

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Frank R. Addy, Jr., Circuit Court Judge

RECEIVED

JUL 18 2016

Appellate Case No. 2015-000980

SC Court of Appeals

The State,Respondent,

v.

Tavarious Settles,Appellant.

MOTION TO STRIKE

Appellant Tavarious Settles respectfully moves the Court to issue an Order striking portions of the State's Initial Respondent's Brief and Designation of Matter and requiring the State to submit an Amended Initial Respondent's Brief and Amended Designation of Matter without the offending portions. In support of this motion, Settles states as follows:

1. The trial in this matter was held from March 30, 2015, through April 2, 2015.
2. Following sentencing, Settles moved for reconsideration of the sentence imposed, which the trial court denied by order dated April 21, 2015.
3. Settles timely served his notice of appeal on April 29, 2015.
4. On September 18, 2015—over five months after the trial and sentencing in this case—the *State* moved for Settles' sentence to be reduced pursuant to S.C. Code Section 17-25-65 for "substantial assistance" Settles provided in another matter

wholly-unrelated to the instant case, which the assigned circuit court judge granted that same day.¹ Also on September 18, 2015, Settles pled guilty to charges in the unrelated case and the negotiated sentence was imposed in that case.

5. The State's Designation of Matter identifies the following:
 - State's Motion for Reduction of Sentence for "Substantial Assistance" Pursuant to S.C. Code Section 17-25-65, filed September 18, 2015;
 - Order for Sentence Reduction, filed September 18, 2015; and
 - September 18, 2015, Guilty Plea Transcript of Tavarious Settles.

State's Designation of Matter; *see* Exhibit A.

6. In its "Statement of the Case" as well as on page 25 of the "Argument" section of its Brief, the State references the motion and order described above and discusses the fact that Settles' sentence on the murder charge at issue in this case was reduced upon motion by the State. *Init. Br. of Resp.* at 1, 25.

7. Then, on page 39 of its Brief, citing to the September 18, 2015 hearing transcript described above, the State argues that the reversible errors and deficiencies related to Settles' sentencing at issue in this case should be excused as harmless because "Appellant's sentence has been entitled to a second review by the trial judge and has been reduced upon a showing of substantial assistance to the State." *Id.* at 39 n.10.

¹ S.C. Code Section 17-25-65 provides: "Upon the state's motion made within one year of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided . . . substantial assistance in investigating or prosecuting another person. . . . The chief judge or a circuit court judge currently assigned to that county shall have jurisdiction to hear and resolve the motion. Jurisdiction to resolve the motion is not limited to the original sentencing judge."

8. The State's characterization of the circuit court judge's actions on September 18, 2015, is completely erroneous, and in any event, such actions are irrelevant to this appeal.²

9. Contrary to the State's contention, Settles did not receive the "benefit" of a "second review" of the sentencing decision in this case. *Id.* The circuit court judge did not reconsider Settles' sentence during the September 18, 2015 hearing, and he certainly did not sit in the capacity of this Court reviewing his own prior sentencing decision.³

10. Rather, the circuit court judge only granted the *State's* motion for a reduction of sentence pursuant to the "substantial assistance" statute without any consideration of the previous sentencing decision.

11. Simply put, neither the State's motion, nor the circuit court's order granting the motion, nor the September 18, 2015 hearing have anything to do with the propriety of the sentence imposed in this case or the procedure employed by the trial court in imposing the sentence—*i.e.*, the issues in this appeal. *See* Init. Br. of Appellant at 10-18.

² Settles has no issue with the Court simply taking judicial notice of the fact that Settles' sentence in this case was reduced upon motion by the State pursuant to the "substantial assistance" statute. *See* Init. Br. of Appellant at 11 n.5. However, this fact and the circumstances surrounding the motion by the State and corresponding sentence reduction have no bearing on or relevance to the issues in this appeal.

³ The State's argument appears to be largely based on the fact that the judge that presided during the trial and imposed the sentence in this case was the same judge that presided during the September 18, 2015 hearing and granted the State's motion for reduction of the sentence. However, this is irrelevant because the "substantial assistance" statute requires the State's motion to be filed "in the county where the defendant's case arose" and expressly states that "[j]urisdiction to resolve the motion is *not* limited to the original sentencing judge." S.C. Code Ann. § 17-25-65 (emphasis added). It therefore was just happenstance, or simply the result of the limited number of judges available for Greenwood County, that the same judge presided over both hearings.

