STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lancaster County
Brian M. Gibbons, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RONALD YATES HYATT,

APPELLANT

APPELLATE CASE NO 2016-001872

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF LANCASTER

1981-GS-29-00829

State of South Carolina

vs.

Ronald Yates Hyatt

Lancaster, South Carolina

June 16, 2016

Before the Honorable Brian M. Gibbons

APPEARANCES

For the State: Lisa Collins

For the Defendant: Mike Lifsey

Reported by: Michael C. Watkins

Official Court Reporter

MS. COLLINS: Your Honor, this is the State of South Carolina versus Ronald Yates Hyatt who is present before the bar with Mike Lifsey, our circuit public defender. He has filed a pro se motion for reconsideration of his sentence pursuant to Akin v. Byars. He's also filed a pro se motion requesting appointment of counsel. I believe the clerk of court has his file here from downstairs.

THE COURT: I have got it.

MS. COLLINS: And if you don't have a copy of the pro se motion he filed I do have that had a hand up as well as a copy of the Akin v. Byars decision. May I approach?

THE COURT: Uh-huh.

MS. COLLINS: I imagine the first order of business would be to officially appoint Mr. Lifsey to represent Mr. Hyatt. We've complied with the Victims Rights Act, representatives of the victim's family are present.

THE COURT: Mr. Lifsey, do you accept the appointment?

MR. LIFSEY: I do, Your Honor. I interpreted your -- I think you appointed me from the bench previously and certainly discussed it in chambers when the pro se motion was filed so I've been acting as his attorney. So yes, Your Honor, certainly we will represent him for the limited purpose of this hearing and any proceedings that may flow from here, Judge.

THE COURT: All right. You're hereby appointed.

MS. COLLINS: And, Your Honor, I've discussed with Mr. Lifsey, the official position of the State in regard to this -- and this is a Akin v. Byars motion in regard to the underlying convictions for murder and -- well, murder is the only issue for Akin v. Byars, that is indictment 81-GS-29-829. I have the procedural history for Your Honor regarding that conviction, and at the proper time -- our position on behalf of the State is we are moving for a summary dismissal of the Akin v. Byars motion. We believe that that decision does not apply to Mr. Hyatt.

THE COURT: All right. Why don't you go ahead and make your argument to me, give me the procedural aspects of the case, and go ahead and y'all discuss your legal positions and we will go from there.

MS. COLLINS: Thank you, Your Honor.

THE COURT: With all of the paperwork in front of me in the Akin versus Byars case being fresh on everybody's mind and how this applies to individual defendants, there's not going to be a decision today. I want to hear your arguments, let me think about it for awhile, I will probably leave the record open for the lawyers if y'all want to submit anything else, but that's kind of what I'm anticipating, so go ahead.

MS. COLLINS: As Your Honor is aware the Supreme Court of South Carolina in Akin v. Byars, which I've handed up a

copy for the Court, analyzed how the U. S. Supreme Court in Miller versus Alabama would apply here in the South Carolina courts. The Supreme Court of the United States held in Miller that mandatory life imprisonment without parole for those under the age of 18 at the time of their crimes violates the 8th Amendment's prohibition under cruel and unusual punishment. The South Carolina Court in Akin v. Byars examined one, whether or not Miller applied retroactively; and two, if Miller applied to juveniles defined as under the age of 18 years who received a none mandatory sentence of life without parole. The Miller court had applied their decision to mandatory life sentences. The South Carolina Supreme Court ultimately ruled that the Miller decision should be applied retroactivity in South Carolina, and gave inmates and others who were affected by it up to a year from the day of that decision to file their request for review of their sentence under Akin v. Byars. It's my understanding that the State petitioned for cert and therefore the deadline was extended beyond that and would expire sometime in July of this year. The South Carolina Supreme Court in a 3-2 decision ruled that the U. S. Supreme Court while not expressly extending its rule in a mandatory life without parole sentence to the states like South Carolina which followed non-mandatory sentences did decide to apply it

even when it was a non-mandatory sentence. In this case, Your Honor, the defendant was 16 at the time of the offense. The incident occurred on August 17th of 1981 here in Lancaster County. On August 24th of 1981 the solicitor moved for the case to be transferred from juvenile court to general sessions court. On August 25th Family Court Judge Bell granted the State's petition to transfer the case to general sessions court, and ultimately 16 year old Ronald Yates Hyatt, petitioner, pled guilty on two charges; murder and armed robbery. The victim in the case was Buddy Plyler and again, his family members are present today. The relevant charge today at issue for the purpose of Akin v. Byars is the murder conviction for which the defendant was sentenced to prison "for his lifetime." I know that Your Honor has a copy of the sentence sheet there as well as the indictment for which he pled. In November of 2015 petitioner filed this motion for the sentence to be reconsidered under the ruling of Akin v. Byars. It's the position of the State that the petitioner is not within the class of people who are entitled to a reconsideration of sentence and a hearing under Akin v. Byars. He was not actually sentenced to life without parole, he was sentenced to a lifetime in prison. At that time before 1996 a murder conviction was eligible for consideration for a parole after 20 years in the department of corrections if it was a

non-death penalty case. If it was a death penalty case for which the jury recommended life and the Judge ordered life then they were eligible after 30 years. Mr. Byars was eligible after 20 years. We've confirmed with the probation and parole department that the petitioner has, in fact, received 16 parole hearings since his parole eligibility. He began attending parole hearings approximately 17 years into his life sentence. The essential goal of Akin v. Byars holding was to protect juvenile offenders from cruel and unusual punishment through a sentence with life without the possibility of parole, and to that end I hand up a copy of the case of Akin v. Byars. The court repeatedly notes, and I've numbered the pages, on page seven, "Thus the middle court held that youth has a constitutional dimension when determining the appropriateness of a lifetime of incarceration with no possibility of parole." The next paragraph the Court noted in Akin v. Byars, "We recognize that holding the 8th Amendment proscribes a sentencing scheme that mandates life in prison without the possibility for parole for juvenile offenders." And again, that language is used on page eight near the bottom of that paragraph, "In our view whether the sentence is mandatory or permissible, any juvenile offender who receives a sentence of life without the possibility of parole is

entitled to the same constitutional protections under the 8th Amendment, it is guaranteed against cruel and unusual punishment. The fact that the defendant has not been granted by the board -- parole by the parole board is not the issue here. The issue is to whom does the relief set forth in Akin v. Byars apply, this defendant quite simply is not within that class. Although he was under the age of 18 at the time of this plea to murder at the time of his sentence, he is parole eligible, he does have the possibility of parole. He's considered for parole every year, not just every year but under the violent scheme but because of the timeframe of his case his is every year. And we ask that the Court summarily dismiss the petitioner's motion to reconsider his sentence under Akin v. Byars and rule that the petitioner is not entitled to a full hearing under Akin v. Byars. Thank you, Your Honor.

