

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

IN THE COURT OF GENERAL SESSIONS
SIXTH JUDICIAL CIRCUIT

RECEIVED

SEP 12 2016

SC Court of Appeals

RONALD YATES HYATT #109143,)
Petitioner,)
vs.)

ORDER DENYING PETITIONER'S MOTION
FOR AIKEN vs. BYARS HEARING

2016 AUG 16 AM 11:50

CLERK OF COURT
LANCASTER, SC

FILED
OFFICE OF CLERK
OF COURT

STATE OF SOUTH CAROLINA,)
Respondent.)

INDICTMENT 81-GS29-829

The Petitioner Ronald Yates Hyatt #109143 is currently incarcerated in the South Carolina Department of Corrections. He is serving a Life Sentence pursuant to his plea to Murder. He is also serving a sentence of twenty-five (25) years on his plea to Armed Robbery.

In November of 2015, the Petitioner filed a Pro Se Petition with this Court requesting that his sentence be reconsidered pursuant to Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014). This Court appointed Circuit Public Defender Michael H. Lifsey to represent the Petitioner.

A hearing was held before the undersigned Judge. The Petitioner was present and represented at the hearing by his attorney Michael H. Lifsey. The State was represented by Deputy Solicitor Lisa G. Collins. At the hearing, counsel for the Petitioner argued to the Court that the Petitioner should be afforded a full resentencing hearing pursuant to Aiken v. Byars. Counsel for the State argued that the Petitioner does not fall within the class of individuals covered by Aiken v. Byars and that the Court should summarily dismiss the Petition without holding a full resentencing hearing under Aiken v. Byars.

After hearing from counsel for both sides, and considering the applicable law, this Court makes the following Findings of Facts and Conclusions of Law:

FINDINGS OF FACTS

1. The Petitioner, who was born in January of 1965, is currently serving a Life sentence in the South Carolina Department of Corrections pursuant to his guilty plea to the charge of Murder (Indictment 81-GS29-829) entered on December 16, 1981. The Petitioner was represented by Tyre Lee, Esquire. The sentencing Judge, the Honorable Richard E. Fields, recommended on the sentence sheet that "he begins serving this sentence within the facilities of the Dept. of Youth Services." The Petitioner is also serving a concurrent

prison sentence of twenty-five (25) years pursuant to his guilty plea to the charge of Armed Robbery, also entered on December 16, 1981. (Indictment 81-GS29-830).

2. The facts of the case as alleged in the True-Billed Indictments for Murder and Armed Robbery are as follows: On August 17, 1981, in Lancaster County, S.C., the Petitioner along with his co-Defendant William Robert Horton robbed the victim Buddy Plyler at gunpoint and then killed the victim by shooting him with malice aforethought.
3. Records on file with the Clerk of Court reflect the following: the Petitioner was sixteen (16) years old at the time of this offense. His co-Defendant William Robert Horton was an adult (age 19) at the time of the offense. On August 24, 1981, Solicitor John R. Justice made a motion pursuant to Kent v. U.S., 383 U.S. 541 (1966) for the Petitioner's case to be transferred from the Family Court to the Court of General Sessions. On August 25, 1991, the Honorable Roddey L. Bell, Judge for the Sixth Judicial Circuit Family Court, issued an Order allowing the Solicitor to have a copy of the prior criminal offenses of the Petitioner for purposes of the hearing to transfer the case to General Sessions Court. On that same date, Judge Bell held a hearing regarding the State's Motion to transfer the case. The Petitioner and his parents were present, and the Petitioner was represented by attorney Berry Mobley. The Court issued an Order finding that, due to the juvenile's prior offenses and the disposition thereof in Family Court, along with the findings in a report from a Reception and Evaluation commitment to D.J.J. in September 1980, the Petitioner's charges should be transferred to the Court of General Sessions for the Petitioner to be tried as an adult.
4. A mental evaluation by Karl V. Duskocil, M.D. of the South Carolina State Hospital dated September 4, 1981 concluded that the Defendant was competent to stand trial.
5. The Grand Jury returned true-bills on these Indictments on December 7, 1981.
6. The Defendant entered a guilty plea to the Murder and the Armed Robbery charges on December 16, 1981. The Defendant was represented at the plea hearing by attorney Tyre Lee.
7. At the time of the Petitioner's charge and plea hearing, South Carolina law allowed a life sentence for murder to be eligible for parole. In the Petitioner's case, he was eligible for parole after serving approximately seventeen (17) years of his sentence. (SCDC records show that the Petitioner's eligibility for parole began in April of 1998.) The Petitioner has in fact had sixteen (16) parole hearings and has been rejected for parole at all of them. He is considered for parole every year.

