

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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On Writ of Certiorari to the Court of Appeals  
Appeal from Richland County  
Honorable DeAndrea G. Benjamin, Circuit Court Judge  
Appellate Case No. 2015-001127

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**S.C. Supreme Court**

THE STATE,

Respondent,

vs.

CONRAD LAMONT SLOCUMB,

Petitioner.

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**RETURN TO PETITION FOR WRIT OF CERTIORARI**

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## STATEMENT OF ISSUE ON CERTIORARI

The Court of Appeals correctly affirmed the circuit court judge's order resentencing Slocumb to a fifty-year term of imprisonment for first-degree burglary after the United States District Court remanded Slocumb's case to the circuit court solely for resentencing on that conviction and properly declined to address Slocumb's constitutional challenge to the propriety of his aggregate sentence for all of his convictions in light of the fact the only issue appropriately before either the circuit court judge or the Court of Appeals was the limited issue of Slocumb's resentencing for first-degree burglary.

## STATEMENT OF THE CASE

### Procedural History

On March 6, 1996, Petitioner Conrad Lamont Slocumb was arrested at the age of sixteen following his escape from law enforcement custody and his commission of a litany of crimes that included him raping and robbing a female victim after forcing his way into her home. Later that month, the Richland County Grand Jury indicted Slocumb for first-degree burglary, first-degree criminal sexual conduct, kidnapping, armed robbery, and escape. On November 12, 1996, a jury trial was commenced in the Richland County Court of General Sessions with the Honorable James W. Johnson, Jr., circuit court judge, presiding. At the conclusion of trial, the jury convicted Slocumb of first-degree burglary, first-degree criminal sexual conduct, kidnapping, escape, and the lesser-included offense of strong-arm robbery. Following the verdict, Judge Johnson sentenced Slocumb to life without parole pursuant to S.C. Code Ann. § 17-25-45 for first-degree burglary, first-degree criminal sexual conduct, and kidnapping based on Slocumb's prior 1993 conviction for first-degree criminal sexual conduct along with consecutive terms of imprisonment of fifteen years for strong-arm robbery and five years for escape. Slocumb then timely filed and perfected an appeal.

Thereafter, while his direct appeal was pending, Slocumb filed applications for post-conviction in regard to his 1996 convictions and his 1993 conviction. Slocumb's application for post-conviction relief in regard to his 1996 convictions was dismissed without prejudice due to his pending appeal, and his application for post-conviction relief in regard to his 1993 conviction was denied on the merits. Slocumb then timely appealed the denial of his application for post-conviction relief in regard to the 1993 conviction.

Subsequently, on August 16, 1999, the Court of Appeals issued a published opinion unanimously affirming Slocumb's direct appeal in regard to his 1996 convictions. State v. Slocumb, 336 S.C. 619, 521 S.E.2d 507 (Ct. App. 1999). Thereafter, on November 8, 1999, the Supreme Court issued a published opinion reversing the denial of Slocumb's post-conviction relief application in regard to his 1993 conviction and vacating his 1993 guilty plea to first-degree criminal sexual conduct. Slocumb v. State, 337 S.C. 46, 522 S.E.2d 809 (1999).

As a result of the Supreme Court's decision, a resentencing hearing in regard to Slocumb's 1996 convictions was conducted on March 16, 2000, in the Richland County Court of General Sessions with the Honorable James W. Johnson, Jr., circuit court judge, again presiding. At the conclusion of the hearing, Judge Johnson resentenced Slocumb to consecutive sentences of life without parole for first-degree burglary, thirty years for first-degree criminal sexual conduct, thirty years for kidnapping, fifteen years for robbery, and five years for escape. Slocumb then timely filed and perfected an appeal.

However, at that time, Slocumb's original direct appeal of his 1996 convictions had not yet concluded. As a result, the Court of Appeals vacated the sentences imposed during the resentencing hearing due to a lack of jurisdiction, and Slocumb's case was remitted to the circuit court on December 3, 2003. Thereafter, on February 18, 2004, another resentencing hearing was held in the Richland County Court of General Sessions with the Honorable James W. Johnson, Jr., circuit court judge, once again presiding. At the conclusion of the hearing, Judge Johnson resentenced Slocumb to consecutive terms of imprisonment of life without parole for first-degree burglary, thirty years for first-degree criminal sexual conduct, thirty years for kidnapping, fifteen years for robbery, and five years for escape. Slocumb then timely filed and perfected an appeal.