THE COURT: Thank you. Mr. Lifsey?

MR. LIFSEY: Thank you. Your Honor, children are different, that is the whole focus of Miller versus Alabama, that's the whole focus of Akin versus Byars, South Carolina's interpretation of Miller. My client was a 16 year old child when he was convicted of murder and received a life sentence. Miller and Akin says that before a life sentence without parole, and I will get to that in a minute, should be imposed that the Court should take into

account what the Court dubs the Miller factors. And I know Your Honor is familiar with this because we have plowed this ground in Chester a few months ago, but just for the purpose of the record, the Miller factors being the chronological age of the defendant, the hallmark features of youth, which include maturity, being impetuous and not considering the risk and consequences, the family and home environment of the offender, the circumstances of the homicide offense including the extent of offender's participation in the conduct, and how other co-defendants might have exerted peer pressure on him, the incompetencies of youth, which include both his dealings with police officers and prosecutors, but also his ability to assist his counsel. This, as Your Honor knows, the idea that these hallmark features of youth, the idea is that those matters consider special consideration are a, for lack of a better word, recent development in the law. They certainly were not recognized in 1981 when he was sentenced. I will concede to you that clearly he does not fall within the plain language of Akin versus Byars, but what I would argue to you, I would guess, two points for you to consider are why he should be someone that is entitled to a new sentencing hearing. One, I would argue to you that under -- my belief is, Ms. Collins can correct me, but I believe under the old statute the only possibility was a

life sentence for murder. That our current statute since 1996 encompasses 30 years to life. My memory is that pre-1996 life was the only option. So the Judge, who I believe was Judge Fields I think originally, did not have the option of setting a specific term of years for his release. I would also argue to you, Your Honor, that he has serving -- or is serving a de facto life sentence by getting a sentence for which he has served at this point 35 years, and parole having been denied 16 times. As I said, I will concede that his situation is not the one directly described by the Court in Miller and Akin, but I believe that the Court's reasoning -- that the United States Supreme Court's reasoning in Miller versus Alabama, and the South Carolina Supreme Court's reasoning in Akin versus Byars extends to someone who is serving a sentence which has the practical affect of a life sentence. So I would ask you to take all of that into consideration in making a determination considering all of those factors and laying that out. But I would also ask you considering my client filed this motion originally pro se, did a pretty good brief, I would ask you to give him the opportunity to say anything he wishes to say about this matter.

THE COURT: All right. Mr. Hyatt, anything you wish to tell me?

THE PEITITIONER: Yes, sir.

THE COURT: Now remember, Mr. Lifsey is your lawyer, I've appointed him to be your lawyer, but I'm allowing you the courtesy of saying whatever it is you wish to say since you did file the papers to get here. Go ahead.

THE PEITITIONER: Well, I would just like to say, you know, by me going up for parole for so many years, that it really -- even though that I have a parole eligibility, it seems to me that I do have a life without parole, because every year it's just the same thing as I'm being rejected, rejected over and over. And it says it's cruel and unusual punishment to sentence a child to spend the rest of his life in prison but that's what I'm doing is spending the rest of my life in prison even though I have a possibility of parole, it's being denied for so many years.

THE COURT: I wonder what the parole board's granting of parole rate is for older life sentences? Mr. Lifsey, do you have any idea what that would be?

MR. LIFSEY: I do not know that. I know as of about 10 years ago I thought the overall denial of parole rate was about 91 percent, and this is for everyone, not just inmates facing murder, anyone eligible for parole. I'm informed anecdotally that that rate has increased, or decreased.

THE COURT: Really, the reason I asked that is I think that's an important factor for the Court to consider based

upon the argument you've presented, that this technically may not be life without parole, which he is absolutely correct on, but it's de facto life without parole. That's something that maybe proper for a court to consider, not whether it's me, but a court to consider. Go ahead sir, I'm listening.

THE PEITITIONER: That's it, that's all that I'll say.

MS. COLLINS: May I be heard briefly in response?

THE COURT: Yes, ma'am.

MS. COLLINS: Your Honor, as to the two points made by Mr. Lifsey, the first point goes into whether or not it is a mandatory sentence. And the decision by our Court in Akin v. Byars was actually a 3-2 decision, or a 2-1-2 decision because Pleicones concurred in the majority opinion but his reasoning was a little different under the South Carolina 8th Amendment, because Miller specifically didn't apply to non-mandatory, it only applied to mandatory. But in any event -- so Justice Toal and Justice Kittredge both said we wouldn't apply it to anything if it's non-mandatory. Mr. Lifsey's argument, and he is correct because it was in 1996 that the law changed to where it was a mandatory minimum of 30 to life, he's correct that at that time, the time of the defendant's sentence, it was either death or life in prison. However, the difference, again, is that at that time he was eligible

to be considered for parole after the service of 20 years. So as to the wording of the statute being an automatic either death or life, that's again not the issue, the issue is life without the possibility of parole. And I would submit to you respectfully that again, the issue as to the second argument raised by Mr. Lifsey and echoed by Mr. Hyatt himself, as to whether or not this has morphed into a de facto life sentence due to the denial of the parole board each year after hearing the presentation of counsel, that the point of the Court is if it's a life sentence without the possibility of parole, that there is no sentencing authority, there is no body to hear -- or a body of people to hear and consider and weigh, has there been reform? Has there been remorse? Has there been -- what factors played in? Whether that has been not only the behavior while he's been in the department of corrections but what factors played into it. And there's certainly no transcript that we have to indicate that the Court initially didn't consider the youth of the defendant. Certainly they considered it in waiving the defendant up to adult court, we know that that was done and ruled on by Family Court Judge Bell. So the bottom line is that you have an authority that's granted, the decision under South Carolina law that each year revisits this case and makes the decision whether or not the defendant should be granted

parole. So he is getting the relief that Akin v. Byars looks at as being cruel and unusual, that you would just basically render the judgment, issue the sentence, lock him away and no reconsideration is ever done. Here it is redone. And respectfully, while I understand Your Honor's inquiry regarding what's the percentage of cases, I would submit again, you've got a 3-2 decision by the Supreme Court with two descending saying we are expanding Miller to where it should even be, and now the defendant is seeking to expand it further by saying even though I have life with the possibility of parole due to the sentencing scheme under the South Carolina law at the time I was sentenced, that it should also be applied to me. And I respectfully submit that it should not be, that's extending Akin v. Byars even further than even anticipated and it's just not within the finding of our South Carolina Supreme Court. The proper body to consider the position and the sentence of the defendant is doing so every year, every year as to whether or not he should be released. And again, I would ask the Court for summary judgment. Thank you.

THE COURT: Thank you.

