

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

Honorable Daniel D. Hall, Circuit Court Judge

ORIGINAL
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANTONIO DONTAE ROSS,

APPELLANT

APPELLATE CASE NO. 2016-001260

RECORD ON APPEAL

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INDEX

INDEX i

TRANSCRIPT (June 6, 2016) 1

 OPENING STATEMENT BY MS. HOLLAND..... 10

 STATEMENT BY MARILYNN HAINES 14

 CLOSING ARGUMENT BY MR. BARROWCLAUGH..... 16

 CLOSING ARGUMENT BY MR. DEST 24

 BENCH CONFERENCE..... 28

 SENTENCING 30

MOTION TO RECONSIDER SENTENCE (June 6, 2016)..... 33

ORDER FOR MOTION TO RECONSIDER (June 7, 2016)..... 34

NOTICE OF APPEAL (June 8, 2016)..... 35

RULE 203(B) EXPLANATION (June 8, 2016)..... 37

INDICTMENTS 38

CERTIFICATE OF COUNSEL 42

STATE OF SOUTH CAROLINA)	GENERAL SESSIONS
)	
County of York)	2015-GS-46-3383
)	
)	
State of South Carolina,)	
)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
Antonio Ross.)	
)	
)	
)	

June 6th, 2016
York, South Carolina

BEFORE:

THE HONORABLE DANIEL D. HALL, JUDGE.

APPEARANCES:

JESSICA HOLLAND, ASSISTANT SOLICITOR
Attorney for the State

HARRY DEST, PUBLIC DEFENDER
BJ BARROWCLAUGH, ASSISTANT PUBLIC DEFENDER
Attorneys for the Defendant

AMINAH R. HARDY
Official Court Reporter

EXHIBITS

No.	Description	Page
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(No exhibits were marked.)

PROCEEDINGS

1
2 MS. HOLLAND: May it please the Court. Your Honor,
3 before you is Antonio Ross. He's represented by BJ
4 Barrowclaugh and Harry Dest. He's pleading guilty without
5 any recommendation from the state to three charges,
6 2015-GS-46-3383 for attempted armed robbery; subsection A
7 of the same indictment for the possession of a firearm
8 during a violent crime; and 3384 for possession of a
9 handgun by a person convicted of crime of violence. He is
10 owed credit for 270 days in jail, and the state has
11 complied with the Victims' Rights Act. The victim is
12 present in the courtroom and would like to address the
13 Court at the appropriate time.

14 THE COURT: Thank you. Mr. Ross and Mr. Barrowclaugh
15 and Mr. Dest, I may be having my head down writing or
16 reading while we're going through this plea. Mr. Ross, I
17 don't mean that to show any disrespect to you or your
18 attorneys. I'll assure you I'll be listening if I'm
19 reading and writing.

20 Mr. Dest and Mr. Barrowclaugh, y'all represent
21 Mr. Ross on these three charges?

22 MR. BARROWCLAUGH: Yes, sir, Your Honor.

23 THE COURT: How does -- Mr. Barrowclaugh, how does he
24 indicate he wishes to plead?

25 MR. BARROWCLAUGH: Guilty, sir.

1 THE COURT: Mr. Ross, how old are you?

2 THE DEFENDANT: 26.

3 THE COURT: How far did you go in school?

4 THE DEFENDANT: 11th grade.

5 THE COURT: Are you married?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you have any children?

8 THE DEFENDANT: No, sir.

9 THE COURT: Mr. Ross, I have two indictment, there
10 are actually three charges because one of the indictments
11 has two criminal charges on that indictment. Let me go
12 through those indictments and those charges with you.
13 Indictment 2015-GS-46-3383 is a true billed indictment for
14 attempted armed robbery and then the possession of a
15 weapon during the commission of a violent crime. The
16 attempted armed robbery is under count one. It alleges
17 that here in York County on or about September the 8thm
18 2015, while you were armed with a deadly weapon, you
19 attempted to rob a victim here in York County of her goods
20 or her money, her possessions. That charge carries a
21 potential penalty of up to 20 years in prison. Do you
22 understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: How do you plead to that charge?

25 THE DEFENDANT: Guilty.

1 THE COURT: Count two of that indictment is for
2 possession of a weapon during the commission of a violent
3 crime. That indictment alleges here in York County on or
4 about September the 8th during the commission of an armed
5 robbery or an attempted armed robbery, you were in
6 possession of a firearm. That carries a sentence of up to
7 five years. That five years has to be served -- is that
8 the day for day?

9 MR. BARROWCLAUGH: Yes, sir.

10 THE COURT: And we'll talk about that in a moment.
11 That carries five years in prison. Do you understand
12 that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: How do you plead that charge?

15 THE DEFENDANT: Guilty.

16 THE COURT: And then indictment 2015-GS-46-3384 is an
17 indictment for possession of a handgun by a person
18 convicted of a crime of violence. That indictment alleges
19 that on or about September the 8th, 2015, you were in
20 possession of a handgun when you had been convicted of a
21 strong-arm robbery. You had that on your record. And
22 that carries up to five years in prison. Do you
23 understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: How do you plead to that charge?