Subsequently, on April 7, 2005, the Court of Appeals dismissed Slocumb's appeal pursuant to Anders v. California, 386 U.S. 738 (1967), and granted his appellate counsel's petition to be relieved as counsel. Following the dismissal of his appeal, Slocumb filed another application for post-conviction relief in regard to his 1996 convictions, and his application was denied on the merits. Slocumb then timely appealed the denial of his post-conviction relief application and filed a petition for a writ of certiorari in the Supreme Court. On April 21, 2010, that petition was denied.

Thereafter, on June 18, 2010, Slocumb filed a petition for a writ of habeas corpus in the United States District Court for the District of South Carolina. On September 10, 2010, the State filed a return to Slocumb's petition and conceded Slocumb was entitled to have his life without parole sentence for first-degree burglary vacated pursuant to the United States Supreme Court's decision in Graham v. Florida, 560 U.S. 48 (2010). On May 12, 2011, United States Magistrate Judge Bristow Marchant issued a report and recommendation recommending Slocumb's life sentence be vacated and the State be directed to resentence Slocumb in compliance with Graham. Subsequently, on June 2, 2011, Senior United States District Judge Henry M. Herlong, Jr. issued an opinion and order vacating Slocumb's life sentence and directing the State to resentence Slocumb for first-degree burglary.

Based on Judge Herlong's order, a resentencing hearing was conducted on April 25, 2013, in the Richland County Court of General Sessions with the Honorable DeAndrea G. Benjamin, circuit court judge, presiding. At the conclusion of the hearing, Judge Benjamin resentedenced Slocumb to a fifty-year term of imprisonment for first-degree burglary, ordered the sentence to run consecutively to Slocumb's other sentences,

and declined to readdress any of those other sentences. Slocumb then timely filed and perfected an appeal.

On appeal, the Court of Appeals unanimously affirmed the circuit court judge's order from the resentencing hearing. State v. Slocumb, 412 S.C. 88, 770 S.E.2d 436 (Ct. App. 2015). Thereafter, Slocumb petitioned the Court of Appeals for rehearing, and the petition was denied. Slocumb then filed a petition for a writ of certiorari in the Supreme Court.

### **Factual History**

#### **Facts Related to Slocumb's 1993 Conviction**

In October of 1992, Petitioner Conrad Lamont Slocumb, who was then a thirteen-year-old male, abducted a female high school teacher at gunpoint from the parking lot of her school. Slocumb v. State, 337 S.C. 46, 47-48, 522 S.E.2d 809, 810 (1999). Slocumb then forced his victim to drive him to a wooded area and attempted to force her into the woods with him. Id. at 48, 522 S.E.2d at 810. When she refused, Slocumb grabbed the victim, roughly squeezed her breast, digitally penetrated her vagina, and shot her five times in the face and head. Id. Slocumb then abandoned the victim on the side of the road and drove off in her car. Id. Miraculously, the victim survived the shooting and was able to walk to a nearby residence and obtain help. Id. Shortly thereafter, Slocumb was arrested and charged with numerous offenses related to the incident, and his case was transferred to a court of general sessions. Id. Subsequently, Slocumb pled guilty to first-degree criminal sexual conduct in exchange for the dismissal of his other charges and was sentenced to a thirty-year term of incarceration. Id. at 47-48, 522 S.E.2d at 810.

