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ORIGINAL
NO DEFENDANT'S BRIEF

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

Appeal from Horry County

MAR 16 2017

Honorable Deadra L. Jefferson, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MICHAEL LEE MATEO,

APPELLANT

APPELLATE CASE NO. 2016-001489

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry)

TRANSCRIPT OF RECORD

June 28, 2016

STATE OF SOUTH CAROLINA,)

Plaintiff,)

vs.)

2016-GS-26-02992

JASON TAMNEY,)

Defendant.)

STATE OF SOUTH CAROLINA,)

Plaintiff,)

vs.)

2016-GS-26-01622

MICHAEL LEE MATEO,)

Defendant.)

STATE OF SOUTH CAROLINA,)

Plaintiff,)

vs.)

2016-GS-26-01882

VICKI L. SWORD,)

Defendant.)

B E F O R E:

Honorable Deadre L. Jefferson
Horry County Courthouse
Conway, South Carolina

A P P E A R A N C E S:

Scott A. Graustein, Esquire
C. Leigh Andrew, Esquire
Attorney for Plaintiff

R. Scott Joye, Esquire
Attorney for Defendant Tamney

James C. Galmore, III, Esquire
Attorney for Defendants Mateo and Sword

Kay H. Richardson
Circuit Court Reporter

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I N D E X

JUNE 28, 2016

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By the Court	3
Certificate of Court Reporter	

E X H I B I T S

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(No Exhibits were marked or admitted.)

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PLEA HEARING

1 (JUNE 28, 2016 - 3:20 P.M.)

2 THE COURT: Jason Tamney. Any recommendations or
3 negotiations?

4 MR. GRAUSTEIN: Yes, Your Honor. State is recommending
5 the sentence be held in abeyance pending successful completion
6 of our Mental Health Court.

7 THE COURT: Does he have any record?

8 MR. GRAUSTEIN: Not showing any record, Your Honor.

9 THE COURT: Victim or victims notified?

10 MR. GRAUSTEIN: Yes. And the victim is present but he
11 doesn't wish to address the Court.

12 THE COURT: Any restitution or did insurance cover it?

13 MR. GRAUSTEIN: I believe insurance in a civil suit is
14 pending regarding this incident.

15 THE COURT: Michael Mateo. Any recommendations or
16 negotiations?

17 MR. GRAUSTEIN: Yes, Your Honor. The State is
18 recommending time-served sentence on Mr. Mateo.

19 THE COURT: How long has he served?

20 MR. GALMORE: 235 days, ma'am.

21 THE COURT: Victim notified?

22 MR. GRAUSTEIN: Yes, and he is present, Your Honor, and
23 does wish to address the Court at the appropriate time.

24 THE COURT: Any restitution?

25 MR. GRAUSTEIN: No, Your Honor.

State v. Tamney, Mateo and Sword
PLEA HEARING

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1 THE COURT: And you've explained to him that you all are
2 recommending a time served sentence?

3 MR. GRAUSTEIN: Yes.

4 THE COURT: And is he in agreement with that?

5 MR. GRAUSTEIN: Yes.

6 THE COURT: Okay. Vicki Sword. Any recommendations or
7 negotiations?

8 MS. ANDREW: Your Honor, there's not recommendation.
9 However, the State in exchange for this guilty plea has
10 allowed her to plead to strong-armed robbery rather than armed
11 robbery and we're also dismissing three other counts of armed
12 robbery and a possession of a weapon during a violent crime.

13 THE COURT: Victim or victims notified?

14 MS. ANDREW: Yes, Your Honor.

15 THE COURT: Are they present?

16 MS. ANDREW: No, Your Honor.

17 THE COURT: Any restitution?

18 MS. ANDREW: No, Your Honor.

19 THE COURT: If you could answer in unison, Mr. Joye and
20 Mr. Galmore, have you explained to your clients the charges
21 contained in the indictments, the possible punishment and
22 their constitutional rights?

23 MR. GALMORE: Yes, ma'am.

24 MR. JOYE: Yes, Your Honor.

25 THE COURT: Do you believe they understand the charge,

State v. Tamney, Mateo and Sword
PLEA HEARING

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1 the punishment and their rights?

2 MR. GALMORE: Yes, ma'am.

3 MR. JOYE: I do, Your Honor.

4 THE COURT: Do your clients wish to plead guilty or not
5 guilty?

6 MR. GALMORE: Guilty, Your Honor.

7 MR. JOYE: Guilty, Your Honor.

8 THE COURT: Do you agree with that decision?

9 MR. GALMORE: Yes, I do.

10 MR. JOYE: Yes.

11 THE COURT: To your knowledge, have your clients ever had
12 to be evaluated to determine their competency?

13 MR. GALMORE: Your Honor, Mr. Mateo was evaluated but the
14 evaluation came back that he was competent to stand trial.

15 THE COURT: And do you have any concerns about his
16 ability to communicate with you or assist in his
17 representation?

18 MR. GALMORE: No, ma'am.

19 MR. JOYE: Your Honor, no, not as to competency.
20 However, he has ongoing treatment for PTSD and I don't believe
21 there is a competency evaluation issue.

22 THE COURT: Okay. Do you have any concerns about his
23 ability to communicate with you or assist in his
24 representation?

25 MR. JOYE: I do not, Your Honor.

State v. Tamney, Mateo and Sword
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1 THE COURT: And Mr. Joye, have you explained to your
2 client his right to have his indictment presented to the Grand
3 Jury?

4 MR. JOYE: I have, Your Honor.

5 THE COURT: Does he wish to give up that right?

6 MR. JOYE: He wishes to waive, Your Honor.

7 THE COURT: Please raise your right hands to be sworn.
8 Do you all swear or affirm the testimony you give will be the
9 truth.

10 Mr. Tamney?

11 MR. TAMNEY: Yes, ma'am.

12 THE COURT: Mr. Mateo?

13 MR. MATEO: Yes, ma'am.

14 THE COURT: And Ms. Sword?

15 MS. SWORD: Yes, ma'am.

16 THE COURT: You can all put your right hands down.

17 THE COURT: I'm going to ask you all a series of
18 questions. I need you to answer those questions in the order
19 you're standing, which means we'll start with Mr. Tamney and
20 work our way to the end of the line with Ms. Sword. Am I
21 pronouncing your name correctly?

22 MS. SWORD: Yes, ma'am.

23 THE COURT: Please answer loudly and clearly. Please
24 don't speak over one another. The court reporter can only
25 take down one response at a time.

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1 State your full name for the record.
2 MR. TAMNEY: Jason Michael Tamney.
3 MR. MATEO: Say that again?
4 THE COURT: Your full name for the record.
5 MR. MATEO: Michael Lee Mateo.
6 MS. SWORD: Vicky Renee Sword.
7 THE COURT: How old are you?
8 MR. TAMNEY: Forty.
9 MR. MATEO: Twenty-five.
10 MS. SWORD: Forty-seven.
11 THE COURT: How far have you gone in school?
12 MR. TAMNEY: Currently a sophomore at college.
13 MR. MATEO: Twelfth grade.
14 THE COURT: Did you graduate?
15 MR. MATEO: Yes, ma'am.
16 MS. SWORD: Twelfth grade and I graduated.
17 THE COURT: What type of work do you generally do?
18 MR. TAMNEY: I'm a firefighter.
19 MR. MATEO: I'm an over-the-road truck driver.
20 MS. SWORD: Landscaping.
21 THE COURT: Are you married?
22 MR. TAMNEY: No.
23 THE COURT: Next in line.
24 MR. MATEO: No, ma'am.
25 MS. SWORD: No, ma'am.

