

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

JUL 20 2016

**SC Court of Appeals**

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

THE STATE,

Respondent,

v.

TAVARIOUS SETTLES,

Appellant

Appellate Case No. 2015-000980.

**RETURN TO APPELLANT'S MOTION TO STRIKE**

In regards to the second issue on appeal, Appellant seeks to have this Court find error in the sentencing procedure employed in trial court's initial issuance of Petitioner's forty-five year term-of-years sentence. (Br. of Appellant, pp. 10-18). Appellant asks for relief by way of resentencing hearing. (Br. of Appellant, p. 18). Considering that claim and as an officer of the court, Respondent, the State, is of the opinion that it must inform this Court that Appellant has been resentenced. That subsequent proceeding resulted in a five year reduction to Appellant's sentence, which is now a term of forty years. (Br. of Respondent, p. 1 (Statement of the Case); p. 25; p. 39, n.10). The undersigned is further of the opinion that as a result of that resentencing, any request by Appellant for an additional resentencing is now moot. A resentencing procedure has already occurred. (*See* Exhibits 5-7).

Appellant also requests this Court take judicial notice of his sentence reduction. (Br. of

Appellant, p. 11, n.5). The undersigned acknowledges that this Court may take judicial notice of lower court records pertaining to the case on appeal. A court is able to take judicial notice of a fact not subject to a reasonable dispute “at any stage of the proceeding.” Rule 201(f), SCRE; *see Wise v. Wise*, 394 S.C. 591, 601, 716 S.E.2d 117, 122 (Ct. App. 2011) (appellate court can take judicial notice of something not before the trial court if it is indisputable); *see Philips v. Pitt Cnty. Mem’l Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009) (holding that a court may “properly take judicial notice of matters of public record”); *see Colonial Penn Ins. Co. v. Coil*, 887 F.2d 1236, 1239 (4th Cir. 1989) (“The most frequent use of judicial notice of ascertainable facts is in noticing the content of court records.”) (citation omitted); *see also Int’l Ass’n of Machinists & Aerospace Workers v. Haley*, 832 F. Supp. 2d 612, 622 (D.S.C. 2011) (noting court may take notice of matters of public record and those attached to complaint and Rule 12 motions, so long as authentic and integral to the complaint). However, taking judicial notice does not preclude the inclusion of the disputed documents in the Record on Appeal. *See id.*; Rule 209, SCACR.

Considering the foregoing, Respondent believed it incumbent to inform this Court of the procedure and terms of Appellant’s resentencing at its first opportunity. Thus, Respondent’s composition of its initial brief incorporated the disputed documents as a means of representing to this Court the procedure and status of Appellant’s present sentence. (Exhibits 5-7; Br. of Respondent, p. 25; p. 39, n.10). In furtherance of its position, Respondent would respectfully show unto the Court as follows:

### **I. Procedural History**

During its September 2013 convening, the Greenwood County Grand Jury indicted Appellant for murder (2013-GS-24-1538) and possession of a firearm during the commission of a violent crime (2013-GS-24-1539). (Exhibit 1).

Appellant proceeded to trial in Greenwood County beginning March 30, 2015. The Honorable Frank R. Addy, Jr. presided. Petitioner was convicted on April 2, 2013, and Judge Addy sentenced Petitioner to 45 years' incarceration.

Appellant moved for the court to reconsider the sentence imposed. (Exhibit 2). The trial court denied that motion on April 21, 2015. (Exhibit 3). Notice of the instant appeal timely followed. (Exhibit 4).

On September 18, 2015, the State filed a Motion for Reduction of Sentence for "Substantial Assistance" Pursuant to S.C. Code Section 17-25-65. (Exhibit 5). The filing pertained to Appellant's Greenwood County indictment numbers 2013-GS-24-1538 and -1539. (*Id.*) A hearing on the motion was conducted that same day. (Exhibit 6). Judge Addy presided, granting the State's motion for sentence reduction in relation to the Greenwood County convictions and concurrently accepting a negotiated guilty plea in relation to the Abbeville charge. (*Id.*) As a result of that hearing, Appellant's sentence for the Greenwood County convictions was reduced by five years. (*Id.*) The lower court memorialized this ruling in an order also filed in Greenwood County on September 18, 2016, in relation to indictment numbers 2013-GS-24-1538 and -1539. (Exhibit 7). Appellant did not appeal the outcome of the motion for sentence reduction.

Appellant filed his initial brief on February 10, 2016, designating, *inter alia*, his indictments, post-trial Motion for Reconsideration of Sentence Imposed, and Judge Addy's Order denying that motion as part of the Record on Appeal. (Appellant's Designation of Matter to be Included in the R.).

The State's initial appellate brief followed on June 27, 2016, designating for the Record on Appeal the remainder the post-trial motions pertaining to Appellant's current sentence.

(Respondent's Designation of Matter to be Included in the R.). Appellant's Motion to Strike followed on July 13, 2016.

## II. Presentation of Designated Matter to Lower Court

Pursuant to Rule 210(c), SCACR, "[t]he Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267." Most importantly, the Rule instructs: "[t]he Record shall not, however, include matter which was not presented to the lower court or tribunal." Rule 210(c), SCACR. And, "[w]here a portion of an order . . . or pleading is to be included in the Record on Appeal, the entire order . . . or pleading shall be included in the Record . . . ." *Id.*

Appellant challenges the undersigned's designation of the following documents for inclusion of the Record on Appeal: (1) the State's Motion for Reduction of Sentence for "Substantial Assistance" Pursuant to S.C. Code Section 17-25-65; (2) Order for Sentence Reduction; and (3) Guilty Plea Transcript.<sup>1</sup> (Mot. to Strike, p. 2). Appellant argues that the undersigned's inclusion of these documents in the Record on Appeal constitutes an erroneous designation of matter because they were not presented to the lower court. (Mot. to Strike, p. 5).