MR. LIFSEY: And by the way, I will make one substantive comment. The only substantive comment I would make -- and of course, I think you understand our position, is that I don't think the opinion of the descenders matters

at all, that's why they call them the descenders, I don't think they count. As far as procedurally, if the Court -- and I will -- I do think if the Court has interest and thinks it would be valuable, and I don't know whether it would be valuable to me, my position or the State's position because I don't know the answer, but if the Court has interest in us ascertaining statistics as to parole eligibility I would ask the Court to leave the record open as you discussed earlier, and I would ask the Court to leave it open long enough in case I need to file a Freedom of Information Act request later if it's not something I can just find by researching it. I know the results of parole hearings are online right now but I don't know they have them broken down in a meaningful way by offense level. I don't have any problem FOIA'g that information. As I said, it very well could be -- the answer to your question may be more helpful to Ms. Collins than it is to me.

THE COURT: But whether or not parole is granted is really not the issue, it's the process that's the issue. The process of somebody being allowed an opportunity to be heard concerning being able to get out of jail, that is what is protected by the constitution the way I read Akin vs. Byars. And if you don't give somebody that process by which the trying to get out of jail without that possibility of parole, that's the cruel and unusual because

of the hallmarks of the youth, et cetera, et cetera.

MR. LIFSEY: I agree with you generally, Your Honor. But I will tell you that if it is an impossibility or an almost impossibility then that's almost like saying Mike Lifsey gets to tryout with the New York Yankees. You can give me as many tryouts as you want but I'm not going to make the Yankees. If at some point if -- I don't know what that magic number would be, but if at some point no one who is being charged with murder at least statistical chance of being paroled, what we have is a parole eligibility in name only.

THE COURT: What about a 90 year sentence?

MR. LIFSEY: I would argue that that is a de facto life because it exceeds life expectancy, and I can't say that in regards to this client because --

THE COURT: You see why I'm asking that. These are questions that eventually are going to have to be answered to either open or close, whatever, a loophole there may or may not be in regards to the sentencing. I've dealt with the case involving that, not in an Akin v. Byars setting but in a PCR setting concerning a person essentially given a de facto life sentence when the deal was it wasn't going to be a life sentence but he got a 110 years sentence. I found he shouldn't be for other reasons, but y'all are following my logic, my line of reasoning. Did you want to

say anything else, Madam Solicitor?

MS. COLLINS: First of all I would like to say rather than either Mr. Lifsey or myself trying to provide the Court with statistics, if Your Honor is interested to the answer of that I would prefer greatly for us to have a representative from the parole board here -- not the board, but the probation and parole department in Columbia, put them under oath and ask them, because I anticipate that there would be a follow-up question as to, so well, how many of these were specifically for murder? How many of these were for murder under the old sentencing? Et cetera. So to that end I'm just not comfortable with either one of us gleaning from a FOIA response or otherwise and provide you with some statistics. If you're interested in that I would like to have a warm body here to speak with some authority as to what they have, that's number one. Number two, again, I think that we've reached the point of where we're trying to stretch it further where the Court has not stretched it, and again, with the motion for summary judgment, my understanding is that if Your Honor rules that Akin v. Byars means what it says, if it means exactly what it says, that it applies to people without life without the possibility of parole, under which category the defendant does not fall, that then he would have the right to appeal it and we can let the Supreme Court address it. But at

this point our instruction is per the Supreme Court's opinion in the Akin versus Byars and they've limited it to a specific class of people in which the defendant does not fall. Thank you.

THE COURT: Anything further, Mr. Lifsey?

MR. LIFSEY: No, sir, I think that's fine.

THE COURT: Let me go ahead and tell you, I don't need to see a chart or data or statistics, okay? My question was simply to drive home the point of a life sentence, although it may be with the possibility of parole, does the fact it's a de facto life sentence without the possibility of parole, does that mean anything? I don't know. I'm just trying to make a good complete record, because I know where this is going, okay? And I want the justices or the judges on the court of appeals to -- regardless of whatever side I rule for, to have a full, fair opportunity to discuss whatever was brought up at the lower court in the record, so that was my purpose of asking that question. All right. I'm going to take the matter under advisement. Either me or my clerk will be in touch with either one of you in the next couple of weeks and give you the decision once I have the chance to digest everything.

(End of the hearing.)

STATE OF SOUTH CAROLINA COUNTY OF LANCASTER	)	IN THE COURT OF GENERAL SESSIONS FOR THE SIXTH JUDICIAL CIRCUIT
Ronald Yates Hyatt #109143, Petitioner,	)	#81-GS-29-829
vs.	)	NOTICE OF MOTION AND MOTION FOR RECONSIDERATION OF SENTENCE
State of South Carolina, Respondents.	)	

TO: John R. Justice, Esquire, Solicitor for the Sixth Judicial Circuit.

NOTICE IS HEREBY GIVEN that, Ronald Yates Hyatt #109143, Petitioner in accordance with the recent decision in the South Carolina Supreme Court in Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014) (WL 5836918 - November 12,2014)(relying on Miller v. Alabama, 132 S.Ct. 2455 (2012), seeking of this Court an evidentiary hearing into matters that have been brought forth

within this Motion For Reconsideration Of Sentence. Petitioner is of the belief that he has issues of mitigation which should be given ample consideration by this Court that would cause the lessening of the rigors of the original sentence imposed on December 16,1981, by the Honorable Richard E. Fields, Circuit Court Judge, Sixth Judicial Circuit.

STATEMENT OF THE CASE

On August 17,1981, Ronald Yates Hyatt #109413 ("Petitioner"), was alleged to have committed the criminal offenses of: (1) Murder (#89-GS-29-0829); and (2) Armed Robbery.

On December 16,1981, Petitioner would appear before the Honorable Richard E. Fields, Circuit Court Judge, and enter a plea of guilt to the indicted offenses. It was Petitioner's belief that he was entering a plea of guilt for a [3 to 6] year sentence under the Youthful Offenders Act (YOA). During this guilty plea, the trial court refused to entertain matter relating to school record, juvenile records, and other essential types of mitigating evidence that is relevant to these types of proceedings. At the end of the prosecutions' assessment of the allegations, the trial court sentenced Petitioner to a term of "confinement for Life" on the murder charge; and twenty-five (25) years on the Armed Robbery Charge.

On October 31,1984, Petitioner initiated a Post-Conviction Relief (PCR) Application. On April 16,1985, the Respondents served their Return And Motion To Dismiss. A Conditional Order of Dismissal was issued by the Honorable Don S. Rushing, Circuit Court Judge. Judge Rushing issued a Final Order

on Amy 28,1985, dismissing the PCR application, with prejudice.

On June 22,1988, Petitioner filed another PCR application. Respondents filed their Return on September 14,1988. An evidentiary hearing was convened on October 26,1988. The Honorable John Hamilton Smith, Circuit Court Judge, presided and issued an Order of Dismissal on November 28,1988.