12. The State's argument not only is erroneous, but it and the attempted inclusion of the September 18, 2015 motion, order, and hearing transcript in the Record on Appeal are entirely improper.

13. Pursuant to Rule 210(h), SCACR, the appellate court will not consider any fact which does not appear in the Record on Appeal.

14. Rule 210(c), SCACR, requires that evidence not previously presented to the lower court or tribunal be excluded from the Record on Appeal.⁴

15. In applying this limitation, the Supreme Court held that

[t]his Court will not consider any fact which does not appear in the transcript of record nor will any fact stated in an exception be considered unless it appears from the record that it is true. Likewise, counsel is prohibited from embodying in their briefs any fact which does not appear in the record.

S.C. State Highway Dep't v. Meredith, 241 S.C. 306, 311, 128 S.E.2d 179, 182 (1962) (internal citations omitted); *see also Norris v. Ferre*, 315 S.C. 179, 183, 432 S.E.2d 491, 493 (Ct. App. 1993) (refusing to consider matters that were not presented to the lower court); *State v. White*, 372 S.C. 364, 387, 642 S.E.2d 607, 619 (Ct. App. 2007) ("Morris' statement was not presented to the lower court and cannot be properly included in the Record on Appeal."), *aff'd*, 382 S.C. 265, 676 S.E.2d 684 (2009); Exhibit B, *S.C. Coastal Conservation League v. S.C. Dep't of Health & Envtl. Control*, Case No. 2009-113526 (Order dated April 19, 2010) (striking brief that contained reference to matters not presented to the lower tribunal).

⁴ Rule 209(b), SCACR, further provides that "[a] party shall not include any matter in his Designation [of Matter] which is not relevant to the appeal."

16. Based on this authority, it was inappropriate for the State to premise any arguments in its Brief on the September 18, 2015 motion, order, or hearing transcript or to include these materials in its Designation of Matter.

17. September 18, 2015, was over five months after the trial and sentencing in this case and almost five months after the filing of the notice of appeal. These materials therefore are not—and cannot be—a part of the record in this case.

18. Accordingly, Settles respectfully requests that the Court grant this motion to strike and order the State to submit an Amended Initial Brief and Amended Designation of Matter without the offending portions on pages 1, 25, and 39 of its Brief and items three, four, and five of its Designation of Matter, as demonstrated in the attached Exhibit C.⁵

[Signature Page Follows]

⁵ As demonstrated in the attached Exhibit C, Settles respectfully submits that there should be no mention of the September 18, 2015 motion, order, and hearing in the State's "Statement of the Case," and no citation to or argument premised on the same in the State's Brief.

Respectfully submitted,



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Counsel for Appellant Tavarious Settles

Columbia, South Carolina

July 13, 2016

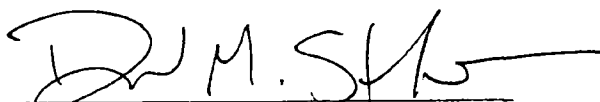
EXHIBIT A

details concerning how Karlita Phillips asked him to kill her husband (Dale Phillips, Jr. the deceased's brother), and that she drove him to the scene of the crime at the Phillips' house in Abbeville County. Settles offered this testimony of his own free will and accord, with no promises, negotiations, or plea offers from the State in exchange for his testimony.

After consultation of all parties involved, it is the State's position that Defendant Settles' testimony in the Karlita Phillips trial qualifies as "substantial assistance to the State" under section 17-25-65, as it applies to the prosecution of another person. Accordingly, the State moves for a reduction in Settles' sentence from forty-five (45) years down to forty (40) years incarceration as to indictment 2013-GS-24-1538. As part of the negotiations, the State respectfully requests that the Court run the Greenwood sentence concurrently with the negotiated forty (40) year sentence on Defendant's guilty plea to Murder on the Abbeville County charge being entered in court today.

IT IS SO MOVED.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "D.M. Stumbo", with a long horizontal flourish extending to the right.

David M. Stumbo
Solicitor, 8th Judicial Circuit

September 18, 2015
Greenwood, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENWOOD)
)
 State of South Carolina,)
)
 -vs-)
)
 Tavarious DeQuan Settles,)
)
 _____)
 Defendant.)