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PLEA HEARING

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1 THE COURT: Do you have any children? If so, tell me how
2 many and their ages.

3 MR. TAMNEY: No, ma'am.

4 MR. MATEO: Yes, ma'am. One and she's seven years old.

5 MS. SWORD: Yes, ma'am. Two, twenty-five, twenty-one and
6 a beautiful brand new granddaughter.

7 THE COURT: Are you currently on probation or parole?

8 MR. TAMNEY: No, ma'am.

9 MR. MATEO: No, ma'am.

10 MS. SWORD: No, ma'am.

11 THE COURT: Have you ever been treated for the abuse of
12 alcohol, drugs or mental illness?

13 MR. TAMNEY: You ---

14 THE COURT: I asked the question because I need you to
15 tell me.

16 MR. TAMNEY: Yes, ma'am.

17 MR. MATEO: No, ma'am.

18 MS. SWORD: Yes, ma'am.

19 THE COURT: And what were you treated for, Ms. Sword?

20 MS. SWORD: Crack.

21 THE COURT: And how long ago was that?

22 MS. SWORD: Twelve years ago at Palmetto Center in
23 Florence.

24 THE COURT: Did you finish that program?

25 MR. SWORD: Yes, ma'am.

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1 THE COURT: Have you had any treatment since then?

2 MS. SWORD: No, ma'am.

3 THE COURT: Mr. Tamney, what were you treated for and
4 when?

5 MR. TAMNEY: PTSD, I did a thirty-day inpatient program
6 in August and got out in September and I'm still currently
7 doing a outpatient in Pawleys Island.

8 THE COURT: Have you had any drugs or alcohol or
9 medication in the last seventy-two hours?

10 MR. TAMNEY: No, ma'am.

11 THE COURT: And that includes medication. You don't take
12 medication for your PTSD?

13 MR. TAMNEY: No, ma'am, they didn't prescribe anything
14 yet.

15 THE COURT: Okay.

16 MR. MATEO: Yes, ma'am. I take Naproxen for high blood
17 pressure and headaches.

18 MS. SWORD: Yes, ma'am, prednisone for the fluid on my
19 knee.

20 THE COURT: Does that in any way affect your ability to
21 understand where you are or what you are doing?

22 MR. TAMNEY: No, ma'am.

23 THE COURT: Mr. Mateo?

24 MR. MATEO: No, ma'am.

25 THE COURT: And Ms. Sword?

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PLEA HEARING

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1 MS. SWORD: No, ma'am.

2 THE COURT: Mr. Tamney, has your lawyer explained to you
3 your right to have your indictment presented to the Grand
4 Jury?

5 MR. TAMNEY: Yes, ma'am.

6 THE COURT: Do you wish to give up that right?

7 MR. TAMNEY: Yes, ma'am.

8 THE COURT: On the charge of hit and run, how do you
9 plead?

10 MR. TAMNEY: Guilty, Your Honor.

11 THE COURT: Do you understand that that carries a maximum
12 of one year and/or a minimum fine of \$500 and a maximum fine
13 of \$5,000?

14 MR. TAMNEY: I do, Your Honor.

15 THE COURT: Mr. Mateo, on the charge of assault and
16 battery second how do you plead?

17 MR. MATEO: Guilty.

18 THE COURT: Do you understand that carries a maximum of
19 three years and/or a maximum fine of \$2,500?

20 MR. MATEO: Yes, ma'am.

21 THE COURT: Ms. Sword, on the charge of strong-armed
22 robbery, how do you plead?

23 MS. SWORD: Guilty.

24 THE COURT: Do you understand that carries a maximum of
25 fifteen years?

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PLEA HEARING

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1 MS. SWORD: Yes, ma'am.

2 THE COURT: Does Ms. Sword have any record?

3 MS. ANDREW: Yes, Your Honor. She has a 2003 conviction
4 for shoplifting; a 2004 conviction for burglary; and a 2013
5 conviction for receiving stolen goods.

6 THE COURT: What level of burglary? Second or third?

7 MS. ANDREWS: One second, Your Honor. I apologize.

8 Second degree, Your Honor.

9 THE COURT: I assume non-violent?

10 MS. ANDREWS: Non-violent, yes, Your Honor.

11 THE COURT: Does Mr. Mateo have any record?

12 MR. GRAUSTEIN: Yes, Your Honor, he has a 2011 assault
13 and battery third degree.

14 THE COURT: I want y'all to listen very carefully to the
15 facts starting with Mr. Tamney.

16 MR. GRAUSTEIN: Yes, Your Honor. On June 16th, 2015 in
17 the Surfside Beach section of Horry County, highway patrol
18 responded to a collision, report of a collision. Mr. Tamney
19 was driving a Jeep that stuck another vehicle then continued
20 down the road. He was being followed by some witnesses. He
21 got a little ways down the road and then turned off on the
22 little side road that was dead-ended. He was blocked in there
23 where the -- he was when officers arrived and took him into
24 custody at that point.

25 THE COURT: Sir -- I'm sorry. Was there something else

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1 you were about to say?

2 MR. GRAUSTEIN: Well, I just wanted the Court to be aware
3 that he also, from the same incident, got a DUI which will be
4 getting resolved Thursday.

5 THE COURT: In Magistrate's Court?

6 MR. GRAUSTEIN: Right, and he'll be going to Mental
7 Health Court.

8 MS. JOYE: All this is wrapped up in one disposition,
9 Your Honor.

10 THE COURT: So, is the DUI being nolle prossed or what are
11 you doing with it?

12 MR. JOYE: It's going into the Mental Health Court, also.

13 MR. GRAUSTEIN: He'll be pleading guilty and getting the
14 sentence rolled into this Mental Health Court.

15 THE COURT: You lost me. Who is he going to plead in
16 front of? In Magistrate's Court?

17 MR. GRAUSTEIN: It'll be in front of the Magistrate.

18 THE COURT: Yeah, that was my question.

19 MR. JOYE: Yes, Your Honor.

20 THE COURT: Sir, do you agree or disagree with the facts?

21 MR. TAMNEY: I agree, ma'am.

22 THE COURT: You feel anything needs to be changed or
23 added to the facts?

24 MR. TAMNEY: No, Your Honor.

25 THE COURT: Are you pleading guilty, sir, because you are

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1 guilty?

2 MR. TAMNEY: Yes, ma'am.

3 THE COURT: As regards to Mr. Mateo?

4 MR. GRAUSTEIN: Yes, Your Honor. This occurred also in
5 the Surfside Beach section of Horry County, October 31st,
6 2015. Your Honor, in this case, the Defendant and the victim
7 are brothers. The victim is a disabled veteran, I believe
8 from the Marine Corp.

9 MR. NICK MATEO: Army.

10 MR. GRAUSTEIN: Army. And he -- so, he had some physical
11 disabilities at the time of this incident. They were riding
12 in the car together along with the victim's fiancée. They got
13 into an argument and the Defendant struck the Defendant while
14 he was driving the vehicle and causing the Defendant to have
15 -- the victim to have to pull over to the side of the road.
16 The victim told the Defendant to get out of his car. At
17 first, he wouldn't. Then it kind of degenerated from there
18 and they go into a fight because on the road there, the
19 Defendant struck the victim several times causing injury to,
20 to his nose and had some injuries to his face. He didn't have
21 to -- he wasn't transported by EMS but his fiancée did take
22 him the hospital to get checked out following the incident.

