodwine

38

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 like the homicide by child abuse statute
2 which sets a twenty-year minimum but has that
3 suspension language, therefore I've seen some
4 judges give less than twenty years on those
5 kind of cases.

6 I am not sure that answers your
7 question.

8 THE COURT: It does. It helps me,
9 actually, because your position would be that
10 the fact that that mandatory language -- and
11 if I am paraphrasing wrong, correct me. But
12 16-11-330, the armed robbery statute, has the
13 language that the Court discussed in *State v.*
14 *Thomas*. But the Eighth Amendment wasn't
15 addressed in *State v. Thomas*, so your
16 position is that by 'well, by taking that
17 discretion away from the Court and mandating
18 that minimum, as applied there could be an
19 Eight Amendment violation.' Is that ---

20 MR. GRIMES: I think that's a fair
21 understanding.

22 THE COURT: And your position
23 would be that in this case, based on
24 mitigation it would be -- that's your
25 argument.

State of South Carolina v Lanell Goodwine

39

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 MR. GRIMES: Yes, ma'am.

2 THE COURT: Not saying that I am
3 accepting your argument. I just want to make
4 sure that I understand your argument.

5 MR. GRIMES: Yes, ma'am.

6 THE COURT: Okay. You did answer
7 my question. Thank you.

8 MR. GRIMES: Thank you.

9 THE COURT: All right. What else
10 do you need to tell me about -- anything that
11 you want to put on the record?

12 MR. GRIMES: I guess that one way
13 -- I wasn't sure exactly how to handle this.
14 You know, I made several factual assertions
15 in my memorandum. I don't know if I need to
16 go into those, to put those officially in the
17 record or if the Court will accept them ---

18 THE COURT: I don't need you to do
19 that. I'm happy to accept them. If the
20 Solicitor wants to challenge them in any way,
21 I'm happy for you to do that.

22 And you've had a chance to review
23 the updated sentencing memorandum?

24 SOLICITOR: I have, Your Honor.

25 THE COURT: Okay. Is there

State of South Carolina v Lanell Goodwine

40

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 anything that you wanted to inquire about?

2 SOLICITOR: Inquire? Less so.

3 I am assuming that you are talking about his
4 background, his family life, his history.

5 THE COURT: Okay.

6 SOLICITOR: I would say that there
7 is a bit of disconnect to the letter from the
8 grandmother that said he had stopped going to
9 school, yet he said that he was enrolled at
10 that time. That was the only factual
11 inaccuracy that we'd -- we do take issue with
12 some of the facts of the cases, but I think
13 that I have already addressed those when I
14 stated the facts of the case.

15 THE COURT: Okay.

16 MR. GRIMES: I think what he said
17 during the plea addressed that. That's why I
18 follow the incident reports, because there
19 were three people essentially involved in the
20 case and there's three different versions.

21 THE COURT: I am comfortable with
22 y'all just arguing your respective positions.
23 But if -- I understand that you want to
24 protect your record, Mr. Grimes, and you may
25 do it any -- as you need to do it.

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

41

1 MR. GRIMES: Thank you. Well, if
2 everyone -- I mean, I understand that the
3 State is fine, and with the acceptance of the
4 assertions here in court, I believe that
5 would be sufficient. If not, I'd be happy to
6 admit ---

7 THE COURT: I think that ---

8 MR. GRIMES: --- on PCR that I
9 messed up.

10 THE COURT: I don't think that
11 will be an issue. Here's why: all of the
12 cases that I have heard, within the confines
13 of the legislative enactment on this statute,
14 as possibly limited by any Constitutional law
15 this issue presents, sentencing is within my
16 discretion. I have what you've written in
17 your memoranda and are presenting today. I
18 will listen to what the Solicitor has to
19 argue. Then I will exercise that discretion.
20 So I think you have presented information as
21 the court needs it, for what it is worth to
22 our Court.

23 MR. GRIMES: And maybe in that same
24 category -- the Post & Courier news article
25 that referenced Mr. Goodwine, when he was

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

42

1 arrested, as being a student at St. Johns.

2 I talked to Detective Boyd and he said that
3 he was a student.

4 The only other thing that I'd want
5 to address is that I talked to Detective Boyd
6 at least twice -- I think once on July 15, --
7 I got ahold of him through Investigator Matt
8 Casey, who was in trial with maybe Judge
9 Jefferson during that week. We spoke about
10 it and he said that Lanell had been
11 cooperative with him about it, that he was a
12 good kid. That he'd been out for two years
13 and there'd been no rearrests, had been
14 working two jobs, sent a character letter,
15 been an excellent employee, uh, -- you know,
16 he just had a week where he made some
17 terrible decisions and he's going to pay for
18 it, pay a significant price for it.

19 I tried to communicate that to the
20 solicitor's office, that law enforcement was
21 fine with a sentence of less than ten years.
22 Then I guess they started giving more weight
23 to Mr. Keever's position, as is their
24 discretion. But it's not a case where
25 everyone is jumping up and down wanting him

State of South Carolina v Lanell Goodwine

43

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 to go away for the maximum.

2 The other point that I guess I would
3 like to raise a little bit would be the
4 post-offense -- I mean, I get a little bit
5 lazy in my writing but sometimes I can't
6 improve on what a Supreme Court Justice
7 writes, so it demonstrates why that is
8 relevant. But one of the parts that I wanted
9 to emphasize is that you look at where the
10 defendant is today, not where he was a year
11 ago, two years ago, three years ago. You
12 basically look at his whole life and
13 everything.

14 And I am quite comfortable with --
15 you know, if he got time served, I'd have no
16 problem with that, Your Honor. He kinda
17 reminds me of me, he played a lot of sports.
18 He probably didn't do as well in school but
19 if I had his issues, background, as
20 referenced in Exhibit A in the letter, I
21 can't say where I would have ended up, what
22 would have happened to me. Luckily Mr.
23 Keever didn't have those issues in this life.
24 He may not have had the same advantage as
25 other people but I -- I think Mr. Goodwine

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

44

1 had some severe disadvantages, made some bad
2 decisions, spent about five months in jail,
3 bonded up, retained an attorney that ended up
4 getting disbarred -- and I don't know, maybe
5 that attorney could have handled some things
6 differently and it might have turned out
7 different, things could have been done
8 sooner, more timely.

9 The reason he is in jail is because
10 when he came in for a plea, it was like,
11 'where is your attorney', 'well, now the best
12 that I can do for you is ten years.' You
13 know, 'Lanell, you've got to do three
14 thousand one hundred and two days in prison',
15 eight and a half years -- you've done two
16 hundred eleven, two thousand eight hundred
17 and ninety one days.' You know, that's --
18 that's basically half his life at that point
19 in time. I think that's a very harsh
20 punishment.

21 You know, he's extremely sorry for
22 what happened. He's not just sorry for
23 getting caught. He's sorry he even was
24 hanging out with Mr. Vandiver, listening to
25 him. Right from the start, he apologized,

State of South Carolina v Lanell Goodwine

45

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 admitted that he did it. I don't know why he
2 held out so long -- I think that it was that
3 he wasn't being asked about it. But I don't
4 think he was, as the State has tried to
5 suggest, trying to shift the blame. I think
6 he said what happened and he took the blame.
7 He's not saying that he didn't go up there
8 with guns or didn't -- he took the blame.

9 I think his background and lack of
10 criminal history, as well as nothing since
11 he's bonded out, that he's been working, he's
12 -- I find him to be very credible.

13 I am not saying that Mr. Keever is
14 wrong. He probably saw two guys coming up
15 and certainly he did take his ATM card. I
16 think it could be assumed that the two guys
17 had guns.

18 At this time I think Mr. Goodwine
19 would like to address the court and Mr.
20 Keever, and ---

21 THE COURT: Okay.

22 MR. GRIMES: And maybe some of his
23 family.

24 THE COURT: Sir, I will be happy
25 to hear from you.

State of South Carolina v Lanell Goodwine

46

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 DEFENDANT: Yes, ma'am. First,
2 I'd like to start by apologizing to the
3 victim. If I could take it back, I would.
4 If I could apologize many, many times, I
5 would.

6 I would like to apologize to my
7 family for putting them through this.

8 I'd like to apologize to the Court
9 for me even being here.

10 Your Honor, at that time I thought
11 -- that was a very low point in my life, and
12 that was the wrong decision to make. I was a
13 follower and not a leader. I understand that
14 I have to face the punishment. I am not a
15 bad kid at all -- not a kid, but I'm not a
16 bad young adult, at all. I just ask that you
17 have some leniency, please.

18 THE COURT: Thank you, sir.

19 MR. GRIMES: Ms. Sease, his grand-
20 mother.

21 THE COURT: All right. Ma'am, if
22 you would, just say your name for me one more
23 time.

24 ALBERTHA SEASE: Ma'am, my name is
25 Albertha Sease.

State of South Carolina v Lanell Goodwine

47

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 THE COURT: First name?

2 ALBERTHA SEASE: Albertha.

3 THE COURT: It's hard to hear up
4 here sometimes. Thank you.

5 ALBERTHA SEASE: Oh, okay. I am
6 Lanell's grandmother. I am his mother's
7 mother. And -- so, -- I have to say that
8 Lanell and his sister, that they never had a
9 chance because of my daughter and her
10 problems. This one son, I don't think he
11 cares (phonetic).

12 But they didn't have a life. They
13 didn't. They did not have anything. I did
14 what I could. They didn't. They took care
15 of they mother. She didn't work. The
16 children raised themselves; no father, they
17 raised they selves.

18 They stay with their mother -- my
19 other daughter had four kids. They were
20 arrested for drugs, crack cocaine. They
21 never grew up with their mother and father
22 and when they got old enough they paid the
23 rent in the house. They worked two jobs,
24 paid the bills in the house. Just -- it's
25 just not right what happened to them, they

State of South Carolina v Lanell Goodwine

48

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 kids, because of them. (Emotional) -- I'm
2 sorry. I'm sorry, (emotional).

3 THE COURT: That's okay. Thank
4 you, ma'am -- and I read your letter.
5 Anything else? Y'all don't have to say
6 anything but I'm happy to hear from you if
7 you want me to.

8 MR. GRIMES: Well, I wasn't going
9 to go into this but after Ms. Sease's
10 comments, me and Lanell, yesterday, he said
11 that he talked to his boss. His boss gave
12 them two hundred and fifty dollars to put in
13 his canteen account.

14 THE COURT: And it didn't go in
15 his canteen account?

16 MR. GRIMES: (Negative gesture).
17 It's, you know, a fairly sad situation. I
18 realize that it's not an excuse for what
19 happened but -- that's why he is pleading
20 guilty, accepting responsibility for what
21 happened. He knows that he is going to be
22 punished. We are just asking the Court to
23 give him what he deserves, and I believe that
24 is a sentence of five years.

25 THE COURT: Thank you. Ms.

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

49

1 Elliott?

2 SOLICITOR: Thank you, Your Honor.

3 To address what I would view as the crux of
4 Mr. Grimes' sentencing memorandum, he does
5 try to use the *Roper* cases and their progeny
6 and tries to change Mr. Goodwine's category
7 down to a juvenile. As you've already
8 acknowledged, there's a black letter rule
9 from the Supreme Court on that, that you must
10 be under eighteen. Mr. Goodwine was well
11 over eighteen at the time of these incidents.

12 Further, Your Honor, all of those
13 lines of cases give great deference to the
14 legislature and say that the legislature is
15 the best just of what the sense of decorum
16 and decency within the state and the nation
17 is. Our legislature has seen fit to give a
18 mandatory minimum of ten years. That is not
19 unconstitutional, nor is it a violation of
20 the Eighth Amendment.

21 The case that I would point to is
22 one that Mr. Grimes actually used, *Peppers v.*
23 *U.S.*, Page 1241, they discuss when a judge is
24 choosing whether to follow the guidelines in
25 Federal sentencing -- what they are saying is

State of South Carolina v Lanell Goodwine

50

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 that the judge has the discretion to
2 basically throw those out, because those are
3 advisory. But at 1241, they say that they
4 have to act within the statutory limits,
5 acknowledging that mandatory minimums are
6 appropriate.

7 In the case that Mr. Grimes
8 mentioned, *U.S. v. C.R.*, I believe that's at
9 Page 489, the Court acknowledges *U.S. v*
10 *McCuen* (phonetic), which says that mandatory
11 minimums have been held not to violate
12 Constitutional standards of rationality.

13 In *Peppers*, what the Court was
14 saying was 'you're allowed to use your
15 discretion within the statutory limits, you
16 just can't step outside of them.' There are
17 no cases from the U.S. Supreme Court or the
18 State of South Carolina that counter that,
19 that I have been able to find or that I
20 believe that Mr. Grimes has offered.

21 I still believe that *Stockton*
22 (phonetic) is very much on point as to what
23 is cruel and unusual in the state of South
24 Carolina and is the authority that we must
25 adhere to.

State of South Carolina v Lanell Goodwine

51

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 Your Honor, I think probably the
2 best way for me to address all of Mr. Grimes'
3 concerns is to basically go through the
4 sentencing memorandum.

5 As I said, I am not going to --
6 really, I can't sit up here and attack Mr.
7 Goodwine's background, because I don't have
8 that information. That is something that is
9 very much limited to me. I have to take that
10 on its face value.

11 But what I find interesting is that
12 when you look at these *Roper* cases and the
13 facts behind them, I want to say that almost
14 universally each of those had had run-in's
15 with police before that happened. There was
16 a clear pattern that was coming. That is
17 completely absent in this case.

18 Mr. Goodwine went nineteen years as
19 a law-abiding citizen, which Mr. Grimes
20 points to as mitigation. But I think that
21 also shows that -- as Mr. Grimes said, he'd
22 been working two jobs and trying really hard.
23 It was that began too difficult for him is
24 when he made the choice that he was going to
25 start robbing people. That is greatly

State of South Carolina v Lanell Goodwine

52

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 concerning to the State and something that I
2 think that you should consider in not giving
3 him five years, and in giving him something
4 more than the mandatory minimum of ten.