#### **Facts Related to Slocumb's 1996 Convictions**

On March 6, 1996, an officer from the South Carolina Department of Juvenile Justice transported Slocumb, who was then a sixteen-year-old inmate at that institution, to an off-site doctor's office for medical treatment. State v. Slocumb, 336 S.C. 619, 622, 521 S.E.2d 507, 509 (Ct. App. 1999). Once the treatment was administered, the officer began transporting Slocumb back to the Department of Juvenile Justice. Id. However, before they arrived, Slocumb escaped from the officer's custody and ran to a nearby apartment complex. Id. Slocumb then located a female resident there, asked her to assist him in finding someone in the complex, and forced his way into her apartment after she helped him. Id. Once inside, Slocumb disconnected the victim's phone, claimed he had a gun, threatened the victim, demanded her car keys and money, and asked her for clothing so he could change out of his prison attire. Id. The victim fully complied with Slocumb's demands, and then he raped her. Id. at 623, 521 S.E.2d at 509. After that, Slocumb stole jewelry and other items from the victim's apartment, left, and was apprehended by law enforcement officers while still in possession of the victim's belongings. Id. Following his arrest, Slocumb was indicted for numerous offenses, and he proceeded to trial. Id. At the conclusion of trial, the jury convicted Slocumb of first-degree burglary, first-degree criminal sexual conduct, kidnapping, robbery, and escape. Id. Following the verdict, the trial judge sentenced Slocumb to three consecutive life sentences for first-degree burglary, first-degree criminal sexual conduct, and kidnapping along with consecutive sentences of fifteen years for robbery and five years for escape. Slocumb, 337 S.C. at 47, n. 1, 522 S.E.2d at 810.

#### **Facts Related to April 2013 Resentencing Hearing**

Subsequent to his convictions in 1993 and 1996, Slocumb's 1993 conviction was overturned on appeal based on a jurisdictional issue, and Slocumb's sentences for his

1996 convictions were vacated on several occasions for a variety of reasons. (R. pp. 3-5; pp. 18-19). By April of 2013, Slocumb was serving consecutive sentences of life without parole for first-degree burglary, thirty years for first-degree criminal sexual conduct, thirty years for kidnapping, fifteen years for robbery, and five years for escape based on his 1996 convictions. (R. p. 5). However, a federal district court judge vacated Slocumb's life sentence for first-degree burglary due to the United States Supreme Court's decision in Graham v. Florida, 560 U.S. 48 (2010). (R. p. 5). As a result, Slocumb's case was once again remanded for resentencing on the first-degree burglary conviction, and a resentencing hearing was held on April 25, 2013. (R. p. 3; p. 5; p. 44; p. 46; pp. 48-49).

At the outset of the hearing, defense counsel acknowledged Slocumb was before the court to be resentenced only on his first-degree burglary conviction but nevertheless moved for the circuit court judge to vacate all of Slocumb's other sentences and to resentence him for all of his convictions. (R. pp. 7-8). In support of that request, defense counsel conceded the United States Supreme Court did not address in its Graham decision whether a lengthy term-of-year sentence that extended beyond a defendant's reasonable life expectancy constituted cruel and unusual punishment. (R. p. 8). However, defense counsel argued there were some appellate courts in the United States that had extended the reasoning of Graham to cases where juvenile offenders had been sentenced to terms of incarceration that exceeded their projected life expectancies while noting there were other appellate courts that had declined to do so. (R. pp. 8-9). Advocating for an extension of Graham to the circumstances of Slocumb's case, defense counsel contended a term of incarceration that would require Slocumb to serve a minimum sentence that exceeded the average worldwide life expectancy of 67.2 years

would be irreconcilable with Graham because it would deprive Slocumb of a reasonable opportunity to obtain release based on demonstrated maturity and rehabilitation. (R. pp. 9-11). For that reason, defense counsel asked the circuit court judge to vacate Slocumb's other sentences and to resentence him to an aggregate term of years that honored "the spirit and intent if not the letter of" the Graham decision. (R. p. 11).

After listening to defense counsel's arguments, the circuit court judge sought reaffirmation Slocumb's case had been remanded solely in regard to the first-degree burglary conviction, and defense counsel again verified it had while arguing to the circuit court judge she had "the authority to do what [she] deem[ed] appropriate with regard to the other sentences[.]" (R. p. 12). The solicitor then recounted the facts of Slocumb's horrendous crimes. (R. pp. 14-17). Following the recitation of the facts, the solicitor noted the United States Supreme Court specifically stated in Graham juvenile non-homicide offenders did not have to be released during their natural lives. (R. pp. 17-18). The solicitor additionally noted Slocumb was classified as a security risk by the Department of Corrections and had not enrolled in, participated in, or completed any rehabilitative programs during his time in prison. (R. pp. 19-20). Furthermore, the solicitor confirmed Slocumb had committed 218 prison disciplinary infractions between 1997 and the date of the hearing that included striking prison employees, possessing weapons, throwing substances on prison employees, possessing contraband, masturbating, and committing acts of mutilation. (R. p. 20).