23 THE COURT: Sir, do you agree or disagree with the facts?

24 MR. MATEO: Agree.

25 THE COURT: You feel anything needs to be changed or

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1 added to the facts?

2 MR. MATEO: No, ma'am.

3 THE COURT: Are you pleading guilty, sir, because you are
4 guilty?

5 MR. MATEO: Yes, ma'am.

6 THE COURT: As it regards Ms. Sword.

7 MS. ANDREW: Your Honor, on July 24th, 2015, the
8 Defendant went into Bellacino's in Conway and approached the
9 counter to ask the price of a slice of pizza. Once the victim
10 gave her the price, she presented a handgun and told the
11 victim to give her all the money out of the cash register.
12 The victim did that. The Defendant took that money, it was
13 about \$500, and fled.

14 THE COURT: Ma'am, do you agree or disagree with the
15 facts?

16 MS. SWORD: Agree.

17 THE COURT: Do you feel anything needs to be changed or
18 added to the facts?

19 MS. SWORD: (No response.)

20 THE COURT: Only you can answer that question, ma'am. I
21 have to -- you have to allocute or admit to the elements of
22 this offense, which means either what he said -- what she said
23 happened that day or it didn't and you're the only person that
24 can answer that question. So, I need to know if you agree or
25 disagree with the facts.

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1 MS. SWORD: I agree.

2 THE COURT: Feel anything needs to be changed or added to
3 the facts?

4 MS. SWORD: No.

5 THE COURT: Are you pleading guilty because you're
6 guilty?

7 MS. SWORD: I'm guilty. Yes, ma'am.

8 THE COURT: I want y'all to listen carefully. When you
9 plead guilty, you give up your constitutional rights. Those
10 include your right to a jury trial. At a jury trial, you're
11 entitled to a presumption that you're innocent. The State has
12 the burden of proving your guilt beyond a reasonable doubt.
13 You would have the right to confront and cross examine the
14 State's witnesses. Call your own witnesses, present any
15 defenses that you may have, challenge any statements you may
16 have made as well as remain silent and your silence could not
17 be used against you.

18 Do you understand your rights as I have just explained
19 them to you?

20 MR. TAMNEY: Yes, ma'am.

21 MR. MATEO: Yes, ma'am.

22 MS. SWORD: Yes, ma'am.

23 THE COURT: Do you understand that you're giving up those
24 rights?

25 MR. TAMNEY: Yes, ma'am.

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1 MR. MATEO: Yes, ma'am.

2 MS. SWORD: Yes, ma'am.

3 THE COURT: Other than what has been stated for the
4 record, have there been any other plea negotiations made on
5 your behalf?

6 MR. TAMNEY: No, ma'am.

7 MR. MATEO: No, ma'am.

8 MS. SWORD: No, ma'am.

9 THE COURT: Have you been satisfied with your lawyer's
10 services?

11 MR. TAMNEY: Yes, ma'am.

12 MR. MATEO: Yes, ma'am.

13 MS. SWORD: Yes, ma'am.

14 THE COURT: Have they answered all of your questions?

15 MR. TAMNEY: Yes, ma'am.

16 MR. MATEO: Yes, ma'am.

17 MS. SWORD: Yes, ma'am.

18 THE COURT: Done everything you've asked or expected in
19 representing you?

20 MR. TAMNEY: Yes, ma'am.

21 MR. MATEO: Yes, ma'am.

22 MS. SWORD: Yes, ma'am.

23 THE COURT: Any complaints about their services?

24 MR. TAMNEY: No, ma'am.

25 MR. MATEO: No, ma'am.

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1 MS. SWORD: No, ma'am.

2 THE COURT: Has anyone promised you anything or held out
3 any hope of a reward to cause you to plead guilty?

4 MR. TAMNEY: No, ma'am.

5 MR. MATEO: No, ma'am.

6 MS. SWORD: No, ma'am.

7 THE COURT: Has anyone used threats, coercion, force,
8 pressure, intimidation or duress to cause you to plead guilty?

9 MR. TAMNEY: No, ma'am.

10 MR. MATEO: No, ma'am.

11 MS. SWORD: No, ma'am.

12 THE COURT: Are you pleading guilty freely and
13 voluntarily and of your own will?

14 MR. TAMNEY: Yes, ma'am.

15 MR. MATEO: Yes, ma'am.

16 MS. SWORD: Yes, ma'am.

17 THE COURT: Have you understood my questions?

18 MR. TAMNEY: Yes, ma'am.

19 MR. MATEO: Yes, ma'am.

20 MS. SWORD: Yes, ma'am.

21 THE COURT: Do you need to ask me about anything we've
22 been over?

23 MR. TAMNEY: No, Your Honor.

24 MR. MATEO: No, ma'am.

25 MS. SWORD: No, ma'am.

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1 THE COURT: Have you been truthful in your answers?

2 MR. TAMNEY: Yes, ma'am.

3 MR. MATEO: Yes, ma'am.

4 MS. SWORD: Yes, ma'am.

5 THE COURT: Do you understand that you have the right to
6 appeal this guilty plea and sentence of the Court but that you
7 must do so in writing within ten days of today?

8 MR. TAMNEY: Yes, ma'am.

9 MR. MATEO: Yes, ma'am.

10 MS. SWORD: Yes, ma'am.

11 THE COURT: Do you understand that if you could not
12 afford an attorney for that process that one will be appointed
13 to you at no cost?

14 MR. TAMNEY: Yes, ma'am.

15 MR. MATEO: Yes, ma'am.

16 MS. SWORD: Yes, ma'am.

17 THE COURT: I find there is a substantial factual basis
18 for each plea, that the Defendants have entered the pleas
19 freely, voluntarily, knowingly and intelligently, that they
20 have had the advice and assistance of counsel with whom
21 they've each indicated to the Court they are satisfied and I
22 will accept each plea.

23 Anything further from the State regarding Mr. Tamney?

24 MR. GRAUSTEIN: Yes, ma'am. He has executed the
25 agreement to enter Mental Health Court. He will need to

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20

1 report tomorrow afternoon at 3 o'clock downstairs, Courtroom
2 2A.