5 Further, Your Honor, when the cases
6 discuss peer pressure it seems that that is
7 mostly couched in with the codefendant
8 situation. From the information that we have
9 and even from Detective Boyd's statements, it
10 doesn't appear that Jozeph Lemon was the one
11 pushing for these attacks. He was peer-
12 pressured by this defendant to participate.
13 So he (indicating Defendant) in fact was a
14 leader in this. While Mr. -- sorry. I can
15 only remember his first name. While Marlin
16 (sic) was -- might have given him some ideas,
17 he enlisted someone else to help him plan and
18 go out and execute these crimes.

19 I believe that I have already
20 addressed the majority of his cruel and
21 unusual argument, Your Honor.

22 I will stop -- I will take a brief
23 moment and say that he said that this penalty
24 is disproportionate to other offenses. Of
25 all the other offenses that he listed, the

State of South Carolina v Lanell Goodwine

53

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 greatest difference in them is that they do
2 not demand that a firearm be used, or a
3 deadly weapon. You can have a murder without
4 a deadly weapon. You can have an assault and
5 battery of a high and aggravated nature
6 without that.

7 The only one that demands a deadly
8 weapon, as in a firearm, to be used is an
9 attempted armed robbery. But then, again,
10 it would have a lesser sentence because it's
11 attempted.

12 So there is a rational basis and
13 correlation as to why there is a mandatory
14 minimum in this case and not others. Because
15 both the state of South Carolina and the
16 Federal government have recognized that
17 crimes that involve firearms basically up the
18 ante and make it more dangerous.

19 That leads directly into his
20 aberrant conduct argument. He cites, I
21 believe that it is *U.S. v. Gonzales*, talking
22 about aberrant behavior in that analysis.
23 But that is actually dealing with a very
24 specific exception within the Federal
25 guidelines.

State of South Carolina v Lanell Goodwine

54

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 And at 45, the Court acknowledges
2 that something that pulls out of the aberrant
3 behavior analyses is the use of a firearm or
4 deadly weapon. So for that reason, Your
5 Honor, this can't be viewed as a Federal
6 parallel with the State as, you know, -- a
7 firearm changes everything. Which is why I
8 think that it is also factually important for
9 me to once again stress that the codefendant
10 identified that there were weapons in his
11 car, that one was a BB gun. Now both
12 defendants want to say, 'I only ever touched
13 a BB gun', but there was also a deadly
14 firearm, a .22 caliber firearm in there. Mr.
15 Keever said from day one that he saw two
16 weapons.

17 Mr. Grimes brings up law enforce-
18 ment's position. In all candor to the Court,
19 Detective Boyd never approached me about a
20 five-year sentence. He never said that to
21 me. He did say nice things about the
22 defendant, that they had been good kids, that
23 they were involved.

24 But I spoke to him when I got this
25 Motion and said, 'Did you say this? Why did

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

55

1 you say this?' Well, after this incident
2 happened, in January of this year, Mr.
3 Goodwine came to Detective Boyd and said,
4 'hey, I've got information about a home
5 invasion' that had happened in October of
6 2012. What Detective Boyd was talking about
7 was, 'you know what, if Lanell wanted to
8 cooperate, I might be willing to come down
9 to five on that.'

10 Mr. Grimes approached the State
11 about that and we told him that we couldn't
12 do that, that we couldn't go below the
13 mandatory minimum no matter how much
14 substantial assistance the defendant was
15 offering. We understood that we would be
16 sacrificing his cooperation with that.

17 So just with that in mind, the
18 officer does not think that this is an unjust
19 sentence for this defendant under these
20 facts. What he was hoping for was
21 cooperation. It's cooperation that we can't
22 use for the price that he is asking.

23 But the fact that he has this
24 information also concerns the court (sic),
25 because Mr. Grimes pointed out that in the

State of South Carolina v Lanell Goodwine

56

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 Roper progeny that peer pressure is very
2 dangerous. The fact that he had information
3 about a very violent home invasion gives me
4 concern that he is still hanging out with a
5 peer group that continues to commit crimes.
6 I'm hard pressed to believe that there has
7 been a lot of change since that has occurred.

8 I think the final part of Mr.
9 Grimes' argument acknowledges his portion on
10 remorse. I do think that it is very
11 intriguing that Mr. Goodwine originally
12 wanted to plea -- perhaps it is not the most
13 appropriate court term but he was covering
14 his butt, but for his ATM picture, it was
15 him. His mama had already said that it was
16 him. He was doing his everything that he
17 could to point the blame anywhere and
18 everywhere else.

19 At first, he pointed it all at
20 Jozeph Lemon. And when Jozeph Lemon
21 implicated him in the second armed robbery,
22 the attempted armed robbery, where he was the
23 primary aggressor, that's when he comes in
24 and he says, 'okay, I will give you the full
25 story' and started pointing fingers at this

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

57

1 Marvin -- Marlin gentleman.

2 Your Honor, I cannot stress to you
3 enough how concerning these cases are. You
4 know as well as Mr. Grimes that we see a lot
5 of armed robberies. Those armed robberies
6 come from a lot of different factual
7 backgrounds. I can't count the number of
8 times that somebody has said, 'I was just in
9 the wrong place at the wrong time.'

10 In this case we have two truly
11 innocent victims who were just doing their
12 jobs. This had great impact on them.

13 I cannot imagine the fear that Mr.
14 Keever had while he was laying on the ground,
15 not knowing if they were going to pull a
16 trigger.

17 Mr. Walling, he had the luxury of
18 being one on one, but the thing that concerns
19 me in that factual basis is that Mr. Goodwine
20 felt so confident now about what he was doing
21 that he didn't need his codefendant to come
22 with him to help him out. It is true what
23 Mr. Grimes said, that Marlin had told them
24 'hey, it takes two people to rob someone.'
25 He now thinks he is good enough to do it on

State of South Carolina v Lanell Goodwine

58

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 his own.

2 That shows escalation, which is why
3 I think these cases need to be above the
4 mandatory minimum.

5 Now, I know you heard Mr. Keever say
6 that he was asking for the max. He actually
7 told me that the first time that he came to
8 my office. I candidly told him that if this
9 gentleman pleads to this, I don't think that
10 the judge is going to give him the max -- in
11 the same way that you've already said that
12 you wouldn't give consecutive sentenced. But
13 to only give ten years would be completely
14 erase and ignore the second, very violent,
15 most serious offense that he committed four
16 days later, especially when he was the man
17 aggressor in that. I don't think that that
18 can be mitigated enough to bring us as low as
19 simply ten years, Your Honor.

20 THE COURT: Thank you. Anything
21 further from the defense?

22 MR. GRIMES: Yes, Your Honor. Just
23 a few points in reply. I think that the
24 State has made several unwarranted
25 assumptions. Their assertion that Mr.

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

59

1 Goodwine was sort of the ringleader as if
2 that were the facts, it's their assertion.
3 I ask that the court make a factual finding
4 about any witnesses.

5 You know, he's definitely guilty
6 under the accessory theory, the hand of one,
7 hand of all theory in the first robbery.

8 We admit that he was the primary
9 aggressor on the second, the attempted
10 robbery.

11 But the second ---

12 THE COURT: Was he by himself on
13 one of the robberies?

14 MR. GRIMES: No, ma'am.

15 SOLICITOR: He is the only one
16 that approached the victim in the attempted
17 armed robbery. Mr. Goodwine -- I'm sorry,
18 Mr. Lemon was a distance away but also, we
19 believe, in the car.

20 THE COURT: Okay, I just wanted to
21 clarify.

22 MR. GRIMES: I think Ms. Elliott is
23 correct there. He approached by himself and
24 Mr. Lemon was in close proximity, in a car.

25 There is no evidence that there was

State of South Carolina v Lanell Goodwine

60

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 a real gun used. He stated that it was a BB
2 gun. Mr. Lemon stated that it was a BB gun.
3 Mr. Keever said that he saw two guns. He
4 doesn't know whether it -- it was dark -- was
5 a real gun or not.

6 There was a real gun found, no doubt
7 about that, but that was maybe two weeks
8 after the incident. There is no telling how
9 it got there. I haven't seen any forensic
10 evidence linking that gun to the incident.

11 The point about law enforcement
12 wanting five years. You know, I am not sure
13 -- I am not sure what Ms. Elliott -- I wasn't
14 there for their conversation. She wasn't
15 there for my conversations with Detective
16 Boyd. We did talk about cooperation but it
17 wasn't like, 'if he cooperates, then I'll say
18 five years.'

19 THE COURT: Okay.

20 MR. GRIMES: I said, 'What do you
21 think is fair?'

22 He said, 'I think five years is fair
23 if he's cooperative.'

24 I said, 'Well, the way they're going
25 now, they ask for this -- they're asking for'

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

61

1 -- you know, it like a signing a death
2 sentence. If he goes up to prison for at
3 least ten years labeled as a snitch, if he
4 doesn't get killed, he's going to get beat up
5 every day.

6 And, you know, I think -- they said
7 we asked for a certain thing and they told us
8 no. I looked back in plead negotiation, I
9 think back in the fall, I sent an e-mail and
10 I said let him plea to these charges and
11 under 17-25-65, the substantial assistance,
12 if he does come in and provide substantial
13 assistance in the prosecution of that case or
14 other cases, such as against Mr. Vandiver, he
15 gets a lower sentence and he doesn't appeal.
16 I got no response to that. It was never 'no,
17 can't do that' or 'no, can't do this.' Never
18 got a response.

19 And this whole allegation that he
20 was the sole -- we talked about it last
21 night. If he'd asserted his right to remain
22 silent, he would have had a very good
23 defense. *'Yeah, that's my friend. He gave*
24 *me his card, asked me to go do this. I*
25 *thought something was little fishy with it*

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

62

1 but, you know, ---`

2 THE COURT: I understand that.

3 MR. GRIMES: You know, possession
4 of stolen property, wire -- card fraud
5 charges, much different than armed robbery.
6 He might be in a whole different posture if
7 he hadn't given statements.

8 You know, it's a sad day all around.
9 Mr. Kever went through a lot, he still has a
10 lot to go through. His family has had a lot
11 to go through. Like I said, a sentence of
12 five years is appropriate here. I don't see
13 any reason to give him more than the ten
14 years that the State is asking.

15 This offenses were linked close in
16 time and could be considered as one, under
17 Koon and some of the Federal definitions.

18 You know, if he is this big, bad guy
19 that Ms. Elliott is trying to make him out to
20 be, hanging out with all these other people,
21 why hasn't he been rearrested? You know. If
22 he is hanging around those people, I think it
23 shows that he is not so influenced by the
24 peer pressure anymore. He's been on the
25 straight and narrow.

State of South Carolina v Lanell Goodwine

63

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 We believe, again, for all the
2 reasons we've stated in our memorandum and on
3 the record here, that a sentence of five
4 years is appropriate. Thank you, Your
5 Honor.

6 THE COURT: Thank you. Thank you
7 both for the information that you presented
8 and to everyone for being here today.

9 SOLICITOR: Judge, if I may, I
10 simply want to add -- I know that Mr. Grimes
11 has argued and handed up to you the -- but I
12 think his first statement to the police
13 officer was very relevant in kind of
14 enlistment of Mr. Lemon.

15 THE COURT: Okay. I am happy to
16 look at anything that you want me to see.

17 SOLICITOR: (Tendering copy of
18 statement). Thank you.

19 THE COURT: Give me one minute,
20 (reviewing). Okay. All right. As I
21 indicated before, I appreciate the materials
22 that you all have provided and the arguments.

23 I decline to find that the mandatory
24 minimum as set forth in 16-11-330, even with
25 the language explaining that no part of the

State of South Carolina v Lanell Goodwine

64

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1. mandatory minimum may be suspended or
2. probation granted, is violative of either the
3. Eighth Amendment or the separation of powers
4. doctrine. I quote from one of the cases in
5. the brief that recognizes the Eighth
6. Amendment "must draw its meaning from the
7. evolving standards of decency that mark the
8. progress of a maturing society."

9. The standards of decency in enacting
10. the armed robbery and attempted armed robbery
11. provisions are just what the legislature
12. considered when they put in the term of ten
13. to thirty years for armed robbery and not
14. more than twenty years for attempted armed
15. robbery.

16. As you both know, each of those
17. provisions, 16-11-330(a) and (b) addresses
18. that an armed robbery and an attempted armed
19. robbery occur while a person is armed with
20. either a deadly weapon or a representation of
21. such a weapon which a person present during
22. the commission of the robbery -- most
23. significantly a victim -- would perceive and
24. reasonably believe to be a deadly weapon. So
25. that -- you know, I just take note of that.

State of South Carolina v Lanell Goodwine

65

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 Whether it was one BB gun, a BB gun and a
2 gun, you know, the victim certainly believed
3 it to be a deadly weapon. That is of concern
4 to the court.

5 I find that the sentence here of
6 ten to thirty and not more than twenty is
7 reasonable to address the type of offenses
8 that occurred here. It is not for me to
9 substitute my findings for that of the
10 legislature in any event when there is not
11 a Constitutional issue to address. I just
12 don't have a Constitutional concern here when
13 applying the evolving standards of decency
14 and contemporary standards of decency to
15 these type of offenses with the sentence
16 range that the legislature has seen fit to
17 put in 16-11-330.

18 I also have a concern here because
19 it wasn't just one offense. We had two
20 separate occasions, two separate victims.
21 While I understand that they occurred in the
22 same general vicinity, that's a problem to
23 me. Certainly his behavior was aberrant and
24 isolated in the context of the rest of Mr.
25 Goodwine's life. It appeared that he had not

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

66

1 been in trouble before, that he had been a
2 student. When he got out on bond, he was
3 working two jobs. He's expressed remorse.

4 I take all of that into considera-
5 tion as to why I wouldn't sentence this
6 particular defendant to the maximum under the
7 statute. He doesn't have a prior criminal
8 record. That's of significance to the court.