1 THE DEFENDANT: Guilty.

2 THE COURT: Mr. Ross, the attempted armed robbery is
3 a serious or most serious?

4 MR. BARROWCLAUGH: Most serious, Your Honor, yes.

5 THE COURT: I'll initial this sheet -- is a most
6 serious violence offense. The significance of that is
7 that could dramatically affect how you're treated within
8 the Department of Corrections how they classify you and
9 you would also have a strike on your record. In fact, if
10 you had two most-serious convictions on your criminal
11 record, the state could seek a life without parole
12 sentence against you. We hope that doesn't happen in the
13 future, but this would be one of those strikes. Do you
14 understand the consequences of this being a most-serious
15 violent offense?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You still want to plead guilty?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Mr. Ross, I have in front of me a plea
20 waiver form. This is a document that goes over all your
21 rights to your trial, and we'll talk about those in just a
22 moment, and your right to appeal within ten days along
23 with other rights. It appear you have initials most of
24 the boxes on these form indicating you understand those
25 rights; is that correct?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: That form was signed -- it appears to be
3 by you acknowledging all your rights and that you're
4 giving up those rights in order to enter this plea. That
5 was May the 27th. Do you remember signing this form?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand your rights?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you have any questions about your
10 rights?

11 THE DEFENDANT: No, sir.

12 THE COURT: And I noticed it has been by your lawyer,
13 by the solicitor, and I've also signed and dated today's
14 date. We'll make that plea affidavit part of the -- plea
15 waiver form part of the file.

16 Do you understand by pleading guilty, you give up
17 your right to a jury trial?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And you understand you've been over those
20 rights, the right to confront witnesses, right to remain
21 silent, burden is on the state to prove your guilt beyond
22 a reasonable doubt, give up all those rights. Do you
23 understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Has there been anything promised you or

1 you been threatened in any way in which to get you to
2 plead guilty today?

3 THE DEFENDANT: No, sir.

4 THE COURT: Your lawyer and I have had some
5 discussions in my office on several occasions about this
6 case, and we discussed possible penalties in the case.
7 But it's the Court's understanding that this is a
8 straight-up plea today and I am not bound by any
9 consideration or bound by any discussions about a
10 potential sentence in this case. Is that your
11 understanding of where we are today?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You understand again that I could give
14 you from zero to 20 years on the attempted armed robbery,
15 and up to five years on each of the other two charges
16 which is an exposure of up to 30 years. Do you understand
17 that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Understanding all that, is it still your
20 intention to go forward with your plea today?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Have you been threatened, coerced, or
23 promised anything to get you to plead guilty other than it
24 does appear that -- well, there was actually no reduction
25 in the charges at all. These are -- is this what he was

1 charged with?

2 MS. HOLLAND: No, we're dismissing one indictment for
3 attempted murder.

4 THE COURT: Let's put that on the record.

5 MS. HOLLAND: Yes, sir. We're doing that. It's the
6 only thing being dismissed, and he's pleading as charge to
7 the remainder of his charges.

8 THE COURT: Do you understand the solicitor has
9 indicated that in exchange for your guilty plea to these
10 charges, that they are dismissing an indictment or
11 attempted murder?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: So that's part of the agreement for your
14 in exchange for your plea today; is that's correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Have you ever been treated for any mental
17 or emotional disability?

18 THE DEFENDANT: No, sir.

19 THE COURT: Do you understand what you're doing here
20 today?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Are you satisfied with the way
23 Mr. Barrowclough and Mr. Dest have represented you?

24 THE DEFENDANT: Of course.

25 THE COURT: Do you need any more time with them?

1 THE DEFENDANT: No, sir.

2 THE COURT: Were y'all able to go over the evidence
3 that was provided to them by the state?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you talked about any potential
6 defenses you might have and whether or not to go to trial
7 or not to go to trial? Were y'all able to do all that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Again, I ask you: Do you need more time
10 with them?

11 THE DEFENDANT: No, sir.

12 THE COURT: You -- part of your plea waiver form
13 indicates you understood your right to an appeal and you
14 must -- if I make an error or if you disagree with the
15 sentence today, you would have to file an appeal within
16 ten days from today. You do that by notifying your
17 lawyers. Do you understand your right to appeal and the
18 time limits?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right, solicitor. Tell me about it.

21 MS. HOLLAND: Thank you. On September the 8th of
22 2015, at the Family Trust Federal Credit Union in Rock
23 Hill, South Carolina, the victim, Marilyn Haines, was at
24 the ATM. She was depositing a check via the ATM, and
25 actually can be seen on surveillance video the state would

1 like to show the Court. The defendant, Antonio Ross, is
2 concealed in some bushes and is in some trees nearby, and
3 as she operating the ATM, he approaches her car with his
4 face partially covered. He had firearm. He then
5 approaches her window with the gun, points it at her.
6 They struggle -- they struggle, and at some point, she's
7 completely caught off guard, and you can see her
8 screaming. She pulls away and at that point, he takes the
9 gun and fires it and strikes her vehicle.

10 She contacted 911. A witness nearby saw the
11 incident, saw the defendant get into a vehicle and drive
12 away. Surveillance video that was obtained was released
13 the media, and that's how he was IDed by a former
14 employer. Officers -- this case was investigated by Bruce
15 Fairwith (phonetic). Rock Hill Police Department then
16 went to the defendant's home. He has a tattoo on his arm
17 that is very clearly visible in the video. They also
18 found a shirt, shoes, and latex gloves that matched the
19 surveillance video. And he also consented to a search of
20 his phone in which there was a photograph of the gun that
21 was strikingly similar to the one seen in the video
22 deleted off of his phone.

23 And I do have a presentation as to sentencing at the
24 appropriate time.

25 THE COURT: All right. Were you intending to show

1 the video?

2 MS. HOLLAND: Yes, sir, I can show that now.

3 THE COURT: Let's do that now.

4 (Videotape played in open court.)

5 MS. HOLLAND: Your Honor, that would be it.

6 THE COURT: Let me see it again.

7 (Videotape played in open court.)

