

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Charleston County

Honorable Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ISAAC ROMELL WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2015-002365

ANDERS BRIEF OF APPELLANT

Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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STATEMENT OF ISSUE ON APPEAL

Did the trial judge abuse her discretion in sentencing Appellant to forty years in prison when Appellant pled guilty to murder, was not the person who shot the deceased, had no prior record and cooperated with authorities?

STATEMENT OF THE CASE

In December of 2013, the Charleston County Grand Jury indicted Appellant Williams for murder and kidnapping, indictments #2013-GS-10-7413, 7411. On July 10, 2015, Appellant appeared before the Honorable Kristi Lea Harrington and pled guilty to murder. The guilty plea was entered without negotiations or recommendations. Adam Milynarczyk represented Appellant at the plea. Scarlett Wilson prosecuted the case. Sentencing was deferred in order for a pre-sentence report to be completed for the co-defendant, Jquan Scott. On August 26, 2015, both Scott and Williams appeared for sentencing. Judge Harrington sentenced Scott to life without parole and sentenced Appellant to forty (40) years. A timely notice of intent to appeal was served on September 3, 2015. The Court, however, did not receive the notice of intent to appeal. On December 7, 2015, a motion to file the notice of intent to appeal out of time was served. This appeal follows.

ARGUMENT

The trial judge abused her discretion in sentencing Appellant to forty years in prison when Appellant pled guilty to murder, was not the person who shot the deceased, had no prior record and cooperated with authorities.

On July 10, 2015, Appellant appeared before the Honorable Kristi Lea Harrington and pled guilty to murder. Sentencing was deferred until August 26, 2015. During the guilty plea hearing the solicitor told the judge, “Judge, if I could, I think part of the problem here is the facts in this case involve this defendant and a co-defendant. The State is not alleging that this defendant was the actual trigger man. He was, however, involved in the planning of the murder. He had knowledge of the murder. He was present when the murder was committed. And because of the planned murder and armed robbery, he’s guilty under an accomplice- liability scenario.” (July 10, 2015, Tr. p. 10, lines 9-16). Later the solicitor told the judge, “As we will outline at the sentencing, earlier this year the defendant began cooperating with the State. It has been a bumpy road, but I’ll get into that more later. In the end, he was cooperative, but I’ll fill you on more of that – more of that later.” (July 10, 2015, Tr. p. 14, lines 12-16).

During the sentencing hearing for both Appellant and the co-defendant, Jquan Scott, the judge asked if Appellant was of some benefit in the co-defendant pleading guilty. (Aug. 26, 2015, Sentencing Tr. p. 105, lines 9-11). The solicitor answered, “It’s hard for me to believe that his cooperation did not help lead to Jquan Scott’s guilty plea.” (Aug. 26, 2015, Sentencing Tr. p. 105, lines 22-23). Appellant had no prior criminal record. (Aug. 26, 2015, Sentencing Tr. p. 97, line 8).

As to co-defendant, Scott, the solicitor told the judge, “We were ready to go to trial, we would have won this trial, and we would have asked then for a life sentence because that’s what he deserves. That’s exactly what he deserves. Alex’s friends put that on [F]acebook, justice for

Alex Apps, because of their hope for justice. And justice in this case, Judge, we believe is a life sentence.” (Aug. 26, 2015, Sentencing Tr. p. 71, lines 24 – p. 72, lines 1-6). The judge sentenced the co-defendant, Scott, to life in prison.

As to Appellant’s sentence, the solicitor specifically advised the judge that she was not requesting a life sentence. (Aug. 26, 2015, Sentencing Tr. p. 106, lines 15-20). The judge noted, “I am taking into account that I do find that Mr. Williams acted differently than Mr. Scott – it is the order of the Court that you be committed to the State Department of Corrections for a term of forty years.” (Aug. 26, 2015, Sentencing Tr. p. 109, line 23 – p. 110, lines 1-2). The trial judge abused her discretion in sentencing Appellant to forty years in prison when Appellant pled guilty to murder, was not the person who shot the deceased, had no prior record had no prior record and cooperated with authorities.

