

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Richland County

Honorable Howard P. King, Circuit Court Judge  
\_\_\_\_\_

**ORIGINAL**

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**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

ARTHURO RIOS TORRES,

APPELLANT

APPELLATE CASE NO 2015-002645  
\_\_\_\_\_

RECORD ON APPEAL  
\_\_\_\_\_

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STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	
County of Richland	)	2015-GS-40-3809
	)	2015-GS-40-3810
	)	2015-GS-40-3815
	)	2015-GS-40-7208

STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
ARTHURO RIOS TORRES,	)	
	)	
DEFENDANT,	)	

December 15, 2015  
Columbia, South Carolina

BEFORE:

THE HONORABLE HOWARD KING, JUDGE.

APPEARANCES:

JOSH GOLSON, ASSISTANT SOLICITOR  
Attorney for the State

JOHN O'LEARY, ESQ.  
Attorney for the Defendant

KAREN AMBROZIAK  
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 MR. GOLSON: The State calls Arthuro Rios Torres.

2 FERNANDO RAMOS, after being duly  
3 sworn, interpreted as follows:

4 MR. O'LEARY: Your Honor, for the record, his name is  
5 Fernando Ramos is the interpreter.

6 THE COURT: Okay.

7 ARTHURO TORRES, after being duly  
8 sworn, testified as follows:

9 THE COURT: All right. Mr. O'Leary, is Mr. Ramos a  
10 state certified interpreter, or is he one that has been  
11 hired by you or the defendant?

12 MR. O'LEARY: He has been hired by -- by our office.

13 THE COURT: Okay. All right. I would ask the  
14 interpreter please ask the defendant, Mr. Torres, if he  
15 has any objection to your serving as the interpreter since  
16 you are not a state certified interpreter, and if he is  
17 agreeable to that.

18 (Pause).

19 THE INTERPRETER: He said everything is okay.

20 THE COURT: Okay. All right.

21 Mr. Solicitor, go ahead and put the information on  
22 the record.

23 MR. GOLSON: Thank you, Judge. May it please the  
24 Court. Josh Golson for the State. Standing before you is  
25 Arthuro Rios Torres. Defense counsel is John O'Leary from

1 the private bar.

2 Mr. Torres is here today to plead guilty to four  
3 charges. Three of the charges, Judge, have been true  
4 billed. The fourth is a waiver of indictment.

5 The first true billed indictment is for felony DUI  
6 resulting in death on indictment number 2015-GS-40-03809.  
7 The second true billed indictment is for leaving the scene  
8 with death, indictment number 2015-GS-40-03810. The third  
9 true billed indictment is for habitual traffic offender,  
10 indictment number 2015-GS-40-03815. The waiver is for hit  
11 and run with property damage, indictment number  
12 2015-GS-40-07208.

13 Judge, this is a plea without negotiations or  
14 recommendations.

15 THE COURT: All right.

16 MR. GOLSON: And if I may briefly, sir, as to inform  
17 the Court, present with us today are multiple members of  
18 the deceased victim, Ms. Roxina Mack, her family here  
19 today. I'm going to name them for the record now, or I  
20 can do that later if you so choose.

21 We have John Mack, one of her sons; Ken Mack, a  
22 daughter-in-law; Calvin Green, a brother; Chris Mack,  
23 another son; Angela Mack, another daughter-in-law; Denise  
24 Williams, a daughter; Reverend Lewis Gunter,  
25 father-in-law; Tony Jamison, Minister Tony Jamison, a

1 fiancée to the deceased; Patricia Sitler, a sister-in-law;  
2 Deidra Hicks, a family friend; and Maurice Brooks who is  
3 also a son-in-law of the family.

4 THE COURT: All right.

5 MR. GOLSON: I'm sorry. Forgive me, Judge, but  
6 there's just a little bit of information, more information  
7 for the Court.

8 There were some other victims involved in this case  
9 that sustained minor personal injury and property damage  
10 to a single vehicle. We have been in contact with them on  
11 multiple occasions; however, they will not be present  
12 today. Their names are Gregorio Rosado and Mallory  
13 Nelson.

14 THE COURT: All right. Thank you, sir.

15 All right. Mr. O'Leary, you represent the defendant?

16 MR. O'LEARY: Yes, I do, Your Honor.

17 THE COURT: All right. Have you explained to him the  
18 charges against him, the possible punishment, and his  
19 Constitutional Rights including his right to a jury trial?

20 MR. O'LEARY: Your Honor, we have. We forwarded to  
21 the Court a signed copy that was interpreted by Mr. Ramos  
22 here.

23 THE COURT: All right. And so this form is -- his  
24 first language is Spanish; is that right?

25 MR. O'LEARY: Yes, it is, Your Honor.

1 THE COURT: And he -- this form -- you went over it  
2 with him with his interpreter?

3 MR. O'LEARY: Yes, we did, Your Honor.

4 THE COURT: Okay.

5 MR. O'LEARY: I had him initial it, and I had the  
6 interpreter also sign that form that you have in front of  
7 you.

8 THE COURT: All right.

9 All right. You are Arturo Rios Torres; is that  
10 correct?

11 THE INTERPRETER: Yes.

12 THE COURT: All right. I have a form called guilty  
13 plea sheet. It's dated today. It appears to have been  
14 completed by you and your lawyer. Did you and your lawyer  
15 go over this with him with it being explained to you in  
16 Spanish?

17 THE INTERPRETER: Yes, Your Honor.

18 THE COURT: And did you understand the questions and  
19 the answers that you gave on this form.

20 THE DEFENDANT: Yes.

21 THE INTERPRETER: Yes, Your Honor.

22 THE COURT: All right, sir. Before I can accept your  
23 plea of guilty, I need to ask you some questions. If you  
24 don't understand the questions or the words I use, you  
25 tell me, and I'll explain them to you. You may talk with

1 your lawyer at any time as we go through this process. Do  
2 you understand?

3 THE DEFENDANT: Yes.

4 THE INTERPRETER: Yes, sir.

5 THE COURT: How old are you?

6 THE DEFENDANT: Thirty-one years old.

7 THE COURT: And how far did you go in school?

8 THE DEFENDANT: Completed school.

9 THE INTERPRETER: Completed school.

10 THE COURT: What kind of work do you normally do?

11 THE DEFENDANT: Carpentry.

12 THE INTERPRETER: Carpentry.

13 THE COURT: Have you ever been treated for the abuse  
14 of alcohol or drugs or for mental illness?

15 THE INTERPRETER: He's been attending AA classes.

16 THE COURT: Okay. Have you taken any medication,  
17 drugs or alcohol in the last 24 hours?

18 THE DEFENDANT: No.

19 THE INTERPRETER: No, sir, Your Honor.

20 THE COURT: Are you today under the influence of any  
21 medication, drugs, or alcohol?

22 THE DEFENDANT: No.

23 THE INTERPRETER: No.

24 THE COURT: Are you today aware of any physical,  
25 emotional, or nervous problem that would keep you from

1 understanding what you're doing here today?

2 THE DEFENDANT: No.

3 THE INTERPRETER: No, sir, Your Honor.

4 THE COURT: There are four indictments in this case,  
5 three of which have been returned as true bills. The  
6 fourth has not been returned as a true bill -- and we'll  
7 talk about that in a minute -- but I want to go over the  
8 indictments with you so you'll understand the charges  
9 against you.