8 THE COURT: All right. Thank you.

9 I'll be glad to hear from you as far as sentencing.

10 MS. HOLLAND: Your Honor, we would like you to
11 consider in large part his record. His adult record
12 started in 2006 where he had a conviction for strong-arm
13 robbery. The facts of that case are very similar to this.
14 He robbed someone in a parking lot, and as the person --
15 he got -- I think just a very nominal amount of money from
16 that victim, but as that person drove away on a bicycle,
17 he fired a gun at him. So that's strikingly similar to
18 this. In 2009 --

19 THE COURT: What kind of sentence did he receive?

20 MS. HOLLAND: He received a YOA not to exceed three
21 years. In 2009, he received a two-year sentence for
22 discharging a firearm. He was also convicted of
23 possession of marijuana. In 2010 and 2011, he had some
24 minor municipal level charges, DUS, resisting police,
25 false information to police, and two counts of criminal

1 domestic violence.

2 In 2012, he was sentenced to CDV third for three
3 years suspended on two years followed by one year
4 probation. In that case, there's an accusation of
5 strangulation, and while out on bond, he returned to the
6 victim's home. At that point, he became armed with a gun
7 then. He, actually himself was shot I believe in a
8 struggle over the gun was the alleged fact in that case.

9 In 2014, he received an 18-month sentence for criminal
10 domestic violence third with an allegation of choking, and
11 failure to stop for a blue light. He pled to that in
12 October of 2014, got 18 months, and this happened in
13 September of 2015, so not even a year later.

14 I believe you will hear some mention from the defense
15 about his upbringing, about where he grew up and his
16 community. The thing the state would point out about that
17 is that he acted alone. He did this by himself. There's
18 no one else there. There's no evidence that he acted with
19 anyone else, and that he committed this crime while
20 completely alone.

21 Also, in York County, we don't have a lot of random
22 crime like this. We don't have a ton of people getting
23 robbed at ATMs, but he did. This is a completely innocent
24 woman who was depositing a check that she was getting
25 ready to go on vacation and somebody comes up and puts a

1 gun in her face. And as she pulls away, he doesn't just
2 run, he shoots at her. There's no reason for him to shoot
3 at her. And he fires a gun at her in her vehicle as she
4 pulls away.

5 Rock Hill Police Department is here. Show how
6 serious this case was. This case was incredibly well
7 investigated and just to -- how -- what an important case
8 this was for them. And also the victim, she's here. She
9 would like to speak. Ms. Haines initially was so upset
10 she did not want to participate in the prosecution. She
11 said, "I don't want to know anything and I don't want to
12 be involved." Luckily, that changed as time went by and
13 she would like to address the Court now.

14 THE COURT: Be glad to hear from Ms. Hains.

15 MR. BARROWCLAUGH: This is Marilyn Haines. She
16 spells her name H-A-I-N-E-S.

17 THE COURT: Yes, Ms. Haines.

18 SPEAKER: The night I went to that ATM, I heard a
19 man's voice and I turned around and there was this gun
20 about 6 inches from my face. Excuse me. At that moment,
21 I realized I was faced with death. It's not something you
22 want to contemplate until you're very old and you hope
23 it's due to natural causes. But just a twitch of the
24 finger, and I would have been dead. In that instant, I
25 experienced anger and shock and it was all surrounded with

1 fear. I've never been so afraid in my life. For many
2 months afterwards, I couldn't go an ATM, daytime or
3 nighttime. Just going into the lobby of the bank, I would
4 experience panic, and several times I came close to just
5 running back out of the bank. It wasn't until a month ago
6 that things started to calm down. I didn't jump at odd
7 sounds around the house. Even hearing a car door shut
8 outside and I would just jump and make sure the doors were
9 locked. Even now when I go to the grocery store, I get
10 out the car and I'm looking around to see if anybody is
11 close. And when it starts to get dark, I make sure all
12 the windows and doors are locked in my house. This is
13 difficult way to live. And I think in time I'll feel like
14 I'm getting back. Thank you.

15 THE COURT: Thank you, Ms. Haines.

16 MR. BARROWCLAUGH: Your Honor, the state's position
17 is that Mr. Ross -- my initial offer on the case was 18
18 years. I think that's a fair sentence, reasonable
19 sentence for what he did. I recognize that's near the
20 maximum, but this about as bad -- you know, this is bad.
21 This is near the end of what you can get with this as far
22 as Ms. Haines having -- still to this day, you can see how
23 emotional this is for her. This is a completely random
24 crime, and he did something like it before, went to
25 prison, and here we are again.

1 He's clearly shown he's not going to change his
2 conduct. We'd ask you to sentence him at least 15 years,
3 but I would like to see north of that. Thank you.

4 THE COURT: Thank you.

5 Mr. Barrowclaugh, Mr. Dest.

6 MR. BARROWCLAUGH: Thank you, Your Honor. May it
7 please the Court. Your Honor, first I want you to know I
8 spent a lot of time with Antonio Ross. This case
9 originated with Mark McKinnon in our office and I felt
10 compelled to enter the case and to take the case over from
11 him. And in doing so and in trying to see our way through
12 to conclusion to this case, you know, required Mr. Ross
13 and I to spend a lot of time together so that I could get
14 to know him and understand him, and so he could get to
15 know me and trust me.

16 Your Honor, Mr. Ross's story -- Ms. Holland is right.
17 He did have a bad upbringing. I choose to look at it like
18 Mr. Ross, his life has thrown him a lot of curveballs.
19 His mother had her first child when she was 13 years old.
20 And all told she had nine children with five different
21 fathers. Mr. Ross was in the middle, and she was 23 when
22 she had him. And he grew up there a small house on Saluda
23 Street. His oldest brother was raised by his father, but
24 the other seven siblings were all crammed in this one
25 house.

