

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions
The Honorable Roger M. Young, Circuit Court Judge

Appellate Case No. 2016-000976

RECEIVED

JUN 30 2017

SC Court of Appeals

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

JAKE LAKE,

APPELLANT.

MOTION TO DISMISS APPEAL FOR LACK OF JURISDICTION

The State is hereby moving this Court to dismiss Appellant's direct appeal based upon a lack of jurisdiction, and is further requesting that this Court hold the time period for the filing of the Initial Brief of Respondent and Designation of Matter in abeyance pending the resolution of this motion. The basis for this motion is explained below.

Background Facts

Appellant was indicted in Lexington County in October 2011 for attempted murder. On October 4, 2012, Appellant appeared before the Honorable Roger M. Young, Sr. for his plea hearing. Frank McMaster, Esquire, represented Appellant; assistant solicitor Suzanne Mayes, Esquire, represented the State. Appellant pled guilty to the charge and the plea judge sentenced Appellant to twenty-eight years' incarceration.

On October 9, 2012, Appellant filed a pro se motion for reconsideration of his sentence.

(Attachment #1 Motion for Reconsideration of Sentence). On December 4, 2012, Appellant submitted a pro se motion to withdraw his guilty plea claiming he believed his counsel and the State had agreed upon a recommended sentence of five years' imprisonment. (Attachment #2, Motion to Withdraw Guilty Plea). On April 12, 2013, plea counsel sent a letter to the Lexington County Clerk of Court requesting notice for Appellant's future hearing on his motion to reconsider, explaining he planned to assist Appellant. (Attachment #3, Plea Counsel's Letter). On March 4, 2014, plea counsel was placed on interim suspension by the South Carolina Supreme Court and Sarah Mauldin of the Lexington County Public Defender's Office assumed representation of Appellant.

On April 1, 2016, Appellant, through counsel, filed a brief in support of his motion to reconsider his sentence, to which the State filed a response. (Attachment #4, Defendant's Brief in Support of Motion to Reconsider Sentence; Attachment #5, State's Response to Defendant's Motion for Reconsideration of Sentence). By order filed April 28, 2016, the plea judge denied Appellant's motion to reconsider and dismissed the motion to withdraw the guilty plea as untimely. (Attachment #6 Order Denying Defendant's Motion to Reconsider Sentencing & Motion to Withdraw Guilty Plea). On May 6, 2016, Appellant filed and served a notice of appeal. Pursuant to Rule 203(d)(1)(B)(iv), SCACR, Appellant also filed a written explanation claiming his plea was not knowing and voluntary because he disputed the charges against him at the plea hearing.

Discussion

Rule 203 of South Carolina's Appellate Court Rules states, in pertinent part:

After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents **within ten (10) days after the sentence is imposed**. In all other cases, a notice of appeal shall be served on all respondents within ten (10) days after receipt of written notice of

entry of the order or judgment. When a **timely** post-trial motion is made under Rule 29(a), SCRCrimP, the time to appeal shall be stayed and shall begin to run from receipt of written notice of entry of an order granting or denying such motion (emphasis added).

Rule 29(a), SCRCrimP, provides, in pertinent part, that post-trial motions shall be made **within ten days** after the imposition of the sentence and that the time for appeal shall be stayed by a **timely** post-trial motion and shall run from the receipt of written notice of entry of the order granting or denying such motion.

In Miller v. State, 388 S.C. 347, 697 S.E.2d 527 (2010), the South Carolina Supreme Court stated as follows:

Since there is no right to “hybrid representation” that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel. 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). Because petitioner was represented by counsel, the *pro se* motion was not proper, should not have been accepted, and should not have been ruled upon. **The motion was essentially a nullity.** We therefore vacate the order ruling on the motion and dismiss petitioner's notice of appeal as moot. We also take this opportunity to remind judges and clerks of court of our directive in Foster not to accept substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a party who is represented by counsel (emphasis added).

In State v. Devore, 416 S.C. 115, 784 S.E.2d 690 (Ct.App. 2016), this Court, relying on Miller, dismissed Devore's appeal after determining it lacked appellate jurisdiction to consider defendant's appeal because his *pro se* letter, sent seven days after his conviction, was not a proper notice of appeal pursuant to Rule 203, SCACR or a post-trial motion as described in Rule 29, SCRCrimP. Noting Devore was represented by counsel at the time he sent the letter, the Court found the document could not qualify as a proper motion or notice of appeal because it was “essentially, a nullity.”