In response to the solicitor's remarks, defense counsel conceded Slocumb would likely be unable to meet a standard of demonstrating maturity and growth at that time due to his behavior subsequent to his incarceration. (R. p. 23). Defense counsel further conceded Slocumb did not have to be guaranteed release during his lifetime. (R. p. 23).

However, she argued Slocumb would not have a meaningful opportunity for release subsequent to that point based on demonstrated maturity and rehabilitation if his sentences were not vacated and, as a result, again moved for the circuit court judge to vacate all of Slocumb's sentences and to resentence him "to a term of years that would give him the opportunity after serving 85 percent on the most serious offenses and a lesser percentage on the remaining charges to be eligible for supervised community release somewhere short of his life expectancy." (R. pp. 23-25).

Thereafter, Slocumb's victim advised the circuit court judge of the impact Slocumb's crimes had upon her and requested Slocumb be resented to a lengthy consecutive term of incarceration. (R. p. 26). Following the victim's remarks, the solicitor reiterated Slocumb had sexually assaulted a teacher, shot her, left her to die, later escaped from Department of Juvenile Justice custody, committed the same type of traumatic acts upon his next victim, and then showed no subsequent signs of rehabilitation, maturity, or growth while repeatedly committing disciplinary infractions during his ensuing years in prison. (R. pp. 26-27). Subsequently, at the conclusion of the hearing, the circuit court judge resented Slocumb to a fifty-year term of incarceration for first-degree burglary, ordered the sentence to run consecutively to Slocumb's other sentences, and declined to entertain Slocumb's challenge to his other sentences. (R. p. 28). Following the imposition of the sentence, defense counsel did not object to the sentence and, instead, thanked the circuit court judge. (R. p. 28).

#### **Facts Related to Slocumb's Appeal and the Decision of the Court of Appeals**

After Slocumb was resented for his first-degree burglary conviction, Slocumb appealed, arguing his one-hundred-and-thirty-year aggregate sentence for all of his conviction was the functional equivalent of a life without parole sentence and, as a result,

violated his constitutional rights in light of the United States Supreme Court's decision in Graham. (Final App. Br. pp. 1-15). On appeal, the Court of Appeals affirmed. State v. Slocumb, 412 S.C. 88, 89, 770 S.E.2d 436, 437 (Ct. App. 2015). In affirming, the Court of Appeals noted a circuit court generally has no jurisdiction over a criminal matter once the term of court in which the matter was addressed ends while further noting a circuit court only has the jurisdiction and authority mandated by the appellate court when a matter is remanded to it. Id. at 92, 770 S.E.2d at 438-439. In light of those principles, the Court of Appeals determined the circuit court judge in Slocumb's case committed no error in refusing to entertain Slocumb's request for resentencing on all of his convictions after Slocumb's case was remanded to the circuit court solely for resentencing on his first-degree burglary charge. Id. at 92, 770 S.E.2d at 439.

## ARGUMENT

**The Court of Appeals correctly affirmed the circuit court judge's order resentencing Slocumb to a fifty-year term of imprisonment for first-degree burglary after the United States District Court remanded Slocumb's case to the circuit court solely for resentencing on that conviction and properly declined to address Slocumb's constitutional challenge to the propriety of his aggregate sentence for all of his convictions in light of the fact the only issue appropriately before either the circuit court judge or the Court of Appeals was the limited issue of Slocumb's resentencing for first-degree burglary.**