IN THE COURT OF GENERAL SESSIONS
 EIGHTH JUDICIAL CIRCUIT

Indictments #2013-GS-24-1538; -1539

ORDER FOR SENTENCE REDUCTION

2015 SEP 18 PM 2:00

FILED IN THE COURT OF GENERAL SESSIONS
 8th JUDICIAL CIRCUIT
 GREENWOOD COUNTY, SC

The State moved before this Court on September 18, 2015 for a reduction in the sentence for Defendant Tavarious DeQuan Settles pursuant to S.C. Code Section 17-25-65 for “substantial assistance rendered to the State” within one year of his sentence. The State’s motion was made in conjunction with a guilty plea on a murder charge for Defendant Settles out of Abbeville County at a hearing at the Greenwood County Courthouse on September 19, 2015. The State was represented by 8th Circuit Solicitor David M. Stumbo. The Defendant was represented by his attorneys Robert J. Tinsley, Sr., Esq. and Joshua Nasrollahi, Esq.

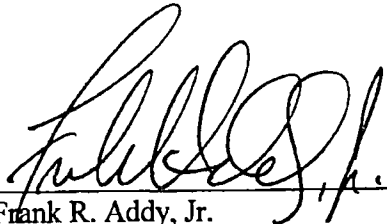
Defendant Settles was tried in the Greenwood County Court of General Sessions during the term of March 30, 2015 on indictments for Murder and Possession of a Firearm during the Commission of a Violent Crime. He was convicted as charged on April 2, 2015 by the jury on both counts, and was sentenced by this Court to forty-five (45) years in prison for murder, and a concurrent five (5) year sentence on the weapon charge.

Defendant Settles was also charged with Murder (2014-GS-01-214) on an unrelated case out of Abbeville County before this Court. Settles’ co-defendant in the Abbeville murder was an individual by the name of Karlita Phillips. Karlita Phillips was tried on indictments of Accessory Before the Fact of Murder (2014-GS-01-213) and Solicitation of a Minor to Commit a Crime (2014-

GS-01-212) during the week of July 20, 2015 in Abbeville County. During the trial of Ms. Phillips, Defendant Settles changed his position and offered testimony regarding this incident before the State closed its case-in-chief. In his testimony, Settles admitted to being the triggerman in the murder of Jamil Phillips. Settles also testified to new details concerning how Karlita Phillips asked him to kill her husband (Dale Phillips, Jr. the deceased's brother), and that she drove him to the scene of the crime at the Phillips' house in Abbeville County. This Court finds that Settles offered this testimony of his own free will and accord, with no promises, negotiations, or plea offers from the State in exchange for his testimony.

This Court agrees with the State that Defendant Settles' testimony in State v. Karlita Phillips trial qualifies as "substantial assistance to the State" under S.C. Code Section 17-25-65, as it applies to the prosecution of another person. Therefore, this Court orders a reduction in Defendant Settles' sentence from forty-five (45) years down to forty (40) years incarceration as to his Greenwood County murder conviction (2013-GS-24-1538). As part of the negotiations between the parties, this Court also orders this sentence reduction will run concurrently with the negotiated forty (40) year sentence on Defendant's sentence on the Abbeville County murder conviction (2014-GS-01-214).

IT IS SO ORDERED.



Frank R. Addy, Jr.
Chief Administrative Judge
8th Judicial Circuit

September 18, 2015
Greenwood, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

EIGHTH JUDICIAL CIRCUIT
IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
)
 -VS-)
 TAVARIOUS DEQUAN SETTLES,)
 DEFENDANT.)
 _____)

2013-GS -24-1538, -1539
2014-GS-01-214
TRANSCRIPT OF RECORD

SEPTEMBER 18, 2015
GREENWOOD, SOUTH CAROLINA

BEFORE:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

APPEARANCES:

ATTORNEY FOR PLAINTIFF:
DAVID STUMBO, SOLICITOR

ATTORNEYS FOR DEFENDANT:
JOSH NASROLLAHI, ESQUIRE
ROBERT TINSLEY, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

INDEX

<u>WITNESS</u>	<u>PAGE NO.</u>
HEARING	3
CERTIFICATE OF REPORTER	23

(NO EXHIBITS WERE ADMITTED DURING THIS HEARING)

1 MR. STUMBO: Judge, for the record I know we're waiting
2 on Mr. Tinsley, but we can go ahead and put on the record
3 the caption of the case. Today we're here to essentially
4 deal with two matters, Your Honor. Before you is Tavarious
5 Dequan Settles with his attorneys, Mr. Josh Nasrollahi and
6 Mr. Robert Tinsley, both of the Greenwood County Bar. Mr.
7 Settles is here today to plead guilty to murder on a charge
8 of murder out of Abbeville County, 2014-GS-01-214 is the
9 indictment number. Judge, this is for the murder of one
10 Jameel Phillips. I know Your Honor is very familiar with
11 this case because we tried the co-defendant, Ms. Karlita
12 Phillips back in July over in Abbeville. Mr. Settles ended
13 up being a witness for the State in that trial.

