

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable William H. Seals, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JONATHAN CHRISTIAN HUGHES,

APPELLANT.

APPELLATE CASE NO 2016-000965

RECORD ON APPEAL

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State of South Carolina) In the Court of General Sessions
) Eleventh Judicial Circuit
 County of Lexington) 2015-GS-32-00897, -00898

State of South Carolina,)
)
 Plaintiff,)
)
 Vs.) Transcript of Record
)
 Jonathan Hughes,)
)
 Defendant.)
)
)

April 14, 2016
 Lexington, South Carolina

B e f o r e:

The Honorable William H. Seals, Judge

A p p e a r a n c e s:

Angela Martin, Esquire
 Attorney for the Plaintiff

Jason Chehoski, Esquire
 Attorney for the Defendant

Bonnie H. Kelly, CVR
 Circuit Court Reporter

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EV.</u>
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-- No exhibits entered --

1 (Prior to this hearing, all defendants were required
2 to stand as a group as their rights were recited by the
3 Court.)

4 COURT CLERK: 2015-GS-32-897, *State vs. Jonathan*
5 *Christian Hughes*, indicted for burglary first degree. He
6 is pleading as charged.

7 2015-GS-32-898, *State vs. Jonathan Christian Hughes*,
8 indicted for armed robbery. He is pleading as charged.

9 Both indictments are true billed and he is represented
10 by Mr. Chehoski.

11 (To the defendant) Raise your right hand, please.

12 JONATHAN HUGHES, having been first duly
13 sworn, testifies as follows:

14 DIRECT EXAMINATION BY THE COURT:

15 Q All right. Mr. Huges, you are pleading guilty to
16 armed robbery, which carries a minimum of 10 years and a
17 maximum of 30 years; is that correct?

18 A Yes, sir.

19 Q And you are pleading guilty to burglary first degree,
20 which carries a minimum of 15 years and a maximum of life;
21 is that correct?

22 A Yes, sir.

23 Q Were you in the courtroom -- you need to speak up a
24 little bit now.

25 A All right.

1 Q Were you in the courtroom when I went over your rights
2 to a jury trial?

3 A Yes, sir.

4 Q Did you understand those rights?

5 A Yes, sir.

6 Q And you want to give up your right to a jury trial and
7 plead guilty today.

8 A Yes, sir.

9 Q Are you satisfied with your lawyer?

10 A Yes, sir.

11 Q Has he answered all of your questions?

12 A Yes, sir.

13 Q Has he done everything you've asked him to do?

14 A Yes, sir.

15 Q Have you had enough time with your lawyer?

16 A Yes, sir.

17 Q Has anybody promised you anything to get you to plead
18 guilty?

19 A No, sir.

20 Q Anybody threatening you in any way to make you plead
21 guilty?

22 A No, sir.

23 Q Are you under the influence of any drugs or alcohol at
24 this time?

25 A No, sir.

1 Q Have you answered me truthfully?

2 A Yes, sir.

3 Q Are you guilty?

4 A Yes, sir.

5 Q Have you understood all of my questions?

6 A Yes, sir.

7 Q Thank you.

8 THE COURT: Solicitor.

9 MS. MARTIN: Thank you, Your Honor. May it please the
10 Court.

11 Your Honor, this was on Valentine's Day of 2015. It
12 was a little after one o'clock in the morning. It happened
13 on Doe Trail Drive, in the County of Lexington.

14 Your Honor, the home owners, David Quintana [phonetic]
15 and Alva Valdez -- who are here on the front row -- they
16 are common-law married. They have children together. They
17 were actually going to sleep or had been asleep. The daddy
18 heard a noise, thought one of the kids had gotten up and
19 was in the den; and then the next thing he knew, there was
20 a gun -- a man that was armed with a gun in his house.

21 Your Honor, the way the -- the -- the mobile home is
22 situated is that on one side, there is the parent's room
23 with the master and a bathroom; then the den is in the
24 middle. And they had three children, and the children's
25 bedrooms were on the other side of the mobile home.

1 Your Honor, the -- the gunman forced David back into
2 the bedroom, was telling them -- he and his wife to get in
3 the bedroom. Then he forced them into a bathroom area.
4 They heard commotion, other people coming into the home.

