

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF GENERAL SESSIONS
2014-GS-01-212, 213

STATE of SOUTH
CAROLINA,

-v-

KARLITA D.
PHILLIPS,
Defendant.

ORDER DENYING MOTION FOR
RECONSIDERATION OF SENTENCE

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NOV 09 2015
SC Court of Appeals

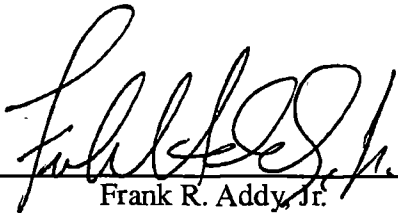
Addy, J.

THIS MATTER CAME BEFORE THE COURT on Defendant's motion dated July 29, 2015 seeking reconsideration of her sentence. Having fully considered the written motion and the applicable law, and for the reasons stated in paragraph 2 of the court's order of October 23, 2015, the court declines to reconsider the sentence imposed after trial.

The court finds that the sentence imposed was appropriate in light of the overall facts and circumstances of this crime, and the court took into account all mitigation presented to the court.

WHEREFORE, Defendant's motion for reconsideration of her sentence is denied.

IT IS SO ORDERED.



Frank R. Addy, Jr.
Eighth Judicial Circuit

November 4, 2015
Greenwood, South Carolina

STATE OF SOUTH CAROLINA)
)
v.)
)
KARLITA D. PHILLIPS,)
)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
FOR ABBEVILLE COUNTY

INDICTMENT Nos. 2014GS010023, 213

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MOTION FOR RECONSIDERATION OF SENTENCE

Pursuant to Rule 29, SCRCrimP the Defendant, Karlita D. Phillips, moves the court to reconsider her sentence. Defendant was sentenced to life in prison. Defendant made a motion prior to sentencing to have her sentence delayed until the case of co-defendant Tavarious Settles is resolved. This motion was denied. In his testimony, Tavarious Settles admitted that his sentence on his Greenwood conviction could be reduced; in addition, his Abbeville charge could be reduced or dismissed. If Mr. Settles were to receive anything in consideration of his testimony, that would provide an additional basis for this motion. Defendant now moves the Court to reconsider her sentence and to hold in abeyance a ruling until Tavarious Settles's case is resolved.

IT IS SO MOVED.

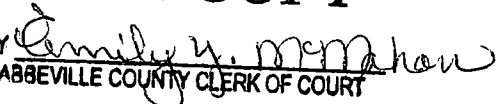


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(864) 229-9505

July 29, 2015
Greenwood, South Carolina

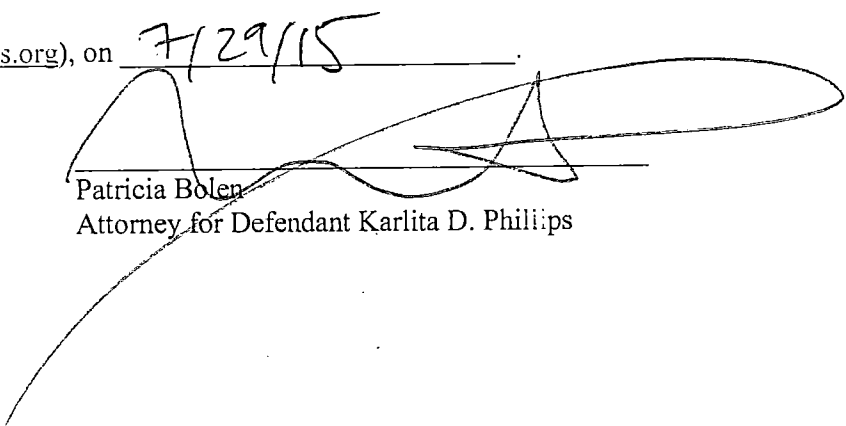
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STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2015 JUL 29 PM 3 36
EMILY Y MOHAWAN
CLERK OF COURT

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BY 
ABBEVILLE COUNTY CLERK OF COURT