In Appellant's case, there was no proper, timely motion for reconsideration or notice of

appeal within the ten days after the conviction. Appellant was represented by counsel at the time he submitted the October 9, 2012 letter to the trial judge, a fact supported by plea counsel's letter claiming he was aiding Appellant with his motions. (See Attachment #3, Plea Counsel's Letter). Under Devore and Miller, this document was an improper pro se filing that should not have been - and could not properly have been - accepted or ruled upon by the trial judge; it was a nullity. Miller at 347, 697 S.E.2d at 527; Devore at 122-24, 784 S.E.2d at 694-695; see also Jones v. State, 348 S.C. 13, 14, 558 S.E.2d 517, 517 (2002) ("There is no constitutional right to hybrid representation either at trial or on appeal."); Foster v. State, 298 S.C. 306, 307, 379 S.E.2d 907, 907 (1989) (ordering the Clerk of Court to return a substantive *pro se* document filed while the petitioner was represented by counsel). Therefore, the October 9, 2012 letter could not operate as a notice of appeal or a motion for reconsideration that would stay the time period for the filing of the appeal.

Because no proper motion for reconsideration or notice of appeal was filed within ten days of Appellant's conviction, this Court has no jurisdiction over Appellant's case and must dismiss his appeal. See Devore at 122-24, 784 S.E.2d at 694-695; also Hill v. South Carolina Dept. of Health and Environmental Control, 389 S.C. 1, 21, 698 S.E.2d 612, 623 (2010) ("The service of a notice of appeal is a **jurisdictional requirement**, and the time for service may not be extended by this Court."); Canal Ins. Co. v. Caldwell, 338 S.C. 1, 5, 24 S.E.2d 416, 418 (Ct. App. 1999) (in a civil case, pointing out that Rule 203(b), SCACR, requires a party to serve his notice of appeal within thirty days after receiving written notice of the entry of a final order or judgment, and failure to do so divests this court of jurisdiction "and results in dismissal of the appeal"); see also Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992) ("[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this

Court with an orderly mechanism through which to guide appeals in this State.”).

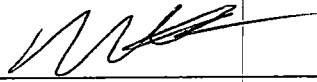
CONCLUSION

Based upon the foregoing, the State respectfully requests that this Court dismiss Appellant's appeal for lack of jurisdiction. The State further requests that this Court hold the time period for the filing of the Initial Brief of Respondent and Designation of Matter in abeyance pending the resolution of this motion.

Respectfully submitted,

ALAN WILSON
Attorney General

WILLIAM F. SCHUMACHER, IV
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BY: 

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ATTORNEYS FOR RESPONDENT

June 30, 2017

FILED

2012 OCT -9 A 9 56

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
BETH A. CARRIG)
CLERK OF COURT)
LEXINGTON)
IN THE GENERAL SESSIONS COURT)
OF THE NINTH JUDICIAL CIRCUIT)
Indictment # 11-GS-32-03107)

STATE OF SOUTH CAROLINA,)
)
VS.)
)
JAKE DALE LAKE)
)
DEFENDANT.)
_____)

NOTICE OF MOTION AND MOTION
FOR RECONSIDERATION OF
SENTENCE

TO THE STATE, ABOVE-NAMED, Defendant would show that:

The Defendant Jake Dale Lake pleaded guilty in Lexington County in front of the Hon. Roger Young on October 4, 2012. He was sentenced to 28 years for attempted murder. Additional factors should be considered.

YOU WILL PLEASE TAKE NOTICE that the undersigned Defendant will move before the Presiding Judge of General Sessions Court in _____, South Carolina, on the ____ day of _____, 2012 at _____ o'clock in the ____m. or as soon thereafter as counsel may be heard for an Order granting a reconsideration of the sentence imposed on the Defendant.

Jake Dale Lake

Defendant

10-9-2012, 2012
Lexington, SC
C:\Users\Bec\Documents\De\SharedDocs\Public Defender\PD Lake\Rec.mot.wpd

Copy of Motion filed - Original MIA - Part was scanned in

Motion for Reconsideration filed 10/9/12
Original missing from file - copy placed in
file - As of 8-11-12 motion not ruled on.
Patrick Schmuckpeper / AG office to follow
up w/ Judge Young b/c outcome affects
disp of PCR

2011-GS-32-3107

FILED

ORIGINAL

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON) FOR THE ELEVENTH JUDICIAL CIRCUIT
IND. # 2011-GS-32-03107

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
MOTION TO WITHDRAW
A GUILTY PLEA

VS.