14 Your Honor, I do have the indictment and sentencing
15 sheet on the Abbeville charge. I also will be passing up to
16 Your Honor a motion based on code section 17-25-65. That is
17 the state statute that deals with sentence reductions. The
18 motion essentially is part of the negotiations today to
19 reduce the 45 year sentence on indictment 2013-GS-24-1538.
20 That was, as Your Honor is familiar with, a case you tried
21 in Greenwood. Mr. Settles murdered a Guatemalan individual
22 down in -- not too far from the courthouse here, and Your
23 Honor sentenced him to 45 years. Also, I'm passing up the
24 State's motion in a proposed order for Your Honor in regards
25 to the sentence reduction and what this plea we'll do here

1 today is essentially wrap this up into a 40 year resolution
2 to this case. If I may approach, Your Honor.

3 MR. NASROLLAHI: Judge, Mr. Tinsley and I have both
4 received copies of the motion. We have reviewed the motion
5 and we've also reviewed the proposed order. If Your Honor
6 is inclined to accept the negotiations this morning we have
7 no issue that I'm aware of with regard to the proposed
8 order.

9 THE COURT: Mr. Nasrollahi, I think that you are
10 representing Mr. Settles on the Abbeville case that we're
11 addressing by plea today. You have explained to Mr. Settles
12 that, of course, the offense of murder carries a minimum of
13 30 years and a maximum of life?

14 MR. NASROLLAHI: Yes, Your Honor.

15 THE COURT: You've also gone over with him the
16 collateral consequences of this plea, mainly that it's
17 classified as a most serious offense, violent offense, and
18 things of that nature?

19 MR. NASROLLAHI: Yes, Your Honor.

20 THE COURT: The 40 years would have to be served day for
21 day. Is that your understanding?

22 MR. NASROLLAHI: Yes, Your Honor. We are also waiving
23 venue as this is an Abbeville case.

24 THE COURT: Correct. You have then reviewed with Mr.
25 Settles all the penalties, ramifications, and the other

EXHIBIT B

The Supreme Court of South Carolina

South Carolina Coastal
Conservation League,

Respondent/Petitioner,

v.

South Carolina Department of
Health and Environmental
Control and South Carolina
State Ports Authority,

Respondents,

of whom South Carolina
Department of Health and
Environmental Control is

Petitioner/Respondent.

and

South Carolina Coastal
Conservation League,

Respondent/Petitioner,

v.

South Carolina Department of
Health and Environmental
Control, South Carolina
Department of Transportation
and South Carolina State Ports
Authority,

Respondents,

of whom South Carolina
Department of Health and
Environmental Control, is

Petitioner/Respondent.

The Honorable John D. Geathers
Trial Court Case No. 2007-AL-07-00107
2007-AL-07-00108

ORDER


In response to the amici curiae brief of South Carolina Wildlife Federation, Upstate Forever, Deerfield Plantation Phase II-B Property Owners Association, Engaging and Guarding Laurens County's Environment, Save Our Saluda, and National Wildlife Federation, Respondent South Carolina Ports Authority has filed a brief which contains various exhibits. All of these exhibits are dated after the Administrative Law Court (ALC) issued its orders in this matter.

Since nothing in the South Carolina Appellate Court Rules allows for the inclusion of exhibits in a brief and this Court cannot consider evidence that was not considered by the lower court or tribunal in making its decision,¹ the brief is hereby stricken. Respondent South Carolina Ports Authority may

¹ Sanders v. Allis Chalmers Mfg. Co., 235 S.C. 259, 111 S.E.2d 201 (1959) (affidavit included in brief could not be considered because it was not before the trial judge).

serve and file an amended brief which does not contain any exhibits within ten (10) days of the date of this order.

IT IS SO ORDERED.



A.C.J

FOR THE COURT
Toal, C.J., and Hearn, J., not
participating.