9 But I am not comfortable with the
10 minimum either, or with the five years as
11 suggested.

12 The sentence on each charge is going
13 to be twelve (12) years, concurrent. I will
14 give credit for the two hundred and eleven
15 (211) days served. That will be the Order of
16 the Court. I think under all the
17 circumstances here, considering the
18 mitigation and the points made by the Court,
19 that that is appropriate in this situation.

20 Thank you. Good luck, sir.

21 MR. GRIMES: Your Honor, just for the
22 record, I know you said that you find no
23 Eighth Amendment violation, separation of
24 powers and all that ---

25 THE COURT: Either as enacted or

State of South Carolina v Lanell Goodwine
Case No. 11-GS-10-4183 et al
Hearing of September 6, 2013
Before The Honorable Stephanie McDonald

67

1 as applied.

2 MR. GRIMES: I think we also argued
3 under the South Carolina Constitution,
4 Article I, Section 15, just for the record,
5 ---

6 THE COURT: I do not find -- I
7 appreciate that, and protect your record.
8 I do not find it violative of the South
9 Carolina Constitution or any provision
10 therein either.

11 MR. GRIMES: And I object to twelve
12 years as being violative of ---

13 THE COURT: I understand.

14 MR. GRIMES: --- of the Eighth
15 Amendment, separation of powers and the South
16 Carolina Constitution.

17 THE COURT: Certainly. I will go
18 ahead and find that the twelve year sentence
19 is not violative of those three provisions or
20 any Constitutional provision that I've seen
21 either. That should protect your record with
22 respect to my rulings on those counts.

23 MR. GRIMES: Thank you, Your Honor.

24 THE COURT: Thank you. You both
25 did an excellent job.

State of South Carolina v Lanell Goodwine

68

Case No. 11-GS-10-4183 et al

Hearing of September 6, 2013

Before The Honorable Stephanie McDonald

1 MR. GRIMES: Sorry for the typos
2 in the memos.

3 THE COURT: Any time that I've
4 looked over stuff, I've always found things I
5 would change. I have rescinded the bench
6 warrants.

7 (HEARING CONCLUDED)
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Before The Honorable Stephanie McDonald

Charleston, South Carolina
August 26, 2014

JK 70 01105731

WITNESSES

DEREK J. BOYD
Charleston County Sheriff

AGENCY CASE NUMBER

2010017321B

ARREST WARRANT NUMBER

K674828

DATE OF ARREST

October 26, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUL 12 2011

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2011GS1004183

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

July Term 2011

THE STATE

vs.

LANELL GOODWINE
DOB:
B/M

Indictment for
Attempted Armed Robbery

FILED

8/4/2011 2:50:45 PM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

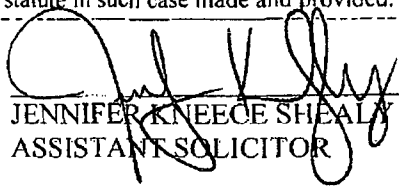
INDICTMENT

At a Court of General Sessions, convened on July 11, 2011 the Grand Jurors of Charleston County present upon their oath:

Attempted Armed Robbery

That on or about October 17, 2010, in Charleston County, South Carolina, while in the area of Freshfields Drive, Johns Island, South Carolina, the Defendant, LANELL GOODWINE, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or other object which a person present during the commission of the attempted robbery reasonably believed to be a deadly weapon, did attempt to take and carry away goods or monies from the person or immediate presence of Jamie Walling with the intent to permanently deprive him of possession thereof, in violation of Section 16-11-330(B) 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.


JENNIFER KNEECE SHEALY
ASSISTANT SOLICITOR

JKS 72 201005680

WITNESSES

DEREK J. BOYD
Charleston County Sheriff

AGENCY CASE NUMBER

2010017173B

ARREST WARRANT NUMBER

K683018

DATE OF ARREST

October 26, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUL 12 2011

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2011GS1004190

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

July Term 2011

THE STATE

vs.

LANELL GOODWINE
DOB:
B/M

Indictment for
Armed Robbery

FILED

8/4/2011 2:50:45 PM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

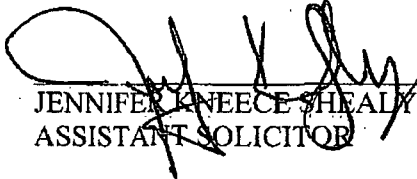
INDICTMENT

At a Court of General Sessions, convened on July 11, 2011 the Grand Jurors of Charleston County present upon their oath:

Armed Robbery

That on or about October 14, 2010, in Charleston County, South Carolina, the Defendant, LANELL GOODWINE, while in the area of 275 Gardner Circle, Johns Island, South Carolina, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or other object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Matthew Keever with the intent to permanently deprive the victim of possession thereof, in violation of Section 16-11-330(A) 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.


JENNIFER KNEECE SHEALY
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA,	)	Indictment Nos.: 2011-GS-10-0483
	)	2011-GS-10-0490
v.	)	
	)	
LANELL GOODWINE,	)	
	)	
DEFENDANT.	)	

2013 SEP -6 AM 8:32

FILED

 DE J. ARMSTRONG
 CLERK OF COURT
 MK

SENTENCING MEMORANDUM

This matter is before the Court for the sentencing of Lanell Goodwine on the charges of armed robbery and attempted armed robbery. For the following reasons, the Defendant respectfully requests that the Court impose a sentence of five years or less upon him.

I. Background

Lanell Goodwine was born in Charleston on August 29, 1991. Lanell was raised in the Johns Island area of Charleston County. Unfortunately, Lanell did not grow up in the best of circumstances. For example, Lanell's parents were not very involved in his life because they were on drugs and "they didn't care" about Lanell. See Letter of Albertha Sease (Exhibit A). Despite these handicaps, Lanell stayed out of trouble until the dates of the incidents for which he has accepted responsibility.

Lanell attended St. Johns High School. He was a student at the time of his arrest in 2010. While at Johns Island, Lanell participated in many extracurricular activities. For example, Lanell did the following:

1. He played quarterback and safety on the football team;
2. He played point guard for the basketball team; and
3. He played goalie on the soccer team.

In addition to these activities, Lanell was planning to run the 200 meters and 400 meters for the track team.

In October 2010, Lanell made two decisions that resulted in his being arrested for armed robbery and attempted armed robbery. On October 14, 2010, Lanell and Jozeph Lemon robbed Matthew Keever outside of Hege's restaurant. There are disputes about exactly how the robbery occurred. However, in the light most favorable to Lanell, it appears that he and Jozeph were broke and got the idea of robbing someone from Marlon Vandiver. It further appears that Jozeph drove them to the area, that Jozeph had a BB gun, that Lanell followed him, that Jozeph pointed the BB gun at the victim, and that Jozeph took money and an ATM card from the victim.

On October 17, 2010, Lanell and Jozeph attempted another robbery. In this case, it appears that Lanell took a BB gun and attempted to rob James Walling as he got into his truck. Walling, however, was able to kick Lanell and to escape unharmed.

During the investigation of these robberies, law enforcement developed Lanell as a suspect based upon a photograph from the ATM that was taken when he used Keever's card. Detective Boyd of the Charleston County Sheriff's Department met with Lanell's mother, and she confirmed that Lanell was the person in the ATM photograph. Subsequently, Detective D.J. Boyd and Detective Perkins interviewed Lanell. During this interview, Lanell confessed to his role in the robberies. *See Grand Jury Indictment Form (Exhibit B).*

After taking responsibility for his actions, Lanell was arrested and booked into the detention center. He subsequently bonded out and retained David Lawson as his attorney.¹ Since Lanell bonded out, he has been a model citizen. Lanell had two jobs. One job was at Charleston Executive Airport where he worked on as needed basis as a plane detailer. Lanell's second job was

¹ The undersigned was appointed to represent Lanell after Mr. Lawson was suspended from the

Knudson Construction where he helped with roofing, plumbing, and vinyl siding. In addition to working two jobs, Lanell attended Wesley United Methodist Church. Finally, Lanell has not committed for any criminal offense since he bonded out.

II. Discussion

The Defendant contends that the Court has the authority to sentence him to less than the mandatory minimum of ten years for armed robbery because the mandatory minimum violates the prohibition against cruel and unusual punishments in Article I, section 15 of the South Carolina Constitution and the Eighth Amendment of the United States Constitution.

A. Cruel and Unusual Punishment

1. Lack of Individualized Sentencing

The prohibitions against cruel and unusual punishment contained in the South Carolina and Federal Constitutions require courts to make individualized sentencing decisions. The Supreme Court has recognized the importance of individualized sentencing in numerous cases. For example, Justice Sotomayor discussed the longstanding tradition of individualized sentencing in *Peppers v. United States*:

“It has been uniform and constant in the federal judicial tradition for the sentencing judge to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue.” *Koon v. United States*, 518 U. S. 81, 113 (1996). Underlying this tradition is the principle that “the punishment should fit the offender and not merely the crime.” *Williams*, 337 U. S., at 247; *see also Pennsylvania ex rel. Sullivan v. Ashe*, 302 U. S. 51, 55 (1937) (“For the determination of sentences, justice generally requires consideration of more than the particular acts by which the crime was committed and that there be taken into account the circumstances of the offense together with the character and propensities of the offender”).

Consistent with this principle, we have observed that “both before and since the American colonies became a nation, courts in this country and in England practiced a

practice of law.

policy under which a sentencing judge could exercise a wide discretion in the sources and types of evidence used to assist him in determining the kind and extent of punishment to be imposed within limits fixed by law.” *Williams*, 337 U. S., at 246. In particular, we have emphasized that “[h]ighly relevant—if not essential—to [the] selection of an appropriate sentence is the possession of the fullest information possible concerning the defendant’s life and characteristics.” *Id.*, at 247. Permitting sentencing courts to consider the widest possible breadth of information about a defendant “ensures that the punishment will suit not merely the offense but the individual defendant.” *Wasman v. United States*, 468 U. S. 559, 564 (1984).

Peppers, 131 S. Ct. 1229 at 1239-40 (2011).

In this case, the application of the ten year mandatory minimum prohibits the Court from conducting an individualized sentencing because it ensures that the punishment will suit only the offense rather than Lanell. Thus, the mandatory minimum should be considered cruel and unusual punishment.

The Defendant notes that our Supreme Court has rejected a similar argument. In *Stockton v. Leeke*, 269 S.C. 459, 237 S.E.2d 896 (1977), the Supreme Court upheld the imposition of a ten year mandatory minimum sentence upon a 17 year old juvenile for his conviction of safecracking with tools. The Defendant, however, contends that the reasoning in *Stockton* has been undermined by our Nation’s evolving standards of decency.

Recognizing that the Eighth Amendment “must draw its meaning from the evolving standards of decency that mark the progress of a maturing society,”² the Supreme Court has reconsidered its prior decisions and has overruled them when appropriate. For example, in *Atkins v. Virginia*³ the Supreme Court overruled its prior decisions allowing the execution of the mentally retarded.⁴ In *Roper v. Simmons*,⁵ the Supreme Court overruled its previous decisions that allowed

² *Trop v. Dulles*, 356 U.S. 86, 101 (1958).

³ 536 U.S. 314 (2002).

⁴ *Penry v. Lynaugh*, 492 U.S. 302 (1989).

⁵ 543 U.S. 551 (2005).

the execution of a juvenile under the age of 18.⁶

Following *Roper*, the Supreme Court has addressed further the role of youth in sentencing. In *Graham v. Florida*,⁷ the Supreme Court held that the Eighth Amendment prohibited the imposition of a sentence of life without parole for a juvenile defendant who was convicted of a non-homicide offense. In *Miller v. Alabama*,⁸ the Court concluded that the Eighth Amendment required an individualized assessment of whether a juvenile defendant who was convicted of homicide should be given a sentence of life without parole.

Although *Roper*, *Graham*, and *Miller* involve juvenile defendants, the reasoning in those decisions apply to Lanell because he was 19 at the time of the offenses. Long before *Roper*, the Supreme Court had recognized the differences between adults and adolescents:

The trial judge recognized that youth must be considered a relevant mitigating factor. But youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage. Our history is replete with laws and judicial recognition that minors, especially in their earlier years, generally are less mature and responsible than adults. Particularly during the formative years of childhood and adolescence, minors often lack the experience, perspective, and judgment expected of adults.

Eddings v. Oklahoma, 455 U.S. 104, 115-116 (1982) (footnotes and internal quotation marks omitted). In making this observation, the Court quoted from the Twentieth Century Fund Task Force on Sentencing Policy Toward Young Offenders, *Confronting Youth Crime* 7 (1978), which states the following:

Adolescents, particularly in the early and middle teen years, are more vulnerable, more impulsive, and less self-disciplined than adults. Crimes committed by youths may be just as harmful to victims as those committed by older persons, but they deserve less punishment because adolescents may have less capacity to control their conduct and to think in long-range terms than adults. Moreover, youth crime as such is not exclusively the offender's fault; offenses by the young also represent a failure of family, school, and the social system, which share responsibility for the

⁶ *Stanford v. Kentucky*, 492 U.S. 361 (1989).

⁷ 560 U.S. 48 (2010).

⁸ 132 S. Ct. 2455 (2012).

development of America's youth.

Id. at footnote 11.

Apart from the chronological fact that Lanell was 19 rather than a juvenile, there is no meaningful distinction between the *Roper* line of cases and Lanell's case. The record shows that Lanell had not developed his full sense of maturity, that he was subject to negative peer pressure, and his character was not as well formed as the character of an adult. Thus, the Court should conclude that the ten year mandatory minimum violates the South Carolina and Federal Constitutions because the mandatory minimum prohibits the Court from imposing a sentence of less than ten years if the Court were to conclude that the individual facts of this case warranted such a sentence.

2. The Penalty is Disproportionate When Compared to Other Offenses

A sentence of ten years or more in this case is unconstitutional because it is not in proportion to the offenses at issue. "South Carolina has long recognized the concept requiring the sentence to be in proportion to the crime." *Stockton v. Leeke*, 269 S.C. 459, 462, 237 S.E.2d 896, 897 (1977). Our Supreme Court "has reaffirmed the concept that a sentence, though not cruel and unusual in kind, may be so severe in duration as to be cruel and unusual." *Id.* See also *Miller v. Alabama*, 132 S. Ct. 2455, 2463 (2012) (stating that the "concept of proportionately is central to the Eighth Amendment").