3 THE COURT: And you indicated the victim wanted to be
4 heard for the record?

5 MR. GRAUSTEIN: On Mateo, Your Honor.

6 THE COURT: Okay.

7 MR. GRAUSTEIN: The victim is present on Mr. Tamney but
8 he didn't wish to.

9 THE COURT: Anything further from the Defense?

10 MR. JOYE: No, Your Honor.

11 THE COURT: Sir, your sentencing is deferred upon
12 successful completion of Mental Health Court.

13 Anything further from the State regarding Mr. Mateo?

14 MR. GRAUSTEIN: No, nothing further from the State.

15 THE COURT: I thought you said his brother wanted to be
16 heard.

17 MR. GRAUSTEIN: Well, yes, he does, Your Honor.

18 THE COURT: Sir, I'll be glad to hear from you.

19 MR. NICK MATEO: Good afternoon, Your Honor.

20 THE COURT: Good afternoon, sir.

21 THE COURT: What kind of dog is that?

22 MR. NICK MATEO: It's a Carolina Hound.

23 THE COURT: He's very well behaved.

24 MR. NICK MATEO: It's a mix of German Shepherd and
25 Pitbull.

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21

1 THE COURT: Yes, sir.

2 MR. NICK MATEO: I just wrote some words if we had time
3 for it.

4 THE COURT: Yes, sir.

5 MR. NICK MATEO: I come to you this afternoon I wanted to
6 bring to light into the situation with my brother, Michael
7 Mateo, outside of what you may or may not know already in
8 regards to his charge. I would like to address who I am. My
9 name is Sergeant Retired Nicholas Mateo. I served in the U.S.
10 Army for ten years, completed two tours of combat during the
11 Iraq War and I was retired from active duty on June 23rd, 2014
12 due to an injury and illness I sustained during my time in
13 combat. I suffer from a neuromuscular and spinal injury that
14 affects the nerves in my neck all the way down to my feet. I
15 also deal with a lung and heart disease I developed from
16 exposure to burn pits and chemical weapons near my fort
17 operating base in Diyala Province, Iraq. I spent about twelve
18 months at the WTB on Fort Bragg, which is Walter Reed, and I
19 was then retired. Since then, I've participated in adaptive
20 sports and serve as a peer mentor for other wounded veterans
21 with the Wounded Warrior Project.

22 The night of the incident, my brother was told he was not
23 allowed to stay at my mother's home or at any other family
24 members' homes due to his violence and his schizophrenic
25 tendencies. I showed him some compassion and picked him up

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1 from the hotel he was staying at on Halloween with my fiancée
2 so he could hang out with us. We hung out for some time and
3 while we were out, I was in my wheelchair because I was in too
4 much pain and weakness to walk or stand. After hanging out,
5 we started to drive back to his hotel. Within a few minutes
6 that we were in the car, he became argumentative and from
7 there he attacked me in my car while I was -- where I nearly
8 lost control of the vehicle. His second wave of attacks
9 against me in the ditch were due to me pulling my weapon out
10 of my car and holding it in the air demanding that he gets out
11 of the car and leaves my fiancée and I alone. When I gave the
12 weapon to my fiancée, he looked at her and said, do you have
13 the gun. She replied with yes. Once he knew that I was
14 disarmed, he punched me in the face and said, I will teach you
15 to ever pull a gun on me. As I turned to run away, I tripped
16 into a ditch and he proceeded to kick me in the head multiple
17 times. When the incident was over, he calmly walked away and
18 attempted to take refuge in a bar that refused him. After
19 paramedics came, they recommended that I be seen in a medical
20 center. My fiancée ended up driving me to the hospital where
21 I was treated for my injuries. But even after those healed, I
22 continue to suffer from migraines on top of my normal pain
23 that wages for three to four weeks. Despite the no-contact
24 order from Victim Services, I received a letter from him while
25 in jail demanding that I drop the charges due to some dreamed

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1 up disease that he was suffering from, that he did not use
2 steel-toed boots, nor that he kicked me as many times as he
3 did. Up to the week before his hearing on Friday, June 23rd,
4 2016, he told my mother that he was not guilty of anything and
5 that he didn't have steel-toed boots. In closing, I want to
6 address this, I am a hundred percent disabled, I am a combat
7 veteran who suffers from physical ailments as well as PTSD and
8 depression. I tried to help my brother even against my better
9 judgments. He attacked me while in my car, threw me in a
10 ditch and attacked me while placing my fiancée and my service
11 dog in danger as well. Since the incident, my service dog has
12 been terrified to be in the backseat of the car. My anxiety
13 and hypervigilance is ever higher than before. I do not find
14 my brother to be sympathetic or sorry for his actions. I
15 understand his two other charges for violence were handled by
16 the Magistrate but that doesn't take away from the fact that
17 he did commit these violent crimes against two women. He is
18 malicious, violent, manipulative, and could care less about
19 the needs or wellbeing of those around him. He is severely
20 mentally ill with his schizophrenic ideology and his
21 egotistical persona. He has yet to be held accountable for
22 his actions.

23 I understand it is up to you if you decide to accept his
24 guilty plea and that he could be let out today or tomorrow
25 with time served. All I ask is that you consider everything I

State v. Tamney, Mateo and Sword
PLEA HEARING

24

1 have mentioned this afternoon in your decision before making
2 it.

3 THE COURT: Sir, I need you to -- the State has
4 recommended a time-served sentence. I'm not bound by that.
5 Usually, when the State makes a recommendation of that type, I
6 assume the victim is in agreement with it. Are you telling me
7 you're not in agreement with that?

8 MR. NICK MATEO: I'm not; no, ma'am.

9 THE COURT: And what are you asking of the Court?

10 MR. NICK MATEO: That he is -- that he completes whatever
11 the sentence is for his charge.

12 THE COURT: Has he already maxed out three years by doing
13 235 days?

14 MR. GRAUSTEIN: No, ma'am.

15 MR. GALMORE: No, ma'am.

16 THE COURT: Sir, I thank you very much.

17 MR. NICK MATEO: Thank you, ma'am.

18 THE COURT: Anything further from the State?

19 MR. GRAUSTEIN: No, Your Honor.

20 THE COURT: Is there a reason you're making a
21 recommendation of time served, because this is really more
22 than assault and battery second based on what his brother just
23 said. Isn't it? What did assault and battery second take the
24 place of?

25 MR. GRAUSTEIN: Still assault and battery ---

State v. Tamney, Mateo and Sword
PLEA HEARING

25

1 MR. GALMORE: It's a zero-to-three misdemeanor. I don't
2 think that it was ---

3 MR. GRAUSTEIN: No, it wasn't. Simple assault and ---

4 THE COURT: ABHAN/ABWIK, uh-huh (affirmative response).

5 MR. GRAUSTEIN: It's filled the gap between simple
6 assault and ---

7 THE COURT: In light of the victim's comments to the
8 Court, is there a rationale for recommending a time-served
9 sentence?

10 MR. GRAUSTEIN: I -- well, in light of what I heard today
11 ---

12 THE COURT: Had you not heard that before?

13 MR. GRAUSTEIN: No. When we were coming into -- when we
14 set this plea up, the victim told me he was in agreement with
15 a time-served sentence.

16 THE COURT: Okay. As -- is the State modifying -- well,
17 I guess you can't really modify your recommendation if that's
18 the agreement you reached with -- or you made some assurance
19 to the Defendant that that would be your recommendation.

20 Is there anything further from the State?

21 MR. GRAUSTEIN: No, Your Honor.

22 THE COURT: Be glad to hear from the Defense.

23 MR. GALMORE: Yes, Your Honor. Very briefly, I would
24 point out that Mr. Mateo cooperated with the State with the
25 competency evaluation because some of the concerns had been

State v. Tamney, Mateo and Sword
PLEA HEARING

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1 brought to light.

2 THE COURT: What did the competency evaluation say?
3 What's his diagnosis?

4 MR. GALMORE: He was found competent to stand trial, Your
5 Honor.

6 THE COURT: But did he have a diagnosis?

7 MR. GALMORE: They diagnosed him with obsessive
8 compulsive disorder, obsessive compulsive personality disorder
9 and somatic symptom disorder. And they say that those
10 diagnoses are no currently impacting his factual and rational
11 understanding of the proceedings against him. So, I just
12 wanted to point out that he has served at the detention center
13 for 235 days. He cooperated in this process. We were trying
14 to see if we could provide any type of services for Mr. Mateo.
15 We believe the best thing that we can do for him is to give
16 him this time-served sentence, let him get out. He does work
17 as a commercial truck driver. He lost his CDL license about
18 two months ago while he was incarcerated.