Appellant's motion to strike ignores the fact the three matters designated by the undersigned pertain to a ruling issued by a lower court judge in a lower court proceeding that undeniably was a part of the case *sub judice*. Respondent's designation of matter reflects the remainder of the procedural history pertaining to Appellant's instant case. The documents designated by the undersigned bear relation to Appellant's Greenwood County indictment

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<sup>1</sup> Though labeled guilty plea transcript in Respondent's designation of matter, it is apparent from the cover page of the transcript, and its content, that the hearing pertained to a concurrent sentence reduction hearing and guilty plea. The transcript's cover page denotes its relation to Greenwood County indictment numbers 2013-GS-24-1538 and -1539, the same case on appeal. (Exhibit 6).

numbers 2013-GS-24-1538 and -1539, and the controlling sentence on those charges. (Exhibits 5-7). The motion and order at issue were filed with the Greenwood County Clerk of Court and are included in the lower court file associated with this case. *See South Carolina Dep't of Soc. Servs. v. Janice C.*, 383 S.C. 221, 227, 678 S.E.2d 463, 467 (Ct. App. 2009) (“These documents were filed with the family court; therefore, they were part of the record.”). The hearing transcript is part and parcel of the motion and ruling.

The disputed documents derive from post-trial proceedings held in proceedings stemming from Appellant’s indictment numbers 2013-GS-24-1538 and -1539, the same case now before this Court. The undersigned’s inclusion of the documents related to the State’s post-trial motion to reduce Appellant’s sentence is akin to Appellant’s inclusion of his own pre- and post-trial motions in his designation of matter for the Record on Appeal. Each was filed with the clerk and heard by the circuit court in the county in which the case arose. Accordingly, the undersigned’s designation of matter is properly included in the Record on Appeal pursuant to our appellate court rules.

**III. Relevance of Designated Matter to Respondent’s Treatment of Issue on Appeal**

“The appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.” Rule 220(c), SCACR. “The only matter which should not appear in the record are those items a party believes to be ‘not relevant to the appeal.’” *Forner v. Butler*, 319 S.C. 275, 277, 460 S.E.2d 425, 427 (Ct. App. 1995) (quoting Rule 209(b), SCACR). Furthermore, an “appellate court will not consider any fact which does not appear in the Record on Appeal.” Rule 210(h), SCACR.

While Appellant postures in his own initial brief and in his Motion to Strike that the sentence reduction hearing does “not bear[ ] on the issue before the Court,” (Initial Br. of

Appellant, p. 11, n.5; Mot. to Strike, p. 3), the undersigned's treatment of Appellant's second issue on appeal makes material use of the existence and outcome of the sentence reduction hearing to support its argument in opposition. A respondent "may raise on appeal any additional reasons the appellate court should affirm the lower court's ruling," so long as the additional sustaining grounds appear in the record on appeal. *I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 419-20, 526 S.E.2d 716, 723 (2000). "The appellate court may review respondent's additional reasons and, if convinced it is proper and fair to do so, rely on them or any other reason appearing in the record to affirm the lower court's judgment." *Id.*

As an additional sustaining ground, Respondent argues that any error this Court may deem to have occurred in Appellant's sentencing procedure proves harmless in light of the proportionality of the sentence imposed in relation to the crime. (Initial Br. of Respondent, pp. 36-40). A defendant's sentence must not be grossly disproportionate to the offense, lest the sentence violate the Eighth Amendment protection against cruel and unusual punishment. *Graham v. Florida*, 560 U.S. 48, 59, 130 S.Ct. 2011, 2021 (2010); *Harmelin v. Michigan*, 501 U.S. 957, 1001, 111 S.Ct. 2680, 2705 (1991). In order to demonstrate proportionality between the Greenwood County murder and the controlling sentence, the undersigned must disclose the length of Appellant's sentence to the appellate Court. In the present case, Appellant's sentence was reduced upon motion by the State. Thus, the length of Appellant's sentence differs from that initially issued, and the documents lending support to that sentence reduction hold relevance to Respondent's treatment of the issue on appeal.

Respondent designated the matter at issue as part of the Record on Appeal upon metered belief that the matter bears relevance to its position. "Under present rules, the appellant receives notice of the respondent's additional sustaining grounds through the respondent's brief. The

appellant may address those additional grounds in a reply brief.” *I’On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. at 418 n.6, 526 S.E.2d at 722 n.6 (2000) (citing Rule 208(a)(3), SCACR). Therefore, Appellant’s contravention of the undersigned’s inclusion and use of (1) the State’s Motion for Reduction of Sentence for “Substantial Assistance” Pursuant to S.C. Code Section 17-25-65; (2) Order for Sentence Reduction; and (3) the related guilty plea and sentence reduction hearing transcript in its initial brief and designation of matter are perhaps better suited for a reply brief.

**WHEREFORE**, undersigned Respondent prays that this Court deny Appellant’s Motion to Strike portions of Respondent’s designation of matter for the Record on Appeal, require Appellant to include those matters designated by Respondent for inclusion in the Record on Appeal in their entirety, impose the ten-day requirement for the filing of Appellant’s Reply Brief pursuant to Rule 203(c), SCACR, and provide such other relief as this Court may deem just and proper.

Respectfully submitted,

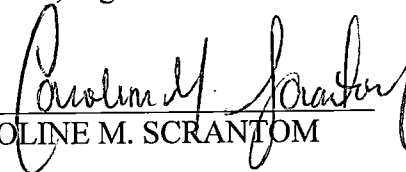
ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

DONALD J. ZELENKA  
Senior Assistant Deputy Attorney General

CAROLINE M. SCRANTOM  
Assistant Attorney General

DAVID M. STUMBO  
Solicitor, Eighth Judicial Circuit

By:   
CAROLINE M. SCRANTOM

SC Bar No. 101357

Office of Attorney General  
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Columbia, South Carolina 29211  
(803) 734-6305

July 20, 2016  
Columbia, South Carolina

ATTORNEY FOR RESPONDENT

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

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

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**THE STATE,**

**Respondent,**

**v.**

**TAVARIOUS SETTLES,**

**Appellant**

**Appellate Case No. 2015-000980.**

---

**RETURN TO APPELLANT'S MOTION TO STRIKE**

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**Exhibit 1**

WITNESSES

Nicholas Fitch  
Greenwood Police Department

WARRANT NUMBER

2013A2420100677

True Bill

Joe Hill

Foreman of the Grand Jury

Date: 9/27/13

VERDICT

Guilty

James F. McIsaac

Foreman

April 2, 2015

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

September Term, 2013

Indictment # 13CS24-1538

THE STATE

vs.