On March 30,1994, Petitioner filed a Motion in the South Carolina Supreme Court seeking a belated appeal of Judge Smith's, November 28,1988, Order of Dismissal. Respondent's filed a Return to the Motion dated April 11,1994. The Court denied ne Petitioner's Motion for belated appeal.

On November 1,2002, Petitioner filed anotner PCR Application seeking collateral review of his conviction and sentence. On June 20,2006, Respondent's served their Return And Motion To Dismiss in this matter. An evidentiary hearing was convened on August 27,2007, before the Honorable Brooks P. Goldsmith, Circuit Court Judge. Judge Goldsmith issued an Order of Dismissal denying the relief, with prejudice.

Petitioner comes before this Court seeking to have those matters that are relevant to his sentence reconsidered in accordance with this State's Supreme Court's decision in Aiken v. Byars, supra. Petitioner is of the belief that there exists extenuating circumstances in mitigation which would warrant the relief sought herein; and that appointment of counsel and an evidentiary hearing are required to ensure that he is afforded the full panoply of rights associated herewith.

JURISDICTION

In Aiken v. Byars, our Supreme Court has ordered that matters relating to the reconsideration of a sentence of Life imposed against a juvenile are properly brought within the ambiance of the Court of General Sessions within the county in which the sentence was imposed.

TIMELINESS

The timeliness of this Motion For Reconsideration Of Sentence is by virtue of this State's Supreme Court's decision in Aiken v. Byars. The Aiken Court provided for a [one-year] time period for the filing of a motion for reconsideration of sentence. The [one-year] time period for the filing began to run on the effective date of November 12,2014. This Motion comes before this Court of General Sessions in a timely manner consistent with that decision.

ARGUMENT

In Miller v. Alabama, 132 S.Ct. 2455 (2012), the United States Supreme Court ("USSC") examined the issue of sentencing juveniles to Life sentences. This Court's analogy fell upon whether or not such sentences, i.e., Life or Death, ran afoul of the Eighth Amendment's prohibition of cruel and unusual punishment. Miller, (and Jackson v. Hobbs, 378 S.W.3rd 103 (2011)), had been juveniles at the time each received a Life sentence. Miller had been fourteen (14) years old at the time of his alleged criminal act.

In Miller, the USSC was confronted with the challenge that a mandatory imposition of Life on juveniles was a violation of the Eighth Amendments prohibition of cruel and unusual punishment. Id., 132 S.Ct. at 2461. The consideration that faced the USSC was a two strand analysis of existing precedence that would impact the proportionality of the Eighth Amendment. The first line of cases involved categorical bans on certain or specific sentences based on the inability to reconcile the "class of offender" and the severity of the punishment or penalty. See Roper v. Simmons, 543 U.S. 551 (2005); and Thompson v. Oklahoma, 487 U.S. 815 (1988)(plurality opinion). In Roper, the USSC invalidated the death penalty for all juvenile offenders. (Fn. 1). Not long after the Roper decision, the USSC held that Life sentences for juveniles who committed non-homicidal offenses violated the Eighth Amendments prohibition against cruel and unusual punishment. See Graham v. Florida, 560 U.S. 41 (2010). When reaching its decision in Graham, the USSC noted that Life sentences for juveniles equated to the death

penalty. This holding invoked yet another or second line of cases which require sentencing authorities to consider the individual characteristics of a defendant and the details of the offense prior to imposing a sentence of death. Id., 132 S.Ct. at 2463-64; cf. Lockett v. Ohio, 438 U.S. 586 (1978)(plurality opinion); Woodson v. North Carolina, 428 U.S. 280 (1976).

Petitioner asserts a position that in these present times this Court should find that S.C. Code Ann. §16-3-20(A) was unconstitutionally applied to this case sub judice, and the sentence of Life which was imposed violates the Eighth Amendments prohibition of cruel and unusual punishment. See also Article I, §15, of the South Carolina Constitution. This stance is taken under two positions in argument. First, the Miller Court has already found that the imposition of a Life sentence upon a juvenile runs afoul of those protections against cruel and unusual punishment. (See Fn. 2).

Fn. 1 - Petitioners date of birth is January 2,1965.

Fn. 2 - Miller held that Life sentences for those offenders under the age of eighteen (18) years of age at the time of their crimes violates the Eighth Amendments prohibition of cruel and unusual punishment. (Thomas, J., dissenting).

Secondly, the Miller Court went further in its analogy by holding that mandatory life sentences for juveniles run afoul of the Eighth Amendment. A careful examination of §16-3-20(A), (see Fn. 3), would give credibility to the point that this Petitioner wishes to drive home in this current issue. Especially where Petitioner was sentenced to Natural Life for murder and the statute provides that Life is the sole punishment for the crime of murder. We must further be mindful of the fact that this Petitioner was sixteen (16) years of age at the time this alleged offense occurred.

In viewing the word "must" relevant to this circumstance, its is argued that it creates a mandatory performance upon the part of the sentencing authority that cannot be varied nor deviated from. See Abbeville Sch. Dist. v. State of South Carolina, 335 S.C. 57, 515 S.E.2d 535 (1999)(discussing the use of mandatory language or predicates)(relying on Washington v. Salisbury, 279 S.C. 306, 306 S.E.2d 600 (1983)); see also Article I, §23, of the South Carolina Constitution. At the time it was alleged that this Petitioner committed murder he was a juvenile. And this statute provided no other means of the sentence to be

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Fn. 3 - S.C. Code Ann. §16-3-20, provides in pertinent part: "(A) A person who is convicted or pleads to murder must be punished by death or imprisonment for life ...".

imposed by the sentencing authority. With this mindset, Petitioner is of the stance that the word "must" within the language and intent of provision §16-3-20(A), mandated that a Life sentence was to be imposed upon the entering of the guilty plea. This brings this demand that an evidentiary hearing be convened and is required; and this Court grant the relief of vacating the original sentence and remanding for a new trial and/or re-sentencing.

(b). When reconsidering the sentencing authorities previous decision to impose such a harsh sentence, Petitioner would respectfully demand that this Court take into consideration the following circumstances relating to mitigating factors, especially where the original sentencing authority failed to elect to provide sufficient inquiry into these matters.

Children have a "lack of maturity and an underdeveloped since of responsibility", leading to recklessness, impulsivity, and heedless risk-taking." Roper, 543 S.Ct. at 569. Secondly, children "are more vulnerable ... to negative influences and outside pressures," including from their family and peers; they have limited "contro[l] over their own environment" and lack the ability to extricate themselves from the horrific, crime producing settings." Ibid. And, a child's character is not as "well-formed" as an adult's; his traits are "less-fixed" and his actions less likely to be "evidence of irretrievabl[e] deprav[ity]." Id., at 570.

In Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014), the Court adopted the holding in Miller v. Alabama, 132 S.Ct. 2455 (2012). In this decision, the Court held that

"youth has constitutional significance" ... that "must be afforded adequate weight in sentencing". Miller clearly holds that it is improper for a sentencing authority to fail to consider the hallmark features of youth prior to the actual sentencing ... this offends the Constitutional protections of the Fifth, Eighth and Fourteenth Amendments. Miller does more than ban mandatory Life sentences for juveniles; it establishes an affirmative requirement that courts fully explore the impact of the defendant's juvenility in the sentence rendered. Although the initial sentencing authority may have touched upon the issue of youth and/or age, it did not effectively approach the sort of hearing that is envisioned by the Miller factors of youth, which are carefully and thoughtfully considered. In the initial sentencing proceeding, age was simply a chronological factor which was vaguely a plea for some form of mercy. Yet, the term "mercy" is vacant as relates to the case sub judice where the maximum sentence was a Life sentence. Miller requires the sentencing authority to "take into consideration how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." Id., 132 S.Ct. at 2469.

The Miller Court established a specific framework, articulating factors that the sentencing authorities is to consider at a hearing. These hearings must include: (1) the chronological age of the offender and the hallmark features of youth, including "immaturity, impetuousity, and failure to appreciate the risks and consequences"; (2) the "family and home environment" that surrounds the offender; (3) the circumstances of the homicide offense, including the extent of the offender's participation in the conduct and how familial and peer pressure may have affected him; (4) the "incompetencies associated with youth - for example, [the offender's] ability to deal with police officers or prosecutor's (including in a plea agreement) or [the

offender's] incapacity to assist his own attorney's"; and (5) the "possibility of rehabilitation." Id., 132 S.Ct. at 2468. Miller further requires that the type of mitigating evidence permitted in death penalty sentencing hearings should be mirrored, and unquestionably as to those hearings where a juvenile would face such a harsh and extreme sentence of Life, and are to be considered in addition to these five (5) factors illustrated. Aiken v. Byars, supra.

(1). Petitioner had a very low educational and scholastic scoring level, which may have demonstrated mild or border line retardation and/or a severe learning disorder or disability that may have caused him to be socially inept, (see Council v. State, 380 S.C. 159, 670 S.E.2d 356 (2008), and should have required a competent mental/scholastic expert to examine and determine Petitioner's educational, mental and social ideology for functioning in social parameters, (See Von Dohlen v. State, 360 S.C. 598, 602 S.E.2d 738 (2004)(relying on AMERICAN BAR ASSOCIATION GUIDELINES FOR THE APPOINTMENT AND PERFORMANCE OF COUNSEL IN DEATH PENALTY CASES, 11.4.1(2)(c)(1989)(once counsel is appointed ... he or she should begin, among other things, collecting information relevant to the sentencing phase including, but not limited to: medical history, educational history, family and social history, and prior ... juvenile record). Petitioner was the product of a violent home life. His mother, Carolyn Mills, was abandoned by his biological father, George Yates Hyatt, when Petitioner was born. Ms. mills would marry, Frankie Keziah, who was a brutal man that physically abuse Petitioner's mother in front of him. This has an extremely adverse affect upon Petitioner's social assessments. A true picture of these circumstances would have offered evidence in mitigation that would have provided the sentencing authority evidence that would/could have mitigated certain key factors:

(2) There existed character witnesses that would have been beneficial to this Petitioner's receiving the full panoply of mitigating factors and were relevant and favorable to him in being considered for a lesser sentence. These witnesses were his mother, Carolyn Mills; and step-father, Daniel Mills, who were his sole guardians and support who worked toward rearing Petitioner and supporting him. These witnesses were not provided notice nor made aware of the sentencing proceeding so they could offer essential insight and factors relating to mitigation which would had the propensity to cause a different outcome. See Skipper v. South Carolina, 476 U.S. 1 (1986)(due process violated where 2 jailers and a frequent visitor to the jail, whom all knew appellant, had been excluded from presenting mitigating evidence and testimony that would have been beneficial to the defense during the sentencing phase of the proceedings); Williams v. Taylor, 529 U.S. 362 (2000)(mitigating evidence unrelated to dangerousness may alter the jurys selection of penalty, even if it does not undermine or rebut the prosecutions case); Lockett v. Ohio, 438 U.S. 586 (1978)(stating that mitigating evidence includes any aspect of a defendants character or record and any of the circumstances of the offense that the defendant would proffer as a basis for a lesser sentence). For the purpose of this record, Ms. Mills has since became deceased and is no longer available to offer such testimony and facts;

(3). The failure of trial counsel to present evidentiary facts relating to the weapon fired that caused the Victim's demise, extremely prejudiced Petitioner's defense. This in light of the fact that the weapon used to kill the Victim was a .38 caliber handgun that had been sold to a, "Smokie" Ellison. Is was an extremely incompetent performance of trial counsel in failing to present, investigate, or preserve the

position now before this Court to show that there existed sufficient evidence/information to warrant a lesser sentence. See Ard v. Catoe, 372 S.C. 318, 332 n.14, 642 S.E.2d 590, 597 n.14 (2007)(referencing Wiggins and affirming PCR courts decision finding that trial counsel was ineffective in failing to further investigate GSR evidence in a murder case). Especially where petitioner's co-defendant, William Robert Horton, had in his possession this .38 caliber weapon, and went to Mr. Ellison's residence, solo, to sell the weapon to Mr. Ellison. It was evident that Mr. Horton was in possession of the murder weapon and, as an adult, attempted to avert the blame on the juvenile;

(4) Where there existed a neutral witness to the events of that night, i.e., Kathy Horton, and a female who is only known as "Marilyn", which would have contradicted the prosecutions case and permitted Petitioner an essential piece of the puzzle that would ensure that he had a viable defense, which in turn would have had the propensity in which to alter the outcome of the proceedings; and

(5) Where Petitioner was made to believe that when he entered the plea on January 12,1994, the sentence would not exceed 3 to 6 years, Youthful Offenders Act ("YOA"). It was even explained to Petitioner, by trial counsel, that he would only have to serve 3 years of the 6 year sentence prior to be considered for parole. And as a general rule, individuals whom were considered for parole, under YOA sentences, and maintained a good record and adjustment were basically guaranteed parole. It was trial counsel's advise to plea to the 6 year YOA negotiated deal which would be best for him. Petitioner would discover that the prosecution did not place on the record the negotiated plea, nor did trial counsel object at this critical stage in the

proceedings. Petitioner is of the belief that the prosecution should have been made to abide by their promises because it was these promises that Petitioner relied upon to enter the plea of guilt. United States v. Ringling, 988 F.2d 504 (4th Cir. 1993)(relying on Santobello v. New York, 404 U.S. 257 (1971)); also United States v. Harvey, 791 F.2d 299 (4th Cir. 1986). Petitioner would have demanded to proceed to trial, if he had known that the prosecution was not about to keep their promises. To fail to provide the benefits negotiated and mutually agreed upon, invades the very core of due process and puts into question the competency of Petitioner's plea. It deprives him of the opportunity to knowingly, intelligently and voluntarily waive his Constitutional rights. See, cf., Brown v. State, 306 S.C. 381, 412 S.E.2d 399 (1991)(relying on Boykin v. Alabama, 395 U.S. 238 (1969); Ray v. State, 303 S.C. 374, 401 S.E.2d 151 (1991); and Alexander v. State, 303 S.C. 539, 402 S.E.2d 484 (1991). It is fundamental that all parties act and play fair so that justice may prevail. Especially when dealing with "contracts", and it is Petitioner's position that plea agreements are "promises" or form the rigid basis for contractual principles. Petitioner believes that he should have enjoyed the benefits of his original plea agreement, and has suffered prejudice because of the failure of trial counsel to enforce the agreement.