JAKE D. LAKE
Defendant.

M 302505

The Defendant, Jake D. Lake (hereinafter, "defendant"), hereby moves before the Circuit Court of General Sessions for a hearing to withdraw his guilty plea.

On or about October 4, 2012, the defendant entered a guilty plea before the Hon. Roger Young, to the offense of Attempted Murder. The defendant was represented by attorney Frank McMaster. The defendant was sentenced to 28 years. The defendant immediately filed a Motion for Reconsideration in a timely manner, such that this action has been stayed pursuant to Rule 29 of the S.C. Rules of Criminal Procedure. The defendant now submits this supplemental motion.

The defendant was under the belief that a plea negotiation had been reached between the State and defendant's attorney for a sentence of five (5) years. The defendant did not place these matters on the record at the time of the plea and sentencing because defendant had a good faith belief that his attorney had already done so.

This Motion is made pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the U.S. Constitution; S.C. Constitution, Art. I §§ 3, 14, 15; *Jordan v. State*, 297 S.C. 52, 374 S.E.2d 683 (1988); and, R. 29, SCRCrim.P.

Respectfully submitted,

Jake D. Lake
Jake D. Lake
Defendant

Dated: 12-4, 2012

TOMPKINS AND McMASTER, LLP

ATTORNEYS AND COUNSELORS AT LAW

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ESTABLISHED 1808

JOHN GREGG McMASTER
GEORGE HUNTER McMASTER **
FRANK BARNWELL McMASTER

FRANK C. TOMPKINS
1874-1050
FRANK C. TOMPKINS, JR.
1008-1078
ELIZABETH FLOREIDA
1804-1075

**ALSO ADMITTED IN TEXAS

April 12, 2013

The Honorable Beth Carrigg
Lexington County Clerk of Court – General Sessions
Marc Westbrook Judicial Center
205 E. Main Street
Lexington, SC 29072

Re: State v. Jake D. Lake
Warrant #: M302504 - 506

Dear Honorable Carrigg:

I represented Jake Lake at his guilty plea, which occurred on October 4, 2012. Mr. Lake has filed a Pro Se motion to reconsider and I respectfully request that I receive a notice as to the date of the hearing in order that I may assist him if possible. Also, Mr. Lake's father Magistrate Judge Robert H. Lake would like to receive notice of the hearing.

Thank you.

Yours very truly,


Frank B. McMaster

FBM/bap
cc: Jake Lake
Judge Robert H. Lake

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

2013 APR 15 PM 3:58

FILED

ORIGINAL

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON)	ELEVENTH JUDICIAL CIRCUIT
THE STATE)	WARRANT NUMBER:
vs.)	M-302505
Jake Dale Lake,)	DEFENDANT'S BRIEF IN SUPPORT OF
Defendant.)	MOTION TO RECONSIDER SENTENCE

2016 APR -1 PM 12:46
 PENNA. CURRIGG
 CLERK OF COURT
 LEXINGTON, SC

Procedural History

On October 4, 2012, the Defendant entered a guilty plea to the charge of attempted murder for events that occurred on April 7, 2011. The Honorable Roger M. Young, Sr., sentenced the Defendant to twenty-eight years in the South Carolina Department of Corrections.

The Defendant filed a timely motion to reconsider the sentence pursuant to Rule 29 (a), SCRCrimP, but counsel for the Defendant was suspended from the practice of law before the motion to reconsider was heard. The Court subsequently appointed the Lexington County Public Defender's Office to represent the Defendant on the motion to reconsider.

Although this brief addresses facts raised by prior counsel for the Defendant at the plea, present counsel hopes to provide additional context to explain and mitigate the Defendant's actions. This brief includes information provided by the Defendant, his family and friends, the State through discovery, and the South Carolina Department of Corrections.

Defendant's Childhood

The Defendant, Jake Lake, was born in Chesterfield County in 1970. At thirteen years old, Jake and his older brother were adopted by the Honorable Robert H. Lake and his wife Janice Lake. Judge Lake was a magistrate judge in Calhoun County, a position that he holds today and has held for thirty-two years. Janice Lake worked as an administrative assistant for many years.