1 He had no -- they were all half brothers. No one
2 shared the same father as him. And he tells me as well as
3 other people -- who I will mention in a moment -- have
4 told me that in his upbringing, on top of that situation
5 which was rough enough, no father, an underaged mother,
6 all these people, and what the state routinely calls a gun
7 and drug infested neighborhood was he was what they call
8 the black sheep of the family. And they mean that
9 literally. His father was darker skinned than the other
10 siblings and he was darker. They would make fun of him
11 for that. Even amongst a bunch of people in a bad
12 situation, he was the bottom of the pecking order in that
13 household and suffered a lot of abuse from his siblings,
14 from his half siblings.

15 And Your Honor, in getting to know him and having
16 represented a lot of people, I can tell you my assessment
17 of Mr. Ross is that he stands here looking like a big man,
18 but really in dealing with him, it's more like a child
19 that comes out. Child that craves love, craves attention,
20 craves someone taking an interest in him and caring about
21 him. I think all through his life growing up as a child,
22 as a teenager, when he started getting in trouble. As I
23 would note, the main, serious crime on his record was ten
24 years ago when he was 16, but it was handled in adult
25 court. And he did get a YOA, but he did not get the

1 benefit of being able to have his case handled in family
2 court, where he might have got some rehabilitative
3 services. But the state chose not to handle it that way.

4 You know, all the time it was just him against the
5 world with no help and no love. And he did develop a
6 thickness of skin to him that makes him, you know, a
7 tougher person and an angry person, but like anybody, Your
8 Honor, he responds to kindness with kindness. There is a
9 good person in there, but he's not really had much of an
10 opportunity to develop that because of his circumstances.
11 And that's what I mean by when I say life throwing him a
12 curveball.

13 Now he's been with the same woman for nine years
14 since he was 17 years old. Her name is Rachel Boozer.
15 She's in court today in support of him, and later on
16 Mr. Dest is going to read a brief letter she wrote on his
17 behalf because she was uncomfortable speaking in public,
18 particularly with the media being here. But she brings
19 out the good in him. Her mother, Margaret Boozer, who is
20 also here in support of him, you know, she was the first
21 person -- she told me when she finally got to know him
22 when he was in his late teens, early 20s, she wanted to
23 adopt him because she saw a lot in him of the same things
24 I saw.

25 When we were trying to work through the case to come

1 to court, to talk to Mr. Ross about what to do, what's in
2 his best interests, the state, Willy Thompson was good
3 enough to help us arrange for a big visit with his lawyers
4 and with the Boozer women. And watching him interact with
5 Margaret Boozer, you know, again, it's like a ten-year-old
6 child. He would say to thing to try to make her smile.
7 She would scold him like he was a child. He would listen
8 respectfully. You know, there is a good person in there
9 struggling to get out. But like a flower without
10 sunlight, he didn't have a lot of love and he was not
11 thriving.

12 And of course, we're here today for him to be
13 sentenced and go to the Department of Corrections, a place
14 where there is no love, a place where he's not going to
15 thrive. We know that. He knows that. We can only hope
16 with the support of the two Boozer women behind him that
17 he can make it through. He's 26.

18 Your Honor, I do want you to know, though, that on
19 top of all that, he did go through the 11th. Well, he
20 also supported himself by working, and he does have solid
21 work history. He's worked for Atlas Smith movers off and
22 on for the last seven years. And really as -- if you can
23 call it a craft, developed knowing the craft of how to
24 move a house. He's supplemented that employment working
25 at Burt's BBQ in Fort Mill as a cook, Kentucky Fried

1 Chicken in Rock Hill, International Paper in Charlotte as
2 a packer, ProFlowers in Charlotte cutting flowers. So he
3 has a solid work history and he is a hard worker, and he
4 is an able-bodied person who does work hard.

5 Now, leading up to this case, Your Honor, in 2015 or
6 late 2014, there's a moving company that started up in
7 Rock Hill called Smooth Move. And Mr. Ross went and got a
8 job there. And because he had seven years worth of moving
9 experience and because he's a good, able-bodied worker,
10 and because those people were amenable to hiring people
11 with criminal records, they did hire Mr. Ross. He did
12 excel there, and he became a supervisor. And he worked
13 there for about a year and did well.

14 But then, Your Honor, in another situation that I
15 would characterize as a curveball situation, in the span
16 of a week, two things happened. One, he was on a move
17 with another employee who had come to work and either had
18 been drinking or drunk so much the night before he smelled
19 like he had been drinking, and the customers complained to
20 Mr. Ross's boss. And, of course, as the supervisor
21 Mr. Ross would acknowledge he should have sent that person
22 home. He didn't. He got in trouble for that. And in
23 that same week, some checks went missing from the
24 business. And there was six people who the owner
25 suspected, six people who could have taken the checks, and

1 Mr. Ross was one those six. The connection or the
2 conjunction of those two events in the same week caused
3 Mr. Ross to lose his job. Subsequently they found out Mr.
4 Ross didn't take the checks and someone else did, but that
5 was after he was already locked up on these charges.

6 And so he lost the job he had done well at. Not only
7 because he was working doing something he was good at, but
8 the responsibility of being a supervisor. He lost that.
9 And Your Honor, in that situation, upset about that,
10 drinking alcohol, desperate for money, the power was about
11 to be shut off, he committed this crime. You know, we
12 watch that video. It's 30 seconds. 30 seconds, he ruined
13 his life. And, you know, it's impulsive, irrational, and
14 again, I say due in large part to not having anybody to
15 teach him the right way growing up.