10 THE DEFENDANT: Si.

11 THE COURT: Indictment number 2015-GS-40-3809 is a  
12 charge of felony driving under the influence resulting in  
13 death, and it charges that you did in Richland County  
14 South Carolina on April 11th, 2015 drive a motor vehicle  
15 while under the influence of alcohol, drugs or a  
16 combination of both resulting in an accident which  
17 proximately caused the death of Roxina Mack. That is a  
18 charge of felony driving under the influence. Do you  
19 understand that charge?

20 THE DEFENDANT: Yes.

21 THE COURT: You understand that for that offense,  
22 that you could get up to one year, a minimum of one year  
23 to 25 years in prison and a fine of between \$10,100 and  
24 \$25,100?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you understand that that is classified  
2 in our law, what is known as a violent offense?

3 THE DEFENDANT: Yes.

4 THE COURT: Has your lawyer explained to you what is  
5 meant by a violent offense?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you also understand it is what is  
8 classified in our law as a serious offense?

9 THE DEFENDANT: Yes.

10 THE COURT: Under our two strikes, three strikes law,  
11 this would be a serious offense, and it would be one  
12 strike. Do you understand that?

13 THE DEFENDANT: Yes.

14 THE INTERPRETER: Yes, sir.

15 THE COURT: And do you understand that at some later  
16 time, if you were to have three serious or two most  
17 serious offenses, that you could be facing life in prison?

18 THE DEFENDANT: Yes.

19 THE COURT: The next indictment which has also been  
20 returned as a true bill is indictment number 3810, and it  
21 is a charge of leaving the scene of an accident with death  
22 involved.

23 It charges that on or about April 11th, 2015 while  
24 operating a motor vehicle involved in an accident which  
25 resulted in the death of Roxina Mack; that you left the

1 scene of the accident without first rendering aid or  
2 information.

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that charge?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that for that offense  
7 you could get up to 25 years in prison and a fine from  
8 \$10,000 to \$25,000?

9 THE DEFENDANT: Yes.

10 THE COURT: The next charge is indictment number  
11 2015-7208, and it is a charge of leaving the scene with  
12 property damage involved, and this indictment has not been  
13 to the grand jury.

14 We'll talk about that in just a minute, but it  
15 charges that on or about April 11th, 2015 while operating  
16 a motor vehicle involved in an accident resulting in  
17 property damage to a vehicle belonging to Leslie Arlene --  
18 her property, and that you left the scene without first  
19 rendering aid or information. Do you understand that  
20 charge?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And do you understand that for that  
23 offense, you could get up to one year in prison and/or a  
24 fine of between 100 and \$5,000?

25 THE DEFENDANT: Guilty.

1 THE COURT: Do you understand?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. That indictment has not been  
4 to the grand jury. This Court has no jurisdiction to hear  
5 this matter until the grand jury has either returned a  
6 true bill, or you have waived your right to have it  
7 presented to the grand jury.

8 I've been advised that you wish to waive your right  
9 to have it presented to the grand jury and go forward  
10 today; is that correct?

11 THE DEFENDANT: Yes.

12 THE COURT: The back of the indictment contains  
13 language to the effect that you are waiving presentment to  
14 the grand jury and appears to have your signature. Is  
15 that your signature?

16 THE DEFENDANT: Yes.

17 THE COURT: And finally, in indictment number  
18 2015-3815, the State charges that -- wait a minute.  
19 That's not right. I have to find the habitual traffic  
20 offender. That indictment has been returned as a true  
21 bill. That's indictment number 2015-3815, and it charges  
22 on April 11th, 2015 that you drove a motor vehicle on the  
23 highways of this state after having been declared a  
24 habitual traffic offender. This resulted in the death of  
25 Roxina Mack, and that you could get for that charge a

1 maximum of five years in prison.

2 THE DEFENDANT: Guilty.

3 THE COURT: All right. Do you understand all four  
4 charges that I have outlined to you?

5 THE DEFENDANT: Yes..

6 THE COURT: Do you have any questions that you want  
7 to ask me about the charges against you or the maximum  
8 punishment?

9 THE DEFENDANT: No.

10 THE INTERPRETER: No, sir.

11 THE COURT: All right. Mr. Torres, when you plead  
12 guilty, you give up important Constitutional Rights.  
13 First of all, you give up your right to remain silent.  
14 That is your right and privilege against  
15 self-incrimination, your right to say nothing at all. You  
16 cannot be compelled to testify or provide evidence against  
17 yourself. Do you understand that Constitutional Right?

18 THE DEFENDANT: Yes.

19 THE COURT: Secondly, you give up your right to have  
20 a jury trial. That is your right to have a jury decide  
21 whether or not you are guilty beyond a reasonable doubt.  
22 The jury would base their decision upon evidence which the  
23 State presents and any evidence which you wish to  
24 introduce.

25 THE DEFENDANT: No.

1 THE COURT: In a trial, you would be presumed to be  
2 innocent.

3 THE INTERPRETER: What was the last word you used,  
4 Your Honor?

5 THE COURT: In a trial, he would be -- you would be  
6 presumed to be innocent. The State would have to produce  
7 evidence that would convince all 12 members of the jury of  
8 your guilt beyond a reasonable doubt. Do you understand  
9 that Constitutional Right?

10 THE DEFENDANT: Yes.

11 THE INTERPRETER: Yes, your Honor.

12 THE COURT: Third, you give up your right to confront  
13 the witnesses against you. That is the right to see, hear  
14 and have your lawyer cross-examine any witnesses against  
15 you, and you also have the right to subpoena and call  
16 witnesses on your own behalf. Do you understand that  
17 Constitutional Right?

18 THE DEFENDANT: Yes. Yes, Your Honor.

19 THE COURT: Do you understand that when you plead  
20 guilty to these charges that you give up all of these  
21 Constitutional Rights?

22 THE DEFENDANT: Yes.

23 THE COURT: And you understand that when you plead  
24 guilty, there will not be a jury trial?

25 THE DEFENDANT: Yes.

1 THE INTERPRETER: Yes, sir.

2 THE COURT: Understanding the nature of the four  
3 charges against you as I have outlined them to you and the  
4 consequences of a guilty plea --

5 THE DEFENDANT: Yes.

6 THE COURT: -- how do you wish to plead to these four  
7 charges, guilty or not guilty?

8 THE INTERPRETER: Guilty, Your Honor.

9 THE COURT: Do you understand that when you plead  
10 guilty, you're admitting that the charges against you are  
11 true?

12 THE DEFENDANT: Yes.

13 THE COURT: You may have defenses to one or more of  
14 these charges. I don't know whether you do or not. Do  
15 you understand that if you plead guilty, you waive or give  
16 up any defenses that you might have to these charges?

17 THE DEFENDANT: Yes.

18 THE COURT: You may have been given an incriminating  
19 statement in this case; that is a confession or a  
20 statement to the police. If you plead guilty, do you  
21 understand that you waive or give up the right to contest  
22 or challenge whether that statement was freely and  
23 voluntarily given in accordance with your rights?

24 THE DEFENDANT: Yes.

25 THE INTERPRETER: Yes, Your Honor.

1 THE COURT: Mr. Solicitor, any plea negotiations?

2 MR. GOLSON: There are no negotiations or  
3 recommendations, Judge.

4 THE COURT: All right. The State has advised me that  
5 there are no recommendations or negotiations with regard  
6 to this plea, and the appropriate punishment would be up  
7 to me. Do you understand that?