A review of the South Carolina Code of Laws shows that the mandatory minimum for armed robbery is disproportionate to other serious, violent felonies. For example, the following offenses do not have any mandatory minimum sentences:

1. Attempted murder,
2. Assault and battery of a high and aggravated nature,

3. Criminal sexual conduct in the first degree,
4. Criminal sexual conduct in the second degree,
5. Assault with the intent to commit criminal sexual conduct in the first degree,
6. Assault with the intent to commit criminal sexual conduct in the second degree,
7. Kidnapping,
8. Attempted armed robbery, and
9. Carjacking.

In this case, it appears that either Lanell or his co-defendant used a BB gun to rob the victim. Undoubtedly, such conduct would terrify the victim because he does not know if the BB gun was a real gun or not. Nevertheless, it seems patently absurd to require someone who uses a representation of a deadly weapon, such as their finger under a shirt, to serve ten years while it is possible for someone who commits an aggravated sexual assault or who tries to murder another to have the possibility of receiving a probationary sentence. Thus, the ten year mandatory minimum for armed robbery amounts to cruel and unusual punishment.

B. Factors in Mitigation

1. Aberrant Conduct

Under the federal sentencing guidelines, the federal courts have recognized “that a single act of aberrant behavior might justify a downward departure.” *United States v. Gonzalez*, 281 F.3d 38, 43 (2d Cir. 2002). In developing the framework for determining when a criminal act qualifies for a departure as aberrant behavior, the Second Circuit endorsed a totality of the circumstances test:

The panel aligned itself with those circuits adopting the totality of circumstances approach, defining aberrant behavior as a short-lived departure from a life that is otherwise law abiding and listing the following factors to be considered:

(1) the singular nature of the criminal act; (2) the defendant's criminal record; (3) the degree of spontaneity and planning inherent in the conduct; (4) extreme pressures acting on the defendant, including any psychological disorders from which he may have been suffering, at the time of the offense; (5) the defendant's motivations for committing the crime, including any pecuniary gain he derived therefrom; and (6) his efforts to mitigate the effects of the crime.

Id. (quoting *Zecevic v. United States Parole Commission*, 163 F.3d 731, 736 (2d Cir. 1998)). In addition, the sentencing guidelines allow the federal courts to now consider the defendant's employment record and prior good works. *Id.* at 46-47.

The record shows that Mr. Goodwine's conduct constitutes aberrant behavior. The record shows that Mr. Goodwine had been arrested for shoplifting in 2009, but that charge was dismissed. (Exhibit C). In the undersigned's investigation, which included a conversation with the case agent Det. Boyd, Mr. Goodwine's conduct was influenced by his sister's boyfriend, Marlon. *See* Incident Report at 7 (Exhibit D). Finally, according to Det. Boyd, Mr. Goodwine and his co-defendant were pretty good kids who made some terrible choices after meeting the wrong people.

The State, however, may argue that Mr. Goodwine's conduct does not constitute aberrant behavior because the incidents occurred three days apart. These offenses may constitute separate

offenses under section 17-25-50. See *Bryant v. South Carolina*, 384 S.C. 525, 683 S.E.2d 280 (2009). However, the Fourth Circuit may consider them as one offense for sentencing purposes. In *United States v. Breckenridge*, the Fourth Circuit listed the following factors for determining when crimes are part of a common scheme or plan:

In deciding whether offenses are part of a common scheme or plan, courts have looked to whether the crimes were committed within a short period of time, in close geographic proximity, involved the same substantive offense, were directed at a common victim, were solved during the course of a single criminal investigation, shared a similar *modus operandi*, were animated by the same motive, and were tried and sentenced separately only because of an accident of geography.

93 F.3d 132, 138 (4th Cir. 1996). See also *United States v. Byrd*, No. 00-4265, 2003 U.S. App. Lexis 82 (4th Cir. 2003) (applying *Breckenridge* in a drug case) (attached as Exhibit E).

In summary, the Court should find that Lanell's actions were a single act of aberrant behavior because the offenses were committed within three days of each other, involved the same substantive offense, were committed in Charleston County, were solved by the same detective in a single investigation, and he had a similar motive to commit both crimes.

B. Lanell's Age at the Time of the Offense

The Court should also consider Lanell's age at the time of these offenses when it sentences him. As discussed above, courts have recognized that one's youth is a mitigating factor. If the Court was to hold that the mandatory minimum for armed robbery does not constitute cruel and unusual punishment, the Defendant respectfully requests that the Court consider his age in imposing the sentence.

In *Roper v. Simmons*, the Supreme Court noted three reasons why juvenile offenders cannot be classified as "among the worst offenders." 543 U.S. 551 (2005). The first reason is that "as any parent knows and as the scientific and sociological studies respondent and his *amici* cite tend to confirm, a lack of maturity and an underdeveloped sense of responsibility are found in youth more

often than in adults and are more understandable among the young. These qualities often result in impetuous and ill-considered actions and decisions.” *Id.* at 569 (internal quotation marks and alteration omitted). The *Roper* Court went on to state that “[t]he second area of difference is that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure.” *Id.* Finally, the Court noted that “[t]he third broad difference is that the character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed.” *Id.* at 570. Accordingly, the Court concluded that “[t]he susceptibility of juveniles to immature and irresponsible behavior means their irresponsible conduct is not as morally reprehensible as that of an adult” and “that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character.” *Id.* (internal quotation marks omitted). Thus, “[f]rom a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor’s character deficiencies will be reformed.” *Id.*

In this case, a review of Lanell’s statements to the police and the undersigned’s conversation with Detective Boyd shows that he was influenced by peer pressure from Marlon and by his desire to help support his family. It is undeniable that Lanell’s actions caused the victims great fear and were borderline heinous. Nevertheless, Lanell is not “among the worst offenders” as shown by his following the conditions of his bond since he got out of jail.

C. Law Enforcement’s Position

Law enforcement does not support the imposition of a ten year sentence upon Lanell. In preparing for this sentencing, the undersigned has spoken with the case officer (Detective Boyd) on at least two separate occasions. In both instances, Detective Boyd noted the following:

1. Lanell and his co-defendant were students at the time of the crimes,
2. they were pretty good kids,
3. Lanell was subject to pressure from Marlon,
4. they were cooperative with law enforcement, and
5. a sentence of five years would be fair for Lanell and his co-defendant.

The undersigned has informed the assistant solicitor, her team leader (who originally had the case), and the chief deputy solicitor of law enforcement's position, but apparently the solicitor's office has decided to disregard law enforcement's opinion in this matter.

D. Post-Offense Rehabilitation

Lanell's conduct after he bonded out of jail shows that the time he spent in jail and learning of the consequences of his actions have matured and rehabilitated him.

Courts have recognized that post-offense rehabilitation is a factor to consider in mitigation. *See, e.g., Peppers*, 131 S. Ct. at 1242. In *Peppers*, the Supreme Court observed that one's post-offense rehabilitation is crucial to the court's fashioning a just and individualized sentence:

In addition, evidence of postsentencing rehabilitation may be highly relevant to several of the § 3553(a) factors that Congress has expressly instructed district courts to consider at sentencing. For example, evidence of postsentencing rehabilitation may plainly be relevant to the history and characteristics of the defendant. Such evidence may also be pertinent to the need for the sentence imposed to serve the general purposes of sentencing set forth in § 3553(a)(2) --in particular, to afford adequate deterrence to criminal conduct, protect the public from further crimes of the defendant, and provide the defendant with needed educational or vocational training . . . or other correctional treatment in the most effective manner. Postsentencing rehabilitation may also critically inform a sentencing judge's overarching duty under § 3553(a) to impose a sentence sufficient, but not greater than necessary to comply with the sentencing purposes set forth in § 3553(a)(2).

As the original sentencing judge recognized, the extensive evidence of Pepper's rehabilitation since his initial sentencing is clearly relevant to the selection of an appropriate sentence in this case. Most fundamentally, evidence of Pepper's conduct since his release from custody in June 2005 provides the most up-to-date picture of Pepper's history and characteristics. *See United States v. Bryson*, 229 F.3d 425, 426

(2nd Cir. 2000)("[A] court's duty is always to sentence the defendant as he stands before the court on the day of sentencing."). At the time of his initial sentencing in 2004, Pepper was a 25-year-old drug addict who was unemployed, estranged from his family, and had recently sold drugs as part of a methamphetamine conspiracy. By the time of his second resentencing in 2009, Pepper had been drug-free for nearly five years, had attended college and achieved high grades, was a top employee at his job slated for a promotion, had re-established a relationship with his father, and was married and supporting his wife's daughter. There is no question that this evidence of Pepper's conduct since his initial sentencing constitutes a critical part of the history and characteristics of a defendant that Congress intended sentencing courts to consider.

Pepper's postsentencing conduct also sheds light on the likelihood that he will engage in future criminal conduct, a central factor that district courts must assess when imposing sentence. As recognized by Pepper's probation officer, Pepper's steady employment, as well as his successful completion of a 500-hour drug treatment program and his drug-free condition, also suggest a diminished need for educational or vocational training or other correctional treatment. Finally, Pepper's exemplary postsentencing conduct may be taken as the most accurate indicator of his present purposes and tendencies and significantly to suggest the period of restraint and the kind of discipline that ought to be imposed upon him. Accordingly, evidence of Pepper's postsentencing rehabilitation bears directly on the District Court's overarching duty to impose a sentence sufficient, but not greater than necessary to serve the purposes of sentencing.

Peppers, 131 S. Ct. 1242-43.

Since Lanell bonded out of jail, he has worked for Clark Hanger for two years as an aircraft detailer. See Letter from Mr. Hanger (Exhibit F). Mr. Hanger is very supportive of Lanell and states that he believed that Lanell had put his problematic behavior behind him. In addition to working with Mr. Hanger, Lanell worked with Knudson Construction. Finally, Lanell has not committed any criminal offense since he bonded out of jail on April 30, 2011. If Lanell was truly unrepentant or still impulsive and immature, he would have been rearrested for a new criminal charge rather than working two jobs and staying out of trouble.

E. Remorse

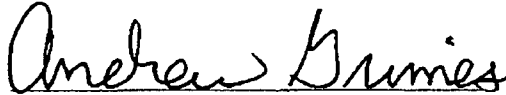
Finally, the record shows that Lanell has taken responsibility for his actions and expressed a great deal of remorse since his first interview with Detective Boyd. See Statement of Lanell

Goodwine (Exhibit G).

III. Conclusion

In conclusion, the Court should impose a sentence of not more than five years upon Lanell because such a sentence strikes a fair balance between the nature and circumstances of his offenses and his history and characteristics.

Respectfully submitted,



Andrew D. Grimes
101 Meeting Street
Fifth Floor
Charleston, SC 29401
(843) 958-1850
ATTORNEY FOR LANELL GOODWINE

Charleston, South Carolina

September 5, 2013

FILED

2013 SEP -6 AM 8:32

JULIE J. ARMSTRONG
CLERK OF COURT
BY MA

Exhibit A

Aug. 4, 2013

Dear Judge,

My name is Albertha Doris Sease. I am LaNell Goodwine's grandmother. LaNell has done some things that were wrong. I am not excusing him for doing those things because there is always another way.

LaNell's mother is my daughter and I'm ashamed to say so because she and LaNell's father did him and his siblings terribly wrong. LaNell was raised by his father's mother and father with help from me and my family. LaNell did not have decent clothing, nothing that other children had. His mother and father were on drugs and didn't see them for maybe only twice a year. They didn't have the time and they didn't care. When LaNell, his brother and sister were old enough, his brother used his income tax money to get an apartment for them including their mother. She did not work and got no help from their father. LaNell and his brother would work 2 jobs at a time at fast food restaurants to pay \$800⁰⁰ per month.

for rent, also utilities and food. My mother was placed in an nursing home in 2009. I let them live inside of her home. His mother still wasn't working. LaVell was playing basketball in High School which he was very good. His mother then got arrested for child support. He stopped going to school, things started going down for them. His brother enlisted in the army so he can have something. LaVell seemed as though that he had lost everything. Your Honor, if possible in your heart, please give him another chance. Thank You.

Sincerely,

Alberto Seane

Exhibit B



Charleston County Sheriffs Office

Criminal Investigation Division

GRAND JURY INDICTMENT FORM

OCA#

10-017173

Incident Date

10/14/2010

Detective

Det. D. Boyd

Incident Location

275 Gardner Circle, Johns Island, SC 29455

Date Of Birth

Statement

Confession

LEMON, JOZEPH GOSH

☒☒☐ CCSO Serious Habitual Offender

Reason:

CHARGE 1 N/A

CHARGE 2 N/A

CHARGE 3 N/A

CHARGE 4 N/A

Victim Information

KEEVER

MATTHEW
ELLIOT

Phone 1

Phone 2

Date Of Birth

Statement

☐

Synopsis

On October 14, 2010, members of the Charleston County Sheriff's Office responded to Hege's restaurant located at 275 Gardner's Circle, Johns Island in reference to an armed robbery. The victim, Matthew Kever, reported that he had just finished his shift at Hege's and walked out to the parking lot when he was approached by two black males who had their faces covered with black bandanas. Kever reported that one of the suspects put a gun to the back of his head and the other put a gun in his back before forcing him behind some bushes. Kever stated that they forced him on the ground and took his cell phone, keys, wallet containing a Wachovia debit card and a check for \$119. Kever stated that the suspects demanded his PIN (Personal Identification Number) and he gave it to them. Kever stated that the suspects told him that they had his driver license and he better not call the police. Kever contacted Wachovia and they reported that someone had made a \$300 withdrawal from the Wachovia ATM about 150 feet away from the incident location.

