

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

ORIGINAL

THE STATE,

RESPONDENT,

V.

SHANNON MILES LANCASTER,

APPELLANT

APPELLATE CASE NO 2017-000908

ANDERS BRIEF OF APPELLANT

ROBERT M. PACHAK
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the court erred in denying appellant's post-trial motion when his guilty plea was coercive?

STATEMENT OF THE CASE

On March 14, 2017, appellant appeared before the Honorable J. Derham Cole in Spartanburg County and pled guilty to trafficking in methamphetamine, second offense. Plea counsel was Ricky Keith Harris, Esq. The assistant solicitor was James Edward Hunter, Esq. Judge Cole sentenced appellant to fifteen (15) years imprisonment.

Appellant filed a *pro se* motion for reconsideration concerning his sentence dated March 23, 2017. Judge Cole denied the motion on March 27, 2017.

This appeal follows.

ARGUMENT

The trial court erred in denying appellant's post-trial motion when his guilty plea was coercive.

The indictment against appellant charged him as follows:

That Shannon Miles Lancaster did in Spartanburg County on or about April 15, 2016, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess more than (10) ten grams of Methamphetamine, a schedule II controlled substance, in violation of §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Appellant had the following pending charges which were going to be dismissed as a result of his plea: distribution of meth third, possession with intent to distribute meth third, trafficking meth third, unlawful carrying, trafficking meth third, possession of oxy and possession of Lorazepam. (R. p. 11, lines 7-10).

After appellant was sentenced to fifteen (15) years he filed the following *pro se* motion for reconsideration of sentence:

I ask a motion for a reconsideration of my guilty plea on 3-14-17. I please ask for a restructure of my negotiated 12 to 18 yr plea for 1 charge of Trafficking Meth 2nd. I request a reconsideration or plea restructure because I was persuaded and rushed into plea by attorney. I had arguement with Attorney about my pending jury trial on 3-14-16 and

frightened into plea. I was told by my Attorney that the solicitor had a problem with me in my case, and I feel this was personal between myself and the solicitor Eddie Hunter. I should of spoke up and let Judge Cole know what had happened before my guilty plea on 3-23-17.

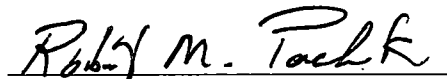
(R. p. 19)

The plea court denied the post-trial motion by written order dated March 27, 2017. That ruling was in error. Due process of law requires that before a guilty plea can be entered voluntarily and intelligently, a defendant must be advised of his privilege against compulsory self-incrimination, the right to trial by jury, and the right to confront one's accusers. A valid waiver of these rights cannot be presumed from a silent record. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969). In State v. Armstrong, 263 S.C. 594, 211 S.E. 889 (1975), this Court held that the essence of Boykin, was to make the requirements of Rule 11 of the Federal Rules of Criminal Procedure applicable to the states. In State v. Patterson, 278 S.C. 319, 295 S.E.2d 264 (1982), this Court held that for there to be a valid waiver under the due process clause of the three constitutional rights listed in Boykin, the record must clearly establish it.

The Court in Boykin also noted that "Ignorance, incomprehension, coercion, terror, inducements subtle or blatant threats might be a perfect cover-up of unconstitutionality." 395 U.S. at 242-243, 89 S.Ct. at 1712.

CONCLUSION

Appellant's case should be remanded for a reconsideration of his sentence.



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 21st day of September, 2017.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Shannon Miles Lancaster 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 J. Derham Cole, which was held on March 14 - 15, 2017, 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 Shannon Miles Lancaster.

Respectfully Submitted,



Robert M. Pachak
Appellate Defender
ATTORNEY FOR APPELLANT

This 21st day of September, 2017.

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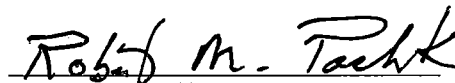
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (1) True-billed indictment
- (2) Guilty Plea transcript dated March 14, 2017
- (3) *Pro se* post-trial motion filed March 27, 2017
- (4) Order denying post-trial motion

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

September 21, 2017


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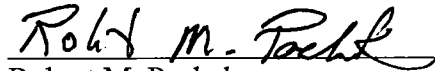
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CERTIFICATE OF COUNSEL

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."

September 21, 2017.



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