CONCLUSIONS OF LAW

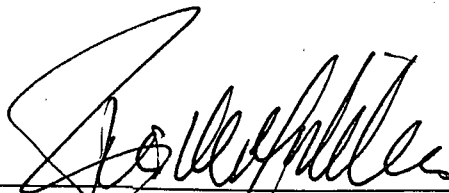


1. In Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014), the South Carolina Supreme Court held that the principles set forth in Miller v. Alabama, 132 S.Ct. 2455 (2012), apply retroactively to offenders who were juveniles (persons under the age of eighteen as stated in Footnote 1 of the Opinion) and who are subject to a sentence of life imprisonment without the possibility of parole, even when those sentences are non-mandatory under the applicable state law. Miller held that offenders under eighteen years of age who are serving a mandatory sentence of life in prison without the possibility of parole are entitled to resentencing hearings, as such sentences violate the Eighth Amendment of the United States Constitution which prohibits cruel and unusual punishment. It appears to this Court that the essential goal of the South Carolina Supreme Court in Aiken v. Byars as well as the United States Supreme Court in Miller was to protect juvenile offenders from unconstitutional cruel and unusual punishment through a sentence of life in prison without parole – the key element being life in prison without parole.
2. The Petitioner timely filed his Petition/Motion for Reconsideration of Sentence pursuant to Aiken v. Byars within the time frame set by the South Carolina Supreme Court.
3. The holding in Aiken v. Byars does not apply to the Petitioner. Although the Petitioner was only sixteen at the time of his offense, he did not receive a sentence of life imprisonment without the possibility of parole. Rather, the Petitioner is afforded the opportunity to have his case reviewed every year by the Parole Board, and is given the possibility of parole every year. Therefore, the Petitioner is not within the class of offenders for whom Aiken v. Byars provides for resentencing hearings.
4. This Court has considered the able argument of Petitioner's counsel, that the Petitioner is in effect serving a sentence of life without parole as the Parole Board has rejected the Petitioner's application for parole each year for the past sixteen years. This Court specifically rejects this argument, as the South Carolina Supreme Court in Aiken v. Byars cites Miller as applying to juvenile offenders who are serving "life in prison without possibility of parole." (emphasis added) This Court finds that the Petitioner clearly has the possibility of parole, and that possibility comes to fruition each year when the Parole Board reviews the Petitioner's case and considers him for parole. Therefore, this Court finds and concludes that Aiken v. Byars and Miller do not apply to this Petitioner's case. This Court therefore grants the State's Motion to summarily dismiss the Petition.

THEREFORE, IT IS HEREBY ORDERED THAT that the Petition/Motion for a Reconsideration of Sentence for a resentencing hearing pursuant to Aiken v. Byars is DENIED.

IT IS SO ORDERED THIS 15 DAY OF AUGUST, 2016.





THE HONORABLE BRIAN M. GIBBONS
Chief Administrative Judge
Sixth Judicial Circuit

Lancaster, S.C.



STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

IN THE COURT OF GENERAL SESSIONS

SIXTH JUDICIAL CIRCUIT

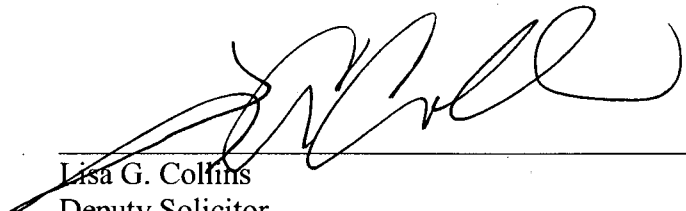
RONALD YATES HYATT #109143,)
)
Petitioner,)
)
vs.)

CERTIFICATE OF SERVICE

STATE OF SOUTH CAROLINA,)
)
Respondent.)

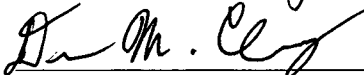
INDICTMENT 81-GS-29-829

The undersigned hereby certifies that on the 29 day of August, 2016, she served a certified true copy of the ORDER DENYING PETITIONER'S MOTION FOR AIKEN vs. BYARS HEARING in this case upon the Petitioner and his attorney, Michael Lifsey, by hand-delivering two certified true copies (one each for the Petitioner and his attorney) to the Defendant's attorney at the Lancaster County Courthouse, 104 North Main Street, Lancaster, S.C.



Lisa G. Collins
Deputy Solicitor
Office of the Solicitor for the Sixth Judicial Circuit

SWORN TO BEFORE ME
this 29 day of August, 2016.



Notary Public for the State of S.C.
My Commission Expires: 11/24/2025

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OF COURT
2016 AUG 29 AM 11:12
CLERK OF COURT
LANCASTER, SC

CERTIFIED TO BE A TRUE COPY



JEFF HAMMOND
CLERK OF COMMON PLEAS
AND GENERAL SESSIONS COURT
LANCASTER COUNTY, S.C.

SIXTH JUDICIAL CIRCUIT
PUBLIC DEFENDER'S OFFICE

104 North Main Street * Post Office Box 1809
Lancaster, South Carolina 29721
Telephone No.: (803) 285-5585
Fax No.: (803) 285-6085

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SEP 12 2016

SC Court of Appeals

September 8, 2016

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

RE: Ronald Yates Hyatt v. State of South Carolina, Case No. 81-GS-29-829

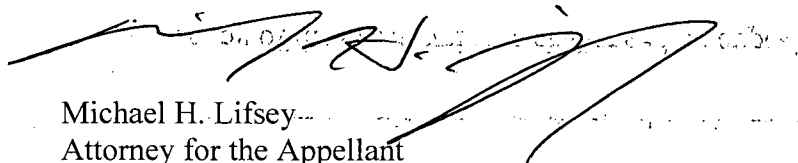
Dear Ms. Kitchings:

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following:

- (1) Proof of service of the notice of appeal on the respondent.
- (2) A copy of the order which is challenged on appeal.

This is an appeal from an appointed criminal case and, therefore, I anticipate that Appellate Defense will handle the appeal. I am copying them with this letter and the enclosed documents.

Sincerely,



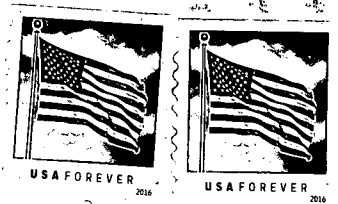
Michael H. Lifsey
Attorney for the Appellant

Cc: Lisa Collins, Deputy Solicitor
Solicitor
Appellate Defense Division
South Carolina Commission on Indigent Defense

Public Defender's Office

Sixth Judicial Circuit

Post Office Box 1809
Lancaster, SC 29721



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SC Court of Appeals

The Honorable Jenny Abbott Mitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