On October 18, 2010, Kever reported he received information on transactions from Wachovia. Wachovia reported a \$300 withdrawal at 9:30 p.m. the Wachovia ATM at Fresh Fields, a \$34.86 purchase and a \$47.24 purchase at 9:52 p.m. and

9:30 p.m. at the Hess at 2750 Maybank Highway and a \$102 withdrawal at the Bank of America ATM at 10:02 p.m. on Johns Island.

On October 19, 2010, I, Detective D. J. Boyd, received ATM images of a black male subject from Wachovia for the \$300 transaction at 9:30 p.m. on the night of the robbery.

On October 20, 2010, I found that several subjects had been filed-interviewed in the area of Fresh Fields and started checking reports and booking photographs of these subjects. I found a subject, Lanell Goodwine, listed in a report from River Rd. (2010-016243B) in reference to a disturbance with shots fired. I located a booking photograph for Goodwine and identified him as the suspect in the ATM image.

On October 26, 2010, Detective Boyd spoke with Goodwine's mother, Daphne Goodwine, and she positively identified the person in the ATM image as her son, Lanell. Detective Boyd and Detective Perkins interviewed Lanell Goodwine and after being advised of his Miranda warnings and waiver of same he gave a signed written statement confessing to the robbery, that he was person in the ATM image, and admitting to the above listed withdrawals and purchases. Lanell reported that Jozeph Lemon drove a white Ford Crown Victoria to the parking lot in Fresh Fields near Hege's restaurant. Lanell stated that Lemon exited the car and put a BB gun into the victim's back and walked him to some bushes. Lanell stated Lemon had the victim lay on the ground and called Lanell over. Lanell stated that Lemon obtained the PIN for the victim's debit card and had Lanell go to the bank to get money out. Lanell stated that he then met Lanell on the next street over and they left the area.

On October 27, 2010, I obtained warrants for Lanell Goodwine and Jozeph Lemon for armed robbery. Detective Perkins, Detective Colson and I headed to St. Johns High School to pick up Lemon. I observed a white Ford Crown Victoria in the parking lot with a black male student sitting on the trunk. When we approached the subject or the trunk Lemon walked out of the school towards the car. We placed Lemon under arrest and verified the car was driven by him. Lemon's parents arrived at the school and I explained to his father Timothy Lemon that he was under arrest and we were towing the car. Jozeph was transported to the Detectives Office and I had the vehicle towed to the evidence compound. Jozeph was advised of his Miranda warnings prior to departing the school by Detective Perkins. During the drive to the office Jozeph admitted that there was a BB gun and a small caliber revolver in the trunk of the car on the right side behind the carpeting. Detective Perkins and I interviewed Jozeph at the Detectives Office and he reported the following information: He and Lanell went to Fresh Fields and when they saw a white male, Lanell jumped out of the car with the BB gun and told the man to put his hands up. Jozeph stated that Lanell had him hold the gun on the guy as he went to the bank to get the money. Jozeph stated that Lane told him to meet him down the road and that they then went to the Hess. Jozeph admitted that he had driven his brother's white Ford Crown Victoria.

On October 29, 2010, I obtained a search warrant on the white Ford Crown Victoria.

On November 2, 2010, Investigator Herriott executed the search warrant and took

a receipt, a H&K style BB gun, and a H&K .32 caliber revolver into evidence.

93

Exhibit C

274. TO: CHSSO274-35711 20101020 18:58:05 0035D48E92
FROM: III-13930130 20101020 18:58:05 1F9100354F
7L011F9100354F2QH
SC0100000

THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR
INQUIRY ON NAM/GOODWINE,LANELL SEX/M RAC/B DOB/ PUR/C

NAME FBI NO. INQUIRY DATE
GOODWINE,LANELL 23505FD4 2010/10/20

SEX RACE BIRTH DATE HEIGHT WEIGHT EYES HAIR PHOTO
M B 9 601 190 BRO BLK N

BIRTH PLACE

SOUTH CAROLINA

FINGERPRINT CLASS

PATTERN CLASS

AU AU AU RS RS LS AU AU AU LS
AU AU

ALIAS NAMES

GOODWINE,LYNELL

SOCIAL SECURITY

IDENTIFICATION DATA UPDATED 2009/10/07

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE
FOLLOWING:

SOUTH CAROLINA - STATE ID/SC01907895

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION
INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

274. TO: CHSSO274-35715 20101020 19:01:59 003F9715D0

FROM: SCCCH-9901520 20101020 19:01:57 1F91003552

ICHR REQUEST FOR RAP SHEET

ORI-SC0100000 FBI- 23505FD4 PUR-C

ATN-BOYD, DEREK

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-10/20/2010 TIME-19:04:06

REQ ORI-SC0100000 CHARLESTON CNTY SO

SID-SC01907895 FBI- 23505FD4

NAME-GOODWINE, LANELL

SEX-M RACE-B

HEIGHT-601 WEIGHT-190 EYES-BRO HAIR-BLK SKIN- BORN-SC

FPC-

HENRY-

PALM PRINTS AVAILABLE

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAPIS

DATE RECORD ENTERED--10/06/2009 DATE OF LAST UPDATE--04/22/2010

ADDITIONAL IDENTIFIERS

BIRTH

NAME

DATES MARKS

SOC SEC

MISC NUM

GOODWINE, LYNELL

CONTRIBUTOR/SUBJECT

DOA/RCVD CHARGE/DISPOSITION/ETC

GOODWINE, LANELL

10/05/2009

SC0100100 CHARLESTON POLICE DE

CASE-2009018391

ATN-10D100585182

WARR-K395384

CIT-16-13-110(B)(1)-MISDEMEANOR

ARREST CHARGE 01-SHOPLIFTING

OFFENSE DATE-10/05/2009

PALM PRINTS AVAILABLE

~~CIT-16-13-110(B)(1)-MISDEMEANOR~~-----

DOC-R84 WARR-K395384

COURT CHARGE 01-SHOPLIFTING

COURT DISP-NON-CONVICTION;

dismissed

ATN-10D100585182

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/ 23505FD4

REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

** S C CJIS END OF RECORD **

274. TO: CHSSO274-35716 20101020 19:02:00 00062942B7
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SC0100000
NO NCIC WANT FBI/23505FD4
NO NCIC WANT SOC/248875918
***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.

98 In /usr/ud/sys/CTLG/t/TC47 at line 403 Non-numeric found when numeric required.
In /usr/ud/sys/CTLG/t/TC47 at line 407 Non-numeric found when numeric required.
CIC MESSAGE NUMBER 5823968 10/28/10

274. TO: CHSSO274-35727 20101028 10:46:30 003F97B453
FROM: SCCH-9942099 20101028 10:46:29 1F91003558
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BOYD, DEREK
ORI-SC0100000 PUR-C
NAM-LEMON, JOZEPH
SEX-M RAC-B DOB-

NO RECORD FOUND TO DISSEMINATE USING:

NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.
REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

Exhibit D

INCIDENT REPORT

SC0100000		DISPATCH NUMBER 2010-017173-B		ORIGINAL CASE NUMBER		PAGE 1 OF 3 PAGES		HOMIC ENTRY		MO. EPI.	
INCIDENT TYPE				INCIDENT CODE		COMPLETED ☒ YES ☐ NO		FORCED ENTRY ☐ YES ☒ NO		PREMISE TYPE Parkinglot	
1. Armed Robbery											
2. N/a											
3. N/a											
INCIDENT LOCATION: 275 Gardner Cir, Johns Island SC				ZIP CODE 29455		WEAPON TYPE Handgun					
BEGINNING INCIDENT DATE 10/14/10		24 HR. CLOCK 2141		ENDING INCIDENT DATE 10/14/10		24 HR. CLOCK 2150		DISP. DATE 10/14/10		DISP. TIME 2141	
								TIME ARRIVED 2150		DEPART TIME 2240	
NAME: (LAST, FIRST, MIDDLE) Same as Victim #1				RELATIONSHIP TO SUBJECT		RESIDENTIAL		SEX		AGE	
HEIGHT 508				WEIGHT 175		HAIR BRO		EYES BLU		DOB	
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. Red Shirt Blk Pants				DRIVERS LIC / ID & STATE		SOCIAL SECURITY #					
ADDRESS #				STREET NAME		CITY		STATE		ZIP CODE	
OCCUPATION				EMPLOYER		ALIAS		NIC #			
NAME: (LAST, FIRST, MIDDLE) Keevor, Matthew Elliot				RELATIONSHIP TO SUBJECT		RESIDENTIAL		SEX		AGE	
HEIGHT 508				WEIGHT 175		HAIR BRO		EYES BLU		DOB	
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. Red Shirt Blk Pants				DRIVERS LIC / ID & STATE		SOCIAL SECURITY #					
ADDRESS #				STREET NAME		CITY		STATE		ZIP CODE	
OCCUPATION				EMPLOYER		ALIAS		NIC #			
☐ VISIBLE INJURY				☒ NO ☐ YES		COMPLAINANT NON-VISIBLE INJURY ☒ NO ☐ YES		USING ALCOHOL ☐ NO ☒ YES		TYPE ☒ UNK	
EXPLAIN						DRUGS ☐ NO ☒ YES		TYPE ☒ UNK		THREATENED VIOLENCE ☐ NO ☒ YES	
										DETECTIVE SPLASH ☐ NO ☒ YES	
										ONE-HAND VIOLENCE ☐ NO ☒ YES	
										OTHER ☐ NO ☒ YES	
										ASSAULT ☐ NO ☒ YES	
COMPLAINANT Unk				RELATIONSHIP TO SUBJECT		RESIDENTIAL		SEX		AGE	
HEIGHT 600				WEIGHT 190		HAIR BLK		EYES XXX		DOB	
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. Blk Bandana Over Face				DRIVERS LIC / ID & STATE		SOCIAL SECURITY #					
ADDRESS #				STREET NAME		CITY		STATE		ZIP CODE	
OCCUPATION				EMPLOYER		ALIAS		NIC #			
☐ VISIBLE INJURY				☒ NO ☐ YES		COMPLAINANT NON-VISIBLE INJURY ☒ NO ☐ YES		USING ALCOHOL ☐ NO ☒ YES		TYPE ☒ UNK	
EXPLAIN						DRUGS ☐ NO ☒ YES		TYPE ☒ UNK		THREATENED VIOLENCE ☐ NO ☒ YES	
										DETECTIVE SPLASH ☐ NO ☒ YES	
										ONE-HAND VIOLENCE ☐ NO ☒ YES	
										OTHER ☐ NO ☒ YES	
										ASSAULT ☐ NO ☒ YES	
SUBJECT IDENTIFIED ☐ YES ☒ NO				SUBJECT LOCATED ☐ YES ☒ NO		☒ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18	
						☐ UNFOUNDED		☐ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE NOT CUSTODIAN											
REPORTING OFFICER(S) Deputy Khan				DATE 10/14/10		BADGE NUMBER 9595		APPROVING OFFICER Sgt. Duffin		DATE 10/14/10	
										BADGE NUMBER 6858 D	
										FOLLOW-UP INVESTIGATION ☐ YES ☒ NO	

<Johns Island (Fresh fields)> Deputy Khan (R/d) responded to a armed robbery to a person at the above location and time. Upon arrival R/d spoke to the compl/victim (Matthew) who stated that "as he was finishing his shift at Hagge's, he walked outside to his vehicle and he was approached by 2 unknown Black males, approximately 600 feet in height and weighing approximately 190 pounds each who had their faces covered with black bandanas. These unknown suspects held him at gun point where one of the suspects put a black semi-auto handgun to the back of his head, and the other unknown suspect also armed with a black semi-auto handgun, put his handgun into the victim's back. The victim further stated that both suspect's took him into some bushes in the parking lot and took his cell phone, keys and wallet and \$119 check, and also got his PIN for his debit card. (cont page 2)

TYPE (GROUP)	Currency	Check	Cell Phone	TOTAL VALUE	RECOVERY OF PROPERTY
STOLEN	300	119	200	619	CCSO
DAMAGED					
BURNED					
RECOVERED					N/a
SEIZED					