The Lakes adopted Jake and his brother Lavern from the Connie Maxwell Children's Home in

COPY

Greenwood, South Carolina. Their mother suffered from Hodgkin's disease and sent them there shortly before her death, when Jake was nine years old. Judge Lake remembers that staff members from the children's home said that Jake's biological father declined to assume responsibility for his sons, and that a bench warrant was pending against him when placement with him was attempted. Jake remembers his last interaction with his biological father to be visiting him in prison.

Jake says that the Lakes "saved his life" when they adopted him. According to Judge Lake, a counselor for the children's home told him that Jake's biological father had physically abused him, and that scars on Jake's head were caused by injuries inflicted by his biological father. Since his arrest and incarceration on the present charge, Jake revealed to Judge Lake and to staff at the South Carolina Department of Corrections mental health clinic that that his biological father also committed sexual abuse against him.

Jake lived with the Lakes until he was sixteen years old, at which time he and his brother moved from the Lakes' home to the home of their older sister. The Lakes retained legal custody of Jake and his brother.

Defendant's Adulthood

During his guilty plea, the Court asked Jake whether he worked before he was arrested. He answered that he did not and that he had a worker's compensation case pending. Judge Lake mentioned briefly that Jake had been gainfully employed for most of his life.

At the age of sixteen, after Jake and his brother moved from the Lakes' home to their sister's home, Jake stopped going to school and began working as a painter. Although he had only a ninth grade education, he worked steadily and earned a comfortable income most of his adult life.

Jake's first job was working for a man named Gary Gates. Jake worked for Mr. Gates for ten to twelve years. After initially working as a painter, he also learned remodeling skills. Eventually, while continuing to work for Mr. Gates, Jake began finding his own jobs and worked for himself, painting

and remodeling, on residential and commercial buildings.

In the mid-1990s, Jake began working for the Carolina Eastman company, in addition to the work he did on his own. He was employed there, as jobs were available, for several years. While there, he worked as a millwright. He also earned a forklift license and underwent chemical waste management training.

Jake's last job was working for Guess Farm Equipment, a John Deere dealership, in St. Matthews, South Carolina, where he worked as a mechanic on farm equipment. He was employed there for several years until he sustained an injury.

In 1989, Jake married Kathy McKenzie. The couple had two daughters, Elizabeth and Kathryn Dale. Judge Lake reports that in some ways Kathy was the backbone of the family and that she provided Jake emotional support. Jake and Kathy separated in 2009, at which point they had been married 20 years. After surviving a tumultuous childhood, Jake's dream was to be a part of a family, and he achieved that dream for many years.

In 1993, Jake realized that his use of alcohol negatively affected him and his family. He successfully dealt with his problem by replacing drinking with cycling. He became an avid cyclist, eventually cycling thousands of miles per year. Cycling was more than a hobby for him; it was his method of coping with problems, and it was a way to avoid dealing with his abusive childhood. With the relief cycling brought, Jake was able to remain sober for sixteen years.

Defendant's Criminal Record

Before his arrest in this case, Jake's criminal record, as provided by the State in discovery, consisted of the following convictions and sentences:

1988 Unlawful Weapon, Public Drunk – Paid fine
1993 Open Container – 10 days or \$248
2010 DUI <.10, First Offense; Open Container – Fine or jail time

Jake was forty-two years old at the time of his guilty plea, and until then, had a minimal criminal record, consisting of only misdemeanor convictions. Most importantly, Jake had no prior

record of committing physical violence towards any other person, and he had no prior record of threatening or attempting to commit physical violence towards any other person.

Defendant's Injury

Until he was injured at work, Jake led a productive life. He was part of a family, and he and his wife provided for their daughters. He had been sober for many years. He had a good relationship with his adoptive parents, and he had close friendships. However, his life took a dramatic downward turn.

Around 2007, Jake was employed at Guess Farm Equipment. While working, a piece of equipment struck him in the mouth, injuring his jaw, the area above his gums, and knocking out some of his teeth. The injury required surgery, and Jake's recovery was lengthy and painful. His doctor prescribed pain medication, and Jake soon became dependent on the medication.

Jake was injured badly enough that he was no longer able to participate in cycling. Since cycling had become his way of coping with problems, he struggled to deal with his pain and frustration and began drinking again, despite his years of sobriety.