16 But Your Honor, he also -- I did want to share with
17 the Court at various time in his life, he's done other
18 thing in the community, cut grass for elderly people in
19 Ms. Boozer's neighborhood. He has volunteered handing out
20 food at the holidays at the Salvation Army through church.
21 He has volunteered to hand out gifts at Christmas through
22 a church and the Salvation Army. He has done good things,
23 Your Honor. But of course, we're confronted with this.

24 And Your Honor, what I would ask the Court to do I
25 heard what Ms. Holland said. What I would ask the Court

1 to do would be to look for justice in the case, taking
2 everything into account. And looking for justice, Your
3 Honor, I would say requires looking beyond the four
4 corners of this courtroom, beyond the emotionality of this
5 moment, of having just seen the video, of just having
6 heard an emotional appeal from Ms. Haines.

7 But how do we do that? Your job, picking a number
8 out of the sky, zero to 20 is so difficult. And Your
9 Honor, you know from when we met with you in chambers, the
10 fact that for guidance I asked the Court to look to the
11 proposed sentencing guideline this state promulgated way
12 back in 1998. And Your Honor, you know that back in 1998,
13 that wasn't a liberal time in the state's history. The
14 war on drugs, the war on crime was in full effect. And
15 those guidelines were not promulgated by a bunch of
16 defense attorneys or solicitors. They were promulgated by
17 legislators representing the people and what would be
18 right.

19 And Your Honor, the proposed guidelines grid shows
20 Mr. Ross would fall for a felony that carries a maximum
21 sentence of 20 years with a prior record score between
22 five and nine -- and by my count, it was five. Subsequent
23 to that, Ms. Holland did provide me with the CDV first
24 municipal court convictions, which one of those was
25 without counsel. But even if they would both count would

1 bring it to seven. That would still put him in the range
2 under the grid of a six- to nine-year sentence, Your
3 Honor, and I would ask the Court to consider as a
4 reasonable sentence a seven-year, no-parole sentence.

5 Your Honor, seven years which happens to be the old
6 minimum for a true armed robbery, where things were taken.

7 And I acknowledge to a degree that's still picking a
8 number, but at least it's with some guidance from some
9 bigger body, Your Honor. And of course, you know, the
10 sentence would be as you already explained to Mr. Ross and
11 as I explain to Mr. Ross, it would be violent time. It
12 would be at a level 3 yard, which would be dangerous.
13 He's taking a most-serious strike on his life for the rest
14 of his life, which will impact him for the rest of his
15 life. It's no-parole time, and then after that it would
16 involve community supervision. There will be a lot to a
17 sentence like that beyond just the number.

18 And Your Honor, even on the upper end of that grid
19 would be a nine. Your Honor, I'm asking the Court to
20 consider a seven-year sentence given everything that's
21 transpired, given everything in his past, given the fact
22 that he's coming to court here and waived his very
23 valuable constitutional rights and all the collateral
24 consequences that go along with his conviction. But I
25 would ask the Court to consider seriously a seven-year

1 sentence, and Your Honor, certainly nothing more than the
2 upper range, which would be nine-year sentence or ten-year
3 sentence.

4 Your Honor, Mr. Dest would like to briefly address
5 the court on behalf of Mr. Ross's family, and I also know
6 Mr. Ross would like to address the court as well.

7 THE COURT: Thank you, Mr. Barrowclaugh.

8 Mr. Dest?

9 MR. DEST: May it please the Court. Your Honor, as
10 Mr. Barrowclaugh indicated, there are two individuals here
11 in court today who are, in essence, his family. People
12 who he is closest to, who have spent a lot of time with BJ
13 and myself. And we've talked about this case at length
14 for four or five months regarding how to move forward, and
15 these two individuals, Rachel Boozer, the woman seated in
16 the blue has been with my client for over nine years, and
17 she's seen everything involved in his life and is still
18 with him, and wanted me to relay to the Court no matter
19 what happens today, she is still going to stand by him.
20 She's still going to support him, and she's going be with
21 him no matter what.

22 But what she wanted me to do is briefly read her
23 letter to the Court, because as Mr. Barrowclaugh
24 indicated, she's a little uncomfortable reading this
25 document in plain view of everyone and the media being

1 present. She's a shy woman by nature, but wanted me the
2 briefly read this to the Court. And I'll read it
3 verbatim.

4 THE COURT: Thank you, Mr. Dest.

5 MR. DEST: It says, "Your Honor I'm speaking on
6 behalf of Antonio Ross. On September 8th, 2015, Antonio
7 made a decision that was not a part of his character.
8 Antonio wasn't in his right state of mind when the
9 incident took place. Your Honor, I'm going to ask if
10 Antonio's jail time could be reduced and spend some time
11 in a rehabilitation center. I ask this because Antonio
12 truly needs help with recovering from alcohol and drug
13 misuse which were major factors in the incident that took
14 place on the night of September 8th, 2015. If you're able
15 to do this, his family would be very grateful. Thank you
16 for your time, Your Honor."

17 Your Honor, the woman sitting next to her is Margaret
18 Boozer, her mother. As Mr. Barrowclough indicated, this
19 woman is not his mother by blood, but I would submit it
20 would be his mother in spirit. She has known him a long
21 time. She's counseled him, and as Mr. Barrowclough
22 indicated when we were at the jail, it was really like a
23 mother and son interacting. At times she would scold him
24 for what had happened, scold him about his decisions, and
25 tell him what he needs to do to get his life back in

1 order. And I think Antonio truly understand that.