PERSON SUPPLEMENT

SC0100000		DISPATCH NUMBER 2010-017173-B		ORIGINAL CASE NUMBER		PAGE 2 OF 3 PAGES		NCIC ENTRY		BIO. LIT.	
☒ ORIGINAL REPORT ☐ MODIFIES REPORT		☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE		☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL WITNESSES ☐ ADDITIONAL SUBJECTS		☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY			
☐ COMPLAINTANT ☐ VICTIM # ☒ SUSPECT # 2 ☐ SUBJECT # ☐ WITNESS # ☐ WANTED ☐ WARRANT ☐ ARREST ☐ RUNAWAY ☐ MISSING PERSON		NAME: (LAST, FIRST, MIDDLE) Unk		RELATIONSHIP TO SUBJECT 1. Accused 2. Self 3. Other		RESIDENTIAL RACE J W M		SEX M		AGE 20	
HEIGHT 600		WEIGHT 180		HAIR BLK		EYES BLK		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. Blk Bandana Over Fac		DRIVERS LIC / ID & STATE Unk	
ADDRESS # Unk		STREET NAME Unk		CITY Unk		STATE Unk		ZIP CODE Unk		DAY PHONE Unk	
EXPLAIN OCCUPATION Unk		EMPLOYER Unk		ALIAS Unk		NIC # N/a		EVENING PHONE Unk		H	
(A) CHARGE n/a		(B) CHARGE n/a		(C) CHARGE n/a		(D) CHARGE n/a		(E) CHARGE n/a		(F) CHARGE n/a	
☐ COMPLAINTANT ☐ VICTIM # ☐ SUSPECT # ☐ SUBJECT # ☐ WITNESS # ☐ WANTED ☐ WARRANT ☐ ARREST ☐ RUNAWAY ☐ MISSING PERSON		NAME: (LAST, FIRST, MIDDLE) N/a		RELATIONSHIP TO SUBJECT 1. 2. 3.		RESIDENTIAL RACE J		SEX M		AGE 20	
HEIGHT 600		WEIGHT 180		HAIR BLK		EYES BLK		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		DRIVERS LIC / ID & STATE	
ADDRESS # Unk		STREET NAME Unk		CITY Unk		STATE Unk		ZIP CODE Unk		DAY PHONE Unk	
EXPLAIN OCCUPATION Unk		EMPLOYER Unk		ALIAS Unk		NIC # N/a		EVENING PHONE Unk		H	
(A) CHARGE n/a		(B) CHARGE n/a		(C) CHARGE n/a		(D) CHARGE n/a		(E) CHARGE n/a		(F) CHARGE n/a	
☐ COMPLAINTANT ☐ VICTIM # ☐ SUSPECT # ☐ SUBJECT # ☐ WITNESS # ☐ WANTED ☐ WARRANT ☐ ARREST ☐ RUNAWAY ☐ MISSING PERSON		NAME: (LAST, FIRST, MIDDLE) N/a		RELATIONSHIP TO SUBJECT 1. 2. 3.		RESIDENTIAL RACE J		SEX M		AGE 20	
HEIGHT 600		WEIGHT 180		HAIR BLK		EYES BLK		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		DRIVERS LIC / ID & STATE	
ADDRESS # Unk		STREET NAME Unk		CITY Unk		STATE Unk		ZIP CODE Unk		DAY PHONE Unk	
EXPLAIN OCCUPATION Unk		EMPLOYER Unk		ALIAS Unk		NIC # N/a		EVENING PHONE Unk		H	
(A) CHARGE n/a		(B) CHARGE n/a		(C) CHARGE n/a		(D) CHARGE n/a		(E) CHARGE n/a		(F) CHARGE n/a	
Then the suspect's made the victim lie down on the ground and told him that "they had his driver's license and he better not call the Police". The victim (Matthew) stated that at this point the suspect left the area in a dark SUV of some type, but he is not sure if the vehicle was a SUV or a car. While R/d was on scene the victim contacted his bank and had his credit card and debit card cancelled. The victim was advised by his bank Wachovia that there was a \$300 withdrawal made from his account from the Wachovia ATM located in Fresh fields approximately 150 feet away. R/d went to the ATM at Fresh fields in order to obtain some latents. R/d processed the ATM keypad for latent prints, those latent prints to be entered into evidence for processing. The victim was advised by Wachovia that the reference number for his inquiry is 17206559, and that the Sheriff's Office will have (cont page 3)											
SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☐ YES ☒ NO		☒ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER		☐ JUVENILE NO CUSTODY	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE NO CUSTODY				REPORTING OFFICER(S) Deputy Khan		DATE 10/14/2010		BADGE NUMBER 8599		APPROVING OFFICER Sgt. Dulin	
										DATE 10/14/2010	
										BADGE NUMBER 8458	

CCSO-103 3/1/99

0002/000

20252302 FAX 10/14/2010

CCSO-162 3/1/95

INCIDENT SUPPLEMENT

J. PAT WINTHROP, JR.

Sheriff

103

SC0100000	DICTIONARY NUMBER	ORIGINAL CASE NUMBER	2010-017173	PAGE 1 OF 1 PAGES	NCIC ENTRY	NO	YES
☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL WITNESSES	☐ ADDITIONAL STOLEN PROPERTY	☐ MODIFIES CASE STATUS	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY
☐ ORIGINAL	☐ CHANGE	☐ ADDITIONAL	☐ ADDITIONAL	☐ ADDITIONAL	☐ ADDITIONAL	☐ ADDITIONAL	☐ ADDITIONAL

INCIDENT TYPE: ARMED ROBBERY

INCIDENT LOCATION: FRESHFIELDS, JOHNS ISLAND SC

VICTIM: KEEVER, MATTHEW
 LANE
 CHARLESTON SC 29412

SUSPECT(S): UNKNOWN

(FRESHFIELDS VILLAGE) ON 10/15/10 VICT. KEEVER CONTACTED THE OD TO ADVISE OF SOME ADDITIONAL INFORMATION REGARDING AN ARMED ROBBERY THAT HE WAS A VICTIM TO ON 10/14/10. VICT. KEEVER TOLD ME THAT HE NOTICED SEVERAL USES FROM HIS ATM/DEBIT CARD THAT WAS TAKEN DURING THE ROBBERY. VICT. KEEVER STATES THAT THE CARD WAS USED AT THE WACHCOVIA ATM LOCATED AT THE INCIDENT LOCATION FOR \$300.00, A UNKNOWN HESS GAS STATION FOR \$34.86, \$44.24 AND \$102.00. VICT. KEEVER WANTED TO SHARE THIS INFORMATION IN HOPES THAT CCSO DETECTIVES COULD CHECK CAMERAS IN THE ABOVE MENTIONED LOCATIONS FOR POSSIBLE SUSPECT IDENTIFICATIONS. I TOLD VICT. KEEVER THAT THIS WOULD BE FORWARDED TO CID FOR FOLLOW UP. NOTHING FURTHER.

NARRATIVE

TYPE (GROUP)	N/A	N/A	N/A	N/A	N/A	TOTAL VALUE	JURISDICTION OF THE LAW ENFORCEMENT AGENCY
STOLEN							
DAMAGED							
BURNED							
RECOVERED							
SEIZED							
SUBJECT IDENTIFIED ☐ YES ☒ NO		SUBJECT IDENTIFIED ☐ YES ☒ NO		☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 16 ☐ ARRESTED 16 AND OVER	
☐ EX-CLEAR UNDER 16 ☐ EX-CLEAR 16 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE IN CUSTODY							
REPORTING OFFICER(S)	DATE	BADGE NUMBER	APPROVING OFFICER	DATE	BADGE NUMBER		
SHORTER	10-15-10	10309	<i>[Signature]</i>	10-15-10	8558		
FOLLOW-UP INVESTIGATION			☐ YES ☐ NO				

ADMINISTRATIVE

CCSO-101 3/1/09

SC0100000	DISPATCH NUMBER	N/A	ORIGINAL CASE NUMBER	2010-017173 -B	PAGE	1 OF 5 PAGES	FILE ENTRY	MC	FILE
☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIM	☒ ADDITIONAL WITNESSES	☐ ADDITIONAL STOLEN PROPERTY	☐ ADDITIONAL RECOVERED PROPERTY				
☐ MODIFIES ORIGINAL	☒ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL SUBJECTS						

INCIDENT TYPE: Robbery

Incident Location: 275 Gardner Circle, Johns Island, SC 29455

Incident Date: 10/14/2010

On October 14, 2010, members of the Charleston County Sheriff's Office responded to Hege's restaurant located at 275 Gardner's Circle, Johns Island in reference to an armed robbery. The victim, Matthew Keever, reported that he had just finished his shift at Hege's and walked out to the parking lot when he was approached by two black males who had their faces covered with black bandanas. Keever reported that one of the suspects put a gun to the back of his head and the other put a gun in his back before forcing him behind some bushes. Keever stated that they forced him on the ground and took his cell phone, keys, wallet containing a Wachovia debit card and a check for \$119. Keever stated that the suspects demanded his PIN (Personal Identification Number) and he gave it to them. Keever stated that the suspects told him that they had his driver license and he better not call the police. Keever contacted Wachovia and they reported that someone had made a \$300 withdrawal from the Wachovia ATM about 150 feet away from the incident location.

On October 18, 2010, Keever reported he received information on transactions from Wachovia. Wachovia reported a \$300 withdrawal at 9:30 p.m. the Wachovia ATM at Fresh Fields, a \$34.86 purchase and a \$47.24 purchase at 9:52 p.m. and 9:58 p.m. at the Hess at 2790 Maybank Highway and a \$102 withdrawal at the Bank of America ATM at 10:02 p.m. on Johns Island.

On October 19, 2010, I, Detective D. J. Boyd, received ATM images of a black male subject from Wachovia for the \$300 transaction at 9:30 p.m. on the night of the robbery.

On October 20, 2010, I found that several subjects had been filed-interviewed in the area of Fresh Fields and started checking reports and booking photographs of these subjects. I found a subject, Lanell Goodwine, listed in a report from Rd. (2010-016243B) in reference to a disturbance with shots fired. I located a booking photograph for Goodwine and identified him as the suspect in the ATM image.

ADMINISTRATIVE	TYPE (GROUP)						TOTAL VALUE	JURISDICTION OF THE 1 ST LAW ENFORCEMENT AGENCY
	STOLEN	0	0	0	0	0	0	
	DAMAGED	0	0	0	0	0	0	
	BURNED	0	0	0	0	0	0	
	RECOVERED	0	0	0	0	0	0	JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY
	SEIZED	0	0	0	0	0	0	
ADMINISTRATIVE	SUBJECT IDENTIFIED	☒ YES ☐ NO	SUBJECT LOCATED	☒ YES ☐ NO	ACTIVE UNFOUNDED	☒ YES ☐ NO	ARREST UNDER 18	EX-CLEARED UNDER 18
	REASON FOR EXCEPTIONAL CLEARANCE	☐ OFFENDER DEATH	☐ NO PROSECUTION	☐ EXTRADITION DENIED	☐ VICTIM DECLINES COOPERATION	☐ JUVENILE IN CUSTODY	ARREST 18 AND OVER	EX-CLEARED 18 AND OVER
	REPORTING OFFICER(S)	DATE	BOOK NUMBER	APPROVING OFFICER	DATE	RADGE NUMBER		
	Det. D. Boyd	12/2/2010	8885					
	FOLLOW-UP INVESTIGATION		YES	NO	OFFICER			

INCIDENT SUPPLEMENT

CHARLESTON COUNTY SHERIFF'S OFFICE
3505 PINEHAVEN DRIVE, CHARLESTON HEIGHTS, S.C. 29405-7788 • (843) 202-1700

J. Al Cannon, Jr.
Sheriff

105

SC0100000	DISPATCH NUMBER N/A	ORIGINAL CASE NUMBER 2010-017173-B	PAGE 2 OF 5 PAGES	NCIC ENTRY	INC	END
☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☒ ADDITIONAL WITNESSES	☐ ADDITIONAL STOLEN PROPERTY		
☐ MODIFIES ORIGINAL	☒ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL SUBJECTS	☐ ADDITIONAL RECOVERED PROPERTY		

On October 26, 2010, Detective Boyd spoke with Goodwine's mother, Daphne Goodwine, and she positively identified the person in the ATM image as her son, Lanell. Detective Boyd and Detective Perkins interviewed Lanell Goodwine and after being advised of his Miranda warnings and waiver of same he gave a signed written statement confessing to the robbery, that he was person in the ATM image, and admitting to the above listed withdrawals and purchases. Lanell reported that Jozeph Lemon drove a white Ford Crown Victoria to the parking lot in Fresh Fields near Hege's restaurant. Lanell stated that Lemon exited the car and put a BB gun into the victim's back and walked him to some bushes. Lanell stated Lemon had the victim lay on the ground and called Lanell over. Lanell stated that Lemon obtained the PIN for the victim's debit card and had Lanell go to the bank to get money out. Lanell stated that he then met Lanell on the next street over and they left the area. Goodwine was booked and lodged at the Charleston County Detention Center.

On October 27, 2010, I obtained warrants for Lanell Goodwine and Jozeph Lemon for armed robbery. Detective Perkins, Detective Colson and I headed to St. Johns High School to pick up Lemon. I called the St. Johns School Resource Officer (CCPD) Al Camarata and left a message on his voice mail. When we arrived at St. Johns at approximately 12:45 p.m. the buses we departing the parking lot. I spoke with Officer Camarata in the parking lot and he stated that the school had a half day and the students were leaving. I observed a white Ford Crown Victoria in the parking lot with a black male student sitting on the trunk. When we approached the subject on the trunk Lemon walked out of the school towards the car. We placed Lemon under arrest and verified the car was driven by him. Lemon's parents arrived at the school and I explained to his father Timothy Lemon that he was under arrest and we were towing the car. T. Lemon requested to speak to his son and he demanded that Jozeph tell the detectives the truth. Jozeph then admitted that he was with Lanell during the robbery. Jozeph was transported to the Detectives Office and I had the vehicle towed to the evidence compound. Jozeph was advised of his Miranda warnings prior to departing the school by Detective Perkins. During the drive to the office Jozeph admitted that there was a BB gun an a small caliber revolver in the trunk of the car on the right side behind the carpeting.

Detective Perkins and I interviewed Jozeph at the Detectives Office and he reported the following information: He and Lanell went to Fresh Fields and when they saw a white male, Lanell jumped out of the car with the BB gun and told the man to put his hands up. Jozeph stated that Lanell had him hold the gun on the guy as he went to the bank to get the money.

ADMINISTRATIVE	TYPE (GROUP)						TOTAL VALUE	APPROPRIATION OF THEFT LAW ENFORCEMENT AGENCY
	STOLEN	0	0	0	0	0	0	JUDICIATION OF RECOVERY LAW ENFORCEMENT AGENCY
	DAMAGED	0	0	0	0	0	0	
	BURNED	0	0	0	0	0	0	
	RECOVERED	0	0	0	0	0	0	
	SEIZED	0	0	0	0	0	0	
SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		ACTIVE ☒ UNFOUNDED ☐ ADM. CLOSED		ARREST UNDER 18 ☒ ARREST 18 AND OVER		EX-CLEARED UNDER 12 ☐ EX-CLEARED 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE		OFFENDER DEATH		NO PROSECUTION		EXTRADITION DENIED		VICTIM DECLINES COOPERATION
REPORTING OFFICER(S)		DATE		BADGE NUMBER		APPROVING OFFICER		DATE
Det. D. Boyd		12/2/2010		8885				
						FOLLOW-UP INVESTIGATION		YES NO
						OFFICER		

CCSO - 100 2/1/99

INCIDENT SUPPLEMENT

CHARLESTON COUNTY SHERIFF'S OFFICE
3505 PINEHAVEN DRIVE, CHARLESTON HEIGHTS, S.C. 29405-7789 • (843) 202-1700

J. Al Cannon, Jr.
Sheriff

SC0100000	DISPATCH NUMBER N/A	CALLER'S CASE NUMBER 2010-017173-B	PAGE 3 OF 5 PAGES	MCC ENTRY	BIO	EXT.
☐ ORIGINAL REPORT ☐ MODIFIED ORIGINAL	☒ SUPPLEMENTAL REPORT ☒ CASE STATUS CHANGE	☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS	☒ ADDITIONAL WITNESSES ☐ ADDITIONAL SUBJECTS	☐ ADDITIONAL STOLEN PROPERTY	☐ ADDITIONAL RECOVERED PROPERTY	

Joseph stated that Lanell told him to meet him down the road and that they then went to the Hess. Joseph admitted that he had driven his brother's white Ford Crown Victoria.