Columbia, South Carolina

April 19, 2010

cc: Carlisle Roberts, Jr, Esquire
Davis Arjuna Whitfield-Cargile, Esquire
J. Blanding Holman, IV, Esquire
W. Jefferson Leath, Esquire
Beacham O. Brooker, Jr, Esquire
Mitchell Willoughby, Esquire
Randolph R. Lowell, Esquire
Philip L. Lawrence, Esquire
Derk Van Raalte, IV, Esquire
James B. Richardson, Jr, Esquire
James S. Chandler, Jr., Esquire
Amy E. Armstrong, Esquire

EXHIBIT C

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

JUN 27 2016

Appeal from Greenwood County
Honorable Frank R. Addy, Jr., Circuit Court Judge

SC Court of Appeals

THE STATE,

Respondent,

v.

TAVARIOUS SETTLES,

Appellant

Appellate Case No. 2015-000980.

DESIGNATION OF MATTER TO
BE INCLUDED IN RECORD ON APPEAL

Respondent agrees with Appellant's proposal regarding the designation of matter on appeal and requests the following be included in the Record on Appeal:

- (1) Trial Transcript pages 32, 51-55, 169-71, 177-78, 182-83, 188-91, 252-88, 301-17, 321-45, 377-81, 385-411;
- (2) State's Exhibit Numbers 4 and 35 (photographs);
- (3) ~~State's Motion for Reduction of Sentence for "Substantial Assistance" Pursuant to S.C. Code Section 17-25-65, filed September 18, 2015;~~
- (4) ~~Order for Sentence Reduction, filed September 18, 2015;~~
- (5) ~~September 18, 2015, Guilty Plea Transcript of Tavarious Settles.~~

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

STATEMENT OF THE CASE

In September 2013, The Greenwood County Grand Jury indicted Appellant Tavarious Settles for the May 30, 2013, murder of Prudencio Sis. Settles was also indicted for possession of a weapon during the commission of a violent crime. (R. pp. *Indictments).

Represented by Robert Tinsley, Esquire, Appellant proceeded to trial in Greenwood County beginning March 30, 2015. The Honorable Frank R. Addy, Jr. Presided. Assistant Eighth Circuit Solicitors Elizabeth White and C. Yates Brown prosecuted the case, which lasted four days. (Tr. p. 1).

Settles was convicted of both charges, and Judge Addy sentenced him to 45 years for murder and a concurrent five years on the weapons charge. Settles received credit for time served. (Tr. p. 497, lines 10-17).

Following sentencing, Settles, by and through counsel, moved for the court to reconsider the sentence imposed. (R. pp. *Motion to Reconsider Sentence). Judge Addy denied that motion on April 21, 2015. (R. pp. *Order Denying Motion for Reconsideration of Sentence Imposed). Notice of this appeal followed. (R. p. *Notice of Appeal).

~~On September 18, 2015, Eighth Circuit Solicitor David Stumbo moved for Settles' sentence to be reduced as a result of Settles' offering substantial assistance to the State by testifying in another matter. (R. pp. *Motion for Sentence Reduction). Judge Addy granted the State's motion, reducing Settles' sentence on the murder charges from 45 to 40 years, and running it concurrent to other charges. (R. pp. *Order for Sentence Reduction).~~

II. The trial court did not err in denying Appellant's attempt to present his mitigation case via individualized, sworn testimony because no precedent establishes a particular procedure that the court must follow before sentencing an individual under the age of eighteen to a term-of-years sentence and because the sentencing court heard evidence related to and gave due consideration to Appellant's age, individual history and characteristics, and family circumstance prior to issuing a forty-five-year sentence.

South Carolina employs a constitutionally permissible sentencing scheme in which juvenile homicide offenders are subject to a discretionary sentence ranging from a minimum of 30 years to a maximum of life without the possibility of parole. S.C. Code. Ann. § 16-3-20(A); *Aiken v. Byars*, 410 S.C. 534, 545, 765 S.E.2d 572, 578 (2014) *cert. denied*, 135 S. Ct. 2379, 192 L. Ed. 2d 179 (U.S.S.C. 2015); *see Miller v. Alabama*, — U.S. —, 132 S.Ct. 2455 (2012) (the Eighth Amendment forbids a juvenile offender's receipt of a life sentence without the possibility of parole when the charge mandates the life sentence); *Graham v. Florida*, 560 U.S. 48, 82, 130 S.Ct. 2011, 2034 (2010) (the Constitution prohibits juvenile non-homicide offenders from receiving a sentence of life without parole); *Roper v. Simmons*, 543 U.S. 551, 125 S.Ct. 1183 (2005) (unconstitutional to subject a juvenile to a capital sentence). Upon conviction, the trial judge sentenced Appellant to a term of 45 years. (R. pp. *Sentencing Sheets). The trial judge denied Appellant's motion to reconsider that sentence, but later reduced Appellant's sentence to 40 years upon motion by the State. (R. pp. *Order Denying Motion for Reconsideration of Sentence Imposed; ~~*Order for Sentence Reduction~~).

