

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
J. Derham Cole, Circuit Court Judge

RECEIVED
AUG 16 2016
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DEXTER L. MYERS,

APPELLANT

Appellate Case No. 2015-001881

MOTION TO HOLD APPEAL IN ABEYANCE AND
REMAND FOR DISPOSITION OF
MOTION FOR RECONSIDERATION

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, the undersigned counsel requests an order holding the appeal in this case in abeyance and remanding the case for disposition of an outstanding motion to reconsider sentence. Undersigned counsel filed the initial brief of appellant in this case prior to learning of the existence of the outstanding motion to reconsider sentence and is filing this motion immediately upon learning of the outstanding motion and verifying the procedural posture of the motion and the appeal.

In accordance with Rule 240(c)(3), SCACR, Appellant submits the following documents to support this Petition: indictments (Exhibit #1); sentence sheets (Exhibit #2); notice of appeal and proof of service (Exhibit #3); and motion to reconsider sentence (Exhibit #4).

The procedural history of Appellant's case is as follows. On August 14, 2014, a Richland County grand jury indicted Appellant for attempted murder (2014-GS-40-5481) and murder (2014-GS-40-5482). Exhibit #1. Appellant was tried before the Honorable J. Derham Cole and a jury. Ultimately, the jury found Appellant guilty of the lesser-included offense of voluntary manslaughter and attempted murder. Judge Cole sentenced Appellant to thirty years' imprisonment for voluntary manslaughter and to twenty years' imprisonment for attempted murder. Exhibit #2. He ordered the sentences to be served consecutively, meaning Appellant was sentenced to fifty years' imprisonment. Exhibit #2. On September 8, 2015, Appellant, through counsel, filed and served a notice of appeal. Exhibit #3. On September 9, 2015, Appellant, through counsel, filed a motion to reconsider sentence. Exhibit #4. On June 1, 2016, Appellant, through undersigned counsel, filed and served his initial brief of appellant and designation of matter with this Court.

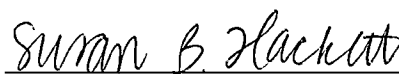
On July 18, 2016, *after* the filing of the initial brief of appellant, Appellant informed undersigned counsel in a letter that he had a pending motion for reconsideration. Since that date, undersigned counsel and Appellant have corresponded in an attempt to understand exactly what was filed, by whom, and whether the motion had been resolved. Additionally, inquiries were made by undersigned counsel of trial counsel. This investigation has revealed the motion for reconsideration of sentence was timely filed and remains pending. This investigation has also revealed that the notice of appeal was filed prior to the filing of the motion; therefore, pursuant to Rule 205, SCACR, the trial court likely lacks jurisdiction to entertain the motion.

To ensure the trial court has jurisdiction to entertain the motion to reconsider sentence and to ensure Appellant receives justice, undersigned counsel respectfully requests this Court hold the appeal in abeyance and remand this case to the Court of General Sessions for disposition

of the motion to reconsider sentence. Further, undersigned counsel respectfully requests an opportunity to file an amended brief of appellant and designation of matter should any appellate issues arise as a result of the disposition of the motion to reconsider sentence. Undersigned counsel discussed this matter with William Blich, Esquire, the Assistant Attorney General assigned to represent the state in this matter. Mr. Blich informed undersigned counsel he has no objection to this course of action.

WHEREFORE, the undersigned counsel requests an order to hold the appeal in abeyance and remand this case to the Court of General Sessions for disposition of the motion to reconsider sentence and an opportunity to file an amended brief of appellant and designation of matter should any appellate issues arise as a result of the disposition of the motion to reconsider sentence. In addition, undersigned counsel requests the time periods for filing Respondent's initial brief and designation of matter be held in abeyance pending this Court's decision on this petition.