As a result of the injury and his use of alcohol and pills, Jake's marriage began to fail. His wife Kathy moved out of their home three weeks before Thanksgiving in 2009. Their older daughter Elizabeth lived independently then, and their younger daughter Kathryn Dale moved out of the family home with Kathy.

In addition to feelings of failing his family, Jake experienced a loss of stability that his wife had brought to their lives. He saw his daughter Kathryn Dale periodically, but as an older teenager, she was becoming more independent of him. Jake was lonely and isolated and felt like he was losing the family that had been his childhood dream.

Jake's friends and family watched him become a different person than he had been before. Judge Lake describes that time as a dark period of Jake's life. During this time, Jake withdrew from the Lakes. His friend Steve Herweyer maintained contact with Jake through telephone conversations and

witnessed the changes in Jake's attitude and lifestyle. A pastor and friend of the Lakes', Reverend Charles Tyler, encountered Jake after his injury and immediately noticed the change in his demeanor.

Relationship with Anita Pritchett

Jake was desperate to find love and stability again. He met Anita Pritchett in May of 2010. He believed that she was the solution to his problems and that she would help him find happiness. Shortly after meeting Ms. Pritchett, Jake received a worker's compensation settlement of approximately \$149,000 from the injury to his jaw.

Jake spent much of the money on Ms. Pritchett. He gave her money to buy a Ford Explorer and bought new tires for the vehicle. He bought her gifts of clothing and jewelry. He made improvements to her home, buying appliances and installing siding. He paid for trips for the two of them, including one to the Bahamas and one to Las Vegas, Nevada. He even spent money on her daughter's car payment.

Jake moved into Ms. Pritchett's home in December of 2010. Shortly thereafter, in January 2011, his divorce from Kathy was finalized. Jake loved Ms. Pritchett deeply. He says that aside from his wife, she was the only woman with whom he ever had a serious relationship. Judge Lake says that Jake is someone who is totally dedicated to the people who are important to him, but that he expects the same dedication from them in return. He believes that Jake expected Ms. Pritchett to reciprocate his feelings.

Jake says that although he became attached to her quickly, he suspected Ms. Pritchett of being unfaithful to him, even early in the relationship. He acknowledges that there were signs that she stayed in the relationship with him because of the money he spent on her, but he says that he thought that if he showed her enough love, she would love him in return.

Eventually, Jake and Anita spent all of the entire worker's compensation settlement money, and Ms. Pritchett began to reject Jake. Jake had no home and alternated between staying with friends and living in his truck.

When Jake finally understood that Ms. Pritchett did not share his feelings, he became terribly

frustrated and depressed. He believed Ms. Pritchett had become involved with other men. He became jealous of her, and he reached his lowest point on April 7, 2011. That day, Jake went to Ms. Pritchett's home, suspicious that she was with another man. He saw a man drive her to her home early that afternoon.

The allegations are that Jake fired a shot at Ms. Pritchett from a rifle, at which time she ran into the house. He fired another shot that entered her bedroom area through her bathroom window. Law enforcement officers were unable to locate a cartridge or casing to determine the location from which he fired.

Ms. Pritchett called 911 to report gunshots about 1:45 pm. Law enforcement officers responded and performed a traffic stop on the truck Jake was driving, approximately two miles away from Ms. Pritchett's house. Jake was taken into police custody by 2:30 pm the same day.

The discovery materials show that Jake's actions that day were influenced by his use of alcohol. Although voluntary intoxication is not a defense, his alcohol use clearly contributed to his behavior. When law enforcement officers stopped his truck, they found a case of beer inside and reported that they smelled alcohol.

Law enforcement officers interviewed a friend of Jake's, James Slice, who said that he talked to Jake that morning. In his written statement, Mr. Slice said that Jake asked to stay with him because he was down on his luck. Mr. Slice agreed but said that after a week, Jake started drinking at all times of the day.

Law enforcement officers also interviewed Patricia Lauria, another friend of Jake's, who told them that he lived with her from February 21 until March 19, 2011. She talked to Jake on the telephone at 9:30 am on the incident date and told police that he had sounded as though he had been drinking at that time.

Mr. Slice and Ms. Lauria, the two people who interacted with Jake immediately before his

arrest, also realized that he was in tremendous despair. Mr. Slice told police during the brief time Jake stayed with him, he drank alcohol most of the time he was there. He said that Jake talked every day about Ms. Pritchett and how unhappy he was. Mr. Slice told police that Jake and Ms. Pritchett regularly fought on the telephone.