This Court will not overturn a sentence unless it determines the sentencing court abused its discretion in issuing a ruling; that is, the trial court's ruling must amount to an error of law. *State v. Dawson*, 402 S.C. 160, 163, 740 S.E.2d 501, 502 (2013). Generally, appellate courts will only interfere with the discretion of a judge in the imposition of a sentence in rare and unusual circumstances. *State v. Ferguson*, 221 S.C. 300, 307, 70 S.E.2d 355, 358 (1952). "Absent

constitute a mitigating circumstance in applying a term-of-years sentence in lieu of the potential maximum. Before the court's consideration were facts related to Appellant's age, education level, his family and home environment leading up to and at the time of the offense, the circumstances of the offense including the involvement of co-defendants and the potential that Appellant acted in response to peer pressure, his inexperience with the criminal justice system, and other hallmarks of youth and maturity developed throughout the duration of Appellant's trial. These are the very considerations delegated by *Aiken*. 410 S.C. at 544, 765 S.E.2d at 577.

But the court also had before it aggravating circumstances, including the senseless targeting of an unknown pedestrian by a group of young men on a spring night. The victim sustained several gunshots in an unprovoked attack.

Only after considering all of the above did the trial court invoke a term-of-years sentence. *Miller* and *Aiken* were intended to protect against the imposition of life without parole upon a juvenile⁹. Since Appellant did not receive a sentence of life without parole, the trial court accordingly did not abuse its discretion in proceeding with the sentencing hearing in the manner employed in this case, especially considering that the trial court implored Appellant's counsel to stick to a familiar format in his mitigation presentation.¹⁰ In the eyes of the trial court, Appellant

⁹ Respondent further posits that the totality of the record clearly demonstrates that the trial court never once indicated that life without parole constituted a proper sentence for Appellant based upon his age alone.

¹⁰ ~~To any extent that this Court finds error in the trial court's handling of Appellant's sentencing hearing, Appellant was entitled to the benefit of a second sentencing decision when he later waived jurisdiction over an Abbeville County charge and pled guilty in Greenwood County. That plea was heard in tandem with the State's motion to reduce Appellant's sentence for the present Greenwood County murder. Appellant in fact pled guilty for a negotiated forty-year sentence on the Abbeville County charge, to run concurrent with the reduced sentence on the Greenwood conviction. (R. pp. *September 18, 2015, guilty plea hearing transcript, p. 3, line 14— p. 4, line 23). Thus, Appellant's sentence has been entitled to a second review by the trial judge and has been reduced upon a showing of substantial assistance to the State.~~

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY

Frank R. Addy, Circuit Court Judge

Appellate Case No. 2015-000980

RECEIVED

JUL 13 2016

SC Court of Appeals

The State, Respondent,

v.

Tavarious Settles, Appellant.

Certificate of Service

This is to certify that I, a paralegal with the law firm Willoughby & Hoefler, P.A., have caused to be served this day one (1) copy of the **Appellant's Motion to Strike** via first class mail to the following:

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Chief Appellate Defender
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South Carolina Attorney General's Office
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Danielle B. McClain
Danielle B. McClain

Columbia, South Carolina
This 13th day of July 2016

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July 13, 2016

*ALSO ADMITTED IN TX

**ALSO ADMITTED IN WASHINGTON, D.C.

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court, Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED

JUL 13 2016

SC Court of Appeals

Re: *The State v. Tavarious Settles*;
Appellate Case No. 2015-000980

Dear Ms. Kitchings:

Enclosed for filing please find the original and seven (7) copies of **Appellant's Motion to Strike** in the above-referenced matter. I would appreciate your acknowledging receipt of this document by file-stamping the extra copy and returning it to me via my courier.

By copy of this letter, I am serving counsel of record and enclose a Certificate of Service to that effect. If you have any questions or if you need any additional information, please do not hesitate to contact me.

Very truly yours,

WILLOUGHBY & HOEFER, P.A.



John W. Roberts

JWR/dbm
Enclosures

cc: Robert M. Dudek, Esquire
Caroline M. Scrantom, Esquire