19 THE COURT: Why would he lose his CDL while he was in
20 jail?

21 MR. GALMORE: It expired in March of this year, ma'am.

22 THE COURT: Okay. But it wasn't ---

23 MR. GALMORE: It wasn't revoked or anything. It's his
24 hope and intention that he could be allowed to be released
25 from jail today and get his license back and he can continue

State v. Tamney, Mateo and Sword
PLEA HEARING

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1 his work as a commercial truck driver.

2 THE COURT: Okay. Based on what has been presented to
3 the Court, sir, you are sentenced to the State Department of
4 Corrections for a period of three years. You'll get credit
5 for any time that you've served to be calculated and applied
6 by the Department of Corrections. I'll order the ATU if it's
7 available to you.

8 MR. GALMORE: Thank you.

9 THE COURT: You're welcome.

10 Anything further regarding Ms. Sword from the State?

11 MS. ANDREW: No, Your Honor.

12 THE COURT: Anything further from the -- does the State
13 take any position on the sentence other than the reduction and
14 the charges that were nolle prosequed?

15 MS. ANDREW: No, Your Honor.

16 THE COURT: Okay. Be glad to hear from the State -- I
17 mean, the Defense regarding Ms. Sword?

18 MS. ANDREW: Nothing from the State.

19 THE COURT: I said anything further from the Defense.
20 I'm sorry.

21 MR. GALMORE: Oh, yes, ma'am; thank you.

22 THE COURT: Uh-huh, your welcome.

23 MR. GALMORE: Ms. Sword has been dealing with a drug
24 addiction for many years. Like she told the Court, she went
25 to the Palmetto Center back in 2004. This is an unfortunate

State v. Tamney, Mateo and Sword
PLEA HEARING

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1 situation where she fell away from the teachings and practices
2 that she had been employing. Your Honor, this happened when
3 she was high on drugs. She was not thinking clearly. This is
4 a true strong-armed robbery in the sense that Ms. Sword was
5 not armed with a gun. I know that that's in the police report
6 but she just wanted to make clear to the Court that she used a
7 pair of glasses. She just had them in her pocket and
8 displayed it as though it were some type of weapon. Your
9 Honor, her family has been in contact with me on several
10 occasions. I talked with Ms. Sword's mother in Las Vegas,
11 I've talked with her daughter also. They were trying to ---

12 THE COURT: They're all in Las Vegas?

13 MR. GALMORE: I'm sorry?

14 THE COURT: They're all in Las Vegas?

15 MR. GALMORE: Her mother is in Las Vegas. I don't know
16 where -- where is your daughter?

17 MS. SWORD: My daughter is here in Myrtle Beach.

18 MR. GALMORE: Okay. Yeah, they were trying to bond her
19 out to see if they could get her into a rehab program but
20 unfortunately they didn't -- just didn't have the money to do
21 it. Her daughter just recently had a child of her own and I
22 think Ms. Sword mentioned to you that she has a new grandbaby,
23 and for that reason the family wasn't able to come up with the
24 bond money.

25 Your Honor, we just ask for what leniency you could give

State v. Tamney, Mateo and Sword
PLEA HEARING

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1 Ms. Sword. Hopefully, you will give her a split sentence that
2 gives her an opportunity to get out and try to get some
3 rehabilitation services to follow what her period of
4 incarceration would be.

5 THE COURT: When you say split sentence, what do you --
6 what exactly are you looking -- are you advocating for your
7 client.

8 MR. GALMORE: Well, we were hoping for a brief period of
9 incarceration followed by a period of probation ---

10 THE COURT: When you say brief, what do you mean?

11 MR. GALMORE: Well, she had served 118 days so far,
12 ma'am. I -- it's probably best to leave it in the Court's
13 discretion.

14 THE COURT: Well, you know it says you have not cause you
15 ask not. I need y'all to quantify. I think when people say
16 reasonable, reasonable means a lot of different things to lots
17 of different people. I need a number so I can see if the
18 State objects. So, we can see if we all on the same page.

19 MR. GALMORE: Yes, ma'am. Would you be willing to
20 consider perhaps a three-year sentence suspended to a period
21 of probation?

22 THE COURT: Oh, you mean without her doing any active
23 time?

24 MR. GALMORE: You told me to ask.

25 THE COURT: Well, that's -- no, before you said a split

State v. Tamney, Mateo and Sword
PLEA HEARING

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1 sentence, so I may've misunderstood you.

2 MR. GALMORE: You did not.

3 THE COURT: Oh, so you just switched gears on me?

4 MR. GALMORE: Yes, ma'am.

5 THE COURT: What's the State's position on that?

6 MS. ANDREW: The State does object to that. We would
7 like to see the Defendant serve active time.

8 THE COURT: I need you to quantify that for me. What
9 sort of active sentence are y'all looking for?

10 MS. ANDREW: She had four charges.

11 THE COURT: Is the victim adamant? They're not present,
12 correct?

13 MS. ANDREW: They're not present, Your Honor.

14 May it please the Court, Your Honor?

15 THE COURT: Yes, ma'am.

16 MS. ANDREW: The State's recommendation is five years.

17 THE COURT: Okay. Can y'all live with that, Mr. Galmore?

18 MR. GALMORE: Yes, Your Honor.

19 THE COURT: Do y'all want to do straight time or a split
20 sentence?

21 MR. GALMORE: I think she would just prefer to finish her
22 time and get it over with.

23 THE COURT: Okay. I assume the State has no exception to
24 that?

25 MS. ANDREW: No, Your Honor.

State v. Tamney, Mateo and Sword
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1 THE COURT: Ma'am, you're sentenced to the State
2 Department of Corrections for a period of five years. You
3 will get credit for any of the time that you've served to be
4 calculated by the Department of Corrections and I've ordered
5 the ATU if it's available to you.

6 MR. GALMORE: Thank you, ma'am.

7 MS. ANDREW: Thank you, Your Honor.

8 THE COURT: You're welcome.

9 (ADJOURNED - 3:49 P.M.)
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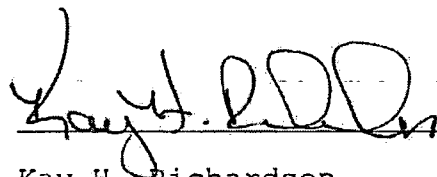
State v. Tamney, Mateo and Sword
CERTIFICATE OF COURT REPORTER

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25C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the cases of State versus Tamney, State versus Mateo and State versus Sword held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on June 28, 2016.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

January 9, 2017.

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry) 2016-GS-26-01622

STATE OF SOUTH CAROLINA,)

Plaintiff,)

Transcript of Record

Motion to Reconsider

vs.)

June 30, 2016

MICHAEL LEE MATEO,)

Defendant.)

B E F O R E:

Honorable Deadre L. Jefferson
Horry County Courthouse
Conway, South Carolina

A P P E A R A N C E S:

Scott A. Graustein, Esquire
Attorney for Plaintiff

James C. Galmore, III, Esquire
Attorney for Defendant

Kay H. Richardson
Circuit Court Reporter

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JUNE 30, 2016

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Motion to Reconsider Sentence	3
Certificate of Court Reporter	15

E X H I B I T S

No.