Petitioner is of the belief and position that he warrants the relief sought herein and would respectfully demand that an evidentiary hearing be convened, counsel be appointed, and he be re-sentenced to a lesser mandatory minimum.

CONCLUSION

WHEREFORE, Petitioner prays this Court grant the relief sought herein, and order that Petitioner's sentence be vacated and he re-sentenced to a lesser minimum mandatory sentence.

November 11, 2014

Respectfully Submitted,

Ronald Yates Hyatt

Wando-A-220 #109143
Lieber Correctional Institution
Post Office Box 205
Ridgeville, South Carolina
29472-0205

PRO SE PETITIONER

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF LANCASTER	)	SIXTH JUDICIAL CIRCUIT
RONALD YATES HYATT #109143, Petitioner,	)	
vs.	)	ORDER DENYING PETITIONER'S MOTION FOR AIKEN vs. BYARS HEARING
STATE OF SOUTH CAROLINA, Respondent.	)	INDICTMENT 81-GS29-829

The Petitioner Ronald Yates Hyatt #109143 is currently incarcerated in the South Carolina Department of Corrections. He is serving a Life Sentence pursuant to his plea to Murder. He is also serving a sentence of twenty-five (25) years on his plea to Armed Robbery.

In November of 2015, the Petitioner filed a Pro Se Petition with this Court requesting that his sentence be reconsidered pursuant to Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014). This Court appointed Circuit Public Defender Michael H. Lifsey to represent the Petitioner.

A hearing was held before the undersigned Judge. The Petitioner was present and represented at the hearing by his attorney Michael H. Lifsey. The State was represented by Deputy Solicitor Lisa G. Collins. At the hearing, counsel for the Petitioner argued to the Court that the Petitioner should be afforded a full resentencing hearing pursuant to Aiken v. Byars. Counsel for the State argued that the Petitioner does not fall within the class of individuals covered by Aiken v. Byars and that the Court should summarily dismiss the Petition without holding a full resentencing hearing under Aiken v. Byars.

After hearing from counsel for both sides, and considering the applicable law, this Court makes the following Findings of Facts and Conclusions of Law:

FINDINGS OF FACTS

1. The Petitioner, who was born in January of 1965, is currently serving a Life sentence in the South Carolina Department of Corrections pursuant to his guilty plea to the charge of Murder (Indictment 81-GS29-829) entered on December 16, 1981. The Petitioner was represented by Tyre Lee, Esquire. The sentencing Judge, the Honorable Richard E. Fields, recommended on the sentence sheet that "he begins serving this sentence within the facilities of the Dept. of Youth Services." The Petitioner is also serving a concurrent

prison sentence of twenty-five (25) years pursuant to his guilty plea to the charge of Armed Robbery, also entered on December 16, 1981. (Indictment 81-GS29-830).

2. The facts of the case as alleged in the True-Billed Indictments for Murder and Armed Robbery are as follows: On August 17, 1981, in Lancaster County, S.C., the Petitioner along with his co-Defendant William Robert Horton robbed the victim Buddy Plyler at gunpoint and then killed the victim by shooting him with malice aforethought.
3. Records on file with the Clerk of Court reflect the following: the Petitioner was sixteen (16) years old at the time of this offense. His co-Defendant William Robert Horton was an adult (age 19) at the time of the offense. On August 24, 1981, Solicitor John R. Justice made a motion pursuant to Kent v. U.S., 383 U.S. 541 (1966) for the Petitioner's case to be transferred from the Family Court to the Court of General Sessions. On August 25, 1991, the Honorable Roddey L. Bell, Judge for the Sixth Judicial Circuit Family Court, issued an Order allowing the Solicitor to have a copy of the prior criminal offenses of the Petitioner for purposes of the hearing to transfer the case to General Sessions Court. On that same date, Judge Bell held a hearing regarding the State's Motion to transfer the case. The Petitioner and his parents were present, and the Petitioner was represented by attorney Berry Mobley. The Court issued an Order finding that, due to the juvenile's prior offenses and the disposition thereof in Family Court, along with the findings in a report from a Reception and Evaluation commitment to D.J.J. in September 1980, the Petitioner's charges should be transferred to the Court of General Sessions for the Petitioner to be tried as an adult.
4. A mental evaluation by Karl V. Doskocil, M.D. of the South Carolina State Hospital dated September 4, 1981 concluded that the Defendant was competent to stand trial.
5. The Grand Jury returned true-bills on these Indictments on December 7, 1981.
6. The Defendant entered a guilty plea to the Murder and the Armed Robbery charges on December 16, 1981. The Defendant was represented at the plea hearing by attorney Tyre Lee.
7. At the time of the Petitioner's charge and plea hearing, South Carolina law allowed a life sentence for murder to be eligible for parole. In the Petitioner's case, he was eligible for parole after serving approximately seventeen (17) years of his sentence. (SCDC records show that the Petitioner's eligibility for parole began in April of 1998.) The Petitioner has in fact had sixteen (16) parole hearings and has been rejected for parole at all of them. He is considered for parole every year.