8 THE DEFENDANT: Yes.

9 THE INTERPRETER: Yes, Your Honor.

10 THE COURT: Has anyone promised you anything or held  
11 out any hope of reward to get you to plead guilty?

12 THE DEFENDANT: No.

13 THE INTERPRETER: No, sir.

14 THE COURT: Has anyone threatened you or used force  
15 to get you to plead guilty?

16 THE DEFENDANT: No.

17 THE INTERPRETER: No, Your Honor.

18 THE COURT: Have you had enough time to make up your  
19 mind as to whether or not you wanted to plead guilty?

20 THE DEFENDANT: Yes.

21 THE INTERPRETER: Yes, Your Honor.

22 THE COURT: And are you pleading guilty of your own  
23 free will and accord?

24 THE DEFENDANT: Yes.

25 THE COURT: Mr. O'Leary, are you retained?

1 MR. GOLSON: Yes, sir, Your Honor. I've also advised  
2 the Court that I did advise him of the impact this would  
3 have on deportation at some point.

4 THE COURT: Okay. I was going to come back to that.

5 Mr. Torres, were you satisfied with the manner in  
6 which Mr. O'Leary has advised you and represented you?

7 THE DEFENDANT: Yes.

8 THE INTERPRETER: Yes, Your Honor.

9 THE COURT: Have you talked with him for as often and  
10 as long as you feel necessary for him to properly  
11 represent you?

12 THE DEFENDANT: Yes.

13 THE INTERPRETER: Yes, Your Honor.

14 THE COURT: Do you need any more time to talk with  
15 your lawyer?

16 THE DEFENDANT: No.

17 THE INTERPRETER: No, sir.

18 THE COURT: Have you understood your talks with your  
19 lawyer?

20 THE DEFENDANT: Yes.

21 THE COURT: Mr. O'Leary has told me that in addition  
22 to the Constitutional Rights and things that we've been  
23 over that he has advised you that this guilty plea in this  
24 Court will have some impact on your status in this country  
25 and your possible deportation. Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: Has your lawyer done everything for you  
3 that you feel he could have or should have done on your  
4 behalf?

5 THE INTERPRETER: Everything is okay.

6 THE COURT: You're completely satisfied with his  
7 services?

8 THE INTERPRETER: Completely.

9 THE COURT: Do you have any complaint that you want  
10 to make about your lawyer, the solicitor, or any of police  
11 officers?

12 THE DEFENDANT: No.

13 THE COURT: Have you understood my questions?

14 THE DEFENDANT: Yes.

15 THE INTERPRETER: Yes, sir.

16 THE COURT: Is there anything you'd like ask me about  
17 what we've been over?

18 THE DEFENDANT: No.

19 THE INTERPRETER: No, sir.

20 THE COURT: And do you understand that you have the  
21 right to appeal the guilty plea and sentence of the Court,  
22 and you must do so within ten days?

23 THE INTERPRETER: Okay.

24 THE COURT: All right. Mr. Solicitor, give my a  
25 summary of the facts.

1 MR. GOLSON: Thank you, Judge. May it please the  
2 Court. These charges and the investigation was done by  
3 the Columbia Police Department.

4 Two of the primary investigating officers are present  
5 with me here in the courtroom today: Sergeant Derrick  
6 Miller to my right, and Corporal Uhaul to my left; the  
7 arresting officer was Master Patrolman Kyle Gilbert who is  
8 not present in the courtroom today.

9 These events occurred on April 11th of this year,  
10 2015, at approximately 5:45 in the afternoon. That's --  
11 the incident location is [REDACTED] Percival Road. That's here  
12 in Richland County.

13 The defendant was driving northbound on Percival Road  
14 approaching the Willow Oak Mobile Home complex. He was  
15 driving at approximately 55 miles per hour when he rear  
16 ended another vehicle that was driven by Gregario Rosado.

17 He had a passenger in that vehicle which was a 2003  
18 Explorer. The passenger's name is Mallory Nelson. Judge,  
19 he rear ended that Explorer again at that 55-mile-per-hour  
20 speed and sent that Explorer into oncoming traffic. That  
21 Explorer hit a Toyota Scion that was driven by the  
22 deceased victim, Ms. Roxina Mack.

23 The force of the collision caused her to sustain  
24 immediate and severe traumas across her -- the majority of  
25 her body. The primary cause of death was listed as trauma

1 to her chest cavity.

2 She had a -- I guess to not be overly specific, it  
3 crushed and tore apart her heart upon impact. She died  
4 immediately. By the grace of God and for the sake of the  
5 family, we suspect that she did not suffer. So that's one  
6 small...

7 THE COURT: Mr. Torres was by himself?

8 MR. GOLSON: He was alone. He was driving a 1997  
9 Ford Econoline van, and I can get into that a little bit  
10 later when I go over his prior record. It's the same van  
11 he has always driven when we dealt with him in the past,  
12 Judge.

13 There were multiple witnesses to the collision  
14 itself, Your Honor, and I have some pictures to hand up to  
15 help explain the nature of this collision. I've shown  
16 these three photographs to Mr. O'Leary, if I may approach.

17 THE COURT: You've seen these?

18 MR. O'LEARY: Yes. No objection.

19 MR. GOLSON: The force of the collision sent both  
20 victims' vehicles, the Ford Explorer and the Toyota Scion  
21 driven by Ms. Mack, across the various parts of the  
22 intersection.

23 The defendant's van itself left the roadway and  
24 overturned in a ditch to the side of the road. Many of  
25 the witnesses that were on scene watched as the defendant

1 crawled out of the van and fled the scene on foot.

2 Thankfully, many members of the Columbia Police  
3 Department, including Master Patrolman Kyle Gilbert,  
4 Sergeant Derrick Miller who is present, were able to  
5 arrive on the scene very quickly.

6 Master Patrolman Gilbert was able to track down and  
7 apprehend the defendant shortly after the collision itself  
8 occurred, brought him back to the scene where he was  
9 identified by those eye witnesses.

10 The defendant had a very strong odor of alcoholic  
11 beverages about his breath and person. He also admitted  
12 that he had been drinking beer that morning and throughout  
13 the day. Because of those factors and the nature of the  
14 collision, Officer Gilbert proceeded with a DUI  
15 investigation, Judge.

16 He administered on the roadside standardized field  
17 sobriety tests which showed many, many indicators of  
18 impairment. Because of that, the defendant was arrested  
19 for felony DUI with death along with all of the other  
20 charges that we're here to dispose of today.

21 Upon his arrest, he was transported to the Columbia  
22 Police Department headquarters. He was given his  
23 Advisement of Implied Consent and informed that law  
24 enforcement was seeking a breath sample. After being duly  
25 advised, he refused to provide a breath sample.

1 THE COURT: Refused?

2 MR. GOLSON: Refused, yes, sir. Because of his  
3 refusal and because this was a very serious string of  
4 events leading to the unfortunate death of Ms. Mack, the  
5 officer subsequently sought to transport the defendant to  
6 Richland Memorial Hospital and began the process to secure  
7 a search warrant for a blood draw.

8 Now, this became a little bit more complicated  
9 because this was the weekend, the Saturday ni--- Saturday  
10 leading into Sunday, and it's difficult because the  
11 Columbia Police Department does not have ready access to  
12 warrant clerks or city judges to issue these search  
13 warrants. So it took approximately six hours to secure  
14 that search warrant.