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(No Exhibits were marked or admitted.)

State v. Mateo - 2016-GS-26-01622
MOTION TO RECONSIDER

3

1 (JUNE 30, 2016 - 9:53 A.M.)

2 THE COURT: This is Michael Mateo, where is the -- what
3 is the indictment number on Mr. Mateo?

4 MR. GRAUSTEIN: 2016-GS-26-1622.

5 THE COURT: All right. Mr. Galmore, it's your motion.
6 You may proceed.

7 MR. GALMORE: Yes, ma'am. Your Honor, we respectfully
8 ask the Court to reconsider the sentence in this case. Mr.
9 Mateo pled on Tuesday and he was sentenced to three years'
10 incarceration. The reason why we're making this request is
11 because I think that the victim in the case misunderstood what
12 we were doing in court on Tuesday.

13 THE COURT: Well, he's not here to speak for himself, so
14 I don't know what he -- it does not appear to me he
15 misapprehended the nature of the proceeding.

16 MR. GALMORE: Well, Your Honor, I understand that. The
17 Solicitor has spoken with the victim and he can address that a
18 little more than I can.

19 THE COURT: Well, the Court is not bound by a
20 recommendation.

21 MR. GALMORE: I understand that, Your Honor.

22 THE COURT: Uh-huh (affirmative response).

23 MR. GALMORE: I think what the family wanted to do was to
24 try to get Mr. Mateo some services through the Probate Court.
25 We did have Mr. Mateo ---

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MOTION TO RECONSIDER

4

1 THE COURT: What kind of services?

2 MR. GALMORE: --- examined for competency. It's my
3 understanding that he does have a Probate Court proceeding at
4 this time. He's awaiting bed space.

5 THE COURT: What kind of services?

6 MR. GALMORE: Your Honor, we have concerns that there are
7 some possible anger management issues.

8 THE COURT: Why can't the Department of Corrections
9 addressed that. They have competent staff.

10 MR. GALMORE: Well, the concern is that he's in line for
11 a bed through the Probate Court system. And, if he goes to
12 the Department of Corrections, then he's kicked out of the
13 process through Probate.

14 THE COURT: Bed space where?

15 MR. GALMORE: They are seeking bed space for him.

16 THE COURT: Where?

17 MR. GRAUSTEIN: Your Honor, if I -- I can address that.

18 THE COURT: Uh-huh (affirmative response).

19 MR. GRAUSTEIN: He has bed -- he is awaiting a bed.
20 There is a Probate Court order in place. He has been
21 involuntarily committal ---

22 THE COURT: Committed. And when was that?

23 MR. GRAUSTEIN: His family initiated proceedings in
24 Probate Court seeking mental health services for the
25 Defendant. He has been placed, ordered to be placed on the

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MOTION TO RECONSIDER

5

1 list to receive those services at Just Care. A bed is not
2 available. He is on the list awaiting a bed. That order is
3 in place until November of this year.

4 THE COURT: I guess my -- I'm still at a loss as to what
5 services Just Care is gonna give him that the Department of
6 Corrections can't.

7 MR. MATEO: Can I speak, cause I know.

8 THE COURT: Sure.

9 MR. MATEO: Well, I was talking to my mother and she was
10 saying that I was to come home. I was supposed to do three
11 months living at my mother and father's house. I have to get
12 a job. I have to reinstate my Class A license, that's how I
13 make my living. I'm a Class A, over-the-road truck driver.
14 I'm nationally recognized for training. I actually train
15 people how to drive over-the-road. I've been -- I do
16 oversized and hazardous materials up in the Northeast United
17 States. But I was supposed to be three months living at home
18 with my mother and father and then get a day job and then
19 reinstate my license and then go to anger management classes
20 and work out with my dad in the evenings whenever my mom got
21 off work and then take -- get seen by the same psychiatrist
22 that I was seeing when I was in middle school, named Dr. Aktug
23 down in Murrells Inlet. And my brother told my mom that he
24 was okay with that. I don't know, I guess -- I'm highly sorry
25 for the crime. I really wasn't trying to hurt nobody. I kind

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MOTION TO RECONSIDER

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1 of panicked. My brother pulled a gun on me, I really didn't
2 know what to do. Like I said, I'm a former Marine Corp. I'm
3 not a veteran, I was never deployed. So, I understand what
4 kind of mindset my brother was in whenever I conked him in the
5 back of the head. So, I know he was spooked. But like I
6 said, he's my brother and I highly sorry and if -- I mean, if
7 this will damage like any relationship that I used to have
8 with my family, I'm sorry, and I'll do everything I can to fix
9 it. But, like I said, I've got a eight-year-old daughter at
10 home and I'm trying to get back to see my kid. The way that
11 my -- her mom pays her bills is through my paycheck and she's
12 really struggling right now. So, Judge, if you could have
13 some mercy on me so I can get back to my job and get back to
14 Nashville, Tennessee so I can get back to work so I can teach
15 some students how to drive and get my head straight and get
16 out of y'all's hair, I'd really appreciate that.

17 THE COURT: Was the victim notified of this hearing?

18 MR. GRAUSTEIN: Absolutely, Your Honor. I spoke with him
19 at length yesterday.

20 THE COURT: All right. Be glad to hear from the State.

21 MR. GRAUSTEIN: Your Honor, the -- there is a involuntary
22 committal order in place through the Probate Court so that,
23 when a bed becomes available, the Defendant is supposed to go
24 into that involuntary treatment, inpatient treatment at Just
25 Care. And I know the victim is not present but I did speak

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MOTION TO RECONSIDER

7

1 with him yesterday and the victim's advocate spoke them him
2 immediately after the hearing on Tuesday and so I discussed
3 some of this with the victim yesterday. And my concern is is
4 that he, he was under the belief that, and this is what he
5 told me, that if the Defendant went to the Department of
6 Corrections it would speed up the process for him getting a
7 bed with his getting his bed -- his brother getting his bed,
8 which is not the case. But I just want the Court to be made
9 aware of that. I -- he told me that he would not be present,
10 that he just wanted to be notified of whatever the Court
11 determined from this hearing. But I just want -- in fairness
12 to everybody, I want the Court to be aware that ---

13 THE COURT: What was the State's original recommendation?

14 MR. GRAUSTEIN: The original recommendation was time
15 served but having thought about this and speaking with the
16 victim yesterday, today the State would ask to accomplish what
17 I think the victim was hoping to accomplish is that the
18 Defendant would be placed on a period of probation with the
19 special condition that he -- that he take that bed at Just
20 Cause [sic] when it becomes available.

21 THE COURT: I'm still not clear what Just Cause [sic] is
22 gonna give him that the Department of Corrections isn't,
23 because that's an un -- that's an insecure confinement. Just
24 Care is not secure.

25 MR. GRAUSTEIN: I understand that, Your Honor.

1 THE COURT: And basically, the purpose of Just Care is to
2 determine what your diagnosis is. He already knows what his
3 diagnosis is. I'm certain he probably knows what medication
4 he needed to be on and he wasn't taking it.