2 She wanted me to relay the court simply this: "That
3 he's like a son to me. I will stand by him. I love him
4 no matter what." And Judge, I think that's important on
5 this day to give those facts to the Court because here is
6 somebody who is facing a considerable amount of time.
7 There's no question. He's here pleading straight up where
8 he could receive up to 30 years in prison.

9 Your Honor, I understand what the state has requested
10 of this Court, and I understand that mindset. But I would
11 respectfully submit that Mr. Barrowclough has articulated
12 very well our position for a sentence of seven years.
13 Judge, I have been here over a quarter of a century. I
14 have seen the sentencing schemes of this state and how it
15 affects people. And I could tell the Court based on my
16 experience that when clients who were in their 20s are
17 sentences to double-digit figures at the high end of the
18 sentencing scale, it destroys them.

19 And I understand the punitive measure of sentencing.
20 I understand the purpose of it, but I'm asking the Court
21 to consider what Mr. Barrowclough has outlined because I
22 think that is a just way to sentence. A sentence in the
23 double-digit range, particularly the high range would
24 destroy his spirit, would destroy his motivation, and
25 really would destroy him, Your Honor, at the age of 26.

1 As a circuit defender and someone who has been here
2 over a quarter of a century, I reject that type of
3 sentencing scheme. I don't think it is helpful. I don't
4 think it is just, and I would respectfully ask the Court
5 to consider what Mr. Barrowclaugh has outlined. Thank
6 you.

7 THE COURT: Thank you, Mr. Dest. Anything else?

8 MR. BARROWCLAUGH: Mr. Ross would like to read
9 something he's written to the Court.

10 THE COURT: Be glad to hear from you.

11 THE DEFENDANT: Your Honor, first and foremost, I
12 would like to state my most sincere apology to Ms. Haines
13 and her family, and I would like to ask they forgive me.
14 Your Honor, I know that I have no excuse for the actions
15 that I -- excuse me. I'm not able to offer an excuse for
16 the actions that would be placing the blame upon someone
17 or something else. I know and understand that I was wrong
18 and I most certainly apologize for it, for my course of
19 action. I accept full responsibility.

20 Your Honor, I ask that the Court please extend some
21 lenience toward me. I'm simply asking for Your Honor to
22 show mercy. I know I'm in no position to make any demands
23 whatsoever, and please forgive me if I appear to do so.
24 If possible, I ask that Your Honor impose a sentence of
25 five to seven years with probation. That will allow me

1 get myself together mentally, physically, socially, and
2 emotionally, and also help me stay focused that I come
3 home and be supervised. And again, Your Honor, I would
4 like to ask Ms. Haines and her family to forgive me and
5 thank you for letting me speak on my behalf.

6 THE COURT: Thank you, Mr. Ross. Anything else?

7 MS. HOLLAND: Your Honor, may we approach for just
8 one moment?

9 (A bench conference was held.)

10 THE COURT: Anything further?

11 MS. HOLLAND: Nothing, Your Honor.

12 MR. BARROWCLAUGH: No, sir, Your Honor.

13 THE COURT: Mr. Ross, in just a moment, I'm going to
14 sentence you. I just want to be -- you understand you've
15 heard everything that the state has presented and
16 everything that your lawyers have presented and you've
17 seen the video in this case. Is there anything else you
18 wish to tell the court?

19 THE DEFENDANT: No, sir, Your Honor.

20 THE COURT: All right. I find that this defendant
21 has entered his plea freely, voluntarily, and
22 intelligently with the advice of competent attorneys with
23 whom he's satisfied. There is certainly a factual basis
24 for the pleas and I'll accept the pleas.

25 All right. Mr. Ross, it's a very serious charges,

1 very serious convictions. The Court, in determining
2 what's an appropriate sentence and determining what is
3 justice, realizing there's no perfect justice on the
4 earth. There are certain things about your case that do
5 make it unique. One is that the Court does view more than
6 just an -- what we would call -- where there's such thing
7 as a routine attempted armed robbery. This is an armed
8 robbery where a gun was fired at a victim, and that the
9 video shows that. The video shows the gun being pointed
10 at the direction of that car as it was leaving. The
11 preparation that was required to carry out what you did.
12 Obviously the video shows that you had a mask, had gloves
13 on, and were armed with a weapon. Those are all certainly
14 very aggravating circumstances.

15 Your prior record is aggravating circumstances. I
16 disagree with the attorneys. I do think that -- I guess
17 in some way I may agree with them. Incarceration may
18 destroy you, but it doesn't have to. Incarceration is not
19 a good thing, but it does not have to destroy anybody.
20 That's going to be your choice, whether -- in fact, I
21 talked to a local individual last week at the baseball
22 park who just got out on a 13-year sentence. I knew him;
23 went to high school with him. And he spent 13 years in
24 the Department of Corrections. He didn't take advantage
25 of anything in Department of Corrections. He didn't get

1 in trouble, but he didn't take advantage of anything that
2 he could have, and so I think that's a shame.

3 Be that as it may, weighing the serious nature of the
4 offense, the fact in this case certainly a very innocent
5 victim who has to live with the real consequences of real
6 actions, real facts of what happened on that day in her
7 life that she'll have to bear that memory for the rest of
8 her life, that I believe I have fashioned what's an
9 appropriate sentence.

10 The indictment 2015-GS-46-3384, unlawful sale of --
11 delivery of a pistol and possession by a certain person
12 convicted of a crime of violence, state versus Antonio
13 Ross having pled guilty, sentence of the Court is he be
14 committed to the state Department of Corrections
15 determinate term of five years. Credit for 270 days.