1. In Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014), the South Carolina Supreme Court held that the principles set forth in Miller v. Alabama, 132 S.Ct. 2455 (2012), apply retroactively to offenders who were juveniles (persons under the age of eighteen as stated in Footnote 1 of the Opinion) and who are subject to a sentence of life imprisonment without the possibility of parole, even when those sentences are non-mandatory under the applicable state law. Miller held that offenders under eighteen years of age who are serving a mandatory sentence of life in prison without the possibility of parole are entitled to resentencing hearings, as such sentences violate the Eighth Amendment of the United States Constitution which prohibits cruel and unusual punishment. It appears to this Court that the essential goal of the South Carolina Supreme Court in Aiken v. Byars as well as the United States Supreme Court in Miller was to protect juvenile offenders from unconstitutional cruel and unusual punishment through a sentence of life in prison without parole – the key element being life in prison without parole.
2. The Petitioner timely filed his Petition/Motion for Reconsideration of Sentence pursuant to Aiken v. Byars within the time frame set by the South Carolina Supreme Court.
3. The holding in Aiken v. Byars does not apply to the Petitioner. Although the Petitioner was only sixteen at the time of his offense, he did not receive a sentence of life imprisonment without the possibility of parole. Rather, the Petitioner is afforded the opportunity to have his case reviewed every year by the Parole Board, and is given the possibility of parole every year. Therefore, the Petitioner is not within the class of offenders for whom Aiken v. Byars provides for resentencing hearings.
4. This Court has considered the able argument of Petitioner's counsel, that the Petitioner is in effect serving a sentence of life without parole as the Parole Board has rejected the Petitioner's application for parole each year for the past sixteen years. This Court specifically rejects this argument, as the South Carolina Supreme Court in Aiken v. Byars cites Miller as applying to juvenile offenders who are serving "life in prison without possibility of parole." (emphasis added) This Court finds that the Petitioner clearly has the possibility of parole, and that possibility comes to fruition each year when the Parole Board reviews the Petitioner's case and considers him for parole. Therefore, this Court finds and concludes that Aiken v. Byars and Miller do not apply to this Petitioner's case. This Court therefore grants the State's Motion to summarily dismiss the Petition.

THEREFORE, IT IS HEREBY ORDERED THAT that the Petition/Motion for a Reconsideration of Sentence for a resentencing hearing pursuant to Aiken v. Byars is DENIED.

IT IS SO ORDERED THIS 15 DAY OF AUGUST, 2016.

THE HONORABLE BRIAN M. GIBBONS
Chief Administrative Judge
Sixth Judicial Circuit

Lancaster, S.C.

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	
COUNTY OF LANCASTER)	SIXTH JUDICIAL CIRCUIT
RONALD YATES HYATT #109143,)	
Petitioner,)	CERTIFICATE OF SERVICE
vs.)	
)	
STATE OF SOUTH CAROLINA,)	
)	INDICTMENT 81-GS-29-829
Respondent.)	

The undersigned hereby certifies that on the 29 day of August, 2016, she served a certified true copy of the ORDER DENYING PETITIONER'S MOTION FOR AIKEN vs. BYARS HEARING in this case upon the Petitioner and his attorney, Michael Lifsey, by hand-delivering two certified true copies (one each for the Petitioner and his attorney) to the Defendant's attorney at the Lancaster County Courthouse, 104 North Main Street, Lancaster, S.C.

Lisa G. Collins
Deputy Solicitor
Office of the Solicitor for the Sixth Judicial Circuit

SWORN TO BEFORE ME
this 29 day of August, 2016.

Notary Public for the State of S.C.
My Commission Expires: 11/24/2025

FILED
OFFICE OF CLERK
OF COURT
2016 AUG 29 AM 11:12
CLERK OF COURT
LANCASTER, SC

CERTIFIED TO BE A TRUE COPY

JEFF HAMMOND
CLERK OF COMMON PLEAS
AND GENERAL SESSIONS COURT
LANCASTER COUNTY, S.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

IN THE FAMILY COURT

State of South Carolina,

-vs-

Ronald Hyatt, age 16 years,
Defendant.

MOTION

The above-named party, being the defendant in a petition signed on August 24, 1981 alleging the commission of Murder, and the same being a minor, being the age of sixteen (16) years old, and it being in the best judment of this Petitioner that this matter is a proper subject for prosecution as a criminal in the Court of General Sessions for Lancaster County.

I MOVE that this case be transferred to the Court of General Sessions and that bond be set as provided by law.

John R. Justice, Solicitor
Sixth Judicial Circuit

August 24, 1981
Chester, South Carolina

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STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

IN THE FAMILY COURT

State of South Carolina,

-vs-

Ronald Y. Hyatt, age 16 years,

Defendant.

ORDER

This matter comes before me upon the motion of the Solicitor of the Sixth Judicial Circuit requesting a transfer of the Petition against the above-named juvenile to the Court of General Sessions.

A hearing was held in this matter on August 25, 1981. Present at that hearing were the juvenile, Ronald Y. Hyatt; Mr. and Mrs. James Mills, the juvenile's parents; Mr. Berry Mobley, attorney for the juvenile; and Frank Manning on behalf of the Petitioner. Upon consideration of all evidence presented by the attorney for the juvenile and by the Solicitor, the Court makes the following findings of fact:

1. That the juvenile has been charged with Murder and Armed Robbery, and that one other, an adult is charged with these offenses also.

2. That the juvenile has been involved in the Family Court System since February 1980. His prior offenses include two charges of truancy; breaking and entering into a motor vehicle, petty larceny and forgery; and housebreaking. He was committed to Reception and Evaluation in September, 1980.

3. That the investigation and reports completed on the above-named juvenile during his commitment to Reception and Evaluation and the logged reports of the juvenile's counselor are a sufficient examination of the parentage and surroundings of the juvenile, his age, habits and history and are a sufficient inquiry into the home conditions, habits and character of his parents or guardian;

4. That a mental and psychological examination of the above-named juvenile is not needed in addition to the report of the Reception and Evaluation already in hand, for this Court to make its decision on transferring this Petition to Circuit Court;

5. That a school report from the proper authorities would not benefit the Court in making this transfer decision;

6. That a physical examination by a competent physician is not needed to assist the Court in making this transfer decision; and

7. That the charged offenses are of a serious nature and involve a degree of violence which was directed against a member of the community; and that any further involvement with the Family Court System would not benefit this juvenile.

I further find that the evidence presented meets the requirements of Kent v. U.S. 383 US 541 (1966), Rule 41 of the Family Court Rules and the statutory provisions regarding the transfer of juvenile petitions; and that it is in the best interest of the juvenile and the public if the transfer is granted. In this regard I have considered among other things, the following:

1. The seriousness of the alleged offenses to the community and that protection of the community requires waiver;

2. The alleged offenses were against a person and not merely against property.

3. The alleged offenses were committed in an aggressive, violent, and premeditated or willful manner.

4. There is apparent prosecutive merit to the complaint and from the statement of the Solicitor it is likely that a Grand Jury would return an indictment.

5. The juvenile is sophisticated and mature in regards to the severity of the offense. I have given due consideration to his home environmental situation, emotional attitude, and pattern of living, all of which are reflected in the juvenile's Reception and Evaluation Report.

6. The juvenile has a prior record in the Family Court and has been involved in probationary sentences and a commitment to Reception and Evaluation Center. The juvenile's previous record makes his prospects for rehabilitation unlikely under the Family Court System; and

7. There are better prospects for adequate protection of the public and better likelihood of reasonable rehabilitation of the juvenile (if he be convicted) were he to be tried in General Sessions Court.

NOW, THEREFORE, IT IS ORDERED that the above-mentioned Petition be and the same are hereby transferred to the Court of General Sessions.