5 This person that we believe is a co-defendant, not --
6 not this guy, was telling them that if they didn't be
7 quiet, if they didn't cooperate, that they'd kill the
8 children. And just the feelings that were going and
9 emotions that were going through their head as they were
10 separated from their children -- they were actually take --
11 put in -- told to go into the bathroom and get into the
12 shower -- that was very, very traumatic.

13 And as I said, they could hear that the -- the other
14 people -- there were other people in the house. They were
15 -- they could hear people walking down the hall.

16 Your Honor, this defendant and two co-defendants
17 actually took X-boxes, Wii stations, took Ms. Alva's
18 pocketbook that had lots of credit cards in it, took an old
19 family heirloom Bible. They -- they just came in, robbed
20 them.

21 And even though it was pretty fast, it certainly was
22 very traumatic. One of the children had woken up, had
23 heard the commotion, had heard his bedroom door open, and
24 he just pretended like he was asleep.

25 Your Honor, when -- when they left, they -- they were

1 on foot. David Quintata actually called law enforcement.
2 Law enforcement gets there pretty quickly. It's a county
3 case.

4 They come to investigate and when they're in this
5 neighborhood, they come across this defendant and a co-
6 defendant, Antonio Johnson, they're walking. They just do
7 an ID on these people because they're still investigating.
8 They don't know if these two people are involved or not.

9 They get their name, their address. They look at
10 their clothes, they look at their shoes because they know
11 that the door had been kicked in.

12 So law enforcement was -- was very, very pro-active
13 and -- and that helped, certainly, a couple of hours later
14 when the case finally broke.

15 Judge, what happened is, after this, the -- Mr.
16 McNeill -- which -- who has not been to court yet -- when
17 he went back home or went to a family member's house and --
18 anyway, they ended up back at Mr. Hughes's family's house.

19 Your Honor, Mr. McNeill, a co -- the co-defendant that
20 has not gone to court yet, decided that since it had gone
21 so well and he'd gotten away with it -- this is within
22 hours -- he decides to do another home invasion in the same
23 area.

24 And so he goes in -- crawls through a doggie door with
25 a long-armed gun into another home, and he's actually

1 caught and confronted by the homeowner who -- who fights
2 with him and -- and holds him there until law enforcement -
3 - who was right there anyway -- gets him. And they get Mr.
4 McNeill and he has Ms. Alva's credit cards and things on
5 his person.

6 So that case was solved very, very quickly. So they
7 were able to get Mr. McNeill into custody and it just went
8 from there.

9 Sure enough, Mr. Hughes and Mr. Johnson, who'd been
10 walking, end up being implicated in this. Law enforcement
11 gets search warrants. They talk to family members and --
12 and it's just a very, very strong State's case.

13 Your Honor, Mr. Hughes and his co-defendant, when they
14 got home, they -- they hid some of the stuff that they had
15 stolen. They buried clothes. They tried to get rid of
16 their shoes when they had known law enforcement had been
17 interested in the shoes.

18 But law enforcement broke the case. I mean, they got
19 everything back. They got the clothes that had been buried
20 and the shoes and -- and things of that nature.

21 Your Honor, our intent today is to resolve all pending
22 charges. There's some companion gun -- gun charges and a
23 kidnapping -- two kidnappings that are being dismissed.

24 When Mr. Hughes was actually brought into custody, he
25 was not -- he was not cooperative at the beginning. He

1 gave different statements and each time they would confront
2 him with different evidence that they had found, and then
3 he would admit a little bit more and a little bit more and
4 a little bit more until finally he admits that -- not that
5 it would have mattered if he had just been a lookout, but
6 he finally did admit that he was one of the ones that had
7 gone in and gotten one of the game -- game stations.

8 Your Honor, Mr. Hughes has no prior record. He has
9 been in jail since the February date, 2/26 I think. But
10 Mr. Chehoski can correct that.

11 Your Honor, the victims are here. They did not want
12 to address the Court, but you know, it was very traumatic.
13 And Detective Spivey from the Sheriff's Department would
14 like to be heard as far as sentencing at the appropriate
15 time.

16 THE COURT: All right. Right now will be fine.

17 MS. MARTIN: Thank you.

18 DETECTIVE SPIVEY: Thank you, Your Honor. Just want
19 to reiterate some of the stuff that she was -- that Angela
20 was saying.