Tavarious DeQuan Settles

INDICTMENT FOR

MURDER  
16-63-0010

CDR: 0116

ATTEST A TRUE COPY  
Angela Woodhurst  
ANGELA WOODHURST  
CCCP AND GS  
GREENWOOD COUNTY  
S. C.

**THE STATE OF SOUTH CAROLINA**

COUNTY OF GREENWOOD

**INDICTMENT FOR**

**MURDER**  
**16-03-0010**

At a Court of General Sessions, convened on the 27th day of September, 2013, the Grand Jurors of Greenwood County present upon their oath:

That Tavarious DeQuan Settles did, in Greenwood County, on or about May 30, 2013 willfully, feloniously, and with malice aforethought kill one Prudencio Chiquin Sis by means of shooting and that the said Prudencio Sis did die in Greenwood County as a proximate result thereof on or about May 30, 2013, in violation of Section 16-3-10 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 cases made and provided.

  
Assistant Solicitor

WITNESSES

Nicholas Fitch  
Greenwood Police Department

WARRANT NUMBER

2013A2420100678

*True 7:11*

*[Signature]*

Foreman of the Grand Jury

Date: *9/22/13*

VERDICT

*GUILTY*

*Jess F. McJannet*

Foreman

*April 2, 2015*

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

September Term, 2013

Indictment # 13GS24- *1539*

THE STATE

vs.

Tavarious DeQuan Settles

INDICTMENT FOR

POSSESSION OF A FIREARM OR KNIFE  
DURING THE COMMISSION OF A CRIME

16-23-0490

CDR: 0549

ATTEST A TRUE COPY

*Angela Woodhurst*

ANGELA WOODHURST

CCCP AND GS

GREENWOOD COUNTY

S.C.

**THE STATE OF SOUTH CAROLINA**

COUNTY OF GREENWOOD

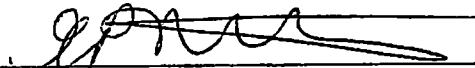
**INDICTMENT FOR**

**POSSESSION OF A FIREARM OR KNIFE  
DURING THE COMMISSION OF A CRIME  
16-23-0490**

At a Court of General Sessions, convened on the 27th day of September, 2013, the Grand Jurors of Greenwood County present upon their oath:

That Tavarious DeQuan Settles did, in Greenwood County, on or about <sup>May</sup>~~June~~ 30, 2013 possess a firearm or visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent offense, to wit: Murder, or any lesser included violent offense, in violation of Section 16-23-490 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 cases made and provided.



Assistant Solicitor

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

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

---

**THE STATE,**

**Respondent,**

**v.**

**TAVARIOUS SETTLES,**

**Appellant**

**Appellate Case No. 2015-000980.**

---

**RETURN TO APPELLANT'S MOTION TO STRIKE**

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**Exhibit 2**

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 ) Indictment Number(s): 13GS24-1538  
 COUNTY OF GREENWOOD ) 13GS24-1539  
 )  
 The State, )  
 )  
 vs. ) **MOTION TO RECONSIDER SENTENCE**  
 )  
 Tavarious DeQuan Settles, )  
 )  
 Defendant. )

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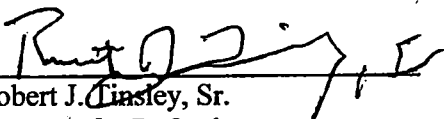
FILED GENERAL SESSIONS  
 8th JUDICIAL CIRCUIT  
 GREENWOOD, SC  
 2015 APR -8 PM 12: 22

NOW COMES THIS MOTION filed by Robert J. Tinsley, Sr., Attorney for the above-named Defendant on Wednesday, April 8, 2015 for Reconsideration Pursuant to Rule 29 of the South Carolina Rules of Criminal Procedure (herein S.C.R.C.P.). The Defendant timely moves for Reconsideration of the forty five (45) year Sentence as announced by the Honorable Frank R. Addy, Jr. on Thursday, April 2, 2015. Sentence was imposed by the Honorable Judge Addy on that date. This Motion is well within the ten (10) days allowed by the Rules (S.C.R.C.P.# 29).

Defendant Settles moves for Reconsideration of the forty five (45) year active sentence. The grounds for said reconsideration are: 1) Defendant contends his sentence is too harsh; 2) Defendant has no prior record; 3) Defendant was not properly afforded a meaningful sentencing hearing pursuant to Aiken v. Byers (Appellate Case No. 2012-213286) and Miller v. Alabama, 1325. Ct. 2455 (2012); 4) And in fact it was impossible to have such a hearing without deferring sentencing and appointing Mr. Settles either a psychologist, psychiatrist or mitigation specialist as he had moved for; further, Aiken v. Byers, a S.C. Supreme Court Decision, has been stayed by the United States Supreme Court leaving the state of the law not currently determined; 5) The Appendi line of cases: 530 U.S. 466, 120 5.Ct. 2348, 147 L. Ed. 2d 435 (2000) further demand such a

result, as does the VIII Amendment of the United States Constitution; 6) This is particularly true based upon Defendant's Motion to Cap his sentence at thirty (30) years pre-trial, whether convicted by trial or plea; and 7) Finally, the Defendant was seventeen (17) years of age on the date of the crime, May 30, 2013 with his birthdate being April 16, 1996.

**SO MOVED.**

  
Robert J. Cinsley, Sr.  
Attorney for Defendant

April 8, 2015,

Greenwood, South Carolina.

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

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

---

**THE STATE,**

**Respondent,**

**v.**

**TAVARIOUS SETTLES,**

**Appellant**

**Appellate Case No. 2015-000980.**

---

**RETURN TO APPELLANT'S MOTION TO STRIKE**

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**Exhibit 3**

STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

STATE OF SOUTH CAROLINA,

vs.

TAVARIOUS DeQUAN SETTLES,  
Defendant.

) THE COURT OF GENERAL SESSIONS

) CASE NO. 13-GS-24-1538, 1539

) ORDER DENYING MOTION FOR  
) RECONSIDERATION OF SENTENCE  
) IMPOSED

2015 APR 21 PM 12:39

FILED GENERAL SESSIONS  
8th JUDICIAL CIRCUIT  
GREENWOOD, SC

**HAVING CONSIDERED THE ARGUMENT OF COUNEL** for the Defendant, Tavarious DeQuan Settles, in the above captioned matter, the court denies Defendant's motion for reconsideration of his sentence for the following reasons.

