

The Supreme Court of South Carolina

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BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

March 15, 2017

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SC Court of Appeals

Robert Michael Dudek, Esquire
Division of Appellate Defense
PO Box 11589
Columbia SC 29211

Re: The State v. Robert B. Campbell
Appellate Case No. 2016-002457
Lower Court Case Nos. 1986GS2300127, 1986GS2300134,
1986GS2300125, 1986GS2300126, 1986GS2300129

Dear Counsel:

Enclosed is correspondence that Mr. Campbell has sent to Retired Chief Justice Pleicones. Since your Office represents him in the above case that is pending before the South Carolina Court of Appeals, no action will be taken on this *pro se* filing by this Court. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).

Very truly yours,



CLERK

Enclosure

cc: Robert B. Campbell, 00131941
John Benjamin Aplin, Esquire (with enclosure)
The Honorable Jenny Abbott Kitchings (with enclosure)

The SUPREME Court of South Carolina

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S.C. SUPREME COURT

DOCKET No. 1986-GS-23-00125;00126

ROBERT B. CAMPBELL

PETITIONER

V.

STATE OF SOUTH CAROLINA

[MOTION] PLEASE REVIEW -

CHIEF JUSTICE COSTA M. PLEICONES

[RESPOND] ON MY RESENTENCING

HEARING. DATED MAY 20, 2016.

DEAR CHIEF JUSTICE PLEICONES.

FIRST, LET ME SAY THAT. THANK YOU FOR LETTING ME HAVE THIS RESENTENCING HEARING. I DID GO TO THIS HEARING. AND I SPOKE WITH JUDGE KELLY [ONE] TIME AT BOTH HEARING. I DID NOT UNDERSTAND MUCH THAT WAS BEING SAID. BUT MY QUESTION IS, [IF] YOU REQUESTED FOR ME TO HAVE THIS HEARING. WHY THE LOWER COURT TURN ME DOWN? MY ATTORNEY TELLS ME THAT. BECAUSE I HAVE A [PAROLE DATE]. BUT JUDGE KELLY KNOWS THAT. I HAVE BEEN TURN DOWN FOR PAROLE [18] TIMES ALL READY? THE PAROLE BOARD IS NOT GOING TO GIVE ME PAROLE.

The last time i went up for Parole in Oct. of 2016. i told the Parole board about my RESENTENCING HEARING. but the Parole board still turn me down. i told the Parole board what this court said. i stated. "The South Carolina Supreme Court in Aiken Held that JUVENILES who RECEIVED A SENTENCING OF LIFE Without the Possibility of Parole for Homicide under the States discretionary SENTENCING scheme ARE LIKEWISE ENTITLED to move for RESENTENCING based on the - Eighth Amendment violation." AND my point is. i WAS SENTENCED FOR A NONHOMICIDE CRIME. SEE Graham v. Florida. Fact. when the court SENTENCED [Graham]. HE WAS SENTENCED the same time i got. LIFE imprisonment. The -

MUST REVIEW → STATE OF Florida [Abolished] there ON Parole system. AND (HE). Graham all so HAVE A NONHOMICIDE OFFENSE. —

SEE OPINION by Justice KENNEDY. HE STATED.

A STATE IS NOT REQUIRED TO GUARANTEE EVENTUAL FREEDOM TO SUCH AN OFFENDER, BUT MUST [***] IMPOSE A SENTENCE THAT PROVIDE SOME MEANINGFUL OPPORTUNITY FOR RELEASE BASED ON DEMONSTRATED MATURITY AND REHABILITATION, IT IS FOR THE STATE IN THE FIRST INSTANCE TO EXPLORE THE MEANS AND MECHANISMS FOR COMPLIANCE.

AND AT MY RESENTENCING HEARING. IT WAS STATED THAT, [EVERY TIME]
I WENT UP FOR PAROLE AND GOT TURN DOWN. I AM STILL DOING LIFE WITHOUT
PAROLE. THE [POSSIBILITY] IS JUST FOR ME HAVING A PAROLE DATE. SO -
I AM DOING LIFE WITHOUT PAROLE. AND NOW. I AM ASKING -
CHIEF JUSTICE COSTA M. PLEICONES TO PLEASE ALLOW ME TO BE
RESENTENCED. AND THANK YOU AGAIN FOR YOUR HELP WITH ME.
NOTE: THIS CASE IS PENDING NOW IN THE B.C. COURT OF APPEAL.
I DON'T NO [WHO] IS MY ATTORNEY YET?.

DATE MARCH 9/2017 .

Robert Campbell

~~XXXXXXXXXX~~

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

Warrant # B278896; B287940; B287941; B350004;
B352028

The State of South Carolina)
)
vs.)
)
Robert Bernard Campbell,)
Defendant.)

**ORDER DENYING MOTION FOR
RESENTENCING**

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THIS MATTER comes before the Court on Defendant's Motion for Resentencing. On February 28, 1986, in Greenville County, Robert Bernard Campbell pled guilty to multiple crimes he committed as a seventeen year old— armed robbery, attempted armed robbery, housebreaking, criminal sexual conduct 1st degree, and burglary 1st degree. He received, respectively, sentences of 25 years; 10 years; 10 years; 30 years; and life imprisonment within the South Carolina Department of Corrections. On January 8, 2015, Defendant timely filed a Motion for Resentencing pursuant to *Miller v. Alabama*, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012) and *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014).