In her statement to police, Ms. Lauria wrote that when she talked to Jake on the morning of April 7, he was crying. He talked about causing harm to Ms. Pritchett and to himself. According to her written statement, Ms. Lauria was alarmed and responded: "I proceeded to try and talk to him again to please go to the nearest ER or hospital to get help and [that] he was not in his right mind and that he was not thinking straight. I told him that he needed help he said that no one could help him...."

The time between Jake's injury at work and his arrest in 2011 was the worst time in his life. He was struggling with addiction. He was unable to deal with another failing relationship. He reacted to Ms. Pritchett's rejection with jealousy and anger, instead of by turning to family and friends for support. The people who have written affidavits on his behalf believe that his actions were out of character and unusual for him.

Letters to Anita Pritchett

The transcript of Jake's guilty plea reflects that Assistant Solicitor Mayes told the Court that there was a no-contact order in place after his arrest, and that he sent multiple letters to the victim from jail. Jake was arrested on April 7, 2011, and wrote four letters to Anita Pritchett before April 29, 2011, within a month of his arrest.

Ordinarily, no-contact orders are conditions of bond. However, the magistrate judge presiding over Jake's bond hearing declined to set bond. Bond was not set later, and Jake was never released from custody before his plea. Neither the Lexington County Clerk of Court's Office nor the Lexington County Bond Court has a record of any bond conditions. Therefore, it appears that there was not a no-contact order in effect as a bond condition and that Jake did not violate a no-contact order when he sent

the four letters Ms. Mayes mentioned.

However, a Family Court hearing was held on April 29, 2011, at which the presiding judge issued an order of protection. Unfortunately, Jake violated the Family Court order of protection by sending a single letter to Ms. Pritchett before her birthday in December 2011. Law enforcement issued a ticket and he entered a guilty plea to violating the order of protection. He was sentenced to an additional thirty-day sentence consecutive to the sentence he serves now.

There is no evidence that he subsequently attempted to have contact of any kind with Ms. Pritchett through the remainder of his incarceration in the Lexington County Detention Center or during his incarceration at SCDC.

Jake demonstrated respect for authority in his behavior after Ms. Pritchett called police on the incident date. The police reports reflect that police identified Jake's truck and activated their blue lights and sirens. Once he stopped the vehicle, police took defensive positions and instructed him to show his hands, to get out of the vehicle and how to lie down. He complied, was handcuffed, and was taken into custody.

Additionally, the South Carolina Department of Corrections provides records of all disciplinary actions against each inmate on its website. The website indicates that Jake has had no disciplinary actions since his incarceration at SCDC began.

Defendant's Incarceration

Jake's arrest was the culmination of a series of rather unlikely events and his bad decisions in dealing with those events. He is unlikely ever again to find himself in the kind of tailspin that began with his injury. He is now better equipped to deal with challenges that do arise, and his mindset has changed during his incarceration.

On April 7 of this year, Jake will have been incarcerated for five years. As his criminal record indicates, his current sentence is the first lengthy period of incarceration he has experienced. Although

he hopes that the Court will reduce his sentence, he has lived for five years with the knowledge that he was sentenced to serve twenty-eight years, and that knowledge has weighed heavily on him.

During his incarceration, he has examined the bad choices he made. He knows that it was a mistake to try to solve problems with alcohol and pills, and that it was a mistake to withdraw from his family and friends. He regrets the pain he has caused them and is grateful that they continue to care for him in spite of his choices.

Jake realizes that he was at fault in his relationship with Ms. Pritchett and that he was trying to buy her love. When present counsel asked him how he felt about Ms. Pritchett now, he said, "It was all right for her to find another man if that's what she wanted to do. I was wrong."

Judge Lake believes Jake is remorseful. He says that Jake's attitude has matured during his incarceration. He says that Jake has expressed to him his willingness to take responsibility for his mistakes. Judge Lake says that Jake expected his absolute devotion to be reciprocated, but that now he has realized that was his expectation and not Ms. Pritchett's. Now he realizes his expectations were unreasonable. Judge Lake also believes that Jake has long known that alcohol had a negative effect on him, but that now he has a renewed resolve not to use it.

Judge Lake says that before his incarceration, Jake distrusted modern medication. Medical records from SCDC reflect that Jake has been diagnosed with Post Traumatic Stress Disorder and Major Depressive Disorder. He has been prescribed medication and says that he has found that the medication is beneficial to his mental health. Judge Lake believes that Jake will retain this insight when he is released from SCDC.