21 This case was something that happened over Valentine's
22 Day. I would see some time for -- for severity that took
23 place in these -- these victims's lives. Fear, I mean,
24 that's the biggest thing I can say. These are true, true
25 victims that you will want to call it in this matter.

1 You know, to -- to have a family be put into a -- to a
2 shower and be -- have threatened their children in regards
3 to this matter, not knowing what's going on with the
4 children while they're in the shower and not being able to
5 move, you know, I mean, they're -- they're basically
6 rendered helpless in the matter. And so it's a -- it's a
7 everyday nightmare for -- for a father or mother not
8 knowing what's going on with their children.

9 But kinda go into also with the children, you know,
10 knowing these people are inside the house, burying their
11 heads to kind of cover up that they're not -- that they're
12 sleeping, faking that they're asleep while they hear all
13 this activity going on, you know, it's just -- it's -- it's
14 a nightmare for any family.

15 But I just wanted to basically ask that you give the
16 max you possibly can give him.

17 THE COURT: All right.

18 DETECTIVE SPIVEY: Thank you, Your Honor.

19 THE COURT: I'll accept the plea and find that he is
20 doing so freely, intelligently, and with the advice of
21 competent counsel.

22 MR. CHEHOSKI: Thank you, Your Honor. May it please
23 the Court. Mr. Hughes stands before you, 20 years old. He
24 did complete the -- the tenth grade. Grew up in New Jersey
25 area, has moved and lived in South Carolina, in Lexington

1 County, since 2011. He's been in custody for 424 days,
2 ever since his arrest. He's been held without bond.

3 Before his arrest, he was working as a caretaker with
4 his cousin, essentially helping out with an elderly patient
5 and chores and maintaining the house.

6 Your Honor, one -- Mr. -- one of his co-defendants,
7 Mr. Antonio Johnson, has already been to court in front of
8 Judge Addy, at the end of last year, was sentenced to 20
9 years. I'm going to try to make the case that Mr. Hughes
10 deserves less than that, even strive for 15. Not at all
11 downplaying the severity of the charges. The severity of
12 the charges and the minimum ranges speak for themselves.
13 And the fear that the victims felt and Mr. Johnson's role
14 in it is why he's here today.

15 First of all, my understanding was Mr. Johnson did
16 have a minimal prior record, while Mr. Hughes does not have
17 any. Mr. Johnson may -- was armed with a BB gun at the
18 time. Mr. Hughes was never armed. I don't think the --
19 the -- he had no contact with the victims at all.

20 He admits going into the house. He did admit to that,
21 to going and taking some items. And when confronted with
22 the police, he did cooperate, even to the point where a lot
23 of -- a lot of the items that he told them, they did search
24 what -- where items were buried and where they were. He
25 was the one who directed the -- where to find them, and

1 they determined that to be true.

2 Your Honor, this -- from what I can tell, Mr. John --
3 Mr. Hughes, rather, was really kind of just following
4 along. He -- he found out -- found that he got in too deep
5 and then, you know, kind of got dragged into it. It's
6 certainly his choice to get dragged into it. He could have
7 walked away.

8 Understanding that, you know, at his young age, what
9 happens in the next few moments may determine, you know,
10 what he's going to do with -- what -- how long he's going
11 to be spending the next days of his life and how long that
12 -- that time will be.

13 My relationship with Mr. Hughes began when I started --
14 -- came on with the Public Defender's Office back in
15 October. He was one of the very first cases that I looked
16 into, you know, read through the file, read through the
17 statements that he gave to the police, and then -- and as
18 through the -- the police reports, and how cooperative he
19 was. And then realizing that he's 20 years old and it's
20 the very first time he's ever been in trouble.

21 Mr. Hughes has always been extremely polite and
22 respectful towards me. I think in -- in reading -- he was
23 -- in reading through the words, at the time when the --
24 the investigator came up and showed him more evidence, I
25 think he realized that, you know, any charade was over and

1 the report says his head just dropped, like, you know, it's
2 kind of the weight that comes crashing down.

3 We've gone over the collateral consequences in re the
4 most serious -- the 85 percent, the violent crimes -- and
5 he understands that. He feels extreme remorse. He wanted
6 me to apologize to the victims.