Miller v. Alabama and Aiken v. Byars

In *Miller*, the United States Supreme Court held that mandatory sentences of life without the possibility of parole for juveniles convicted of homicide violate the Eighth Amendment's prohibition against cruel and unusual punishment and pose great risk of imposing a disproportionate sentence. *Miller*, 132 S.Ct. at 246, 183 L.Ed.2d at 424. The Court discussed at length the unique factors attributed to youth, their effect on a juvenile offender, and the constitutional importance of allowing juvenile offenders facing life without the possibility of parole an opportunity to present mitigating evidence to the sentencing court prior to receiving such a sentence. Under *Miller*, a sentencing court must "take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." *Id.* The Court did not hold that a juvenile cannot receive a life sentence for murder; rather, it "mandate[d] only that a sentencer follow a certain process- considering an offender's

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youth and attendant characteristics- before imposing a particular penalty” and allowed for those who did not present such evidence to petition for resentencing *Id.* at 2471, 183 L.Ed.2d at 426.

The South Carolina Supreme Court in *Aiken* held that juveniles who received a sentence of life without the possibility of parole for homicide under the state’s discretionary sentencing scheme are likewise entitled to move for resentencing based on the Eighth Amendment violation, and created a “requirement that courts fully explore the impact of a defendant’s juvenility on the sentence rendered.” *Aiken*, 410 S.C. at 543, 765 S.E.2d at 577.

Campbell moves for resentencing alleging he was not allowed the opportunity to present mitigating evidence of his youth and immaturity at his original sentencing hearing. Both *Miller* and *Aiken* are unequivocal in that the remedy they provide is only available to juveniles sentenced to life without the possibility of parole for homicide. *Miller*, 132 S.Ct.at 2460, 183 L.Ed.2d at 414; *Aiken*, 410 S.C. at 536, 765 S.E.2d at 573. Campbell was not charged with, nor did he plead guilty to, murder. As such, he is not a member of the class of offenders entitled to resentencing under *Miller* or *Aiken*.

Graham v. Florida

At the hearing on the merits of his motion for resentencing, Campbell asked this Court to find he is entitled to resentencing under *Graham v. Florida*, in which the United States Supreme Court held “[t]he Constitution prohibits the imposition of a life without parole sentence on a juvenile offender who did not commit homicide.” 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010). Campbell argued that while he did not receive a sentence of life without the possibility of parole as is contemplated in *Graham*, his sentence is a *de facto* life without parole sentence because he will never be granted parole. Campbell argued that a court sentencing a juvenile to *any* life sentence must provide that juvenile a “meaningful opportunity to obtain release” prior to sentencing. *Id.*

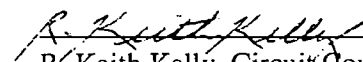
The *Graham* court held the Eighth Amendment does not require a State to release a juvenile non-homicide offender during his natural life; instead, a State must give such offenders “some meaningful opportunity to obtain release.” *Graham*, 130 S.Ct. at 2030, 176 L.Ed.2d at

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830. States may remedy *Miller* and *Graham* violations by allowing juvenile offenders to be considered for parole in lieu of resentencing. *Montgomery v. Louisiana*, 136 S.Ct. 718, 736 193, L.Ed. 2d 599, 622 (2016). Campbell became parole eligible on June 1, 1995, and has since had 18 parole hearings at which his request for parole was denied. Campbell has been afforded multiple opportunities to obtain release.

THEREFORE, Campbell's Motion for Resentencing is respectfully DENIED.

IT IS SO ORDERED.


R. Keith Kelly, Circuit Court Judge

21 November, 2016
Greenville, South Carolina

The Parole board want give Parole to me.
what must i do Now?.

86-0127
86-0134
86-0125
86-0126
86-0129

THE STATE OF SOUTH CAROLINA
In the Appellate Court

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

R. Keith Kelly, Circuit Court Judge

Case No(s): ⁸⁷ B278896; B287940; B287941; B350004;
B352028

The State,

Respondent.

Robert B. Campbell,

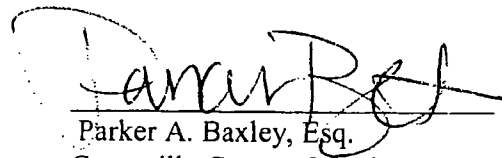
v.

Appellant.

NOTICE OF APPEAL

Robert B. Campbell appeals the denial of his motion for resentencing. The ruling was imposed by the Honorable R. Keith Kelly on November 28, 2016.

Date: December 02, 2016


Parker A. Baxley, Esq.
Greenville County Courthouse
Greenville, SC 29601
Attorney for Appellant

Other Counsel of Record:
Assistant Solicitor Elizabeth Gary

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Robert Campbell #131941

LIEBET Corr. Inst. A-B-29

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The Supreme Court of South Carolina
→ To: Chief Justice Costa M. Pleicones

P.O. box 11330

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