15 Six hours later, the search warrant was served on the  
16 defendant, Mr. Torres. The toxicology report for those  
17 results showed that six hours later his blood alcohol  
18 concentration was .12, 12 one-hundredths of one percent.

19 The legal limit in South Carolina is .08.  
20 Toxicologists at SLED conservatively estimate and can give  
21 us a range based upon standard -- standardized elimination  
22 rates and standardized weights and heights of male  
23 individuals that at the time of the collision, his blood  
24 alcohol concentration was anywhere from .17 to .22  
25 hundredths of one percent.

1           If you would like, Judge, I can go now into his  
2 previous record, or I can do that later. I do know that  
3 there are multiple members of the survivor.

4           THE COURT: I'll come back to them in just a minute.  
5 Give me his prior record.

6           MR. GOLSON: Yes, Judge. It all encompasses a  
7 multitude of driving offenses, all mostly driving under  
8 the influence.

9           He had a reckless driving conviction September 12th,  
10 2008. His first conviction for driving under the  
11 influence was April 14th, 2009. In 2010, he had three  
12 convictions for DUI offenses, specifically two convictions  
13 back to back on August 10th, 2010 for driving under the  
14 influence; one conviction October 29th, 2010 for driving  
15 with an unlawful alcohol concentration; another DUI  
16 conviction, August 11th, 2011. His final DUI conviction  
17 was May 24th, 2013.

18           Additionally, Judge, it's -- the court should be  
19 aware that he has been on habitual traffic offender status  
20 since September 24th, 2010, and lastly and most  
21 regrettably, he had a pending DUI charge here in Richland  
22 County that originated with an arrest in August of 2013.

23           THE COURT: So he had a pending --

24           MR. GOLSON: He had a pending charge at the time of  
25 this accident.

1 THE COURT: -- DUI at the time of this accident. He  
2 is out on bond on that?

3 MR. GOLSON: Yes, sir.

4 THE COURT: It was just on a ticket notice or  
5 whatever?

6 MR. GOLSON: It was on -- originally, it was charged  
7 on the Uniform Traffic Ticket. Based -- unfortunately,  
8 there's a several-month lapse of time in between when we  
9 received all the information, and it was later enhanced to  
10 driving under the influence fourth and subsequent offense,  
11 and that was pending at the time of this --

12 THE COURT: All right.

13 MR. GOLSON: -- series of events.

14 THE COURT: All right. With regard to the victim's  
15 family, let me address them for just a minute. A number  
16 of years ago, the voters of this state passed the Victim's  
17 Rights Amendment to the Constitution, and it was  
18 implemented by the Legislature enabling legislation.

19 The Victim's Rights Bill does provide that the  
20 members of the victim's family have a right to be kept  
21 advised of everything that is going on, and I'm sure that  
22 the solicitor, through the Victim's Advocate, has kept you  
23 advised of everything that has been going on with regard  
24 to this case.

25 It also provides that you have the right to be

1 present whenever there is anything in court in connection  
2 with this, and it also provides that you have the right to  
3 address the Court.

4 So I will be glad to hear from any members of the  
5 victim's family that would like to address the Court. If  
6 you would give the court reporter your name, I'll be happy  
7 to hear from you.

8 MR. MYERS: Thank you, Your Honor. May it please the  
9 Court. Your Honor, my name is Stanley Myers. I'm a  
10 private attorney over at Moore, Taylor. My law partner  
11 was here before you this morning.

12 I'm here in two capacities: One as friend. I've  
13 known these folks for a number of years. We are all from  
14 the Swansea, North area. I knew Ms. Mack, and I  
15 represented them on the civil side. Now, today I'm here  
16 as a friend.

17 I'm going to be quiet and allow her son, Christopher  
18 Mack, her son John Mack, John's wife, Kim Mack, and Ms.  
19 Mack's fiancée, Tony Jamison, to address the Court. Thank  
20 you, Your Honor.

21 THE COURT: All right.

22 VICTIM'S SON: Your Honor, I'm Christopher Mack. I'm  
23 the middle child. I want to read a statement. My  
24 mother's life, a life was taken away at a very young age  
25 by a habitual offender.

1 She loved life, read the Bible every day, attended  
2 church every Sunday, never took a drink in her life, a  
3 Christian woman, and to get her life taken away by a drunk  
4 driver is just despicable, Your Honor.

5 She had three kids and seven grandkids and not be  
6 here to see any of her grandkids graduate high school.  
7 She was just a few years away from retirement. That's all  
8 she talked about. She wanted to retire.

9 She just got engaged to a minister here. They  
10 traveled every year, cruises, took trips, and this was the  
11 happiest time of her life. I mean, she was really happy  
12 right now.

13 So standing here today to say to give him the max is  
14 not enough, but because her life was taken away too soon,  
15 he showed no remorse for my mom's life and the other  
16 individuals who were severely injured in the accident by  
17 running away, so place no remorse -- so please show no  
18 remorse today when you hand down your sentence on him.

19 Thank you, Your Honor.

20 THE COURT: All right. Thank you for being here.

21 VICTIM'S SON: I'm John Mack. I'm Rosina's older  
22 son. I think my brother worded it all up mostly.

23 Like I said, my mother was taken very soon. I was  
24 actually at the time in Afghanistan when I got the call  
25 that my mom got killed in an accident.

1 I didn't find out the issues and what, how habitual  
2 the offender was when I got home. I thought it was  
3 basically a DUI accident.

4 To find out the individual had been arrested and  
5 charged and charged over and over and over, and then his  
6 time finally came when he actually killed someone, my  
7 mother, you know.

8 We lost a very big part of our family, you know.  
9 That's -- that's just the main key is your mother. You  
10 know, you never get your mother's love again. I miss her  
11 very dearly. That's all I want to say.

12 THE COURT: All right. Thank you, sir. Thank you  
13 for being here. Thank you for your service.

14 VICTIM'S DAUGHTER-IN-LAW: Your Honor, my name is Kim  
15 Mack. I'm the wife of John Mack. Roxina was my  
16 mother-in-law. I believe I was probably the last person  
17 to see her that day because I had just left her house, and  
18 she was -- because she was rushing out. She was on her  
19 way to work. That was her only crime, to be on time for  
20 work.

21 Mr. Torres needs to understand that he has the rest  
22 of his life to think about what he has done, but all I  
23 have left is a voice message telling me to come home.  
24 That's all I have left is to keep that voice message to  
25 hear her voice.

1           We want to thank the Columbia Police Department for  
2 your hard work in obtaining Mr. Torres because he did  
3 flee. All we have left is pictures, Your Honor.

4           We ask that you give Mr. Torres the maximum allowed.  
5 We feel that deportation would not be sufficient because  
6 he will go home and live with his family. We will never  
7 see her again.

8           We will never exchange Christmas presents this year.  
9 I don't have -- basically, summing it up, she won't see  
10 her first grandchild from me. She won't see her grandkids  
11 graduate next year. She won't get married to Tony.

12           He does not know the impact that he has placed on our  
13 life and it's devastating. I have nothing further to say,  
14 Your Honor.

15           I just pray that you find in your heart to give Mr.  
16 Torres the maximum sentence so he can think about what he  
17 has done to us because it's going to eventually happen to  
18 someone else again if you don't stop this.

19           Thank you.

20           THE COURT: All right. Thank you. Thank you for  
21 being here.

22           VICTIM'S FIANCEE: Good afternoon, Your Honor. My  
23 name is Minister Tony James, Rosina's fiancée. We was  
24 together for about three-and-a-half years.