16 Concurrent indictment 2015-A-46-307 -- I'm sorry.
17 Well, this will be count two of the 2015-GS-46-3383A,
18 sentence on possession of a weapon during the commission
19 of a violent crime, state versus Antonio Ross, having pled
20 guilty to that offense is that he be committed to the
21 state Department of Corrections determinate term of five
22 years. Credit for 270 days, concurrent.

23 And the lead indictment, 2015-GS-46-3383, state
24 versus Antonio Ross having pled guilty to attempted armed
25 robbery, sentence of the Court is that he be committed to

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the state Department of Corrections for a determinate term
of 14 years, concurrent. Credit for 270 days. Thank you.

(Whereupon, the proceedings were concluded.)

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF YORK) SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

vs.)

ANTONIO DONTAE ROSS)

DEFENDANT.)

Motion to Reconsider Sentence
Indictment Nos. 2015A4620307372
2015A4620307373, 2015A4620307374

FILED-RECEIVED
2016 JUN -6 PM 4:58
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SOUTH CAROLINA

The Defendant, Antonio Ross, by and through his attorney B.J. Barrowclough moves this Honorable Court to reconsider his sentence in the above-captioned charges. In support of this Motion the Defendant avers the following:

1. On June 6, 2016, the Defendant entered pleas of guilt to the following charges: 2015A4620307372 Attempted Armed Robbery, 2015A4620307373 Possession of a Firearm By A Person Prohibited, 2015A4620307374 Possession of a Firearm During the Commission of a Violent Crime. The Defendant received sentences of fourteen (14) years, five (5) years, and five (5) years respectively all to run concurrent. The Defendant received credit for time served in the amount of two hundred seventy (270) days.
2. It is the Defendant's position that the mitigation presented in court was incomplete and the fourteen (14) year sentence was excessive.

For the forgoing reasons the Defendant respectfully requests a reduction in sentence or in the alternative an opportunity to be heard on these matters.

Respectfully submitted,



B.J. Barrowclough
Deputy Public Defender

York, South Carolina
June 6, 2016

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SOUTH CAROLINA
2016 JUN -6 PM 5:03
CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS

COUNTY OF YORK 2016 JUN -7 AM 10:47 SIXTEENTH JUDICIAL CIRCUIT

THE STATE OF SOUTH CAROLINA
YORK COUNTY, SC

ORDER FOR MOTION TO RECONSIDER
INDICTMENTS NOS. 2015A4620307372,
2015A4620307373, 2015A4620307374

v.
ANTONIO DONTAE ROSS,
DEFENDANT

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC
2016 JUN -7 AM 10:52
CERTIFIED TRUE COPY

The Defendant, Antonio Ross, moved this Court to reconsider his sentence in the above captioned charges.

On June 6, 2016, the Defendant entered pleas of guilt to the following charges:

1. 2015A4620307372-Attempted Armed Robbery – Fourteen (14) years;
2. 2015A4620307373- Possession of a Firearm By a Person Prohibited – Five (5) years;
3. 2015A4620307374- Possession of a Firearm During the Commission of a Violent Crime- Five (5) years.

The Defendant asserts that the mitigation presented in court was incomplete and the fourteen (14) year sentence was excessive. Defendant requests a reduction in sentence or in the alternative an opportunity to be heard on these matters.

IT IS THEREFORE ORDERED that the Defendant's Motion to Reconsider Sentence is denied.

IT IS SO ORDERED.

DANIEL D. HALL
Resident Judge
Sixteenth Judicial Circuit of South Carolina

June 7th, 2016
York, South Carolina

THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge


Case No.: 2015-GS-46-03383, 2015-GS-46-03383A,
2015-GS-46-03384

The State of South Carolina, Respondent
v.

Antonio Ross, Appellant

NOTICE OF APPEAL

Antonio Ross appeals his convictions and the sentences imposed by the Honorable Daniel D. Hall. On June 6, 2016, the Appellant pleaded guilty to Armed Robbery (Indictment No. 2015-GS-46-3383), Possession of a Weapon During the Commission of a Violent Crime (Indictment no. 2015-GS-46-3383A), and Possession of a Firearm by a Person Prohibited (Indictment No. 2015-GS-46-3384). The Appellant received concurrent sentences of Fourteen (14) years, Five (5) years and Five (5) years, respectively. On June 6, 2016, the Appellant filed a Motion to Reconsider Sentencing. On June 7, 2016, The Honorable Daniel D. Hall, denied the Motion.


Bryson J. Barrowclough
Deputy Public Defender
Sixteenth Judicial Circuit
P.O. Box 691
York, SC 29745
(803) 628-3031
Attorney for Appellant

This 8th day of June, 2016.
York, South Carolina

Other Counsel of record:
Jessica E. Holland, Assistant Solicitor
Sixteenth Judicial Circuit
1675-1A York Highway
York, SC 29745
(803) 628-3020

DAVID HAMILTON
C.O.C.P. & G.S.
YORK COUNTY, SC
FILED-RECEIVED
2016 JUN -8 AM 11:04

THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge

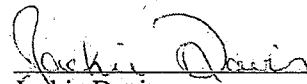
Case No.: 2015-GS-46-03383, 2015-GS-46-03383A
2015-GS-46-03384

The State of South Carolina, Respondent
v.

Antonio Ross, Appellant

Certificate of Service

This is to certify that a copy of the Notice of Appeal in the case of The State vs. Antonio Ross was served upon Assistant Solicitor Jessica E. Holland on June 8, 2016, by hand-delivering a copy to the Solicitor's Office, second floor of the Moss Justice Center, 1675 York Highway, York, South Carolina, by the undersigned.