1. The court had the opportunity to hear from the Defendant and the Defendant's mother prior to sentencing, and appointing a mitigation specialist, psychologist or psychiatrist would not have aided the court in deciding upon the sentence to impose.

2. The court took into account a variety of factors raised by the Defendant, such as his lack of a prior record and his age, in imposing the sentence of forty-five years. Such a sentence comports with the legislatively prescribed penalty range for the offense of murder. Based upon the factors considered in mitigation and in aggravation, the court finds the sentence was not unduly harsh.

3. The court finds that the cases cited by the Defendant in support of a sentencing hearing do not apply under the facts of this case, nor is the Eighth Amendment to the US Constitution offended by the sentence imposed.

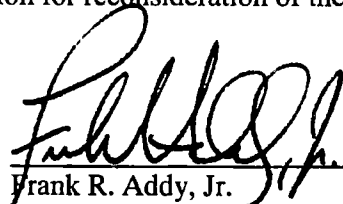
4. Finally, with regard to the Defendant's motion to cap his sentence at thirty (30) years "whether convicted by trial or plea," the court declined this motion for the reasons outlined above, and the court possesses wide discretion in sentencing. Clearly, this case was a defensible case; regardless, no prejudice resulted in terms of sentencing due to the Defendant's decision to exercise his right to trial because the court may not consider the exercise of this right in any way

*MA*

in sentencing. See Davis v. State, 336 S.C. 329, 520 S.E.2d 801 (1999). In short, in imposing a particular sentence this court would never take into consideration a defendant's exercise of a fundamental constitutional right.

For the foregoing reasons, Defendant's motion for reconsideration of the sentence imposed is denied.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
Frank R. Addy, Jr.  
Circuit Court Judge  
Eighth Judicial Circuit

April 21, 2015  
Greenwood, South Carolina

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

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

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**THE STATE,**

**Respondent,**

**v.**

**TAVARIOUS SETTLES,**

**Appellant**

**Appellate Case No. 2015-000980.**

---

**RETURN TO APPELLANT'S MOTION TO STRIKE**

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**Exhibit 4**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY  
Court of General Sessions

Frank R. Addy Jr., Circuit Court Judge

Case Nos. 13-GS-24-1538 and -1539

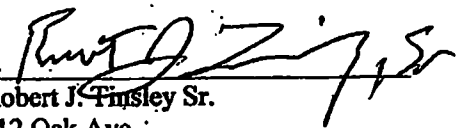
The State, Respondent,

v.

Tavarius Settles, Appellant.

NOTICE OF APPEAL

Tavarius Settles appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Frank R. Addy Jr. on April 2, 2015. This appeal is taken from the order of the Honorable Frank R. Addy Jr., dated April 21, 2015, which denied Appellant's post-trial motion. Appellant received written notice of entry of this order on April 21, 2015.

  
Robert J. Tinsley Sr.  
212 Oak Ave.  
Greenwood, SC 29646  
(864)223-0770  
Attorney for Appellant  
S.C. Bar No. 5581

Other Counsel of Record:  
David Matthew Stumbo  
Eighth Circuit Solicitor  
PO Box 516  
Greenwood, SC 29648

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SC Court of Appeals

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

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

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**THE STATE,**

**Respondent,**

**v.**

**TAVARIOUS SETTLES,**

**Appellant**

**Appellate Case No. 2015-000980.**

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**RETURN TO APPELLANT'S MOTION TO STRIKE**

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**Exhibit 5**

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

2015 SEP 18 AM 9:59

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

**Motion for Reduction of Sentence for "Substantial Assistance" Pursuant to S.C. Code Section 17-25-65**

PLEASE TAKE NOTICE that the undersigned Solicitor for the 8<sup>th</sup> Judicial Circuit will move before this Honorable 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.

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 the Honorable Frank Addy, Jr. to forty-five (45) years in prison for murder, and a concurrent five (5) year sentence on the weapon charge.

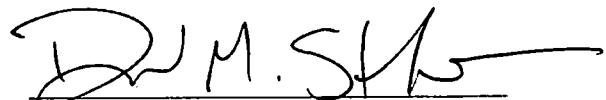
Defendant Settles was also charged with Murder (2014-GS-01-214) on an unrelated case out of Abbeville County. His co-Defendant in the Abbeville murder was an individual by the name of Karlita Desean Phillips. Karlita Phillips was tried on indictments of (1) Accessory Before the Fact of Murder and (2) Solicitation of a Minor to Commit a Crime 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. 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, 8<sup>th</sup> Judicial Circuit

September 18, 2015  
Greenwood, South Carolina

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

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

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**THE STATE,**

**Respondent,**

**v.**

**TAVARIOUS SETTLES,**

**Appellant**

**Appellate Case No. 2015-000980.**

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**RETURN TO APPELLANT'S MOTION TO STRIKE**

---

**Exhibit 6**

STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

STATE OF SOUTH CAROLINA, )

PLAINTIFF, )

-VS- )

TAVARIOUS DEQUAN SETTLES, )

DEFENDANT. )

\_\_\_\_\_ )

EIGHTH JUDICIAL CIRCUIT  
IN THE COURT OF GENERAL SESSIONS

2013-GS -24-1538, -1539

2014-GS-01-214

TRANSCRIPT OF RECORD

SEPTEMBER 18, 2015  
GREENWOOD, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

A P P E A R A N C E S:

ATTORNEY FOR PLAINTIFF:

DAVID STUMBO, SOLICITOR

ATTORNEYS FOR DEFENDANT:

JOSH NASROLLAHI, ESQUIRE

ROBERT TINSLEY, ESQUIRE

TARA T. SCOTT, CVR  
CIRCUIT COURT REPORTER

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(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

1 consequences of this plea; is that correct?

2 MR. NASROLLAHI: Yes, Your Honor. Because of Miller vs.  
3 Alabama and the Byers case also we discussed potential  
4 sentences and mitigating and aggravating factors at length  
5 in the course of representation.