7 Ms. -- Mr. Hughes is understandably very worried as to
8 what's going to happen to him.

9 Your Honor, other than -- my relationship with him and
10 even to the point where, you know, as we got closer to this
11 day, we had a motion here -- I think in the past month, he
12 moved to have me relieved simply because of our
13 negotiations with the State weren't getting to the point
14 where he was -- he was satisfied.

15 But even a motion to relieve me was not personal. It
16 was -- it was just to the extent that he didn't feel like I
17 was doing enough. We -- we came in here. Ms. Martin's --
18 has been, from the very beginning, at least I -- as far as
19 I'm concerned -- her hands have been tied. She was given a
20 -- given a directive from her superiors not to make an
21 offer as to a negotiated sentence, which is what Mr. Hughes
22 was wanting. All we could do was get -- get some charges
23 dismissed -- the kidnapping charges and the -- the
24 possession of a weapon during the course of a violent crime
25 have been dismissed as part of this plea.

1 Your Honor, because of his lack of prior record and
2 because of his cooperation and -- and his -- I don't want
3 to say minimum, but his lesser -- lessened involvement,
4 we'd ask the Court to consider a 15-year sentence. But in
5 any case, we ask for less than the 20 that his co-defendant
6 received.

7 Your Honor, we thank -- we thank you for your time.

8 THE COURT: In reference to the burglary first, I'm
9 going to give him 40 years. I'm going to give him 424 days
10 credit. I'm gonna run it concurrent with armed robbery,
11 and I'm gonna give him 30 years on that one. 424 days
12 credit.

13 THE COURT REPORTER: Excuse me, Your Honor. Did you
14 say ---

15 THE COURT: 40.

16 THE COURT REPORTER: 40.

17 THE COURT: 40 and 30.

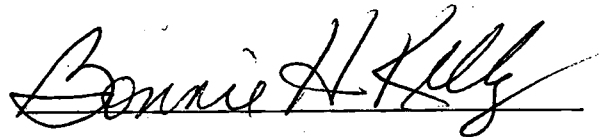
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CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Eleventh Circuit Court for Lexington County, South Carolina, on the 14th day of April, 2016.

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



Bonnie H. Kelly, CVR
Official Court Reporter

Columbia, South Carolina

January 29, 2017

ORIGINAL

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

v.)

JONATHAN C. HUGHES,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUIT

NOTICE OF MOTION AND
MOTION TO RECONSIDER SENTENCE

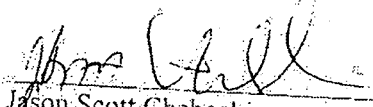
INDICTMENT#: 2015GS3200897, 98

2015A321620293 + 2A4

TO: ANGELA MARTIN, Assistant Solicitor for the Eleventh Judicial Circuit

PLEASE TAKE NOTICE that the Defendant, Jonathan C. Hughes, through his undersigned attorney, will move before the Honorable William H. Seals, as soon as the matter can be heard, to reconsider the sentence imposed by the Court on April 14, 2016. Specifically, the Defendant pled guilty to first-degree burglary, and armed robbery, with no recommendation from the State on sentencing. The Court sentenced the Defendant to forty years imprisonment, credit for time served.

Respectfully submitted,



Jason Scott Chehoski
Attorney for the Defendant

Lexington, South Carolina

April 14, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON)	
)	
v.	)	MEMORANDUM IN SUPPORT OF
	)	MOTION TO RECONSIDER SENTENCE
JONATHAN C. HUGHES,)	
	)	INDICTMENT#: 2015GS3200897, 98
Defendant.)	
_____)	

On April 14, 2016, the Defendant, Jonathan Christian Hughes pled guilty in front of the Honorable William H. Seals to one count of Burglary in the First Degree and one count of Armed Robbery. In exchange for the plea, the State dismissed two counts of Kidnapping and one count of Possession of a Weapon in the Commission of a Violent Crime. There were no other recommendations or negotiations from the State. Judge Seals sentenced the Defendant to forty (40) years on the Burglary charge and thirty (30) years on the Armed Robbery charge. The Defendant, through his attorney, filed a motion to reconsider the sentence on April 14, 2016. On April 21, 2016, Judge Seals requested written grounds for reconsideration of the sentence.