Slocumb contends the Court of Appeals erred in affirming the circuit court judge's order resentencing him to a fifty-year term of imprisonment for first-degree burglary and declining to entertain his constitutional challenge to his other sentences. In support of that contention, Slocumb maintains his constitutional challenge to the propriety of his aggregate one-hundred-and-thirty-year sentence for all of his crimes was properly before both the Court of Appeals and the circuit court judge due to the fact he filed a "timely" motion for resentencing subsequent to the United States Supreme Court's decision in Graham v. Florida, 560 U.S. 48 (2011). Furthermore, Slocumb maintains both his aggregate one-hundred-and-thirty-year sentence imposed for five different offenses he committed as a juvenile and his fifty-year sentence for first-degree burglary viewed in isolation violate the Eighth Amendment's prohibition against cruel and unusual punishment because those sentences are allegedly de facto life without parole sentences. However, contrary to Slocumb's contentions, Slocumb's challenge to the constitutionality of his aggregate sentence was not appropriately before the Court of Appeals or the circuit court judge due to the fact the circuit court judge only resentenced him for – and only had the jurisdiction to resentence him for – his vacated first-degree burglary conviction following the limited order of remand from the United States District Court. As a result, the Court of Appeals committed no error in declining to address

Slocumb's constitutional challenge to his aggregate sentence and in affirming the circuit court judge's order resentencing Slocumb for first-degree burglary to a fifty-year term of imprisonment, which was not a sentence of life without parole for a non-homicide offense. Slocumb's petition for a writ of certiorari should be denied.

"Generally, a [circuit court] judge is without authority to consider a criminal matter once the term of court during which judgment was entered expires." State v. Warren, 392 S.C. 235, 238, 708 S.E.2d 234, 235 (Ct. App. 2011); see State v. Hinson, 303 S.C. 92, 94, 399 S.E.2d 422, 422 (1990) ("It is a long-standing rule of law that a trial judge is without jurisdiction to consider a criminal matter once the term of court during which judgment was entered expires."). However, that general rule is inapplicable when either: (1) a timely post-trial motion is filed; or (2) a motion for a new trial based on after-discovered evidence is filed. State v. Campbell, 376 S.C. 212, 215, 656 S.E.2d 371, 373 (2008). As a result, a circuit court judge lacks the authority to act in a particular matter if either the term of court has ended and a post-trial motion was not made within ten days of sentencing or a proper new trial motion based on an after-discovered evidence claim has not been filed. Id.; see Rule 29(a), SCRCrimP ("Except for motions for new trials based on after-discovered evidence, post-trial motions shall be made within ten (10) days after the imposition of the sentence.").

Furthermore, when a case is properly appealed and later remanded to the circuit court, the circuit court judge has no authority to act in the remanded case in a manner that exceeds the mandates of the appellate court. South Carolina Dep't of Soc. Servs. v. Basnight, 346 S.C. 241, 250, 551 S.E.2d 275, 279 (Ct. App. 2001); see Parker v. Shecut, 359 S.C. 143, 152, 597 S.E.2d 793, 798-799 (2004) (instructing the circuit court obtains jurisdiction to enforce the judgment and take any actions consistent with the appellate

court's ruling when an appellate court remits a case to the circuit court). An appellate court's mandate is jurisdictional, and a circuit court judge has a duty to follow the appellate court's directions. Prince v. Beaufort Mem'l Hosp., 392 S.C. 599, 605, 709 S.E.2d 122, 125 (Ct. App. 2011); see Ackerman v. McMillan, 324 S.C. 440, 443, 477 S.E.2d 267, 268 (Ct. App. 1996) ("It is the duty of the trial court to follow the decision of the appellate court."). Accordingly, when a case is remanded to the circuit court on limited grounds, a circuit court judge commits reversible error by considering an issue outside of the scope of the remand. Ackerman, 324 S.C. at 443, 477 S.E.2d at 268; see Prince, 392 S.C. at 605, 709 S.E.2d at 125 ("When we remand a case, the trial court has only the jurisdiction and authority mandated by this court.").

In the case sub judice, Slocumb contends his entire aggregate sentence for all of his convictions is unconstitutional while further contending his fifty-year sentence for first-degree burglary – even when viewed in isolation – is unconstitutional.<sup>1</sup> In light of those contentions, Slocumb asks this Court to grant his petition for a writ of certiorari and to ultimately remand his case for resentencing on all of his crimes. However, contrary to Slocumb's contentions, the issue of the propriety of all of Slocumb's sentences was not properly before the circuit court judge, was not properly before the Court of Appeals, and cannot now appropriately be raised to this Court through this appeal, and the circuit court