25           I loved her, stayed happy, travel. We did everything

1 together, went to church together, and I got a phone call  
2 earlier. I talked to her. She was going to work. That's  
3 all I got.

4 Roxina was part of me because my fiancée, we was  
5 going to get married in July before her birthday July 10th  
6 to live together, cherish our life together, and I don't  
7 have that now. And it's hard on me, but I -- as a  
8 minister, I know I must ask for forgiveness. I'm asking  
9 for forgiveness for him also, but I'm asking for the  
10 maximum because I don't have her anymore. The family, we  
11 don't have her.

12 If you would have met her, you would have loved her  
13 just as I loved her. That's all I got to say.

14 THE COURT: All right. Thank you and thank you for  
15 being here.

16 All right. Is that all the representatives of the  
17 family? How about law enforcement? Anything that they'd  
18 like to add before I call on Mr. O'Leary?

19 THE DEPUTY: No, sir. I believe the family covered  
20 everything very well.

21 THE COURT: All right.

22 All right. Mr. O'Leary?

23 MR. O'LEARY: Your Honor --

24 THE COURT: Let me -- before I call on him, let me go  
25 ahead and accept the plea. First of all, let me say that

1 I find there is a substantial factual basis for the plea  
2 in all of the cases.

3 I find that the defendant has freely and voluntarily,  
4 knowingly entered into the pleas after having been advised  
5 by counsel and also having an interpreter who has kept  
6 him, told him of the charges in his native language, and  
7 that he has freely and voluntarily entered into these  
8 pleas on all four charges.

9 On the one charge, it's freely and voluntarily  
10 waived, his right to have it presented to the grand jury,  
11 and so the court does accept the pleas on all four charges  
12 as they have been outlined in the record.

13 All right. O'Leary?

14 MR. O'LEARY: Your Honor, as he indicated to you, he  
15 is approximately 31-years-old. He has two children, a two  
16 year old and a six-year-old. They live in Mexico. He is  
17 -- he was here legally in the United States. He was a  
18 laborer doing the carpet, business of laying carpet.

19 THE COURT: You say he was here legally or illegally?

20 MR. O'LEARY: No, he was here legally.

21 THE COURT: Legally.

22 MR. O'LEARY: His mother was a naturalized citizen.  
23 He was initially born in Mexico and then lived with her in  
24 the United States, but he is not a United States citizen.

25 He -- with the two children, he's -- he accepts fully

1 his responsibility. He realizes now he had a serious  
2 alcohol problem.

3 Now that months have gone by since the accident, he  
4 has been incarcerated. I think he has come to the  
5 realization -- he has been taking classes, some AA classes  
6 and some other classes that are offered within the  
7 Richland County Detention Center itself.

8 He -- he wrote -- we asked him a couple days ago, I  
9 asked him initially before the interpreter came and asked  
10 him, he has written a statement he'd like to read to the  
11 court and to the family, and I would ask that they kind of  
12 do a dual on that. He reads it in Spanish, and then I  
13 guess he will interpret.

14 THE COURT: All right. I'll allow that to be done.

15 (The following statement from the defendant was  
16 translated by the interpreter as follows:)

17 THE DEFENDANT: Ladies and gentlemen, to all of you,  
18 especially to the family of Roxina Mack, I ask you from  
19 the deepest part of my heart to forgive me for this  
20 damage, for this terrible damage that I have caused you in  
21 this accident even though it wasn't my intention to cause  
22 this. I assure that.

23 I want to assure you that I'm not a bad person. I  
24 have two daughters, one two years old and six years old in  
25 Mexico, as well as my wife, they all depend on me.

1 I recognize that I have problems with alcohol, and  
2 I'm hoping to overcome this great problem that I have  
3 during the time that I spend in prison. I'm going to take  
4 advantage to the maximum and to be right with God so that  
5 I can incorporate into the community.

6 I ask God every day for all of you to gain the  
7 strength so that you can overcome this great loss, and I  
8 know it has not been easy. That's the reason I have  
9 prayed and asked God to help you out, and hopefully to  
10 cross your heart so I can at least get a little bit of  
11 forgiveness from you.

12 I know that I don't deserve it, but one more time I  
13 ask you for forgiveness in my name and my family. I will  
14 always keep you in prayers. Forgive me, please.

15 THE COURT: All right. There was one part of his  
16 statement I couldn't understand. That was something that  
17 had to do with the maximum. What did he say there? It's  
18 about halfway down.

19 THE INTERPRETER: Oh, that he would take advantage of  
20 the time that he has been in prison, that he is going to  
21 be spending in prison, to the maximum.

22 THE COURT: Oh, okay. In other words, what he is  
23 asking for is credit for the time he has served; is that  
24 right?

25 MR. O'LEARY: I don't think that's what he was asking

1 there. I think he is just saying he will take maximum  
2 advantage of the time he is in prison. I think that is  
3 what he was trying to say.

4 THE COURT: That's what I wanted, to have it  
5 clarified, Judge.

6 MR. O'LEARY: Judge, just one last thing I'd like to  
7 say. I've known this man for probably -- since the  
8 accident itself back in February, and he is really,  
9 really -- realizes how awful this whole situation is, and  
10 he really does -- apologizes to the Court and to the  
11 family.

12 He wrote that statement himself. There was no input  
13 from either of us. We ask you to take that into  
14 consideration. We'd ask that in imposing your sentence,  
15 that he -- that the Court impose a reasonable sentence,  
16 and we would ask for something less than the maximum. I  
17 think that's all we have to say, Judge.

18 THE COURT: All right.

19 MR. O'LEARY: Thank you for your time.

20 THE COURT: Thank you.

21 All right. This, of course, is a very serious matter  
22 to all of the people that are involved. I understand the  
23 family, and I understand their situation. I understand  
24 law enforcement and the needs of society, and I also  
25 understand the defendant and his situation.

1           Before I impose sentence, I want to reflect on what  
2 has been presented to the Court for about ten minutes. So  
3 we'll take about a ten-minute recess. I'll come back  
4 about 20 minutes to one, and we'll be prepared to impose  
5 sentence.

6           (WHEREUPON, a short break was taken.)

7           THE COURT: All right. We're back on the record with  
8 regard to the State vs. Arturo Rios Torres.

9           Mr. Torres is present with his interpretér and his  
10 counsel. The State is present and represented by the  
11 Fifth Circuit Solicitor's Office.

12           First of all, I want to address a few remarks to the  
13 members of the victim's family. I just want to tell you  
14 that I cannot imagine the pain that you have gone through  
15 as a result of this tragic event, and there is not  
16 anything that I can do that would ease your pain. I only  
17 hope that by these proceedings today, you will be able to  
18 have some closure of the matter and go forward with your  
19 lives.

20           I was told 19 years ago by my colleagues when I got  
21 this job that criminal sentencing would be the most  
22 difficult thing that we would have to do. Nothing has  
23 changed in the last 19 years that has changed that  
24 opinion. It is the most difficult thing that we have to  
25 do.

1           Seldom does the sentence that we impose satisfy  
2 everyone. Sometimes it satisfies no one. We judges have  
3 no crystal ball. We cannot see the future.

4           All we can do is consider the defendant and his  
5 circumstances, the impact of the tragic event on the  
6 victim's family, the effect on the community and our  
7 society.

8           Also, we take into consideration the purposes of  
9 punishment, rehabilitation, retribution and punishment  
10 itself, and I can say that no case that I have heard -- or  
11 none that I have heard in the last 19 years are more  
12 difficult than felony DUI cases. They are the most  
13 difficult cases that we have to consider.