Jackie Davis
Legal Secretary for Bryson J. Barrowclough
Attorney for the Defendant

FILED-RECEIVED
2016 JUN -8 AM 11:04
DAVID HAMILTON
C.O. CP & G.S.
YORK COUNTY, SC

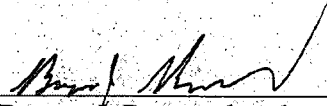
STATE OF SOUTH CAROLINA)	Indictment No.: 2015-GS-46-3383,
)	2015-GS-46-3383A
IN THE COURT OF APPEALS)	2015-GS-46-3384
State of South Carolina)	
)	
-vs-)	
)	
Antonio Dontae Ross,)	
)	
Defendant.)	
_____)	

RULE 203(B) EXPLANATION

Pursuant to Rule 203(B)(iv), the issue to be raised on appeal is whether the trial court abused its discretion when it imposed the Fourteen Year sentence upon the Appellant after he pled guilty to Armed Robbery, Possession of a Firearm by a Person Prohibited, and Possession of a Weapon During the Commission of a Violent Crime.

The undersigned does not have a good faith basis to believe that this issue is properly before the Court of Appeals, and the undersigned did not object to the sentence or file a motion to reconsider the sentence. Nevertheless, the undersigned consulted with the Appellant about his right to appeal, and after consultation, the undersigned has filed the instant appeal at the request of the Appellant because the Sixth Amendment requires counsel to follow the Appellant's request. *See Frazer v. South Carolina*, 430 F.3d 696, 705 (4th Cir. 2005) ("A defendant has a right to pursue a direct appeal, even if frivolous, which counsel must assist as 'an active advocate on behalf of his client.'") (quoting *Anders v. California*, 386 U.S. 738, 744 (1967)).

Respectfully submitted,



 Bryson J. Barrowclough
 P.O. Box 691
 York, South Carolina 29745
 (803) 628-3031
 Attorney for Antonio Dontae Ross

York, South Carolina

June 8, 2016

YORK COUNTY, SC
 CLERK OF COURT
 DAVID HAMILTON
 2016 JUN -8 AM 11:09
 CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on November 12, 2015, the Grand Jurors of York County present upon their oath:

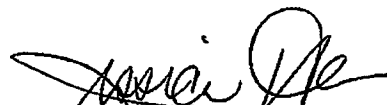
COUNT ONE - ATTEMPTED ARMED ROBBERY

The defendant, Antonio Donta Maurice Ross did on or about September 8, 2015, in York County, South Carolina, while armed with a deadly weapon or while displaying what a person present during the robbery would reasonably believe to be a deadly weapon, attempt to take by means of force, threats, or intimidation, goods or monies from the person or presence of Marilyn Alice Haines. All in violation of 16-11-0330(B) of the South Carolina Code of Laws (1976) as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

The defendant, Antonio Donta Maurice Ross, did on or about September 8, 2015, in York County, South Carolina, while committing the violent crime of Armed Robbery, possess a firearm. All in violation of 16-23-0490, *South Carolina 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.



JESSICA E. HOLLAND
ASSISTANT SOLICITOR

WITNESSES

RHPD / *Brogden*

ARREST WARRANT NUMBER

COUNT ONE 2015A4620307372
COUNT TWO 2015A4620307374

ACTION OF GRAND JURY

TRUE BILL

Shirley Sander
Foreperson of Grand Jury
Date: *11/12/15*

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2015-GS-46- 03383
2015-GS46-03383(A)

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

NOVEMBER 12, TERM 2015

THE STATE

VS.

ANTONIO DONTA MAURICE ROSS

INDICTMENT FOR

**COUNT ONE - ATTEMPTED ARMED
ROBBERY**

SC Code: § 16-11-0330(B)
CDR Code: 0026

**COUNT TWO - POSSESSION OF A
WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME**

SC Code: § 16-23-0490
CDR Code: 0549

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

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on November 12, 2015, the Grand Jurors of York County present upon their oath:

**POSSESSION OF A HANDGUN BY PERSON CONVICTED OF A CRIME OF
VIOLENCE**

The defendant, Antonio Donta Maurice Ross, did on or about September 8, 2015, in York County, South Carolina, unlawfully possess or acquire a handgun after having been convicted of Strong Arm Robbery, a crime of violence. All in violation of 16-23-0030 of the South Carolina 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.


JESSICA E. HOLLAND
ASSISTANT SOLICITOR

WITNESSES

RHPD

Witnessing Officer: *Broogden*

ARREST WARRANT NUMBER

2015A4620307373

ACTION OF GRAND JURY

TRUE BILL

Shirley Sanders

Foreperson of Grand Jury

Date: *11/12/15*

VERDICT

Foreperson of Grand Jury

Date:

DOCKET NO. 2015-GS46- 03384

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

NOVEMBER 12, TERM 2015

THE STATE

VS.

ANTONIO DONTA MAURICE ROSS

INDICTMENT FOR

**POSSESSION OF A HANDGUN BY
PERSON CONVICTED OF A CRIME OF
VIOLENCE**

SC Code: § 16-23-0030

CDR Code: 2364

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

Defendant

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

Defendant

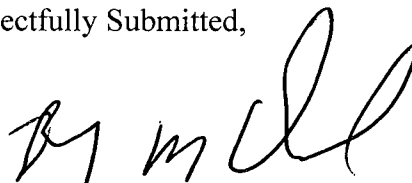
Witness:

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

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,



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 26th day of May, 2017.

RECEIVED
MAY 26 2017
SC Court of Appeals