Pursuant to Rule 29 of the SC Rules of Criminal Procedure (SCRCrimP), there are two exceptions to the long-standing rule that the court does not retain the authority to hear a criminal matter once the term of court during which the judgment was entered expires. State v. Hinson, 303 S.C. 99, 399 S.E.2d 422 (1990). Those two exceptions are motions for new trials based on newly discovered evidence and a timely post trial motion. Rule 29, SCRCrimP. This current motion to reconsider sentence was filed within ten (10) days of the imposition of the sentence. This matter is properly before the court.

The Defendant, through his attorney, bases this motion on the grounds of the disparity of the sentence given to the Defendant as compared to a similarly situated codefendant.

The codefendant pled on December 14, 2015 in front of the Honorable Frank R. Addy, Jr. to one count of Burglary First Degree and one count of Armed Robbery and received a 20 year sentence to run concurrently with each other. As with the Defendant, the State dismissed two counts of Kidnapping charges and one count of Possession of a Weapon in the Commission of a Violent Crime with no other recommendations or negotiations from the State. The sentencing sheets from that plea are attached to this memorandum. The Defendant, through his attorney stated during the plea that he has no prior record, cooperated with the police during the course of their investigation by giving two confessions, and was never armed during the incident. The Defendant had no contact with the victims involved in this incident and could not have been identified by the victims. In confessing to the police, the Defendant was able to tell the investigators where many of the items taken from this incident were located and subsequently recovered. During the plea, the State referred to another home invasion that led the police to break the case against the Defendant and his codefendant. The record reflects that this second incident was the work of a third codefendant, whose case has not yet been heard, and was solely the work of that third codefendant. The Defendant, through his attorney, submits to the court that there is no rational basis for the Defendant to receive a sentence double the length of that of a similarly situated codefendant and that the sentence given to the Defendant violates the Eight Amendment to the United States Constitution and the Article I, Section 15 of the South Carolina Constitution.

Other jurisdictions have considered disparate sentences between co-defendants outside of the context of a death penalty case. Consider *State of Ohio v. Moore*, 2014 Ohio 5135 (Ohio App., 2014), where the Appellant and his codefendant robbed a Hard Rock Café in May 2000. In this case, the codefendant “by all accounts, masterminded the robbery and carried the

gun, pleaded guilty and received concurrent nine-year prison terms without any firearm specifications. Moore, who was not armed and was described by one of the victim's as having shown some compassion during the robbery, went to trial and received a prison term of ten years on each count, to run consecutively to each other and to a three-year firearm specification, for a total of 33 years," *Moore* at ¶2. Even after being remanded to a newly assigned sentencing judge from a previous appeal, Moore was subsequently sentenced to a eight-year term, to run consecutively to each other and a three-year firearms specification, for a total prison term of 27 years. *Moore* at ¶8. Even in a case where one codefendant pled guilty and another went to trial, the court was disturbed because the record did not support the disparity of the sentences given to Moore as opposed to that of the codefendant. "[L]eniency for a plea alone cannot explain why the terrorizing gunman who was the mastermind of the crimes received a concurrent, nine-year prison term for his conduct and Moore received a consecutive sentence of 27 years. Nor should it." *Id* at ¶37. The Ohio Revised Code 2929.14(C)(4) requires the court to make findings necessary in order to impose a consecutive sentence, on appeal the court found that the record did not support those findings on a clear and convincing basis. *Moore* at ¶40.

In *State v. Bailey*, 251 Kan. 527, 834 P.2d 1353 (1992), two codefendants were arrested for a series of robberies, including one that resulted in the death of an attendant. Both codefendants claimed the other was the more culpable and that they only served as the getaway driver. Both were subsequently sentenced on four counts of aggravated robbery and one count of first degree felony murder. Both codefendants were given identical sentences of 15 years to life on the aggravated robbery charges and one life term for the felony murder. Bailey's sentence, however, were ordered to run consecutively while his codefendant's sentence were concurrent. This sentence structure would have forced Bailey to serve 50% longer than his codefendant

before being eligible for parole. *State v. Bailey*, 251 Kan. 527 at 529, 834 P.2d 1353 at 1354. The court emphasized in remanding, finding that the record demonstrated the codefendant was more culpable, that the "trial judge is not bound to sentence the defendant in this case to the same or a lesser sentence than that of his codefendant. The trial court, however, must consider the sentence given to the codefendant and, if a longer sentence is given, the reason for doing so should be set forth on the record." *Bailey* at 531, 1356.