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<sup>1</sup> Notably, Slocumb did not argue to the Court of Appeals in his appellate brief his fifty-year sentence for first-degree burglary was unconstitutional even when viewed in isolation. (Final App. Br. pp. 1-15). As a result, Slocumb is precluded from raising such a contention to this Court through a petition for a writ of certiorari. See McClurg v. Deaton, 395 S.C. 85, 87, n. 2, 716 S.E.2d 887, 888 (2011) ("It is axiomatic that an issue cannot be raised for the first time on rehearing."); State v. Oxner, 391 S.C. 132, 134, 705 S.E.2d 51, 52 (2011) ("An argument that is not raised to an intermediate appellate court is not preserved for review by this Court"); Nelson v. QHG of South Carolina, Inc., 362 S.C. 421, 427, 608 S.E.2d 855, 858 (2005) (instructing an issue raised for the first time to the Court of Appeals through a petition for rehearing is not preserved for appellate review by the Supreme Court); see also Rule 242(d)(2), SCACR (instructing only issues that were initially raised to the Court of Appeals in the appellate briefs and then argued in a petition for rehearing can be raised to the Supreme Court through a petition for a writ of certiorari).

judge did not violate Slocumb's constitutional rights by sentencing him to a fifty-year term of incarceration for first-degree burglary.

Critically, at the resentencing hearing in 2004, Slocumb received a life without parole sentence for first-degree burglary and an aggregate sentence of eighty years for his other convictions. Subsequently, Slocumb unsuccessfully appealed his convictions and unsuccessfully applied for post-conviction relief before he eventually obtained relief through a federal habeas action in the form of the vacation of his first-degree burglary sentence. Because only the first-degree burglary sentence was vacated, the circuit court judge only had the authority and jurisdiction to resentence Slocumb on remand in regard to his first-degree burglary conviction, and Slocumb's aggregate sentence for the other offenses could not properly be disturbed.<sup>2</sup> See Basnight, 346 S.C. at 250, 551 S.E.2d at 279 (“[A] trial court has no authority to exceed the mandate of the appellate court on remand.”); see also Campbell, 376 S.C. at 215, 656 S.E.2d at 373 (recognizing a trial judge does not have jurisdiction to consider a criminal matter once the term of court during which judgment was entered expires unless a timely post-trial motion is made or a proper new trial motion based on after-discovered evidence is filed). Therefore, the circuit court judge correctly declined to reconsider the sentences for Slocumb's non-burglary offenses, and there was – and remains – no basis for appellate review of those sentences through the present appeal. See State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001) (“In criminal cases, the appellate court sits to review errors of law only.”); cf. Ackerman, 324 S.C. at 443, 477 S.E.2d at 268 (“The decision of the appellate court is final as to all questions decided. It is the duty of the trial court to follow the decision of

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<sup>2</sup> Tellingly, during the resentencing hearing, defense counsel readily and repeatedly conceded to the circuit court judge that Slocumb's case had only been remanded for resentencing on Slocumb's first-degree burglary conviction. (R. pp. 7-8; p. 12).

the appellate court. It was therefore error for the trial court to reconsider the issue of liability in this case in view of the fact this court remanded the case for a determination of damages only. As we read the respondents' brief, they implicitly concede this issue.” (citations omitted)).

Significantly, just as the Court of Appeals recognized, the only matter properly before the circuit court judge was the issue of resentencing Slocumb for first-degree burglary in a manner consistent with Graham, as directed by the United States District Court, and the circuit court judge did, in fact, sentence Slocumb to a sentence consistent with Graham in light of the fact Slocumb’s fifty-year sentence for first-degree burglary was **not** a sentence of life without parole. See Graham, 560 U.S. at 63 (“The instant case concerns **only those juvenile offenders sentenced to life without parole** solely for a nonhomicide offense.” (emphasis added)); see also Walle v. State, 99 So. 3d 967, 970 (Fla. Dist. Ct. App. 2012) (“The Supreme Court itself limited the scope and breadth of its decision in Graham by stating that its decision ‘concern[ed] only those juvenile offenders sentenced to life without parole solely for a nonhomicide offense.’ From this statement we identify the four necessary analytical factors: (1) the offender was a juvenile when he committed his offense, (2) the sentence imposed applied to a singular nonhomicide offense, (3) the offender was ‘sentenced to life,’ and (4) the sentence does not provide the offender with any possibility of release during his lifetime.” (brackets in original and citations omitted)). As a result, the circuit court judge properly limited her actions in Slocumb’s case to the limited matter before her, and the Court of Appeals properly affirmed the circuit court judge’s order while declining to address any other matters related to Slocumb’s case that were neither appropriately before the circuit court judge nor appropriately before the Court of Appeals on appeal. See Campbell, 376 S.C. at 215,