Joseph also advised that he drove Lanell behind the Newton Farms Piggy Wiggly and Lanell also tried to rob the truck driver. Joseph stated that Lanell asked the truck driver for the wallet and then his cell phone but the victim refused. Joseph stated that the truck driver was able to shut the door and drive off. Joseph stated that Lanell used the BB gun that looked like a .45 caliber pistol.

I added a charge of possession of a weapon during the commission of a violent crime on Lanell Goodwine and Lemon was booked and lodged at the CCDC.

On October 29, 2010, I obtained a search warrant on the white Ford Crown Victoria.

On November 1, 2010, I reinterviewed Lanell Goodwine at the Detectives Office and he reported the following information; Goodwine reported that Joseph had approached the victim with the BB gun and Lanell was low on the ground and came up once Joseph had him on the ground. Lanell stated that they made him get in the bushes and Josh found the plastic clip with the debit card and gym card inside it. Lanell reported that his sister's boyfriend, Marlon Vandiver, was the one who explained to him how to commit a robbery with at least 2 people because one had to hold him down while the other went to the ATM. Lanell stated that Vandiver told him he should target Kiawah. Lanell also stated that Marlon told him about 2 robberies he committed in North Charleston. Lanell stated that Marlon told him tried to sell him a blackberry cell phone and an iPod Touch that he took during an armed robbery at the Station.

On November 2, 2010, Investigator Herriott executed the search warrant and took a receipt, a H&K style BB gun, and a H&R .32 caliber revolver into evidence.

Due to the results of this investigation, I request that this case be cleared with 2 arrests and 3 warrants served.

PROPERTY	TYPE (GROUP)						TOTAL VALUE	APPROPRIATION OF THEFT LAW ENFORCEMENT AGENCY
	STOLEN	0	0	0	0	0	0	
	DAMAGED	0	0	0	0	0	0	
	BURNED	0	0	0	0	0	0	
	RECOVERED	0	0	0	0	0	0	
	SEIZED	0	0	0	0	0	0	
ADMINISTRATIVE	SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		ACTIVE ☒ UNFOUNDED		ADM. CLOSED	
	REASON FOR EXCEPTIONAL CLEARANCE		OFFENDER/DEATH		NO PROSECUTION		EXTRACTION DENIED	
	REPORTING OFFICER(S) Det. D. Boyd		DATE 12/2/2010		BADGE NUMBER 8885		APPROVING OFFICER	
							DATE	
							BADGE NUMBER	
							FOLLOW-UP INVESTIGATION YES NO OFFICER	

CCSO-100 3/1/06

Exhibit E



UNITED STATES OF AMERICA, Plaintiff-Appellee, v. JOSEPH BYRD, JR.,
Defendant-Appellant.

No. 00-4265

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

55 Fed. Appx. 115; 2003 U.S. App. LEXIS 82

December 4, 2002, Argued
January 6, 2003, Decided

NOTICE: [**1] RULES OF THE FOURTH CIRCUIT COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THIS CIRCUIT.

SUBSEQUENT HISTORY: Post-conviction relief dismissed at *United States v. Byrd*, 2006 U.S. App. LEXIS 10334 (4th Cir. S.C., Apr. 25, 2006)

PRIOR HISTORY: Appeal from the United States District Court for the District of South Carolina, at Greenville. Henry M. Herlong, Jr., District Judge. (CR-98-998).

DISPOSITION: Vacated and remanded.

COUNSEL: ARGUED: Andrew David Grimes, ANDREW D. GRIMES, P.A., Summerville, South Carolina, for Appellant.

Thomas Ernest Booth, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee.

ON BRIEF: J. Strom Thurmond, Jr., United States Attorney, A. Bradley Parham, Assistant United States Attorney, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee.

JUDGES: Before NIEMEYER and LUTTIG, Circuit Judges, and HAMILTON, Senior Circuit Judge.

OPINION

[*116] PER CURIAM:

Joseph Byrd, Jr. (Byrd) appeals his sentence imposed by the district court following his guilty plea to conspiracy to possess with intent to distribute and to distribute a "quantity" of cocaine and a "quantity" of cocaine base (crack), 21 U.S.C. §§ 841(a)(1) and 846. (J.A. 9). Although Byrd challenges his sentence on numerous [**2] fronts, he principally argues that his sentence violated the dictates of *Apprendi v. New Jersey*, 530 U.S. 466, 147 L. Ed. 2d 435, 120 S. Ct. 2348 (2000), and that the district court erred when it sentenced him as a career offender, United States Sentencing Commission, *Guidelines Manual*, (USSG) § 4B1.1, because his two prior state felony drug offenses were related as part of a single common scheme or plan and thus constituted one conviction instead of the two convictions necessary for career offender status. For the reasons stated below, we reject Byrd's *Apprendi* arguments, but nevertheless vacate his sentence and remand the case to the district court with instructions to determine whether Byrd's two prior state felony drug offenses were related as part of a single common scheme or plan by applying the factors set forth in *United States v. Breckenridge*, 93 F.3d 132 (4th Cir. 1996).

I

A

In January 1998, an informant told Drug Enforcement Administration (DEA) agents that Byrd was a cocaine dealer and that he was storing cocaine at a Storage Trust Company storage unit (Unit # 730) in Greenville, South Carolina. On May 6, 1998, a drug detection [**3] dog alerted on Unit # 730, which was rented to Macy Byrd, Byrd's aunt. On May 8, 1998, the DEA agents executed a search warrant at Unit # 730 and seized numerous plastic baggies that contained a residue that subsequently tested positive for cocaine.

On November 16, 1998, Byrd entered Unit # 730 three times. On November 20, [**117] 1998, the DEA agents executed a second search warrant at Unit # 730 and seized 3.25 kilograms of cocaine, \$ 70,020 in cash, five one-kilogram shells containing cocaine residue, and two sets of scales. Byrd's fingerprints were subsequently detected on the scales.

After the search, Everette Byrd (Everette) and Frank Henderson (Henderson) arrived at the unit. After they arrived, Everette got out of the car, unlocked the door to Unit # 730, and went inside. While Everette was entering the storage unit, Henderson stayed in the car. Subsequently, the DEA agents arrested both of them. Thereafter, the DEA agents searched Everette's residence and seized 69.77 grams of crack, 64.26 grams of marijuana, \$ 3,500 in cash, an electronic scale, and three firearms.

B

On December 15, 1998, a federal grand jury sitting in the District of South Carolina indicted Byrd and Everette [**4] on two counts. Count One charged the defendants with conspiracy to possess with the intent to distribute and to distribute a "quantity" of cocaine and a "quantity" of crack, 21 U.S.C. §§ 841(a)(1) and 846. (J.A. 9). Count Two charged the defendants with possession with the intent to distribute a "quantity" of cocaine, 21 U.S.C. § 841(a)(1). (J.A. 10).

Byrd's trial began on November 8, 1999. On November 9, 1999, Byrd pled guilty to the conspiracy count. During the plea hearing, the government presented a brief summary of its evidence against Byrd.

In preparation for sentencing, a United States Probation Officer prepared a Presentence Investigation Report (PSR). According to the PSR, Byrd's base offense level was thirty-two, which was based on 11.05 kilograms of cocaine, USSG § 2D1.1(c)(4). The 11.05 kilograms of cocaine was based on the items recovered from Unit # 730 on November 20, 1998; specifically, the 3.25 kilograms of cocaine, the five one-kilogram shells which contained cocaine residue, and the \$ 70,020 in cash (the equivalent of 2.8 kilograms of cocaine). Because the PSR determined that Byrd was a career offender, Byrd's offense [**5] level was thirty-seven, *id.* § 4B1.1(A) (offense level of thirty-seven if the statutory maximum sentence for the offense of conviction is life). According to the PSR, Byrd's career offender status was based on his two prior state felony drug convictions for distribution of cocaine and the fact that his instant offense of conviction carried a maximum sentence of life under 21 U.S.C. § 841(b)(1)(A) (providing a statutory maximum sentence of life for an offense involving at least five kilograms of cocaine). With regard to Byrd's two prior state felony drug convictions, the first offense involved a cocaine sale on June 30, 1989 to an undercover agent of the Greenville, South Carolina Police Department at the C & C garage on Green Avenue in Greenville. The second offense involved a cocaine sale to ostensibly the same undercover agent on July 7, 1989 at the Jetco Station on Green Avenue in Greenville. Byrd was arrested for both offenses on December 2, 1989 and was charged in two separate indictments in General Sessions Court in Greenville. Byrd pled guilty to both indictments and, on June 26, 1990, was sentenced to concurrent terms of seven years' imprisonment. [**6] Byrd was paroled in November 1991.

Byrd's offense level was reduced by two levels for acceptance of responsibility; consequently, Byrd's offense level of thirty-five, coupled with his criminal history category of six, resulted in a Sentencing Guidelines range of 292 to 365 months' imprisonment.

[**118] Byrd objected to the PSR's drug quantity and career offender recommendations. At sentencing, the district court overruled Byrd's objection to the PSR's drug quantity determination on the ground that the PSR's recommendation was supported by substantial evidence, including Byrd's fingerprints on the scales. Without addressing the factors set forth in *Breckenridge*, the district court overruled Byrd's objection to the PSR's career offender determination on the ground that Byrd's

prior state drug felony offenses were "separate." (J.A. 40). The district court then sentenced Byrd to a term of imprisonment of 365 months, a term of supervised release of five years, and a special assessment of \$ 100. On March 27, 2000, Byrd noted a timely appeal.

II

We first consider whether Byrd's sentence is invalid under the Supreme Court's decision in *Apprendi*, which was decided while this case was pending [**7] on appeal. Byrd did not raise this issue before the district court, so we apply the plain error standard of review. *United States v. Carter*, 300 F.3d 415, 428-29 (4th Cir.) (discussing application of the *United States v. Olano*, 507 U.S. 725, 123 L. Ed. 2d 508, 113 S. Ct. 1770 (1993), plain error standard to *Apprendi* claims not raised in the district court), *cert. denied*, 154 L. Ed. 2d 552, 123 S. Ct. 614, 2002 WL 31511362 (U.S. 2002).

The indictment to which Byrd pled guilty did not specify a particular threshold drug quantity. Further, drug quantity was determined by the district court at sentencing. Because Byrd received a sentence of 365 months, five months above the thirty-year statutory maximum for a violation of 21 U.S.C. § 841 where there is no jury finding of a specific threshold drug quantity and the defendant has a prior felony drug offense, *id.* § 841(b)(1)(C), it is clear that an error occurred in sentencing Byrd and that the error was plain. *United States v. Promise*, 255 F.3d 150, 156-60 (4th Cir. 2001) (*en banc*), *cert. denied*, 535 U.S. 1098, 152 L. Ed. 2d 1053, 122 S. Ct. 2296 (2002). [**8]

We find, however, that any resulting error did not "seriously affect[] the fairness, integrity or public reputation of judicial proceedings," *Olano*, 507 U.S. at 736 (quoting *United States v. Atkinson*, 297 U.S. 157, 160, 80 L. Ed. 555, 56 S. Ct. 391 (1936)), based on the overwhelming and essentially uncontroverted evidence presented at the guilty plea hearing and at sentencing indicating that Byrd was responsible for far more than the 500 grams of cocaine necessary to sentence him under 21 U.S.C. § 841(b)(1)(B), which authorizes a forty-year maximum term of imprisonment. *United States v. Cotton*, 535 U.S. 625, 122 S. Ct. 1781, 1786, 152 L. Ed. 2d 860 (2002).¹

¹ We also find no merit to Byrd's contention that the district court clearly erred when it found that he was accountable for 11.05 kilograms of

cocaine for purposes of calculating his offense level under the Sentencing Guidelines.

We also note that, in light of the indictment's [**9] failure to allege drug quantity, the district court, without having the benefit of the Supreme Court's decision in *Apprendi*, incorrectly informed Byrd that he faced a possible sentence of a minimum of not less than ten years and a maximum of life imprisonment. Under 21 U.S.C. § 841(b)(1)(C), there is no mandatory minimum, and the maximum possible sentence is thirty years where the defendant has a prior felony drug offense. Thus, in retrospect, the district court violated Rule 11(c)(1) of the *Federal Rules of Criminal Procedure*. *United States v. Martinez*, 277 F.3d 517, 530 (4th Cir.), *cert. denied*, [**119] 154 L. Ed. 2d 169, 123 S. Ct. 200 (2002). We find that Byrd cannot establish plain error in this regard, however, because he cannot show that he would not have pled guilty absent this error. *Id.* at 533.

Finally, under our circuit precedent, we must reject Byrd's claims that 21 U.S.C. § 841 is unconstitutional after *Apprendi*, *United States v. Chong*, 285 F.3d 343, 346-47 (4th Cir. 2002) (21 U.S.C. § 841 is facially constitutional), and that *Apprendi* [**10] requires the government to plead a defendant's prior convictions in the indictment, *United States v. Cristobal*, 293 F.3d 134, 147-48 (4th Cir.) (*Apprendi* does not require prior convictions to be pleaded or proven), *cert. denied*, 154 L. Ed. 2d 319, 123 S. Ct. 396 (2002).

III

We next consider Byrd's contention that he was improperly sentenced as a career offender because his two prior state felony drug offenses, one occurring on June 30, 1989 and the other occurring on July 7, 1989, were related as part of a single common scheme or plan and thus constituted one conviction instead of the two convictions necessary for career offender status. The district court held that the two offenses were separate offenses. Our review of the district court's Sentencing Guidelines determinations is deferential. *Buford v. United States*, 532 U.S. 59, 60, 149 L. Ed. 2d 197, 121 S. Ct. 1276 (2001).