14           Very often the victims are law abiding, good law  
15 abiding citizens; with families and jobs and completely  
16 innocent of any wrongdoing. Sometimes the defendant is  
17 innocent of any wrongdoing except for this particular  
18 offense, but very often they're not bad people. But they  
19 simply had too much to drink and got behind the wheel of a  
20 car.

21           Especially troubling in this case, however, is the  
22 defendant's driving record. Multiple DUIs and a  
23 declaration as a habitual traffic offender means that he  
24 should not have even been driving a vehicle.

25           None of these convictions impressed upon him that he

1 not only should not but could not legally drive a motor  
2 vehicle at all let alone when he had been drinking.

3 If he has an alcohol problem -- and I have no doubt  
4 that he does -- he should have realized that he should not  
5 be driving and stayed behind -- stayed away from behind  
6 the wheel of a car with his alcohol problem.

7 I have no doubt that he is remorseful. However, this  
8 does not diminish the severity of his conduct. As I said,  
9 what makes this case especially egregious is his multiple  
10 alcohol-related traffic offenses. The Court simply cannot  
11 discount this behavior.

12 Over a number of years I have heard a number of these  
13 cases, and this is one of the worst from the standpoint of  
14 an individual's prior driving record.

15 As I said, he is simply not an individual that one  
16 time had too much to drink and caused an accident causing  
17 death. It's a pattern of behavior. It's a wonder that he  
18 has not caused a serious accident before now with his  
19 driving record and his DUI record.

20 The punishment in this case will not be the maximum,  
21 but it is going to be a severe prison sentence because I  
22 think that's appropriate based on the facts in this case.

23 First of all, the less serious charges, the sentence  
24 of the Court on the charge of hit and run involving  
25 property damage is that the defendant is committed to the

1 State Department of Corrections for a term of one year  
2 concurrent with the other charges and given credit for  
3 time served.

4 On the violation of the habitual traffic offender  
5 law, the sentence of the Court is the defendant is  
6 committed to the State Department of Corrections for a  
7 period of five years to run concurrent with the other  
8 charges given credit for time served.

9 And on the two charges of hit and run involving death  
10 and felony DUI, those are indictments number 2001--  
11 15-GS-40-3809, that is the felony DUI involving death,  
12 and 2015-GS-40-3810, traffic hit and run with the driver  
13 leaving the scene that involved an accident.

14 Those two both carry up to 25 years in prison. The  
15 sentence of the Court on both of those charges as well as  
16 all of these is to run concurrent, and all of them will be  
17 given credit for, but the sentence on those two charges is  
18 a term in the state penitentiary of 20 years, all of it to  
19 run currently.

20 Mr. Torres, you should have never been behind the  
21 wheel of a car. You should have realized that, and you're  
22 just going to have to pay your debt to society in South  
23 Carolina. Good luck to you.

24 MR. O'LEARY: Thank you, Judge.

25 THE INTERPRETER: Thank you.

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(Whereupon, the proceedings were concluded.)



(S)

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED  
DEC 29 2015  
SC Court of Appeals

APPEAL FROM RICHLAND COUNTY  
General Sessions Court

Howard P. King, Circuit Court Judge

Case No. 2015A4021600829 - 838

State of South Carolina,

Respondent,

*SAC*

v.

Arturo Rios Torres,

Defendant/Appellant.

**NOTICE OF APPEAL (Pro Se)**

COMES NOW, Defendant/Appellant, Arturo Rios Torres, pro se, appeals the sentence imposed by the Honorable Howard P. King on December 15, 2015.

Respectfully submitted,

*[Signature]*  
\_\_\_\_\_  
Arturo Rios Torres, Defendant/Appellant  
SODC (SCDC# 366476) R&E, 4344 Broad River Rd  
Columbia, South Carolina 29210 - 4010  
(803) 779-5556

December 18, 2015  
OTHER COUNSEL OF RECORD:

Joshua P. Golson  
Richland Solicitor's Office  
1701 Main Street  
Columbia, SC 29201

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED  
DEC 29 2015  
SC Court of Appeals

APPEAL FROM RICHLAND COUNTY  
General Sessions Court

Howard P. King, Circuit Court Judge

Case No. 2015A4021600815, 829, 831, & 832

State of South Carolina,

Respondent,

v.

Arthuro Rios Torres,

Defendant/Appellant.

CERTIFICATE OF SERVICE

I, the undersigned employee of O'Leary Associates, P.A., on behalf of Arthuro Rios Torres, certify that I have served the foregoing document(s) on the individual(s) listed below on December 22, 2015 by placing a copy of the same in the United States Mail, postage prepaid, and return address clearly affixed to the following address:

PERSON SERVED: Joshua P. Golson  
Richland Solicitor's Office  
1701 Main Street  
Columbia, SC 29201

DOCUMENTS: NOTICE OF APPEAL (Pro Se)

Columbia, South Carolina  
December 22, 2015

*Cricket Kato*

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
General Sessions Court

Howard P. King, Circuit Court Judge

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Case No. 2015-002645

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State of South Carolina,

Respondent,

v.

Arthuro Rios Torres,

Defendant/Appellant.


---

MOTION TO BE RELIEVED AS COUNSEL

---

COMES NOW, John A. O'Leary, and moves before this Court to relieve him from further representation of Appellant in this matter. Appellant is indigent and unable to retain our services for purposes of an appeal.

Respectfully submitted,



---

JOHN A. O'LEARY  
Attorney for Defendant  
714 Calhoun St.  
Columbia, SC 29201  
Phone: (803) 779-5556

Columbia, South Carolina  
January 8, 2016

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
General Sessions Court

Howard P. King, Circuit Court Judge

Case No. 2015A4021600815, 829, 831, & 832

State of South Carolina,

Respondent,

v.

Arthuro Rios Torres,

Defendant/Appellant.

CERTIFICATE OF SERVICE

I, the undersigned employee of O'Leary Associates, P.A., on behalf of Arthuro Rios Torres, certify that I have served the foregoing document(s) on the individual(s) listed below on January 8, 2016 by placing a copy of the same in the United States Mail, postage prepaid, and return address clearly affixed to the following address:

PERSON SERVED: Joshua P. Golson  
Richland Solicitor's Office  
1701 Main Street  
Columbia, SC 29201

DOCUMENTS: MOTION TO BE RELIEVED AS COUNSEL

Columbia, South Carolina  
January 8, 2016



THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
General Sessions Court

Howard P. King, Circuit Court Judge

Case No. 2015A4021600815, 829, 831, & 832

**RECEIVED**  
JAN 12 2016  
SC Court of Appeals

State of South Carolina,

Respondent,

v.

Arthurro Rios Torres,

Defendant/Appellant.

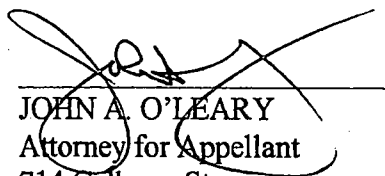
**AFFIDAVIT OF JOHN A. O'LEARY**

NOW COMES, John A. O'Leary, who being duly deposed, swears and says the following with reference to the above captioned State V. Torres.