656 S.E.2d at 373 (“It is a long-standing rule of law that a trial judge is without jurisdiction to consider a criminal matter once the term of court during which judgment was entered expires.”); see also Wilson, 345 S.C. at 5, 545 S.E.2d at 829 (recognizing appellate courts sit to review errors on law only in criminal appeals).

In arguing to the contrary, Slocumb disagrees and contends the issue of resentencing in regard to **all** of his charges was appropriately before both the circuit court judge and the Court of Appeals. In making that contention, Slocumb claims to have filed a “timely” motion for resentencing while asserting this Court’s recent decision in Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014), somehow supports his claim the circuit court judge had jurisdiction to reconsider all of his sentences for all of his crimes.<sup>3</sup>

Importantly though, Slocumb did **not** file a timely motion for resentencing, which was necessary for the circuit court judge to have jurisdiction to take any action in regard to Slocumb’s sentences for his non-burglary convictions. Cf. Tant v. South Carolina Dep’t of Corr., 408 S.C. 334, 342-343, 759 S.E.2d 398, 402 (2014) (“The judge sent the letter two-and-a-half years after sentencing and at that point no longer had jurisdiction over the case. Therefore, Judge Saunders was without jurisdiction to make any subsequent pronouncement concerning Tant's sentence.” (emphasis added and citation omitted)). To the contrary, Slocumb first filed a motion for resentencing on January 26, 2011, which was **over 2,500 days** after his sentences were imposed on February 18,

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<sup>3</sup> Notably, Slocumb also appears to claim the issue regarding the propriety of all of his sentences was appropriately before the circuit court judge because the United States District Court remanded the case for resentencing in compliance with Graham after vacating **only** Slocumb’s first-degree burglary sentence. (R. pp. 44-49). However, that claim directly conflicts with defense counsel’s repeated – and correct – concessions to the circuit court judge Slocumb’s case had only been remanded for resentencing on the first-degree burglary conviction. (R. pp. 7-8; p. 12). Because defense counsel conceded his case had only been remanded for resentencing on the first-degree burglary charge, Slocumb cannot now contend the United States District Court remanded his case for resentencing on all of the charges in a petition for a writ of certiorari. See State v. Bryant, 372 S.C. 305, 315-316, 642 S.E.2d 582, 588 (2007) (recognizing an issue conceded during circuit court proceedings cannot subsequently be argued on appeal).

2004. See Rule 29(a), SCRCrimP (“Except for motions for new trials based on after-discovered evidence, post-trial motions shall be made **within ten (10) days after the imposition of the sentence.**” (emphasis added)); cf. Warren, 392 S.C. at 240, 708 S.E.2d at 236 (“Warren’s motion to reconsider her sentence . . . is subject to the ten day time period prescribed in Rule 29; thus, because the motion was filed more than three years after imposition of the sentence, Warren’s motion is not timely.”). As a result, Slocumb’s motion was completely untimely, and the circuit court judge simply had no jurisdiction to act on it or to take any action in regard to Slocumb’s sentences for his non-burglary convictions. See Warren, 392 S.C. at 238, 708 S.E.2d at 235 (“Generally, a trial judge is without authority to consider a criminal matter once the term of court during which judgment was entered expires.”). In fact, any order issued in regard to those sentences would have been a nullity had the circuit court judge mistakenly been lulled into issuing one.<sup>4</sup> See Blanton v. Stathos, 351 S.C. 534, 542, 570 S.E.2d 565, 569 (Ct. App. 2002) (“A judgment by a court without jurisdiction of both the parties and the subject matter is a nullity and must be so treated by the courts whenever and for whatever purpose it is presented and relied on.”).