Respectfully submitted,



Susan B. Hackett
Appellate Defender

August 16, 2016

EXHIBIT #1

WITNESSES

(S) Cris Truluck
- Richland County Sheriff

ARREST WARRANT NUMBER

2014A4010500199

ACTION OF GRAND JURY

TRUE BILL

Michael Boone
Foreperson of Grand Jury

Date:

AUG 14 2014

VERDICT

Guilty

Carlene McLamre
Foreperson of Petit Jury

Date: 9/4/2015

DOCKET NO. 2014GS4005481

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

AUGUST TERM 2014

42

THE STATE
vs.

Dexter L Myers

Indictment for
Attempted Murder

SC Code: 16-03-0029

CDR Code: 3410

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on August 13, 2014, the
Grand Jurors of Richland County present upon their oath:

ATTEMPTED MURDER

That Dexter L Myers did in Richland County on or about July 2, 2014, did
with the intent to kill, attempt to kill Mahogany Speech-Harris with malice
aforethought, either expressed or implied. All in violation of SC Code of
Laws § 16-3-29 (1976, as amended)

Against the peace and dignity of the State, and contrary to the
statute in such case made and provided.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) Cris Truluck
- Richland County Sheriff

ARREST WARRANT NUMBER

2014A4010500200

ACTION OF GRAND JURY

TRUE BILL

Michael Boone
Foreperson of Grand Jury

Date: **AUG 14 2014**

VERDICT

Guilty of Voluntary Manslaughter

Carlene M. G. Camale
Foreperson of Petit Jury

Date: **9/4/2015**

DOCKET NO. 2014GS4005482

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

AUGUST TERM 2014

42

THE STATE
vs.

Dexter L Myers

Indictment for
Murder / Murder

SC Code: 16-03-0010

CDR Code: 0116

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

EXHIBIT #2

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE VS. Dexter L Myers

INDICTMENT/CASE#: 2014GS4005481
A/W#: 2014A4010500199
Date of Offense: 7/2/2014
S.C. Code § : 16-03-0029
CDR Code #: 3410

AKA:
Race: BLACK Sex: M Age: 21
DOB: SS#:
Address:
City, State, Zip: Columbia, SC 29210
DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Attempted Murder

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Campbell, Luck SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Table with columns for description, amount, and total. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114(BUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCJA Surcharge), 3% to County (if paid in installments), and TOTAL.

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: Jeannette N. M. Brindley
Court Reporter: Dakis-Ray
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2053
Sentence Date: September 4, 2015

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE VS.

Dexter L Myers

AKA:

Race: BLACK Sex: M Age: 21

DOB: SS#:

Address:

City, State, Zip: Columbia, SC 29210

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Manslaughter / Voluntary manslaughter

INDICTMENT/CASE#: 2014GS4005482
A/W#: 2014A4010500200
Date of Offense: 7/2/2014
S.C. Code § : 16-03-0010
CDR Code #: 0116

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Campbell Luck SC Bar# 13009 Defendant X Defendant Attorney for Defendant 77518 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
days/hours Public Service Employment

Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Rows include assessments, surcharges, and fees.

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: Jeannette K. Bivins
Court Reporter:
SCCA/217 (03/2011)

Presiding Judge:
Judge Code: 2053
Sentence Date: September 4, 2015

EXHIBIT #3

15

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Honorable J. Derham Cole

RECEIVED

SEP 08 2015
SC Court of Appeals

Case No. 2014-GS-40-05481
2014-GS-40-05482

The State,.....Respondent,

v.

Dexter L. Myers,.....Appellant.

NOTICE OF APPEAL

Dexter L. Myers appeals his convictions and sentences in these cases. The sentences were imposed by the Honorable J. Derham Cole on September 4, 2015.

2014-GS-40-05481 – Attempted Murder – 20 years consecutive, credit for time served.

2014-GS-40-05482 – Voluntary Manslaughter – 30 years consecutive – credit for time served.