6 THE COURT: A 40 year sentence concurrent with the  
7 Greenwood charges is what has been negotiated; correct?

8 MR. NASROLLAHI: Yes, Your Honor.

9 THE COURT: Based upon your investigation of the facts  
10 and circumstances surrounding this Abbeville charge, do you  
11 believe that the State possesses sufficient credible  
12 evidence to prove Mr. Settles' guilt beyond a reasonable  
13 doubt and that if he were to stand trial his conviction  
14 would be likely?

15 MR. NASROLLAHI: Yes, Your Honor.

16 TAVARIOUS SETTLES, having first been duly  
17 sworn to tell the truth, testified as follows:

18 EXAMINATION BY THE COURT

19 Q Sir, are you Tavarious Dequan Settles?

20 A Yes, sir.

21 Q Mr. Settles, they tell me you want to plead guilty to  
22 the murder case arising out of Abbeville County. Is that  
23 correct?

24 A Yes, sir.

25 Q Obviously I was present at the time that you testified

1 during the trial, so I'm already familiar with the  
2 background and the facts, and the assistance that you gave  
3 to the State on Wednesday or Thursday when that case was  
4 tried. You do understand, of course, that murder carries a  
5 minimum of 30 years and a maximum of life. Do you  
6 understand that, sir?

7 A Yes, sir.

8 Q In this case, Mr. Settles, apparently you, your  
9 attorney, and the State have negotiated a 40 year sentence  
10 which would run concurrent with a 40 year sentence on a  
11 charge out of Greenwood that involved Mr. Seace. Is that  
12 your understanding?

13 A Yes, sir.

14 Q Do you understand that that 40 year sentence would have  
15 to be served day for day. Do you understand that?

16 A Yes, sir.

17 Q It's also, of course, classified as a most serious  
18 offense and a violent offense. A most serious offense, Mr.  
19 Settles, means that once you get finished serving this 40  
20 year sentence if you were convicted subsequently for another  
21 most serious offense the State would seek life without the  
22 possibility of parole against you. Do you understand that,  
23 sir?

24 A Yes, sir.

25 Q I mentioned this, but this has to be served day for

1 day. Do you understand that, sir?

2 A Yes, sir.

3 Q Mr. Settles, because this is a negotiated sentence, if  
4 I accept your plea I have to impose a sentence of 40 years  
5 on this and a 40 year sentence on the Greenwood charge. Do  
6 you understand that, sir? I cannot go below 40 years.

7 A Oh, yes, sir.

8 Q So if I accept your plea today I have to give you 40  
9 years on this charge as well as the Greenwood charge  
10 concurrent. Do you understand, sir?

11 A Yes, sir.

12 Q Mr. Settles, in the last twenty-four hours have you  
13 taken any medication, drugs, or alcohol that affects your  
14 thinking now?

15 A No.

16 Q Have you ever been treated for any mental illness  
17 issues or problems understanding what is taking place, or  
18 were you in special education when you were in school?

19 A No.

20 Q Mr. Settles, are you, in fact, guilty of these  
21 particular charges, sir?

22 A Yes, sir.

23 Q I'm very familiar with the facts, but for the benefit  
24 of the record and for your benefit I'm going to ask the  
25 Solicitor to give me the facts in the Abbeville charge.

1 Then I will ask you if you agree that's what you did. Go  
2 ahead, Solicitor.

3 MR. STUMBO: Thank you, Judge. I'll try to keep it  
4 brief, but just to make a record. This incident did occur  
5 March 25, 2013. It occurred at 1522 Old Douglas Mill Road  
6 in Abbeville County. That's between Abbeville and Hodges,  
7 not too far from the Greenwood County line, but it is in  
8 Abbeville County. Obviously, we do waive venue here today  
9 for the purpose of this plea in Greenwood. Judge, the  
10 victim in this case is Jameel Phillips. The intended target  
11 of this murder was Dale Phillips, Jr., Judge, who is  
12 standing here behind me. I know Your Honor heard from him  
13 during the Karlita Phillips trial at sentencing. Dale  
14 Phillips, Jr. was married to Karlita Phillips. They were  
15 separated. There was a contentious separation. Karlita  
16 Phillips moved to Greenwood and Dale Phillips moved in with  
17 his parents, Mr. Dale Phillips, Sr. and Martha Phillips who  
18 are here to my left. Also living at the home was his  
19 brother, who was the victim in this case, Jameel Phillips.

20 The night of March 25<sup>th</sup> Jameel comes home from work,  
21 starts to go into the door, and he is shot and killed by Mr.  
22 Settles. Judge, this case was not solved in Abbeville for  
23 about nine months. He was able to get away. There was a  
24 link back to Ms. Karlita Phillips because of the  
25 relationship and the silver car that was seen by neighbors

1 in an adjacent driveway. Ultimately Ms. Phillips was a  
2 suspect from the beginning of this case. Through witnesses  
3 and further investigation, law enforcement developed Mr.  
4 Settles as a suspect and ultimately, Your Honor, Tavarious  
5 Settles' DNA was found on four cigarette butts there at the  
6 house and that was linked up by SLED later via lab testing  
7 on the DNA. Of course the Greenwood charge that Mr. Settles  
8 later caught was what provided the DNA that helped solve the  
9 Abbeville case even though the Abbeville murder of Jameel  
10 Phillips happened before this one in Greenwood.

11 Those are the facts of the case, Your Honor. Mr.  
12 Settles ultimately did testify. He was tried in Greenwood  
13 for the murder of Mr. Seace. He indicated at the beginning  
14 of the Karlita Phillips trial that he was not going to  
15 testify, but ultimately changed his mind. He was not given  
16 any kind of offer or promises on sentences at the time he  
17 testified -- before the time he testified in the Karlita  
18 Phillips trial. Ms. Phillips was ultimately convicted, as  
19 Your Honor knows.

