

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Richland County

Honorable Letitia H. Verdin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JANOBLIN MAURICE BRACY-BROWN,

APPELLANT

APPELLATE CASE NO 2016-001513

RECEIVED

ANDERS BRIEF OF APPELLANT

MAY 08 2017

SC Court of Appeals

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ATTORNEY FOR APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

Whether the trial court erred in denying Appellant's motion for reconsideration where Appellant's sentence exceeded the solicitor's position regarding sentencing was represented differently on the record than had been expressed to Appellant?

## STATEMENT OF THE CASE

A Richland County Grand Jury indicted Appellant at the January 2012 term of General Sessions for assault and battery first degree, armed robbery, two counts of attempted murder, and attempted armed robbery. R. 31 - 35. On March 14, 2013, Appellant pled guilty before the Honorable G. Thomas Cooper. He pled guilty to attempted robbery, armed robbery, assault and battery in the first degree, as charged. R. 2. The two attempted murder charges were reduced to two counts of assault and battery in the first degree. R. 2. Dolly Garfield represented the State, and James Cooper appeared on Appellant's behalf. R. 1.

Judge Cooper accepted Appellant's guilty plea and deferred sentencing at the State's request. R. 9 - 10. Appellant came before the Honorable Letitia Verdin on June 4, 2014 for sentencing. At that time, Dolly Garfield again represented the State, and Jennifer Davis appeared on Appellant's behalf. R. 12. Judge Verdin sentenced Appellant to sixteen years' imprisonment on the armed robbery and attempted armed robbery charges and ten years on the three counts of assault and battery with sentences to run concurrent. R. 28.

This appeal follows.

## ARGUMENT

**The trial court erred in denying Appellant's motion for reconsideration where the solicitor's position regarding sentencing was represented differently on the record than had been expressed to Appellant.**

The facts alleged by the State during Appellant's guilty plea were that Appellant and a codefendant robbed taxi cabs on three occasions during the months of June and July in 2011. R. 9. Counsel Cooper passed away following the guilty plea. R. 15. During the sentencing hearing, the State recommended a concurrent sentence. R. 21. Counsel for Appellant indicated that Appellant cooperated with the State in its case against Appellant's co-defendant by providing a four-page single-spaced statement. R. 22. He was prepared to testify against his codefendant if necessary. R. 22.

At the time of the incidents giving rise to the indictments, Appellant was eighteen years old. R. 22. While in jail, Appellant completed a "Turning Leaf" program. R. 22, ll. 19 – 24. Based upon Appellant's cooperation with the State and the evidence of Appellant's character, counsel requested that the sentencing judge consider the minimum sentence. R. 23 l. 6 – R. 24, l. 1; R. 25, ll. 11 – 20; R. 28, ll. 2 – 3.

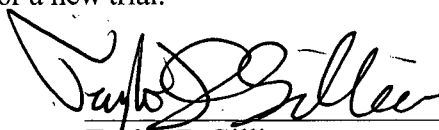
Following the sentence imposition, Counsel for Appellant filed a Motion to Reconsider Sentence on June 11, 2014. R. 36. The grounds stated therein were that Appellant "believe[d] the solicitor's position regarding sentencing was represented differently on the record than had been expressed to [Appellant]." R. 36. On July 8, 2014, Judge Verdin issued her Order denying the motion. R. 39.

The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion. 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 sentence, 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. Wasman v. United States, 468 U.S. 559, 563, 104 S.Ct. 3217, 82 L.Ed.2d 424 (1984).

Appellant filed a timely notice of appeal wherein he sought to appeal the imposed sentence. As evidenced above, the sentence exceeded the allowable minimum. Appellant was advised that his sentence would be lesser than the sixteen years imposed. Based upon his cooperation with law enforcement, it was understood that his resulting sentence would encompass all of the charges in a concurrent ten year sentence. Appellant waited almost fifteen months in between the acceptance of his guilty plea and the sentence imposition. During that time, he offered a lengthy statement which likely weighed on Appellant's codefendant's mind. Appellant agreed to plead guilty and cooperate with the State based upon an understanding that he would receive a sentence which was shorter than the one he received.

**CONCLUSION**

Appellant's sentence should be reconsidered, or in the alternative, his case remanded to the Richland County Court of General Sessions for a new trial.



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Taylor D Gilliam  
Appellate Defender

ATTORNEY FOR APPELLANT

This 8th day of May, 2017.

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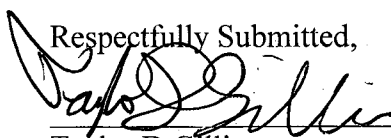
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Counsel for Janoblin Bracy-Brown states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Letitia H. Verdin, which was held on March 14, 2013, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, He asks the Court to relieve him as counsel for Janoblin Bracy-Brown.

Respectfully Submitted,



Taylor D Gilliam

Appellate Defender

ATTORNEY FOR APPELLANT

This 8th day of May, 2017.

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**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictments;
- (2) Guilty plea transcript
- (3) Sentencing transcript
- (4) Motion to Reconsider Sentence
- (5) Order denying Motion to Reconsider Sentence

I certify that this designation contains no matter which is irrelevant to this appeal.

May 08, 2017

  
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**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and 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."

May 08, 2017.



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