September 8, 2015

Tracy E. Pinnock
Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592
Attorney for Appellant

Other Counsel of Record:
Assistant Solicitor Luck Campbell
Office of the Solicitor, Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street
Columbia, South Carolina 29201
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Honorable J. Derham Cole

Case No. 2014-GS-40-05481
2014-GS-40-05482

The State,.....Respondent,

v.

Dexter L. Myers,.....Appellant.

PROOF OF SERVICE

I hereby certify that a true copy of the Notice of Intent to Appeal in the above-referenced case has been served upon opposing counsel by delivering same this date to her office at the Office of the Solicitor, Fifth Judicial Circuit, Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina 29201.

September 8, 2015



Tracy E. Pinnock

Richland County Public Defender's Office
P.O. Box 192
Columbia, S.C. 29201
(803) 765-2592
Attorney for Appellant

Other Counsel of Record:
Assistant Solicitor Luck Campbell
Office of the Solicitor, Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street
Columbia, South Carolina 29201
Attorney for Respondent

RECEIVED

SEP 08 2015

SC Court of Appeals

EXHIBIT #4

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTH JUDICIAL CIRCUIT

Indictment No: 2014GS4005481, 5482

THE STATE OF SOUTH CAROLINA)

MOTION TO
RECONSIDER SENTENCE

vs.

Dexter L. Myers, Jr.
Defendant

RICHLAND COUNTY
FILED
SEP-9 PM 4:03
JEANETTE W. McBRIDE
C.C.P. & G.S.

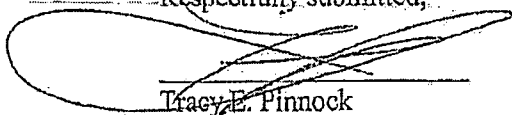
TO: Assistant Solicitor Luck Campbell

YOU WILL PLEASE TAKE NOTICE that as soon as counsel may be heard before the Honorable Derham Cole, the defendant will move, through his attorney Tracy Pinnock, will request the Court for reconsideration of the sentence imposed on Friday, September 4, 2015.

The Defendant was convicted by a jury of Involuntary Manslaughter and Attempted Murder and subsequently sentenced to thirty (30) years for the Involuntary Manslaughter and twenty (20) years for the Attempted Murder. It was further ordered that the sentences be run consecutive to each other.

The Defendant, Dexter Myers Jr., is incarcerated at the Alvin S. Glenn Detention Center until such time as the Department of Corrections places him in their custody. This notice is a formal request for the Assistant Solicitor to have the above-named Defendant transported to the necessary court house at the appropriate time when a hearing can be scheduled with all parties involved.

Respectfully submitted,



Tracy E. Pinnock
Attorney for Defendant
Columbia, South Carolina
Date: September 8, 2015

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

J. Derham Cole, Circuit Court Judge

RECEIVED

AUG 16 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DEXTER L. MYERS,

APPELLANT

CERTIFICATE OF SERVICE

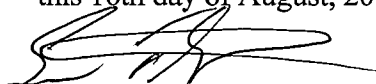
The undersigned attorney hereby certifies the motion to hold appeal in abeyance and remand for disposition of motion for reconsideration in the above referenced case has been served upon William M. Blich, Jr., Esquire, Assistant General, Office of the Attorney General, at Rembert Dennis Building, 1000 Assembly Street, Rm. 519, Columbia, SC 29201, and Dexter L. Myers #365377, at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 16th day of August, 2016.

Susan B. Hackett

Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 16th day of August, 2016.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: October, 30 2022.

ORIGINAL



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

August 16, 2016

RECEIVED

AUG 16 2016

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: The State v. Dexter L. Myers, Appellate Case # 2015-001881

Dear Ms. Kitchings,

Enclosed please find the original and six copies of the motion to hold appeal in abeyance and remand for disposition of motion for reconsideration in the above case and supporting documents.

If you have any questions concerning this matter, please contact me.

Sincerely,

Susan B. Hackett

Susan B. Hackett
Appellate Defender

SBH/smf

Enclosures