5 MR. MATEO: Ma'am, can I speak.

6 THE COURT: Sure.

7 MR. MATEO: I was seen by the psychiatrist at J. Reuben
8 Long and they never prescribed me any medication.

9 THE COURT: I'm not talking about at J. Reuben Long. I
10 think you knew long before now what your circumstances where.

11 MR. MATEO: Oh, when I was a little boy, after my father
12 passed away and I was placed on an antidepressant but I was
13 never placed on anything to control my anger. I played sports
14 and worked out by myself. Nick and I kind of had a weird
15 relationship growing up. Like, when my dad passed away, I got
16 -- I got five brothers and a single mom, like I kind of leaned
17 towards Nick to kind of like be my guiding way through life
18 and he kind of dipped out when I was in high school. So, me
19 and him, I'm not really blaming him but we had a rough
20 relationship, like. We tried to patch things up and me being
21 away from home, because I'll go out on the road for like a
22 month sometimes, two months at a time if I have a student.
23 And I'm not there to be with my brothers, my little girl, but
24 I mean I'm trying to make money and save as much money as
25 possible. The original plan was to come home, stay with my

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MOTION TO RECONSIDER

9

1 mother and father so that I'm around a positive atmosphere and
2 Nick is not to come over there until we can, you know, somehow
3 have like -- maybe have like scheduled visitation or something
4 through a counselor or something like that and then I was
5 supposed to get a bed and I was supposed to do Probate for
6 like one year and then seek mental health like twice a week or
7 something like that. I have the original paperwork right here
8 in my folder. Also -- can I speak again?

9 THE COURT: Yes, sir.

10 MR. MATEO: Also, I'd like to say Nick -- Nick's not --
11 he's mentally stable, but I mean he's kinda like -- he needs a
12 lot of support. He's been overseas quite a few -- he's been
13 overseas three times. I know he's a veteran. I don't know
14 what kind of action he's seen but I mean I've been around guys
15 like that all my life. My dad was a former Navy Seal. My
16 stepdad is a Army veteran, he was in Cambodia and Vietnam
17 veteran. So, I know those guys are like -- Nick needs a lot
18 of attention and a lot of support. He's on Prozac and a lot
19 of antidepressants. He suffers from like schizophrenic
20 tendencies but he takes medication for it. He's got the
21 disorder -- disorder in his legs so he's got a lot of stress
22 on him. And I don't know if he come here looking for
23 attention or not but, I mean, like I said, I'm highly sorry
24 for what I did. I'm really not trying to cause no problems.
25 I'm really trying to stay out of prison. I don't want any

1 more bad marks on my record. I'm just seriously like I'm
2 trying to take care of my Class A license. It took me over a
3 year and a half of walking to and from work putting cans on a
4 shelf to save up the money to get my Class A license and it
5 took from -- when I got hired at a grocery store within five
6 or six weeks they promoted me to full time and I had a crew of
7 my own. So, I definitely have leadership capability. When I
8 walked on the yard on Nashville, Tennessee, I was handpicked
9 by the safety committee to train safety students. I was
10 placed number three out of three thousand drivers for on-time
11 delivery. So, my work ethic and ambition is on point. Like I
12 said, I was just at the wrong time and at the wrong place.
13 Plus, Nick was under the influence of alcohol and he had taken
14 his antipsychotics, so I think that the night that we got into
15 the fight, the alcohol and the antipsychotics kind of got --
16 kind of ---

17 THE COURT: So, it was his fault that you basically
18 smacked him?

19 MR. MATEO: No, no, absolutely not, but I'm saying it
20 might've altered his mindset. I've never seen Nick angry like
21 that before. Like I said, when the fight happened, we were
22 arguing about a mountain height. He's a former topographic
23 engineer. He, he creates maps, he created maps for the United
24 States Army. I'm a truck driver so I know my interstates and
25 U.S. Highways and whatnot and elevation for sure. We got into

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MOTION TO RECONSIDER

11

1 an argument about Mount Eisenhower on Interstate 70, which is
2 between Gypsum, Colorado and Denver, and that he was wrong by
3 a thousand feet. So, he asked me to pull it up on the phone
4 and he got mad and then him and the -- what made it worse, his
5 fiancée started, no, Mike's wrong, Mike's wrong, Mike's wrong,
6 I said, well, I'm looking at it right here and then I got a
7 little bit angry. Nick looked back and gave me a dirty look
8 and he said something, he -- I think he called me Jesse or
9 something like that and that really ticked me off. Jesse is
10 my biological father who had committed suicide when he was in
11 prison and I hit him in the back of the head. Yes, I did hit
12 him first. He slammed on brakes and hit the curb. He gets
13 out of the car, draws his weapon on me and points it at me
14 center mass. I remained seated. I refused to approach or
15 move toward anybody with a weapon, I've been trained to like,
16 you know, deal with it, but that's my brother so, I was kinda
17 of trying to let him cool down. He pulled the gun away, he
18 gave it to Amanda. He grabs a knife out of the side panel and
19 then points it at me. I was like, Nick, calm down, relax,
20 dude, you know, you've been drinking, you've been taking your
21 medication. Will you please just calm down. I'll get out.
22 Just sit down and put the knife away and I'll walk. So, he
23 put -- I motioned to take my seatbelt off after he motions
24 towards me, I was like, all right, I'm getting out. I took my
25 seatbelt off. I step out of the car and then he puts the

MOTION TO RECONSIDER

1 knife away. I didn't know if he was reaching for the gun or
2 not so I grabbed him. I hit him three times. He falls down
3 and then I step on his face one time and then after I saw
4 after a few seconds that he wasn't moving, I completely
5 removed myself from the situation. I walked into the bar. I
6 washed my hands. I walked out. Nick was still laying on the
7 ground. I wasn't trying to flee the scene but I wasn't trying
8 to be around Nick. I walked -- headed south on 17 Business
9 between 10th Avenue South and Beer 30 headed towards the hotel
10 I was staying at and I got arrested at the point of entry on
11 the service road over there by Hamburger Joe's. I did not
12 kick him in the head nine times with a steel-toed boot, that's
13 what the warrant says. I'm not guilty of that but, like I
14 said, I did hit Nick first but he did pull out two weapons
15 that could've caused me catastrophic damage. He refused
16 medical care whenever the first responders got there. He
17 didn't suffer from any -- he didn't get stitches, he didn't
18 need staples. He got a minor concussion and, if you look at
19 the evidence, it says I kicked him in the head nine times with
20 a steel-toed boat or a pair a boots. If you look -- I know
21 you've gone through a lot of cases before, if you look at
22 evidence from what I did to him, after I punched him three
23 times in the back of the head and stomped -- I stepped on his
24 head one time with my boot, that all he suffered from was a
25 little bit of damage to the back of his head, no blood, no

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MOTION TO RECONSIDER

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1 bruising, a minor concussion because his brain rattled a
2 little bit, minor bruising on his ear and a bloody nose from
3 where the heel of my boot connected to his face. If was I
4 wearing a steel-toed boot and I would've kicked him in the
5 face like he said I did, he probably would've had most of his
6 teeth missing, his jaw would've been broken and his forehead
7 would've been pushed in. And I'm sure there are plenty of
8 people in this courtroom that would vouch for me. Like I
9 said, I'm not trying to cause any problems. I'm not trying to
10 like make your job any harder. I'm just trying to make sure
11 that you understand what really happened that night and that I
12 have a level head and that I really need to get back to my
13 kid. She's about to turn eight years old. I've been away
14 from her for almost a year and I'm really sorry for having to
15 do this to my brother but -- or doing that my brother but like
16 I said I am guilty of the crime but I really am trying to get
17 home. I'm not like -- like from being in jail, my hair is
18 graying, I'm losing hair over here. I'm completely stressed
19 out. They've had me in solitary confinement for eight months
20 for whatever reason, I couldn't tell you. I don't have any
21 write-ups or anything or any holds on me but, like I said, I'm
22 really just trying to make it home. So, if you will be kind
23 to offer me probation for whatever time you're willing to
24 offer me so I can get back on the road and get my child
25 support squared away, I'd really appreciate that.