Jake has demonstrated tenacity and the ability to change his life. He was abused as a child but was able to form a positive familial relationship with his adoptive parents the Lakes. He remained married for twenty years to his wife Kathy and was a good father to his daughters Elizabeth and Kathryn Dale. Despite his lack of high school education, he learned a trade and, with his wife,

supported his family financially. After becoming dependent on alcohol, he was able to stop drinking and remained sober for sixteen years. These prior successes are evidence of his determination and his likelihood of resuming a productive, happy life when he is released.

If the Court reduces Jake's sentence, he still faces significant consequences. As the Court advised him during the plea, since his charge was a no parole offense, he will serve 85% of any sentence, even a reduced sentence. Additionally, once he is released, he must successfully complete two years of community supervision. Further, as the Court also advised during the plea, he was sentenced under the two-strike law, which means that a second most serious strike would result in a sentence of life without parole.

Jake has no intention of having any further contact with Ms. Pritchett. He realizes now that his relationship with her has completely ended and that he has nothing to gain from any further contact with her.


In addition, an investigator retained by present counsel to provide services on Jake's behalf has determined that Ms. Pritchett has moved to a location more than 700 miles from Lexington, South Carolina. Jake's current counsel has not revealed, and will not reveal, her location to him. Her relocation makes any accidental encounter with Jake unlikely.

Jake respectfully asks the Court to reduce his sentence to a sentence of fourteen years or less. Jake acknowledges his conduct warranted a significant prison sentence, but he hopes for a reduction. He and his family do not expect that he will be immediately released from SCDC, but his family will be able to provide him a home upon his eventual release. If he is released while still able to work, he believes that he can quickly find employment, and he is willing to comply with any additional conditions of release, including house arrest. Jake is appreciative of the Court's reconsideration of his sentence.

The Honorable Robert H. Lake, Kathryn Dale Lake, Eula Wolfe, Reverend Charles Tyler, and

Steve Herweyer have submitted affidavits in support of Defendant's motion, and these affidavits, along with a printout from the SCDC website, follow.

Respectfully submitted,



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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON)

STATE OF SOUTH CAROLINA) #2011-GS-32-03107
)
)
vs.)
) STATE'S RESPONSE TO
JAKE DALE LAKE,) DEFENDANT'S MOTION FOR
DEFENDANT.) RECONSIDERATION OF SENTENCE

Now comes the State in response to the motion by Defendant, Jake Dale Lake, by and through counsel for Defendant, Sarah H. Mauldin, Esquire, for reconsideration of the sentence imposed by the Court on April 4, 2012 following his plea to the charge of attempted murder. Charges of stalking and possession of a weapon during commission of a violent crime were not pursued in consideration of Defendant's plea to the charge of attempted murder.

The State offers the following facts or assertions in response:

(1) Factual circumstances of the case and the nature of the crime:

Jake Dale Lake pled guilty to attempted murder following an incident where he shot at the victim, Anita Pritchett, while she was entering her residence on April 7, 2011 at 587 Neely Wingard Road in Lexington County. Ms. Pritchett had recently ended a relationship with the defendant. The evidence recovered from the scene by law enforcement established that the defendant had been hiding in a wooded area for several hours waiting on his girlfriend to return to her residence. He was armed with a rifle and ammunition. The defendant had made verbal statements to at least two independent witnesses that he intended to kill the victim according to documented statements and the Lexington County Sheriff's Department investigative report:

- a) Telephone call to the victim's daughter, Kristen Pritchett, on the morning of April 7, 2011 wherein the defendant stated: Call and tell your mother goodbye. I'm going to kill her";
- b) Telephone call to his friend, Patricia "Patti" Lauria, on the morning of April 7, 2011 wherein the defendant stated he was going to "kill somebody" and then kill himself. He stated multiple times that he was going to "kill that bitch."

A copy of the arrest warrant and the investigative report is included with this memorandum.

- (2) Crime Scene Investigation confirmed that the defendant had been hiding in the wooded area behind the victim's residence in a premeditated act of planning the shooting. The victim positively identified the Defendant near the wood line of her house at the time of the incident. CSI officers recovered beer cans (Ice House) from the wooded area which were consistent with cases of beer located in the Defendant's car. The victim heard at least two shots fired as she entered her residence. At least one shot entered into the residence through a window and then through a bathroom and a bedroom wall of the home. The victim and her two children

were inside the residence at the time of the shooting. A copy of the CSI report is included with this memorandum.