20 We have been in discussion with the family since then.  
21 In fact, I've had the pleasure of seeing Mr. Dale Phillips,  
22 Sr. at different events in the community. He came by my  
23 office and we just had a good chat one day. The family, I  
24 think, is at peace going forward with this 40 year offer  
25 today. Obviously, they're heartbroken. I don't think any

1 of them want to speak today. Just speaking on their behalf,  
2 Your Honor, they're glad to get some closure today where  
3 they don't have to keep coming back to court on this  
4 anymore. We have talked about this and we believe that the  
5 40 year offer, not only on the Abbeville case, but knocking  
6 the five years off of the Greenwood charge. We've discussed  
7 that not only with the Phillips family but also with the  
8 girlfriend of Mr. Seace who is not here today. My Victim  
9 Advocate, Ms. Stroup, spoke with her on the phone even this  
10 morning and earlier this week as well. She's not able to  
11 come to court, but was in agreement with what we're doing  
12 today, Your Honor.

13 THE COURT: That was going to be my next question  
14 whether she agreed and understood the reasons for what is  
15 happening.

16 Q Mr. Settles, you've heard what the State alleges  
17 happened in March 2013. Is it true that you murdered Mr.  
18 Phillips?

19 A Yes, sir.

20 Q So you are guilty of this charge?

21 A Yes, sir.

22 THE COURT: Mr. Tinsley, you represented Mr. Settles on  
23 the Greenwood charge. Because the sentence reduction on the  
24 Greenwood charge is part and parcel to this, did the  
25 Solicitor correctly state the negotiations that have been

1     agreed to with regard to the charge that you tried with Mr.  
2     Settles?

3             MR. TINSLEY: Yes, Your Honor, he did. It's basically  
4     his decision and that's the decision that he made. I asked  
5     for 30 to 35. He was firm on the 40. The way we read the  
6     statute that's pretty much his determination. I am  
7     certainly grateful for any reduction that Mr. Settles can  
8     get. There's still a couple of co-defendants out there. I  
9     will point that out for the Court in this matter. That sums  
10    up that answer, Your Honor.

11            MR. STUMBO: Just to clarify. I think Mr. Tinsley is  
12    referring to the Greenwood case. Not any co-defendants left  
13    out there on the Abbeville case as it pertains to Mr.  
14    Phillips.

15            THE COURT: I do agree that the way the code section is  
16    written it looks like the Solicitor would be the moving  
17    party seeking reduction for any assistance provided to the  
18    State once the case has been resolved. I think it may very  
19    well be an open question as to whether or not it's in the  
20    discretion of the Court or the Solicitor as far as how much  
21    of a reduction could take place, but quite candidly as I  
22    related to everybody in chambers -- quite candidly, this  
23    judge would be very hesitant to go below 40 years in any  
24    event. Based upon what has transpired concerning Mr.  
25    Settles. I just put that on the record because I think it

1 is a relatively new statute.

2 MR. TINSLEY: Right, Your Honor, and I'd like to respond  
3 to that. I said to Solicitor Stumbo -- I said, "Judge Addy  
4 is in the unique position and he is in the business of  
5 sentencing. And it would be fine with me to leave it with  
6 the discretion of the Court." And I understand your  
7 position. So that was part of our discussion. I think Mr.  
8 Stumbo will agree with that.

9 MR. STUMBO: It is, Your Honor. And quite frankly, we  
10 trust Your Honor's discretion too. That wasn't part of  
11 this. We --

12 MR. TINSLEY: No. I'm not making any --

13 MR. STUMBO: We felt that providing some closure and  
14 certainty for this family walking in here today was  
15 appropriate considering what they have been through.

16 THE COURT: Certainly. All right. Mr. Settles, I need  
17 to briefly review with you rights that you're giving up by  
18 pleading guilty on the Abbeville indictment. Again, you've  
19 been through a jury trial so you know what it's like. If  
20 you don't understand something, stop me and I will let you  
21 talk to either Mr. Nasrollahi or Mr. Tinsley as long as you  
22 need to. Okay, sir?

23 A Yes, sir.

24 Q Obviously, Mr. Settles, we're located here in Greenwood  
25 County and you have the right to have this matter heard in

1 Abbeville County. I can accept your plea today, but you'll  
2 have to waive venue and allow it to be heard here in  
3 Greenwood. Are you willing to do that, sir?

4 A Yes, sir.

5 Q Additionally, you understand, sir, that you don't have  
6 to plead guilty. You could have a jury trial on this case  
7 just like you had in the Greenwood case. Do you understand  
8 that?

9 A Yes, sir.

10 Q In a jury trial you and Mr. Nasrollahi would help pick  
11 12 people. They would be the jury and the State would have  
12 the burden of proving you guilty beyond a reasonable doubt  
13 on the Phillips case just like they had that same burden on  
14 the Seace case. Do you understand, sir?

15 A Yes, sir.

16 Q All 12 jurors would have to agree on your guilt before  
17 you could be punished in any way. You would not have to  
18 prove the first thing. They would attempt to do that by  
19 calling witnesses against you. You and your attorney would  
20 have a chance to see, confront, and cross-examine those  
21 witnesses. At trial you could also call your own witnesses  
22 even though you have no burden of proof, and you could of  
23 course take the stand in your own defense. Do you  
24 understand that?

25 A Yes, sir.

1 Q If you chose not to take the stand, however, I would  
2 instruct the jury that they couldn't hold that against you.  
3 They couldn't use that as evidence of guilt. Do you  
4 understand that, sir?

5 A Yes, sir.

6 Q That's your Fifth Amendment right against self  
7 incrimination. By pleading guilty you waive that right in  
8 that you admit to me that you did commit this crime.  
9 Additionally, at trial you would be presumed innocent of any  
10 wrongdoing. I would explain that presumption of innocence  
11 to the jury. You would also be able to present any defense  
12 you might have or challenge the State's evidence. I have a  
13 general feel for the evidence that they've got against you  
14 because I tried the Phillip's case and obviously you  
15 testified in that case under oath. So I do understand some  
16 of the evidence against you and I'm sure you've had a chance  
17 to review that evidence with Mr. Nasrollahi. Is that  
18 correct?

19 A Yes, sir.

20 Q You do understand though that by pleading guilty you  
21 waive that right to challenge any of the State's evidence.  
22 You also waive your right to present any defense that you  
23 have. I understand that you did take the stand and admit to  
24 being the shooter in the Phillip's case. You do understand  
25 though, Mr. Settles, you could still maintain your innocence

1 and you could still take this case to trial and present a  
2 defense. Do you understand that, sir?