Under USSG § 4B1.1, a defendant is a career offender if

(1) the defendant was at least 18 years old at the time the defendant committed

the instant offense of conviction; (2) the instant offense of conviction is a felony that is either a crime [**11] of violence or a controlled substance offense, and (3) the defendant has at least two prior felony convictions of either a crime of violence or a controlled substance offense.

Id. § 4B1.1.

Byrd meets the first two conditions of USSG § 4B1.1 because he was eighteen years old at the time he committed the instant offense of conviction and because the instant offense of conviction is a felony that is a controlled substance offense. The point of contention between the parties is whether Byrd has at least two prior felony convictions for a controlled substance offense.

The term "two prior felony convictions" is defined in USSG § 4B1.2(c) as follows:

The term "two prior felony convictions" means (1) the defendant committed the instant offense of conviction subsequent to sustaining at least two felony convictions of either a crime of violence or a controlled substance offense (*i.e.*, two felony convictions of a crime of violence, two felony convictions of a controlled substance offense, or one felony conviction of a crime of violence and one felony conviction of a controlled substance offense), and (2) the sentences for at least two of the aforementioned felony [**12] convictions are counted separately under the provisions of § 4A1.1(a), (b), or (c).

Id. § 4B1.2(c). There is no dispute that Byrd has at least two prior felony convictions for a controlled substance offense. The issue is whether the sentences for the two prior controlled substance offenses are counted separately under the provisions of USSG § 4A1.1(a), which awards three criminal history points for each "prior sentence of imprisonment exceeding one year and one month." *Id.* § 4A1.1(a).

USSG § 4A1.2(a)(2) instructs us that "prior sentences imposed in unrelated cases are to be counted separately." *Id.* § 4A1.2(a)(2). However, "prior sentences imposed in

related cases are to be treated as one sentence for purposes of [**120] § 4A1.1(a), (b), and (c)." *Id.* § 4A1.2(a)(2). In *Application Note 3 to USSG § 4A1.2*, the term "related cases" is defined in relevant part as follows:

Prior sentences are not considered related if they were for offenses that were separated by an intervening arrest (*i.e.*, the defendant is arrested for the first offense prior to committing the second offense). Otherwise, prior sentences are considered related if they resulted from [**13] offenses that (A) occurred on the same occasion, (B) were part of a single common scheme or plan, or (C) were consolidated for trial or sentencing.

Id. § 4A1.2, comment. (n.3).

In this case, Byrd's two prior state felony drug offenses were not separated by an intervening arrest. Further, the "same occasion" prong does not apply because the conduct underlying Byrd's first prior offense did not occur on the same occasion as the conduct underlying Byrd's second prior offense. From the record before this court, one cannot find that the "consolidation" prong applies because the record contains no materials from Byrd's state court offenses except for the information used in the PSR. Thus, Byrd must establish that his prior offenses were part of a single common scheme or plan for this court to conclude that his two prior state felony drug offenses were related.

Although there is a split in the circuits as to the proper test for determining when prior offenses are part of a single common scheme or plan, *compare United States v. Ali*, 951 F.2d 827, 828 (7th Cir. 1992) (holding that prior offenses are part of the same scheme or plan only if the prior offenses were [**14] jointly planned or, at a minimum, the commission of one offense necessarily required the commission of another), *with Breckenridge*, 93 F.3d at 138-40 (applying eight-factor test), this court has identified eight factors for district courts to consider in determining whether prior offenses are part of a single common scheme or plan: (1) commission within a short period of time; (2) close geographic proximity; (3) same substantive offenses; (4) directed at a common victim; (5) solved in a single criminal investigation; (6) similar *modus operandi*; (7) animated by the same motive; and (8) tried and sentenced separately only because of an

accident of geography. *Breckenridge*, 93 F.3d at 138.

In explaining how these factors should be applied, *Breckenridge* states that all eight factors do not have to be present for there to be a common scheme or plan. *Id.* *Breckenridge* also notes that the most significant factors to a finding that prior offenses are related are temporal proximity, geographic proximity, and being the same substantive offense. *Id.*

In this case, the district court did not apply the *Breckenridge* factors; rather, without addressing [**15] the *Breckenridge* factors, the district court overruled Byrd's objection to the PSR's career offender determination on the ground that Byrd's prior state drug felony offenses were "separate." (J.A. 40).

The district court's failure to apply the *Breckenridge* factors or to give reasons supporting its conclusion that Byrd's two prior state felony drug offenses were "separate," *id.*, makes meaningful appellate review of Byrd's *Breckenridge* claim inappropriate at this time. The more prudent course here is to vacate Byrd's sentence and remand the case to the district court with instructions to apply the *Breckenridge* factors to Byrd's two prior state felony drug offenses.

IV

For the reasons stated herein, we vacate Byrd's sentence and remand the case to [*121] the district court

with instructions to the district court to determine whether Byrd's two prior state felony drug offenses were related as part of a single common scheme or plan by applying the factors set forth in *Breckenridge*. If after applying the *Breckenridge* factors the district court concludes that Byrd's two prior state felony drug offenses are not related, the district court may reimpose the same career [**16] offender sentence it imposed at Byrd's original sentencing. However, if the district court concludes that Byrd's two prior state felony drug offenses are related, Byrd may not be sentenced as a career offender and must be resented within the appropriate Sentencing Guidelines range.²

2 Byrd also claims that he received constitutionally ineffective assistance of counsel in the district court. Because the record does not conclusively establish that Byrd's counsel was constitutionally ineffective, this claim is not cognizable on direct appeal and must be raised under 28 U.S.C. § 2255. *United States v. Richardson*, 195 F.3d 192, 198 (4th Cir. 1999), *cert. denied*, 528 U.S. 1096, 145 L. Ed. 2d 704, 120 S. Ct. 837 (2000). Finally, we have reviewed the additional claims raised by Byrd in his *pro se* supplemental brief and find those additional claims to be without merit.

VACATED AND REMANDED WITH
INSTRUCTIONS

Exhibit F

From: CLARK HANGER [clarkhan@bellsouth.net]
Sent: Wednesday, September 04, 2013 5:01 PM
To: Andrew Grimes
Subject: Lanelle Goodwine
To whom it may concern,

Lanelle Goodwine has worked for me for the last two years as an aircraft "detailer". He worked diligently preparing all of my aircraft for resale; namely, washing, waxing, cleaning the interiors, and fine-tuning minute details on every plane. He has been sorely missed the last 60 days.

I found out in short order that Lanelle was trustworthy, hard working, smart, and vey able. He drove my cars, performed errands, worked well with others, and was a dependable, much valued employee.

I was aware he had some problems in the past, but I was not concerned as he apparently had learned his lesson and put that behavior way behind him.

I was shocked and saddened to learn that he may be facing significant time behind bars and I am writing this letter to inform the court of his mended ways. It would be a waste of his life to stick him in a jail cell. I would put him back to work detailing airplanes immediately if able.

Sincerely,

W. Clark Hanger
President

Hanger Aviation, Inc.
2167 River Road
Johns Island, SC. 29455

www.HangerAviation.com

843-577-3456 mobile
843-559-3400 office

Notice:

It's OK to print this email. Paper is a biodegradable, renewable, sustainable product made from trees. Growing and harvesting trees provides jobs for millions of Americans. Working forests are good for the environment and provide clean air and water, wildlife habitat and carbon storage. Thanks to improved forest management, we have more trees in America today than we had 100 years ago.

Exhibit G

OCA# 20	B	Date: 11/1/2010	
Name: LANFLL GOODWINE	Race: B	Sex: M	DOB: 1
Address: 2 RIVER RD	Phone:		
SSN:	DL:		

Detective D. J. Boyd has advised me that he is a member of the Charleston County Sheriff's Office, and has further advised me:

- LG 1. That I have the absolute right to remain silent and do not have to answer any questions or give a statement and this fact cannot be used against me.
- LG 2. That if I do answer questions or give a statement, anything I say can and will be used against me in a Court of Law.
- LG 3. That I have the right to consult with a lawyer of my choice before I answer questions or give a statement and also to have him present while I am being questioned.
- LG 4. That if I wish to talk to a lawyer or have him present, but am unable to afford to hire a lawyer, one will be appointed to represent me free of charge.
- LG 5. That if I decide to answer questions or give a statement without having a lawyer present representing me, I have the absolute right during this interview to stop answering questions and remain silent.

I FULLY UNDERSTAND EACH OF THESE RIGHTS WHICH HAVE BEEN EXPLAINED TO ME.

DJ Boyd EDS

Witnesses

Lance Goodwine

Signature

WAIVER OF RIGHTS

I fully understand each of these rights which have been explained to me, and having these in mind, I wish to waive these rights and answer questions. No threats, force, or promises of any kind have been made to me by anyone to induce or cause me to waive these rights and answer questions.

DJ Boyd EDS

Witnesses

Lance Goodwine

Signature

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

117

OCA # 101-477751

DATE 1/14/81

STATEMENT OF James L. Williams
ADDRESS 1106 Vine Road PHONE # 843-518-06
EMPLOYER: Student PHONE # _____
RACE: Black SEX: Male DATE OF BIRTH: _____

one night my friend John W. Lucks and
me were talking about the thought of the
idea of getting some money and told me
to ask John Lucks what he
was going to do. We went to market (Spartanburg)
and he told me that the black kids
the names of which were sitting next to
me and he said the name come out
he is dead over the car with the BB gun
and then up to the room and told him that
we are going to be ready for the police
the man told him that there are the pro
and told me to go to the other I went
home and got the money 200 dollars and
we left the money in the house and
John the man and my friend decided to
come to the station and asked him
if he wanted some money to go to
the station. I left the station
and went to my home and knew the

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS
TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES: James L. Williams James L. Williams
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT James L. Williams
Signature

CHARLESTON COUNTY SHERIFF'S OFFICE

STATEMENT

OCA #

DATE _____

STATEMENT OF

ADDRESS

PHONE #

EMPLOYER:

PHONE #

RACE:

SEX:

DATE OF BIRTH:

I said "What's wrong?" He nervously said he had
 no idea why he felt like this. "House" I told him.
 "What's wrong?" He said "I'm nervous." "What
 is?" I said. "I'm nervous." "What's wrong?"
 He said "I'm nervous." "What's wrong?"

A. Joseph E. Lyons

Re: Walter C. Bond's mons. H. I.

A 843-530 / 171-0827

Q. WHAT ARE YOU GOING TO DO TO MAKE THEM
AND WHO WILL BE MAKING THEM?

A. His white Camaro Victoria and he was.

Q. What were your first two years?

A. I had on a white t-shirt and black pants. Ted had on a black shirt.

Q. How do you know Josh and Frank know each other?

A. School starts and ends. How many days of school year

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

Signature

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

119

OCA # 10-15-128P

DATE 10-20-10

STATEMENT OF LEONARD LINDQUIST

ADDRESS _____ PHONE # _____

EMPLOYER: _____ PHONE # _____

RACE: _____ SEX: _____ DATE OF BIRTH: _____

Q: Did you have a car involved in the robbery?
A: No.

Q: Did anyone else go with you?
A: Just me.

Q: Where did you go after that?
A: I went to a friend's house.

Q: How much did you see of the money?
A: \$300.

Q: How much did you see of the money?
A: \$300.

Q: How much did you see of the money?
A: \$300.

Q: Did you see any other things?
A: No.

Q: Did you see any other things?
A: No.

Q: Did you see any other things?
A: No.

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

[Signature]
[Signature]

[Signature]
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

[Signature]
Signature

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA #

10-01717BB

DATE

10-26-10

STATEMENT OF

ADDRESS

PHONE #

EMPLOYER:

PHONE #

RACE:

SEX:

DATE OF BIRTH:

A. No

Q. What did you see from the window?

A. I saw a car in the yard.

Q. Did you see anything else?

Q. Where did you see the car?

Q. What kind of car was it?

Q. What time was it?

Q. Where is the car now?

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

Signature

CCCO-100

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

121

OCA #

10-0171732

DATE

10-10-10

STATEMENT OF

LAWELL GOODWIN

ADDRESS

PHONE #

EMPLOYER:

PHONE #

RACE:

SEX:

DATE OF BIRTH:

I was not involved in the matter but I was present at the time of the incident.

I was present at the time of the incident and I saw the person who was involved in the incident.

I was present at the time of the incident and I saw the person who was involved in the incident.

I was present at the time of the incident and I saw the person who was involved in the incident.

I was present at the time of the incident and I saw the person who was involved in the incident.

I was present at the time of the incident and I saw the person who was involved in the incident.

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I was present at the time of the incident and I saw the person who was involved in the incident.

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

[Signature]

[Signature]
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

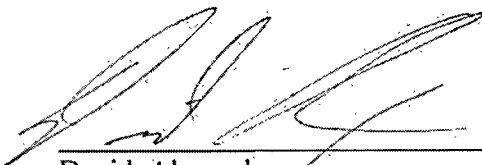
[Signature]
Signature

CCSO-109

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."

January 30th, 2015



David Alexander
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

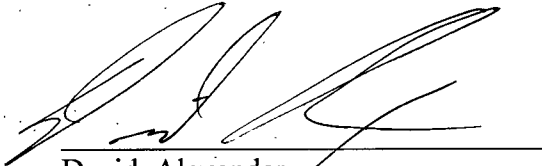
JAN 30 2015

SC Court of Appeals

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."

January 30th, 2015



David Alexander
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

JAN 30 2015

SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Stephanie P. McDonald, Circuit Court Judge

RECEIVED

JAN 30 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

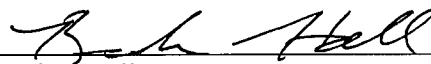
V.

LANELL GOODWINE,

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 Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Ms. Lanell Goodwine, #356938, Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 30th day of January, 2015.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 30th day of January, 2015.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: July 3, 2023.