- (3) Victim Impact Statement: Anita Pritchett prepared an additional victim impact statement dated September 14, 2015 in anticipation of the hearing for reconsideration of sentence. A copy of the original statement to law enforcement (2 pages) and the victim impact statement dated September 14, 2015 is attached with this memorandum.
- (4) Photographs documenting the circumstances of this offense and the ballistics entry through the window and walls of the home are included with this memorandum.

For the foregoing reasons, the State respectfully requests that the sentence remain intact as originally provided by the Court.

Respectfully submitted:



Suzanne Mayes
Senior Assistant Solicitor
Eleventh Circuit Solicitor's Office
Lexington, South Carolina

April 11, 2016

ORIGINAL

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

State of South Carolina)

v.)

Jake Dale Lake (Inmate # 352637))

Defendant.)

IN THE COURT OF GENERAL SESSIONS

Indictment No.: 2011-GS-32-03107

Warrant No.: M302505

2016 APR 28 P 1:19

BETH A. CALHOUN
CLERK OF COURT
LEXINGTON, SC

**ORDER DENYING DEFENDANT'S
MOTION TO RECONSIDER
SENTENCING & MOTION TO
WITHDRAW GUILTY PLEA**

This matter originally came before this Court on October 4, 2012 when the defendant pleaded guilty to the charge of attempted murder and was sentenced to twenty-eight years in South Carolina Department of Corrections. On October 9, 2012, defendant timely filed a Motion for Reconsideration of Sentence. On December 4, 2012, the defendant filed a Motion to Withdraw a Guilty Plea. This Court received briefs on these matters from the defendant's Public Defender Sarah Mauldin, and Senior Assistant Solicitor Suzanne Mayes.

After thoroughly considering the Defendant's motion, brief, and supporting material, and the State's brief in opposition, and based on the same, this Court denies Defendant's Motion to Reconsider Sentencing. Rule 29 requires post-trial motions to be filed within ten days of the imposition of sentence. Rule 29, SCRCrimP. Pursuant to Rule 29, this Court finds the defendant failed to timely file his Motion to Withdraw a Guilty Plea, and the same is denied.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Lake's Motion for Reconsideration of Sentence is DENIED, and Defendant Lake's Motion to Withdraw Guilty Plea is DENIED.

IT IS SO ORDERED!

Roger M. Young, Sr.
Presiding Judge

April 25, 2016
Charleston, S.C.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions
The Honorable Roger M. Young, Circuit Court Judge

Appellate Case No. 2016-000976

RECEIVED

JUN 30 2017

SC Court of Appeals

THE STATE,

Respondent,

vs.

JAKE DALE LAKE,

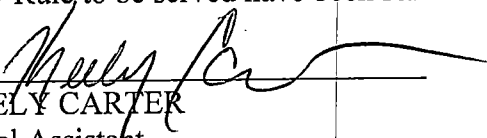
Appellant.

PROOF OF SERVICE

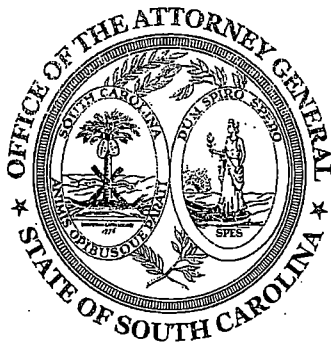
I, Keely Carter, certify that I have served the within Motion to Dismiss Appeal for Lack of Jurisdiction on Appellant by sending two copies of the same to:

Susan B. Hackett, Esq.
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 30th day of June, 2017.



KEELY CARTER
Legal Assistant
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

June 30, 2017

RECEIVED

JUN 30 2017

SC Court of Appeals

Susan B. Hackett, Esq.
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

RE: State v. Jake Dale Lake – Appellate Case No. 2016-000976

Dear Ms. Hackett:

I am enclosing two copies of the Motion to Dismiss Appeal for Lack of Jurisdiction, along with proof of service, in the above-referenced case.

Sincerely,

William F. Schumacher, IV
Assistant Attorney General
Bar Number 100231

WFS/kc
Enclosures

cc: Honorable Jenny A. Kitchings (original and six enclosed)
Victim Services