In State v. Conally, 227 S.C. 507, 510, 88 S.E.2d 591, 593 (1955), the South Carolina Supreme Court wrote:

This court has no jurisdiction to disturb, because of alleged excessiveness, a sentence which is within the limits prescribed by statute, unless: (a) the statute itself violates the constitutional injunction, Article I, § 19, against cruel and unusual punishment, or (b) the sentence is the result of partiality, prejudice, oppression, or corrupt motive. State v. Scates, 212 S.C. 150, 46 S.E.2d 693; State v. Kimbrough, 212 S.C. 348, 46 S.E.2d 273; State v. Huffstetler, 213 S.C. 319, 49 S.E.2d 585; State v. Phillips, 215 S.C. 314, 54 S.E.2d 901; State v. Goodall, 221 S.C. 175, 69 S.E.2d 915; State v. Hall, 224 S.C. 546, 80 S.E.2d 239.

In State v. White, 215 S.C. 450, 456, 55 S.E.2d 785, 788 (1949), the South Carolina Supreme Court wrote:

This court has repeatedly held that it has no jurisdiction on appeal to correct a sentence alleged to be excessive when it is within the limits prescribed by law for the discretion of the trial judge, and is not the result of partiality, prejudice, oppression or corrupt motive. The record in this case, in our opinion, shows no manifest abuse of discretion. As was well said in State v. Kimbrough, 212 S.C. 348, 46 S.E.2d 273, 277: ‘It is perhaps unnecessary to add that only under rare and unusual circumstances will this Court interfere with the discretion of the trial judge in the imposition of a sentence. The difficult duty and the weighty

responsibility of determining the sentence to be imposed on a defendant is under most of our statutes properly left, within certain limitations, to the trial judge, who is in a much better position than this Court to fix the penalty to be imposed. As well stated in Hawkins v. United States, 7 Cir., 14 F.2d 596, 598: 'There is no judicial function which makes larger drafts upon the fairness, common sense, sanity, and good judgment of the judge than that of fixing penalties for criminal offenses, nor one which more vitally affects the stability of free institutions. Excessive penalties are tyrannical in the court, and abhorrent to the public; on the other hand, penalties unduly mild seriously embarrass law enforcement and encourage infractions of the criminal laws.'

Appellant's sentence of forty years was excessive when he was not the triggerman, had no prior record and cooperated with the authorities. The excessive sentence is the result of partiality and prejudice stemming from the solicitor's comments in regard to the co-defendant and the friends of the deceased demanding justice on Facebook in the form of a life sentence for the co-defendant. The sentencing judge abused her discretion. Appellant's case presents the rare and unusual situation when this Court should find an abuse of discretion by the sentencing judge.

CONCLUSION

Based on the above argument, Appellant's sentence should be reversed and the case remanded for a new sentencing hearing.

Respectfully submitted,



Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 19th day of August, 2016.

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ISAAC ROMELL WILLIAMS,

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Isaac Romell Williams states:

1. She is Appellant Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's guilty plea before Judge Kristi Lea Harrington, held on July 10, 2015, and sentencing held on August 26, 2015, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Isaac Romell Williams.

Respectfully submitted,


Kathrine H. Hudgins
Appellate Defender
ATTORNEY FOR APPELLANT

This 19th day of August, 2016

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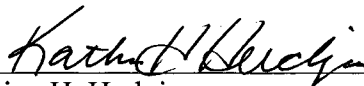
APPELLANT

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictments and sentencing sheets;
- (2) July 10, 2015, Guilty plea transcript;
- (3) August 26, 2015, Sentencing transcript.

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



Kathrine H. Hudgins
Appellate Defender

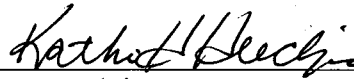
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This 19th day of August, 2016.

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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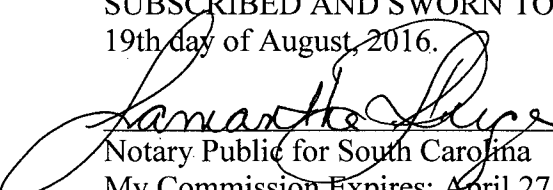
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Donald J. Zelenka, Esquire at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and Isaac Romell Williams, 365231 at Lieber Correctional Institution, PO Box 205, Ridgeville, SC, 29472, this 19th day of August, 2016.


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me this
19th day of August, 2016.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: April 27, 2026.