Lastly, I ask the court to consider the case of *People v. Vasquez*, 763 N.E.2d 779 (Ill. App., 2001). Vasquez was sentenced to 30 years for armed robbery while his codefendants received a 25 year sentence for first degree murder and a six-year consecutive sentence for armed robbery, *Vasquez* at 788. While the disparate sentence claim was denied since the court found they were not similarly situated codefendants, the court, quoting *People v. Taylor*, 742 N.E.2d 357 (2000), stated "[t]he general rule as to the question of whether defendant's sentence was unfairly disparate is that arbitrary and unreasonable disparity between sentences of similarly situated codefendants is impermissible."

In the present case, both the Defendant and the codefendant have pled guilty to the exact same charges with the exact same position taken by the State and thus are similarly situated. The record shows that the Defendant was no more culpable, and perhaps less culpable in conduct, than the codefendant who received a 20-year sentence. The *Moore* and *Bailey* cases are compelling because the court performs a culpability analysis based on the defendant's conduct as compared to the codefendant. In doing so, they noted that while both the defendant and his codefendant in that case were equally liable, their disparate sentences were out of proportion with their respective conduct. Had the court performed a likewise analysis, it would not have seen anything on the record to suggest that the Defendant's conduct warranted twice the sentence

of a similarly situated codefendant. Fundamental fairness requires that such a wide disparity be discussed on the record given the totality of the circumstances. In defining abuse of discretion, the Supreme Court of Kansas in *State v. Davis*, 256 Kan. 1, 883 P.2d 735 (1994) at 743 stated that it happens "only if no reasonable person would take the view adopted by the trial court," quoting *State v. Brown*, 823 P. 2d 190 (1990). The Defendant submits that when two similarly situated codefendants, both in terms of charges and relative culpability, receive such disparate sentences without any comment on the record as to the reasoning for the greater sentence, then such an instance has occurred.

For the reasons stated above, the Defendant moves to reconsider the sentence in this case.

Respectfully submitted,



Jason Scott Chiehoski
Attorney for the Defendant

Lexington, South Carolina

April 26, 2016

ORIGINAL

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON	)	SEVENTH JUDICIAL CIRCUIT
STATE)	
vs.	)	MEMORANDUM IN OPPOSITION TO
	)	DEFENDANT'S MOTION TO RECONSIDER
JOHNATHAN C. HUGHES,	)	INDICTMENT #: 2015GS3200897, 98, ET. AL
)	
<u>DEFENDANT</u>)	

This motion comes before the Court by motion of the Defendant, Johnathan C. Hughes, requesting the Court to reconsider its sentence in this matter. The State opposes the Defendant's motion as the Court's sentence was proper.

In his motion, the Defendant did not supply the Court with any new mitigating factors as to why Defendant Hughes should receive a sentence reduction. The Defendant has not given any change in circumstance or any new factors for sentence consideration that the Court had not heard at the time of the sentencing.

South Carolina case law gives the Court broad discretion in imposing sentences. There have been no facts supporting an allegation of prejudice against this defendant or any corrupt motive. See Brooks v. State, 481 S.E.2d 712(1997), Garrett v. State, 465 S.E.2d 349(1995), and State v. Bolin, 39 S.E.2d 197(1946).

During the plea, the Court heard from the State, law enforcement, the victims, the defense counsel and the Defendant. The Court heard the facts of this night time home invasion, kidnaping and armed robbery. At the time of the plea, the Court was provided with the codefendant's sentence. Nothing new has been provided that would warrant any sentence reduction.


At the time of the plea, the Defendant was advised of the potential maximum sentence he could receive, which in this case was life plus sixty years. The Defendant and his attorney indicated that the defendant understood the possible penalty and agreed there was no recommendation on sentencing. The Defendant voluntarily completed his guilty plea after being

advised of all of his Constitutional rights by the Court. The imposed sentence of forty years is within the statutory limitations. There has been no judicial error of law.