State v. Mateo - 2016-GS-26-01622
MOTION TO RECONSIDER

14

1 THE COURT: Anything further, Mr. Galmore?

2 MR. GALMORE: Just briefly, Your Honor. It's important
3 that there are some mental health issues and I think Just Care
4 is probably more appropriate for addressing those issues than
5 would be the Department of Corrections. Again, it was the
6 family's intention that he be housed at Just Care instead of
7 the Department of Corrections.

8 THE COURT: Anything further from the State?

9 MR. GRAUSTEIN: No, Your Honor.

10 THE COURT: What is the State's position on sentence?

11 MR. GRAUSTEIN: As previously stated, Your Honor, after
12 talking -- speaking with the victim yesterday, the State would
13 ask for a probationary sentence to be -- with special
14 conditions that the bed -- the ordered bed at Just Care
15 becomes available, the Defendant must participate in Just
16 Care, no contact with the victim and those would be the
17 special conditions that the State would request with any
18 probationary sentence.

19 THE COURT: I'm sorry. I didn't hear your last sentence.

20 MR. GRAUSTEIN: No contact with the victim during his --
21 while he's on probation.

22 THE COURT: I'll take it under advisement. Thank you.

23 MR. GRAUSTEIN: Thank you.

24 (ADJOURNED - 10:10 A.M.)

25

State v. Mateo - 2016-GS-26-01622
CERTIFICATE OF COURT REPORTER

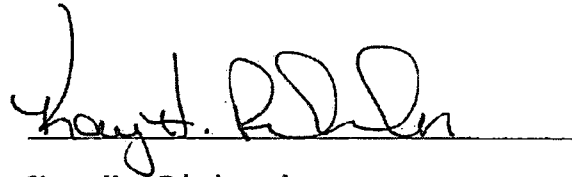
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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State versus Michael Lee Mateo, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on June 30, 2016.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

January 9, 2017.

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

STATE OF SOUTH CAROLINA,

vs.

MICHAEL LEE MATEO,

Defendant.

) IN THE COURT OF GENERAL SESSIONS
) FIFTEENTH JUDICIAL CIRCUIT
)

) Case #: 2016-GS-26-01622
)

) ORDER DENYING DEFENDANT'S
) MOTION TO RECONSIDER SENTENCE
)

Presiding Judge: Deadra L. Jefferson
State's Attorney: Scott A. Graustein, Esq.
Defendant's Attorney: James C. Galmore, III, Esq.
Date of Hearing: June 30, 2016
Court Reporter: Kay H. Richardson

FILED
HORRY COUNTY
2016 JUN 30 PM 4:38
MICHAEL LEE MATEO
CLERK OF COURT

THIS MATTER is before the Court on Defendant's Motion to Reconsider Sentence, filed with the Charleston County Clerk of Court on June 29, 2016, received on June 30, 2016. This matter came before the Court on June 30, 2016 for a hearing. Present at the hearing were the Defendant Michael Lee Mateo, James C. Galmore, III, Esquire on behalf of the Defendant, and Scott A. Graustein, Esquire on behalf of the State.

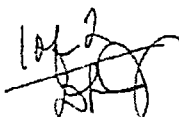
Having considered Defendant's Motion, as well as the various interests balanced by the Court at the time of the ruling, Defendant's Motion to Reconsider Sentence is hereby DENIED.

"The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion." State v. Hicks, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008) (citing State v. Smith, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981)). "A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate

and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed." Hicks, 377 S.C.

at 500. The South Carolina Supreme Court has held, "it is proper for the trial

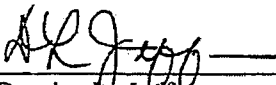
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HORRY COUNTY
CLERK OF COURT

Page 1 of 2


judge, in open court, in the presence of the defendant, to inquire into any relevant facts in aggravation or mitigation of punishment," notably, "the fullest information possible concerning the defendant's life and characteristics." State v. Cantrell, 250 S.C. 376, 379-80, 158 S.E.2d 189, 191 (1967) (citing Williams v. People of State of New York, 337 U.S. 241, 69 S.Ct. 1079 (1949)).

This Court finds that the Defendant has outlined no sound reason for this Court to alter its sentence. The Defendant's Motion raises no new issues, nor proffers any arguments not considered by the court at the Defendant's sentencing. Having fully considered the Defendant's Motion to Reconsider Sentence, the Defendant's criminal record, severity of the incident and evidence presented at the hearing, as well as having fully reviewed the record and the various interests balanced by the Court at the time of the ruling, the Defendant's Motion to Reconsider Sentence is hereby **DENIED** pursuant to Rule 29, SCRCrimP.

IT IS SO ORDERED.



Deadra L. Jefferson
Presiding Judge

June 30, 2016
Lowway, SC

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CLERK OF COURT

CLERK OF COURT
HARRY COUNTY
Melanie Huggins-Walker

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Page 2 of 2
2 of 2
[Signature]

DOCKET NO. 2016-GS-26- 0/1622

WITNESSES

Josh Knight Surfside Beach Police Department

D. SIKER

The State of South Carolina
County of Horry

Scott A. Graustein

15H05177

COURT OF GENERAL SESSIONS

APRIL, 2016 TERM

ARREST WARRANT NUMBER

2015A2610202637

CDR: 3413 16-03-000(D)(1)

DOA: 11/1/2015

THE STATE

vs.

ACTION OF GRAND JURY

TRUE BILL

Michael Lee Mateo
W/M

Myrtle Beach, SC 29588-8303
DOB:
SSN:

Bon Harris
Foreperson of Grand Jury
Date: APR 21 2016

ATTORNEY: James Cullen Galmore

VERDICT

Indictment for

ASSAULT & BATTERY
2ND DEGREE

Foreperson of Petit Jury
Date:

Jimmy A. Richardson, II, Solicitor

ORIGINAL

Melanie King
CLERK OF COURT
HORRY COUNTY
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STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)


INDICTMENT

At a Court of General Sessions, convened on APRIL 21, 2016, the Grand Jurors of Horry County present upon their oath:

ASSAULT AND BATTERY SECOND DEGREE
CDR: 3413-16-03-600(D)

That **Michael Lee Mateo** did in Horry County on or about October 31, 2015 commit, offer to commit or attempt to commit an unlawful act of injury with the present ability to do so to **Nicholas Mateo** and the act caused moderate bodily injury to the victim, in violation of Section 16-3-600(D), S. C. Code of Laws, 1976, as amended.

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

CLERK OF COURT
HORRY COUNTY

Michael Lee Mateo

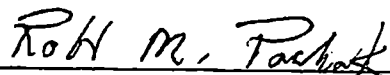
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CERTIFICATE OF COUNSEL FOR APPELLANT

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. Pachak
Appellate Defender

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

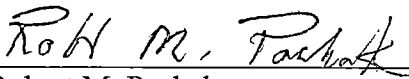
ATTORNEY FOR APPELLANT

This 16th day of March, 2017.

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. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 16th day of March, 2017.

RECEIVED

MAR 16 2017

SC Court of Appeals