1. That he represented Mr. Torres at the time of the plea and that, as an officer of the court, he attests that no objections were made at the time of the plea and no issues were raised.
2. That an appeal was filed per the request of the client Torres in that, counsel as an officer of the court, has an obligation to protect and preserve his client's rights.
3. That, at Torres' request, counsel filed a motion in with the Richland County Circuit

Court requesting that Judge King reconsideration his sentence. As of this date, that motion remains pending.

Further, Affiant sayeth naught.



JOHN A. O'LEARY  
Attorney for Appellant  
714 Calhoun St.  
Columbia, SC 29201  
Phone: (803) 779-5556  
Fax: (803) 252-7515  
Email: .com

SWORN TO AND SUBSCRIBED BEFORE ME  
This 11<sup>th</sup> day of January, 2016.



Notary Public for South Carolina  
My Commission Expires: 03-15-2021

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM RICHLAND COUNTY  
General Sessions Court

Howard P. King, Circuit Court Judge

---

Case No. 2015A4021600815, 829, 831, & 832

---

**RECEIVED**  
JAN 12 2016  
SC Court of Appeals

State of South Carolina,

Respondent,

v.

Arthuro Rios Torres,

Defendant/Appellant.

---

**CERTIFICATE OF SERVICE**

---

I, the undersigned employee of O'Leary Associates, P.A., on behalf of Arthuro Rios Torres, certify that I have served the foregoing document(s) on the individual(s) listed below on January 11, 2016 by placing a copy of the same in the United States Mail, postage prepaid, and return address clearly affixed to the following address:

PERSON SERVED: **Joshua P. Golson**  
**Richland Solicitor's Office**  
**1701 Main Street**  
**Columbia, SC 29201**

DOCUMENTS: **AFFIDAVIT OF JOHN A. O'LEARY**

Columbia, South Carolina  
January 11, 2016

*Francis J. Kelson*

# The South Carolina Court of Appeals

The State, Respondent,

v.

Arthuro Rios Torres, Appellant.

Appellate Case No. 2015-002645

The Honorable Howard P. King  
Richland County

Trial Court Case No. 2015GS4007208, 2015GS4003810,  
2015GS4003809, 2015GS4003815

---

## ORDER

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This appeal is remanded to the Circuit Court for a ruling on the pending motion to reconsider the sentence. This Court will not consider counsel's motion to be relieved until the Trial Court has had an opportunity to rule on the motion.

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

cc:

John A. O'Leary, Esquire  
Robert Michael Dudek, Esquire  
Joshua Paul Golson, Esquire  
Alan McCrory Wilson, Esquire  
John Benjamin Aplin, Esquire  
The Honorable Howard P. King  
The Honorable Jeanette W. McBride

**FILED**

1/22/16 BH

State of South Carolina  
County of Richland

In the Court of General Sessions  
Case # 2015-GS-40-0728; 2015-GS-40-03810

2015-GS-40-0389; 2015-GS-40-03815

**RECEIVED**

FEB 08 2016

SC Court of Appeals

State of South Carolina

Vs.

ORDER

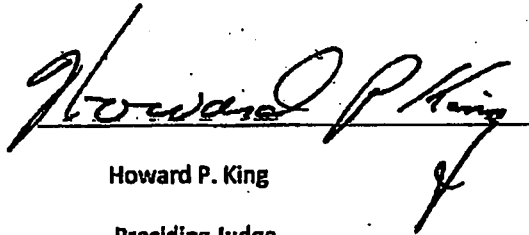
Arthuro Rios Torres

This matter is before the Court on the *pro se* motion of the Defendant, Arthuro Rios Torres (Torres) for reconsideration of the sentence imposed on December 15, 2015. Torres was represented at the Guilty Plea hearing by John O'Leary, Esq. and the State was represented by Assistant Solicitor Josh Golson, Esq.

Rule 20, SCRCrimP allows the Court to decide the issue on the briefs without the necessity of a hearing or oral arguments. At the request of the Court, both counsel filed "letter" briefs. The brief of Torres's counsel fails to set forth any legal reason for a reconsideration or alteration of the sentence.

The sentence of the Court was imposed after hearing arguments of counsel in mitigation and a review of Torres' criminal record. Further, the sentence was within statutory limits. The motion to reconsider the sentence is therefore, DENIED.

AND IT IS SO ORDERED!



Howard P. King

Presiding Judge

Sumter, SC

February 2, 2016

131

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Richland County  
Howard P. King, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

ARTHURO RIOS TORRES,

APPELLANT

APPELLATE CASE NO. 2015-002645

---

**RETURN TO THE MOTION TO BE RELIEVED  
AND TO SUBSTITUTE COUNSEL**

---

The undersigned counsel, making his return to the petition to be relieved of plea counsel John O'Leary shows the Court:

(1) Appellant Arturo Torres pled guilty before the Honorable Howard P. King on December 15, 2015 in Richland County to a criminal charge. This Court can take judicial notice from the records of the South Carolina Department of Corrections that Appellant Torres was already serving a twenty-year sentence for a hit and run resulting in death, and a felony DUI resulting in death in Richland County.

(2) Appellant Torres filed a notice of intent to appeal following his guilty plea. John O'Leary represented appellant at his guilty plea. On January 8, 2016, Counsel O'Leary filed a

motion to be relieved as counsel. The motion asserted: "Appellant is indigent and unable to retain our services for purposes of an appeal."

(3) By this Court's order, dated January 22, 2016 this case was remanded to the circuit court for a ruling on a motion to reconsider the sentence. This Court also ruled it would not consider Counsel O'Leary's motion to be relieved until the trial court had ruled on the motion to reconsider the sentence.

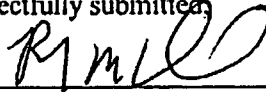
(4) The order of the Honorable Howard P. King denying the motion to reconsider the sentence was filed on February 8, 2016 with this Court. By letter dated February 5, 2016, Counsel O'Leary notified this Court that the motion to reconsider the sentence had been resolved, and that appellant's appeal could now proceed. Counsel O'Leary also requested that this Court consider his motion to be relieved and to appoint the Office of Appellate Defense to represent appellant Torres.

(5) Appellant Torres has submitted an affidavit of indigency to this Office. The affidavit of indigency reveals that Appellant Torres is indigent.

(6) However, since undersigned counsel does not have a copy of the transcript of the guilty plea or the motion to reconsider, Counsel obviously does not have an opinion on the merits of the appeal. Nonetheless, should this Court in its discretion allow this guilty plea appeal to proceed, the Office of Appellate Defense will represent Appellant Torres since he is indigent.

WHEREFORE, undersigned counsel does not oppose Counsel O'Leary's motion to be relieved, and to substitute counsel if the guilty plea appeal is allowed to proceed by this Court.

Respectfully submitted,



---

Robert M. Dudek  
Chief Appellate Defender

May 17, 2016

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Richland County  
Howard P. King, Circuit Court Judge

THE STATE,

RESPONDENT,

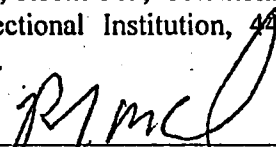
v.

ARTHURO RIOS TORRES,

APPELLANT

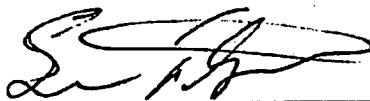
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Return to the Motion to be Relieved and to Substitute Counsel in the above-referenced case has been served upon John A. O'Leary, Esquire, at 714 Calhoun Street, Columbia, SC, 29201; J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and Arturo Rios Torres, # 366476, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 17th day of May, 2016.