Moreover, this Court’s decision in Aiken does not support Slocumb’s claims regarding jurisdiction and most certainly did not create a jurisdictional exception to our general rules that would have permitted the circuit court judge, who was otherwise

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<sup>4</sup> Significantly, Slocumb illogically contends in his petition for a writ of certiorari the circuit court judge considered, ruled upon, and denied defense counsel’s untimely motion for resentencing on all of the charges by stating Slocumb’s first-degree burglary sentence was “the only one that [she was] going to entertain” during the resentencing hearing. (R. p. 28). Even assuming that absurd contention was correct and the circuit court judge’s order constituted a denial of Slocumb’s untimely motion despite the plain meaning of the words the circuit court judge used in issuing that order, any order issued in regard to the untimely motion would have been a nullity in light of the fact circuit court judges can only validly rule on matters properly before them. See Tant, 408 S.C. at 342-343, 759 S.E.2d at 402 (holding a letter issued by a circuit court judge in regard to Tant’s sentence after the circuit court judge no longer had jurisdiction over that sentence could **not** be considered).

lacking jurisdiction over anything other than the remanded first-degree burglary charge, to act on Slocumb's untimely motion simply because Slocumb based the motion on his belief the Graham decision has retroactively impacted the propriety of his previously-imposed sentences. Instead, this Court's decision in Aiken, which was issued after this Court granted **a petition for original jurisdiction**, confirms the existence of other proper avenues for Slocumb to seek the relief he believes he is entitled to just as the United States District Court's issuance of an order of remand in response to Slocumb's earlier successful petition for habeas corpus has already confirmed in his case. See Aiken, 410 S.C. at 536-537, 765 S.E.2d at 573 (granting relief following a constitutional challenge raised through a petition for original jurisdiction); see generally S.C. Const. art. V, § 5 ("The Supreme Court shall have power to issue writs or orders of injunction, mandamus, quo warranto, prohibition, certiorari, habeas corpus, and other original and remedial writs."). However, Slocumb's current challenge to his sentences has **not** been raised through a proper avenue like a petition for habeas corpus or a petition for original jurisdiction and, thus, has not properly been brought before any court to this point.<sup>5</sup>

Accordingly, for the foregoing reasons, the circuit court judge committed no error by correctly limiting her actions in Slocumb's case to the matter over which she properly and solely had jurisdiction and sentencing Slocumb to a fifty-year term of imprisonment for first-degree burglary, which was **not** a sentence of life without parole for a non-homicide offense. See Graham, 560 U.S. at 63 ("The instant case concerns only those juvenile offenders sentenced to life without parole solely for a nonhomicide offense."). Likewise, the Court of Appeals committed no error by affirming the circuit court judge's

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<sup>5</sup> Notably, the United States District Court specifically instructed "[Slocumb] may then re-file a [federal habeas] petition after re-sentencing, if he believes he has grounds for habeas relief." (R. p. 45).

order and declining to address matters related to issues over which the circuit court judge had no jurisdiction. See State v. Branham, 392 S.C. 225, 228, 708 S.E.2d 806, 808 (Ct. App. 2011) (“The appellate court’s review in criminal cases is limited to correcting the order of the circuit court for errors of law.”); see also State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 694 (2003) (explaining it constitutes reversible error for the Court of Appeals to address an issue that is not properly before it). Slocumb’s petition for a writ of certiorari should be denied.

**CONCLUSION**

For all the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

Respectfully submitted,

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July 10, 2015

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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On Writ of Certiorari to the Court of Appeals  
Appeal from Richland County  
Honorable DeAndrea G. Benjamin, Circuit Court Judge  
Appellate Case No. 2015-001127

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S.C. Supreme Court

THE STATE,

Respondent,

vs.

CONRAD LAMONT SLOCUMB,

Petitioner.

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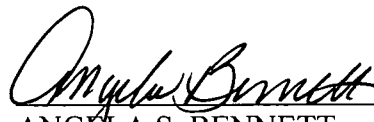
**PROOF OF SERVICE**

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I, Angela S. Bennett, certify that I have served the within Return to Petition for Writ of Certiorari on Petitioner by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Laura R. Baer, Esquire  
S.C. Commission on Indigent Defense  
Division of Appellate Defense  
Post Office Box 11589  
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I further certify that all parties required by Rule to be served have been served.  
This 10th day of July, 2015.



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