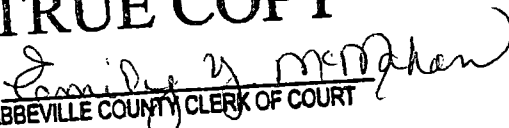
CERTIFICATE OF SERVICE

The undersigned certifies that she has served this Motion for Reconsideration of Sentence by hand on opposing counsel (as well as by email at ybrown@greenwoodsc.gov) and by mail on The Honorable Frank Addy at 528 Monument Street, Suite 210, Greenwood, SC 29646 (as well as by email at faddyj@sccourts.org and faddyle@sccourts.org), on 7/29/15


Patricia Bolen
Attorney for Defendant Karlita D. Phillips

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ABBEVILLE COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF GENERAL SESSIONS
2014-GS-01-212, 213

STATE of SOUTH
CAROLINA,

ORDER DENYING MOTION FOR A NEW
TRIAL

-v-

KARLITA D.
PHILLIPS,
Defendant.

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NOV 09 2015
SC Court of Appeals

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STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

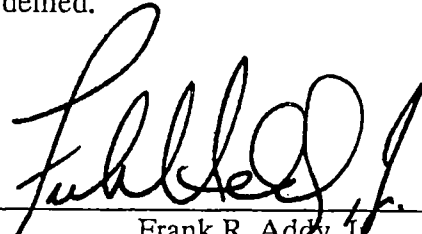
Addy, J.

THIS MATTER CAME BEFORE THE COURT on Defendant's motion dated July 29, 2015 seeking a new trial. Having fully considered the written motion and the applicable law, I find as follows:

- (1) Concerning the court's evidentiary and procedural rulings at trial, the court declines to grant a new trial on the grounds stated in Defendant's motion.
- (2) Concerning the grounds stated in paragraph 9 and the final unnumbered paragraph on page 3, on motion of the Solicitor and due to Mr. Settles' substantial cooperation, the court did reduce Mr. Settles' sentence on his Greenwood conviction from forty-five (45) years to forty (40) years, and Mr. Settles did also receive a concurrent forty (40) year sentence on his Abbeville charge. Because counsel did confront and cross examine Mr. Settles concerning this possibility at trial, the court declines to grant a new trial on these grounds.

WHEREFORE, Defendant's motion for a new trial is denied.

IT IS SO ORDERED.



Frank R. Addy, Jr.
Eighth Judicial Circuit

October 23, 2015
Greenwood, South Carolina

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BY Shandae Boag
ABBEVILLE COUNTY CLERK OF COURT

STATE OF SOUTH CAROLINA

v.

KARLITA D. PHILLIPS,
Defendant.

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IN THE COURT OF GENERAL SESSIONS
FOR ABBEVILLE COUNTY

INDICTMENT Nos. 2014GS010021

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SC Court of Appeals

MOTION FOR NEW TRIAL

Pursuant to Rule 29, SCRCrimP the Defendant, Karlita D. Phillips, moves for a new trial. "A trial judge has the discretion to grant or deny a motion for a new trial, and his decision will not be reversed absent a clear abuse of discretion." State v. Johnson, 376 S.C. 8, 654 S.E.2d 835 (2007) (trial judge properly granted new trial when witness improperly testified about polygraph, thereby improperly bolstering his credibility to the jury). The new trial motion is based on the following errors of law:

1. Defendant should have been granted a directed verdict, since the state did not present substantial evidence of her guilt and did not establish the corpus delicti of the crime independent of her statement. In particular, the state did not present evidence that defendant was absent from the crime scene; in fact, the state presented evidence that defendant was present at the crime scene. Since absence from the scene is part of the corpus delicti, and the primary evidence of defendant's absence was her own statement which cannot be considered part of the corpus delicti, the defense should have been granted a directed verdict.

2. Defendant's motion to suppress the search warrant as a violation of the 4th Amendment should have been granted, as there was insufficient evidence to support a finding of probable cause to seize and search the defendant's car.

3. Defendant's motion to suppress her statements given to law enforcement pursuant to Jackson v. Denno should have been granted.

4. Defendant's motion for 10 peremptory strikes should have been granted, as it was a violation of equal protection to deny defendant the number of jury strikes that is granted to defendants charged with murders and lesser crimes.