  
\_\_\_\_\_  
Robert M. Dudek  
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 17th day of May, 2016.

  
\_\_\_\_\_  
(L.S.)

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

# The South Carolina Court of Appeals

The State, Respondent,

v.

Arthuro Rios Torres, Appellant.

Appellate Case No. 2015-002645

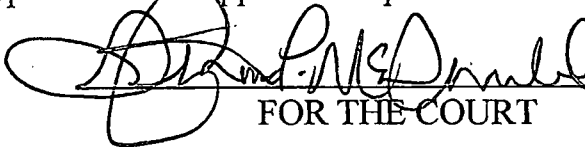
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## ORDER

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Appellant's counsel, John A. O'Leary, has filed a motion to be relieved as counsel, explaining that Appellant is indigent and is unable to retain counsel's services on appeal. The Office of Appellate Defense filed a response, stating it does not oppose the motion to be relieved and it agrees to represent Appellant on appeal.

The motion to be relieved is granted, and the Office of Appellate Defense is substituted as counsel for Appellant. This appeal shall proceed.

  
FOR THE COURT

Columbia, South Carolina

**FILED**

June 8, 2016

cc:

John A. O'Leary, Esquire  
Robert Michael Dudek, Esquire  
Joshua Paul Golson, Esquire  
Alan McCrory Wilson, Esquire  
John Benjamin Aplin, Esquire  
Jeanette W. McBride  
The Honorable Howard P. King

WITNESSES

(S) Kyle Gilbert  
- Columbia Police Department

ARREST WARRANT NUMBER

2015A4021600829

ACTION OF GRAND JURY

**TRUE BILL**

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2015-GS-40-03809

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

JULY TERM 2015

147

THE STATE  
vs.

Arthuro Rios Torres

Indictment for  
DUI / FELONY DRIVING UNDER THE  
INFLUENCE, DEATH RESULTS

SC Code: 56-05-2945(A)(2)  
CDR Code: 0395

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

*[Signature]*  
Defendant

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

*[Signature]*  
Defendant

Witness:

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

CERTIFIED TRUE COPY  
OF ORIGINAL FILED,  
*Jessette W. M. Bude*  
C.C.C. P&G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA



**WITNESSES**

(S) Kyle Gilbert

- Columbia Police Department

**ARREST WARRANT NUMBER**

2015A4021600831

**ACTION OF GRAND JURY**

**TRUE BILL**

**VERDICT**

Foreperson of Petit Jury  
Date:

DOCKET NO. 2015-GS-40-03810

**The State of South Carolina**

County of

**Richland**

**COURT OF GENERAL SESSIONS**

JULY TERM 2015

147

**THE STATE**

vs.

**Arthuro Rios Torres**

Indictment for  
**LEAVING SCENE OF AN ACCIDENT,  
DUTIES OF DRIVER INVOLVED IN  
ACCIDENT WITH DEATH**

SC Code: 56-05-1210(A)(3)  
CDR Code: 2463

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

54

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.

CERTIFIED TRUE COPY  
OF ORIGINAL FILED,  
*Jacqueline W. McBride*  
C.C.C.P&G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA



**WITNESSES**

**(S) Kyle Gilbert**

**- Columbia Police Department**

**ARREST WARRANT NUMBER**

**DP15200**

**ACTION OF GRAND JURY**

**TRUE BILL**

**VERDICT**

Foreperson of Petit Jury  
Date:

**DOCKET NO. 2015-GS-40-03815**

**The State of South Carolina**

**County of**

**Richland**

**COURT OF GENERAL SESSIONS**

**JULY TERM 2015**

**147**

**THE STATE**

**vs.**

**Arthuro Torres**

**Indictment for  
HABITUAL OFFENDER-CAUSING DEATH  
WHEN LICENSE HAS BEEN CANCELED,  
SUSPENDED, OR REVOKED**

SC Code: 56-01-1105 (B) (2)  
CDR Code: 3456

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

56

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.

**CERTIFIED TRUE COPY  
OF ORIGINAL FILED,  
Jeannette WMSBride  
C.C.C.P.&G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA**

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

**INDICTMENT**

At a Court of General Sessions, convened on July 15, 2015, the Grand Jurors of Richland County present upon their oath:

**HABITUAL TRAFFIC OFFENDER CAUSING DEATH**

That Arturo Rios Torres did in Richland County on or about April 11, 2015, drive a motor vehicle on a public highway of this state after having been declared an Habitual Offender by the South Carolina Department of Motor Vehicles, and did an act forbidden by law and/or neglected a duty imposed by law in the driving of the vehicle, which act or neglect proximately caused the death of Roxina Mack, in violation of Section 56-01-1105, S. C. Code of Laws, 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) Kyle Gilbert

- Columbia Police Department

**DOCKET NO. 2015-GS-40-07208**

**The State of South Carolina**

County of

Richland

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

**COURT OF GENERAL SESSIONS**

**DECEMBER TERM 2015**

147

**ARREST WARRANT NUMBER**

**2015A4021600832**

Defendant

**THE STATE**

vs.

Witness:

**Arthuro Rios Torres**

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

**ACTION OF GRAND JURY**

Foreperson of Grand Jury

Date:

**VERDICT**

**Indictment for  
TRAFFIC / HIT AND RUN, ATT. VEHICLE,  
DUTIES OF DRIVER INVOLVED IN  
ACCIDENT, PROPERTY DAMAGE**

SC Code: 56-05-1220

CDR Code: 2464

Foreperson of Petit Jury

Date:

**CERTIFIED TRUE COPY  
OF ORIGINAL FILED  
Jeannette Williams  
C.C.C.P&G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )

**INDICTMENT**

At a Court of General Sessions, convened on December 2015, the  
 Grand Jurors of Richland County present upon their oath:

**LEAVING SCENE OF ACCIDENT – PROPERTY DAMAGE**

That Arturo Rios Torres did in Richland County on or about April 11,  
 2015, while operating a motor vehicle become involved in an accident  
 which resulted in property damage to property belonging to Lesley Arline,  
 and did leave the scene of the accident without first rendering aid and/or  
 information, in violation of Section 56-05-1220, S. C. Code of Laws, 1976,  
 as amended.

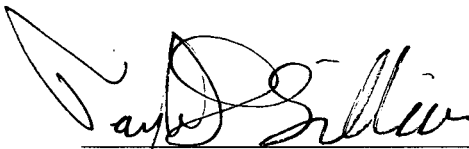
Against the peace and dignity of the State, and contrary to the  
 statute in such case made and provided.

  
 \_\_\_\_\_  
 DAN JOHNSON, SOLICITOR

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with 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."

Respectfully Submitted,



---

Taylor D Gilliam  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 16<sup>th</sup> day of February, 2017.

**RECEIVED**  
FEB 16 2017  
SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

ORIGINAL

\_\_\_\_\_  
Appeal from Richland County  
Honorable Howard P. King, Circuit Court Judge  
\_\_\_\_\_

RECEIVED

FEB 16 2017

SC Court of Appeals

THE STATE,

RESPONDENT,


V.

ARTHURO RIOS TORRES,

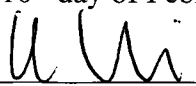
APPELLANT

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 16<sup>th</sup> day of February, 2017.

  
\_\_\_\_\_  
George Vlasis  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 16<sup>th</sup> day of February, 2017.

  
\_\_\_\_\_  
(L.S.)  
Notary Public for South Carolina

My Commission Expires 5/12/2025.