3 A Yes, sir.

4 Q If you plead guilty you waive those rights. Are you  
5 sure you still want to waive those rights and plead guilty?

6 A Yes, sir.

7 THE COURT: Mr. Nasrollahi, are you satisfied with  
8 discovery response from the State?

9 MR. NASROLLAHI: Yes, Your Honor. I've dealt mostly  
10 with Mr. Brown and he can attest that there are multiple  
11 follow up questions that I have sent to him and he has  
12 complied with. There's been a lot of discovery passed back  
13 and forth in this case and we are satisfied.

14 THE COURT: Very good. And you've reviewed that with  
15 Mr. Settles?

16 MR. NASROLLAHI: I have.

17 THE COURT: To the extent he has needed or wanted?

18 MR. NASROLLAHI: Yes, Your Honor.

19 Q Mr. Settles, are you happy with the way Mr. Nasrollahi  
20 and Mr. Tinsley have represented you, sir?

21 A Yes, sir.

22 Q Any complaints to make against either one of them with  
23 regard to these cases?

24 A No, sir.

25 Q So they've done everything that you've wanted them to

- 1 do?
- 2 A Yes.
- 3 Q Have you understood all of your conversations with Mr.  
4 Nasrollahi?
- 5 A Yes.
- 6 Q So you're totally happy with his help and Mr. Tinsley's  
7 help?
- 8 A Yes, sir.
- 9 Q Mr. Settles, do you have any complaints to make against  
10 your attorneys, the Solicitor, law enforcement  
11 personnel, anyone involved in these cases?
- 12 A No, sir.
- 13 Q Aside from the 40 years and I'm assuming the firearm  
14 thing will be dismissed?
- 15 MR. STUMBO: That's correct.
- 16 Q Aside from the straight sentence of 40 years on both  
17 cases has anyone promised you anything else or held out  
18 any other hope or reward?
- 19 A No, sir.
- 20 Q Has anyone tried to force you, coerce you, threaten you  
21 in any way to make you plead guilty?
- 22 A No, sir.
- 23 Q Mr. Settles, are you in fact pleading guilty of your  
24 own free will because you did, in fact, commit this  
25 crime?

1 A Yes, sir.

2 Q Have you understood all of my questions, sir?

3 A Yes, sir.

4 Q Is there anything that you need to ask me about  
5 anything that we have discussed?

6 A No, sir.

7 Q Do you need any more time to talk to your lawyers?

8 A No.

9 Q Very good. Are you certain that you want to plead  
10 guilty, sir?

11 A Yes, sir.

12 THE COURT: Very good. I do find there is a substantial  
13 factual basis for this plea. It is freely, voluntarily,  
14 knowingly, and intelligently made. Mr. Settles is satisfied  
15 with counsel of both Mr. Tinsley and Mr. Nasrollahi. I will  
16 accept his pleas. Mr. Nasrollahi?

17 MR. NASROLLAHI: Thank you, Judge. I will be very  
18 brief. This is a very tragic conclusion to this case. It  
19 is tragic for three families. Mr. Settles' family, the  
20 Phillip's family. The gentleman from Greenwood. But this  
21 is the ultimate conclusion. I know Your Honor was there in  
22 Abbeville and Your Honor heard the testimony. You heard my  
23 client take the stand and testify. He was 17 at the time  
24 that this happened. Mr. Tinsley and I have both -- I think  
25 we expressed our outrage at the way that this woman, Karlita

1 Phillips manipulated this young man. He's taking  
2 responsibility for his part, for his complicity in what  
3 happened in Abbeville. But we and I think the Solicitors  
4 Stumbo and Solicitor Brown in addition to Sheriff Watson  
5 over in Abbeville -- we all have the main understanding that  
6 the person behind this, the person that really pulled that  
7 trigger was Karlita Phillips and she is serving a life  
8 sentence.

9 We believe that Mr. Settles' testimony in Abbeville  
10 when he came forward and did the right thing and he  
11 testified for the State significantly and substantially  
12 helped that case. He has done the right thing. He is a  
13 young man now and he will be a very old man when he is  
14 released from prison and that is tragic. But he has got his  
15 family here in support of him. He has expressed remorse to  
16 us for what has happened. We just believe that this  
17 negotiation is fair and reasonable in light of everything  
18 that has happened. We would ask that the Court accept a  
19 negotiated sentence.

20 THE COURT: Thank you. Mr. Tinsley, any additional  
21 comments?

22 MR. TINSLEY: Briefly, Your Honor. I was appointed by  
23 you for a few days on the Abbeville case. That's when I met  
24 with Sheriff Watson who wanted me to assist him in getting  
25 probable cause for a warrant for Ms. Phillips, which Mr.

1 Settles did. We met with the Abbeville Sheriff's Department  
2 and SLED and gave them their probable cause. The Sheriff  
3 has been very appreciative. He was actually 16 at the time  
4 of the Abbeville case. She was 38. She was plying him with  
5 sex and marijuana and things like that. I think Your Honor  
6 made the comment that the Seace event may not have occurred  
7 but for Karlita Phillips. Very heinous situation there,  
8 Your Honor. He did take the stand in the Greenwood case.  
9 He was convicted by a jury, but he admitted presence and I  
10 believe that the jury convicted him on the hand of one is  
11 the hand of all. He is willing to testify for the State  
12 again in the matter of the co-defendants in the Greenwood  
13 case.

14 But the last thing I want to say. This is one of the  
15 toughest cases I've ever handled in 36 years. I was taken  
16 off the case. I think some rule at OID caused that. But to  
17 the Phillips family I will say this from the bottom of my  
18 heart. I have two sons similar in age to these young men.  
19 I cannot imagine the agony that you've gone through. My  
20 sympathies are extended to you. I hope that as good  
21 Christian people that I know you are that you will forgive  
22 or at least try to understand the position that this woman  
23 put this kid in. Sixteen years old. He was going to  
24 Greenwood High. He was doing okay until he met Karlita  
25 Phillips who offered him \$13,000 in addition to those other

1 incentives and she got her just deserts in Abbeville County.  
2 And this young man made sure she got them. Thank you and I  
3 love you and God bless every one of you. Thank you, Judge.