IT IS SO ORDERED.

Roddey L. Bell, Judge
Sixth Judicial Circuit

August 25, 1981
Lancaster, South Carolina

Certified a True Copy
Vernon McManus
CLERK, FAMILY COURT OF
LANCASTER COUNTY, SOUTH CAROLINA

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J. M. Hammond
JEFF HAMMOND
CLERK OF COMMON PLEAS
AND GENERAL SESSIONS COURT
LANCASTER COUNTY, S.C.

STATE OF SOUTH CAROLINA

COUNTY OF ~~RICHLAND~~ LANCASTER

IN THE COURT OF GENERAL SESSIONS

THE STATE

vs.

Ronald Hyatt

Register No. CS810-0872

Defendant.

REPORT OF FINDING OF MENTAL CAPACITY

TO: THE HONORABLE John R. Justice

SOLICITOR SIXTH JUDICIAL CIRCUIT

THE UNDERSIGNED RESPECTFULLY REPORTS TO THE COURT:

1. That the above-named defendant was admitted to the hospital on August 26, 19 81, to determine the defendant's capacity to stand trial pursuant to Section 44-23-410, *et sequentia*, Code of Laws of South Carolina, 1976.

2. That after study and observation, the hospital staff submits the following report:

(a) That the above-named defendant is not mentally ill.

(b) That the above-named defendant is capable of understanding the nature of the charges, and is capable of assisting counsel in his own defense.

3. It is recommended that Mr. Hyatt be returned to the jurisdiction of the court.

X Karl V. Doskocil M.D.

Karl V. Doskocil, M.D.

Superintendent
Title

Dated this 4th day of September, 19 81.

South Carolina State Hospital
Name of Institution

Columbia, South Carolina

CC: Mr. Vernon McManus, Clerk of Court, Lancaster County, Lancaster, SC 29720
Mr. Nae Parks, Sheriff, Lancaster County, Lancaster, SC 29720

wh

TO BE A TRUE COPY
JEFF HAMMOND
CLERK OF COMMON PLEAS
AND GENERAL SESSIONS COURT
LANCASTER COUNTY, S.C.

SCDMH FORM M-155A
JAN 1978

RETURN

_____, 19____

_____
Constable or
Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

_____

William Robert Horton

on the 23 day of August,

19 81.

Sgt Gainer

Constable or
Law Enforcement Officer

This Warrant is certified for service in

_____ County. The accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Entered 8-23-81

Returned 9-10-81

STATE OF SOUTH CAROLINA

County of Lancaster

81-GS-29-829

THE STATE
against

William Robert Horton

ARREST WARRANT

Offense Murder

_____

Code Section _____

Date _____

Officer and Agency _____

_____

_____

Disposition _____

_____

Sentence _____

_____

Co-Defendants _____

_____

_____

INFORMATION ON DEFENDANT

Name _____

Address _____

_____

Phone _____

Sex _____ Race _____ Height _____

Weight _____ Birthdate _____

Social Security Number _____

INFORMATION ON WITNESSES

Name _____

Address _____

Phone _____

Name _____

Address _____

Phone _____

Name _____

Address _____

Phone _____

PRELIMINARY HEARING held by

Magistrate _____

_____

on _____, 19____,

with _____,
Attorney for Defendant.

Decision: _____

BAIL

Date Set _____, 19____

Magistrate _____

_____

Amount _____

Surety _____

81-60-29-809

Form Approved by
S. C. Attorney General
Section 17-13-160
March 15, 1978

Arrest Warrant A 139793

STATE OF SOUTH CAROLINA

ARREST WARRANT

COUNTY OF Lancaster

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF Lancaster, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that [name of defendant]: William Robert Horton

did on the 17th day of August, 19 81, violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE

Murder

Now, therefore, you are empowered and directed to arrest the said defendant and bring him before me forthwith to be dealt with according to law.

A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Done at Lancaster County, S. C., this 17th day of August, 19 81.

J. O. McCall (L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF Lancaster

Personally appeared before me, a magistrate of this County, one Floyd F. Kelly, who, first being duly sworn, deposes and says that [name of defendant] William Robert Horton

did within this County and State on the 17th day of August, 19 81, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

Murder

The Affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

One William Robert Horton Through a written statement supplied to Capt. Lucas of the Lancaster County Sheriff's Departmentone Robert Horton did violate the Code of Laws for the State of South Carolina in that Robert Horton did Murder one Buddy Plyler by use of a firearm. This offense occurred in Lancaster County South Carolina.

Sworn to and Subscribed before me

this 23rd day of August, 19 81.

J. O. McCall (L.S.)
Signature of Judge

Floyd F. Kelly
Affiant

Address

Phone

FORM CONTINUES ON BACK

ORIGINAL

Witnesses

Floyd Kelly

Verdict

Foreman

81-GS-29-829

The State of South Carolina

County of LANCASTER

COURT OF GENERAL SESSIONS

December Term, 19 81

THE STATE

vs.

Ronald Yates Hyatt

INDICTMENT FOR

MURDER

CDR -

True Bill

Fred J. Carter
Foreman of Grand Jury

McCAW PRINTERS, COLUMBIA, S. C.

PLEA OF GUILTY

And now comes the within [illegible] defendant in (his) (her) own proper person, and [illegible] the Clerk of said Court if [illegible] guilty to the within indictment, [illegible] indictment I do hereby freely [illegible] reservation and without any [illegible] whatsoever either by threats, [illegible] plead guilty to [illegible] to the within indictment.

Lancaster, S. C. December 16, 1981

WITNESS: [signature] Ronald Hyatt, Defendant

Clerk of Court

The Sentence of the Court is that the defendant Ronald Y. Hyatt be committed to the custody of the [illegible] County Detention Center, or the South Carolina Board of Corrections for [illegible] or pay a fine of

The [illegible] service of

of this Sentence, or the payment of

the balance of the said sentence shall stand suspended and the defendant shall be placed upon Probation for a period of

Date December 16, 1981 [signature] Presiding Judge

CERTIFIED TO BE A TRUE COPY

[signature]

JEFF HAMMOND
CLERK OF COMMON PLEAS
AND GENERAL SESSIONS COURT
LANCASTER COUNTY, S.C.

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FORM 4

The State of South Carolina
County of LANCASTER

INDICTMENT FOR MURDER

At a Court of General Sessions, convened on the 7th day of December,

19 81, the Grand Jurors of Lancaster County present upon their oath:

That Ronald Yates Hyatt

did with malice aforethought in Lancaster County on or about the 17th day of August, 19 81, kill one Buddy Plyler by means of shooting him.

and that the said Buddy Plyler did die in Lancaster County as a proximate result thereof on or about the 17th day of August, 1981

Against the peace and dignity of the State.

Solicitor

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,

Susan B. Hackett

Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 19th day of October, 2017.