

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Larry B. Hyman, Circuit Court Judge

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AUG 18 2017

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

NELSON H. CASTRO,

APPELLANT.

APPELLATE CASE NO.: 2016-002159

PRO SE RESPONSE TO ANDERS BRIEF

NELSON H. CASTRO  
Allendale Correctional Institution  
1057 Revolutionary Trail  
Unit F1-B Room #35  
Fairfax, SC 29827

Appellant, pro se

These are the issues I believe the Court should consider in this appeal.

1. The fact that I have exercised my Constitutional right to a jury trial.

2. The fact that the judge told me that he was inclined to sentence me to seven years if I pled guilty but not if I exercise my Constitutional right to a jury trial.

3. Two co-defendants were arrested for the same transaction and were originally indicted for trafficking. One of them testified at my trial, revealing that he was allowed to plead guilty to a lesser offense and received a sentence of three years imprisonment.

4. At trial, my old pending charges were brought up and again when I went back for resentencing in 2016. I was never tried for those charges but the solicitor and the trial judge used them against me in sentencing me to 15 years.

5. When I was arrested the police did not find any drugs in my house, my car, or on me. Also, a confidential informant was sent to my house with wires and audio to set me up and my trial lawyer told me that was a violation of the 4th Amendment because the police did not obtain a warrant to send the confidential informant inside my house and that was the reason why I exercised my Constitutional right to a jury trial, and I believe anybody in my shoes would have done the same.

6. At trial, my lawyer did not object to the judge's abuse of discretion when he sentenced me to 15 years and he also did not ask the Court that my sentence should be considered because of the fact that I had exercised my Constitutional right to a jury trial, and when I went back for resentencing, my resentencing lawyer also did not use any discretion or consider the question to ask that my sentence should be considered because of the fact that I had exercised my Constitutional right to a jury trial and he also did not argue that the reason why I came back ~~from~~<sup>for</sup> resentencing was because of the trial judge's abuse of discretion when the judge considered the exercise of my Constitutional right to a jury trial in sentencing me to 15 years.

7. At my resentencing hearing, my lawyer did not argue the fact that my co-defendants, being my suppliers in this case, had pled guilty to a lesser offense and one of them received a three-year sentence and the other one received a two-year sentence, while I'm being punished to 15 years for selling three ounces of cocaine for them.

8. Also, this is my first offense, and my old pending charges were offenses of 7 grams and 14 grams and I was tried on the largest amount and they were never tried, so I should not be punished if they were never proved.

I ask the Court of Appeals to consider my appeal in this case not only because of the judge's abuse of discretion, my lawyer's failure to object to the trial judge's abuse of discretion and my lawyer's failure to ask the Court that my sentence should be considered because of the fact that I had exercised my Constitutional right to a jury trial, but it also should be considered because of the facts of the whole case.

Nelson Hercules Castro SDC # 340258

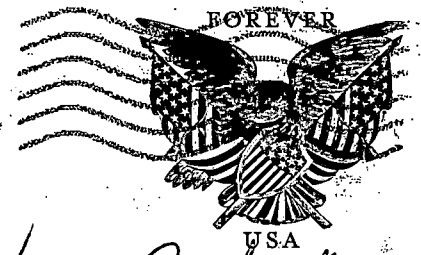
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South Carolina Court of Appeals

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