4 THE COURT: Mr. Settles, is there anything that you  
5 would like to say, sir?

6 MR. SETTLES: No.

7 THE COURT: Do you want to say anything, Solicitor?

8 MR. STUMBO: I think they said all they needed to say  
9 over in Abbeville. It has been a long road. It is time for  
10 them to be able to move on so they can focus on grieving for  
11 Jameel, which they have been doing, but certainly coming  
12 back to court is a major feat here today. Thank you.  
13 That's all from the State.

14 MR. NASROLLAHI: I would make one request and I don't  
15 know what the Solicitor's response is going to be. We would  
16 just ask that this sentence be back dated to the time that  
17 he was sentenced in Abbeville. It is just a matter of  
18 months.

19 MR. TINSLEY: Well, actually when the warrant was served  
20 in Abbeville. He was locked up June 13, 2013. So I'm  
21 asking you to give him credit from that day. I think it's  
22 only fair because we were working with the Sheriff's  
23 Department and that sort of thing shortly thereafter.

24 THE COURT: I am following the negotiations that have  
25 been entered into in this case. In the for what it's worth

1 category I do believe it is appropriate. I did preside over  
2 both trials and certainly there are times when the State  
3 must seek the assistance of individuals who they would  
4 perhaps otherwise not deal with in order to make sure that  
5 justice is done for everyone involved. So I certainly agree  
6 with and understand what has taken place, both with respect  
7 to the Abbeville charge and with respect to the Greenwood  
8 charge and would agree that it is appropriate.

9 Mr. Settles, on the Abbeville case the sentence of the  
10 Court is that you are committed to the South Carolina  
11 Department of Corrections for 40 years. This sentence will  
12 run concurrently with the Greenwood charges on indictment  
13 13-1538 and -1539. I've noted here that you will be given  
14 credit for the time that you have served since June 13, 2013  
15 in the Department of Corrections. On indictments 13-GS-24-  
16 1538 and -1539, whichever one of those is the homicide  
17 charge, I have signed the order reducing the sentence from  
18 45 years to 40 years and that will, of course, run  
19 concurrent with the Abbeville charge as well. I do find  
20 that Mr. Settles provided substantial assistance to the  
21 State during the course of the Karlita Phillip's case or the  
22 trial of that case, and he is entitled to the benefit of  
23 that statute. The Court has reduced his sentence  
24 accordingly to 40 years.

25 Gentlemen, does this comply with your negotiations?

1 Solicitor?

2 MR. STUMBO: It does, Your Honor.

3 THE COURT: Mr. Tinsley?

4 MR. TINSLEY: Yes, Your Honor.

5 THE COURT: Mr. Nasrollahi?

6 MR. NASROLLAHI: Yes, Your Honor.

7 THE COURT: Good luck to all of you.

8 (END OF REQUESTED TRANSCRIPT OF RECORD.)

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Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenwood County, South Carolina, on the 18th day of September, 2015.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

*Tara T. Scott*

---

Tara T. Scott, CVR,  
Circuit Court Reporter  
June 15, 2016

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

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

---

**THE STATE,**

**Respondent,**

**v.**

**TAVARIOUS SETTLES,**

**Appellant**

**Appellate Case No. 2015-000980.**

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**RETURN TO APPELLANT'S MOTION TO STRIKE**

---

**Exhibit 7**

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 GENERAL SESSIONS  
 8th JUDICIAL CIRCUIT  
 GREENWOOD, 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 8<sup>th</sup> Circuit Solicitor David M. Stumbo. The Defendant was represented by his attorneys Robert J. Tinsley, Sr., Esq. and Joshua Nasrollahi, Esq.

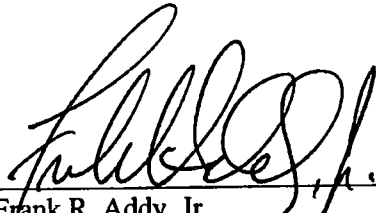
Defendant Settles was tried in the Greenwood County Court of General Sessions during the term of March 30, 2015 on indictments for Murder and Possession of a Firearm during the Commission of a Violent Crime. He was convicted as charged on April 2, 2015 by the jury on both counts, and was sentenced by 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  
8<sup>th</sup> Judicial Circuit

September 18, 2015  
Greenwood, South Carolina

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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

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JUL 20 2016

SC Court of Appeals

THE STATE,

Respondent,

v.

TAVARIOUS SETTLES,

Appellant

Appellate Case No. 2015-000980.

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**PROOF OF SERVICE**

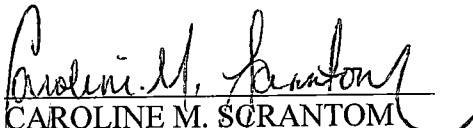
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I, Caroline M. Scrantom, counsel for the Respondent, certify that I have served the within Return to Appellant's Motion to Strike by depositing two (2) copies of the same in the United States mail, addressed to his attorneys of record at:

John W. Roberts, Esq.  
Willoughby & Hoefer, P.A.  
P.O. Box 8416  
Columbia, South Carolina 29202

Robert Dudek, Esq.  
SCCID/Division of Appellate Defense  
1330 Lady Street, Suite #401  
Columbia, South Carolina 29201

I further certify that all parties required by Rule to be served have been served. This 20th day of July, 2016.

  
CAROLINE M. SCRANTOM  
Assistant Attorney General  
SC Bar No. 101357



RECEIVED  
JUL 20 2016  
SC Court of Appeals

ALAN WILSON  
ATTORNEY GENERAL

July 20, 2016

Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, SC 29211

Re: The State v. Tavarious Settles  
Appeal from Greenwood County  
Appellate Case No. 2015-000980

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the *Return to Appellant's Motion to Strike*, dated June 20, 2016, along with proof of service, in the above-referenced case.

By copy of this letter, I am serving opposing counsel with same. Thank you for your consideration in this matter.

Sincerely,

Caroline M. Scrantom  
Assistant Attorney General

CMS/pcm  
Enclosure

cc: John W. Roberts, Esquire  
Robert M. Dudek, Esquire  
The Honorable David M. Stumbo, Solicitor, 8<sup>th</sup> Judicial Circuit  
Trisha Allen, Victim Services