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BY Emily U. McMan
ABBEVILLE COUNTY CLERK OF COURT

5. Defendant's motion to exclude or sever statements made by co-defendant Tavarious Settles, who was not on trial, to testifying third parties should have been granted under rule 804(d)(3) of the South Carolina Rules of Evidence and under *State v. Holmes*, 342 S.C. 113 (2000) and under *Williamson v. United States*, 114 S.Ct. 2431 (1994). Specifically, the statements Mr. Settles made concerning his relationship with defendant should have been excluded from the testimony of the third parties to whom he made the statements, as such statements were not clearly against his criminal or civil interest as required by 804(d)(3) and *Holmes* and *Williamson*.

6. Defendant's motion to exclude the testimony of Tavarious Settles should have been granted. Mr. Settles testified on Monday, July 20, 2015 that he intended to claim his 5th Amendment right against self-incrimination and not testify in defendant's case. Mr. Settles then proffered testimony on July 22, 2015 and testified in front of the jury on July 23, 2015. Defendant moved to exclude Mr. Settles's testimony on the basis that it violated her due process rights. The denial of this motion is a violation of defendant's due process rights.

7. Defendant's motion to exclude testimony of SLED agent Eichenmiller regarding pictures of two guns and whether bullets recovered from the scene could have come from the gun(s) pictured should have been granted.

8. Defendant made several objections to hearsay evidence; these objections should have been sustained, as witnesses were referring to things that had been said to them.

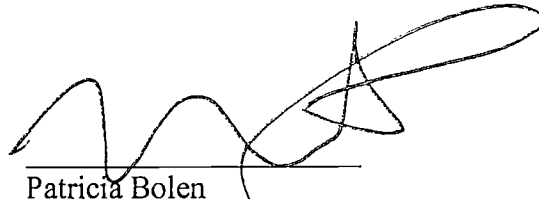
9. The State maintained that there was no deal with Tavarious Settles, with respect to his current sentence or any sentence he might receive on the Abbeville murder, regarding his testimony at this trial. Mr. Settles admitted in testimony that his Greenwood sentence of 45 years could be reduced via downward departure, and that his Abbeville charges could be reduced or dismissed. Additionally, he could receive a recommended or negotiated sentence on the Abbeville charge. If Mr. Settles receives anything in consideration of his testimony, that provides a basis for this motion for a new trial.

10. The Court should grant a new trial based on the cumulative error doctrine which requires a new trial when a combination of errors prevents a party from receiving a fair trial. E.g., *State v.*

Blurton, 342 S.C. 500, 537 S.E.2d 291 (Ct. App. 2000) reversed on other grounds 352 S.C. 203, 573 S.E.2d 803 (2002).

For the foregoing reasons, this Court should grant Defendant's motion for new trial. The defendant also moves the Court to hold its ruling on this motion in abeyance, pending the outcome of Tavarious Settles's Abbeville murder case.

IT IS SO MOVED.



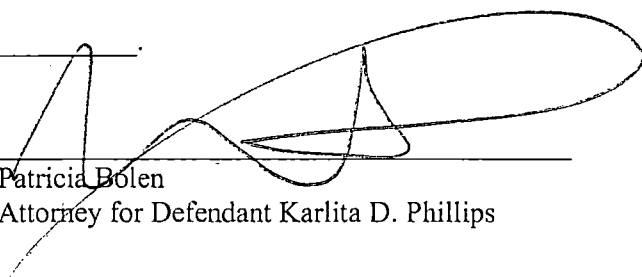
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CERTIFICATE OF SERVICE

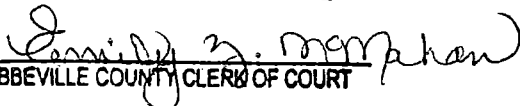
The undersigned certifies that she has served this Motion for New Trial by hand on opposing counsel (as well as by email at ybrown@greenwoodsc.gov) and by mail on The Honorable Frank Addy at 528 Monument Street, Suite 210, Greenwood, SC 29646 (as well as by email at faddyj@sccourts.org and faddyjc@sccourts.org), on 7/29/15.



Patricia Bolen
Attorney for Defendant Karlita D. Phillips

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