The Defendant's argument for reconsideration is based on the disparity between sentences of similarly situated codefendants. The Defendant cites non-controlling case law from Ohio, Kansas and the Northeast that requires trial courts to set forth on the record reasons for consecutive sentences and/or disparities in sentences among codefendants. The State contends that this law is not controlling in our jurisdiction. A sentencing judge may consider a wide variety of factors, including a codefendant's sentence for the same offenses. State v. Brewington, 226 S.E.2d. (1976).

For the reasons stated herein, the State requests that the Court deny the Defendant's motion for reconsideration and affirm its previously imposed sentence.

Respectfully Submitted,



Angela Garrick Martin
Senior Assistant Solicitor

Lexington, SC
April 29, 2016

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)
v.)
JONATHAN C. HUGHES,)
)
DEFENDANT.)

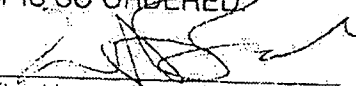
IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUIT
2015GS3200897, ET AL

ORDER DENYING REQUEST TO
RECONSIDER SENTENCE

On April 14, 2016, Defendant Hughes pled guilty in front of the Honorable William Seals to Burglary first and Armed Robbery. The Court sentenced him to a total of forty years. On the same day, Defense counsel filed a motion for the Court to reconsider this sentence. On April 21, 2016, the Court requested written grounds for reconsideration of the sentence. On April 26, 2016, Defense counsel filed his memo and on April 29, the State filed its response.

After a careful and thoughtful review of both briefs, the Court declines to reconsider its previously imposed sentence. Therefore, the defense's motion to reconsider is hereby denied.

IT IS SO ORDERED



The Honorable William Seals

Dated: 5/3/16

CLERK OF COURT
JUL 1 2016

WITNESSES

Lexington County Sheriffs Department

Shaun Spivey

Law Enforcement Case #: 15002792

JAG

ARREST WARRANT NUMBER

2015A3210200293

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: *4/13/15*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015GS3200897

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

APRIL TERM 2015

THE STATE

vs.

Jonathan Christian Hughes

CDR #: 0079

Indictment for

BURGLARY FIRST DEGREE

§ 16-11-0311

DONALD V. MYERS, SOLICITOR

A TRUE COPY

Lex. Co. C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
BURGLARY FIRST DEGREE

§ 16-11-0311.

At a Court of General Sessions, convened on APRIL 2015, the Grand Jurors of Lexington County present upon their oath:

That Jonathan Christian Hughes along with co-defendants did in Lexington County, South Carolina on or about February 14, 2015, knowingly and willfully enter a dwelling, to wit: _____, being the dwelling of David Quintana and others, without consent and with the intent to commit a crime therein and was armed with a deadly weapon and/or the entering or remaining occurred in the nighttime, in violation of § 16-11-311 of the Code of Laws of South Carolina, 1976, as amended.

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


[Handwritten Signature]

ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Shaun Spivey

Law Enforcement Case #: 15002792

JAG

ARREST WARRANT NUMBER

2015A3210200294

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

MA
4/13/15

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015GS3200898

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

APRIL TERM 2015

THE STATE

vs.

Jonathan Christian Hughes

CDR #: 0139

Indictment for

ARMED ROBBERY

§ 16-11-0330(A)

DONALD V. MYERS, SOLICITOR

A TRUE COPY

Lex. Co. C.C.P. G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

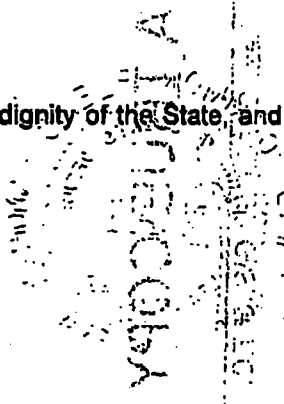
INDICTMENT FOR

ARMED ROBBERY
§ 16-11-0330(A)

At a Court of General Sessions, convened on APRIL 2015, the Grand Jurors of Lexington County present upon their oath:

That Jonathan Christian Hughes along with co-defendants did in Lexington County, South Carolina on or about February 14, 2015 knowingly and willfully while armed with a deadly weapon feloniously take from the person or presence of David Quintana and/or Alva Valdez, by means of force, threats or intimidation goods or monies being described as follows: a purse, electronics, cash and other personal property with the intent to deprive the owner of the use of such property, in violation of Section 16-11-330 (A) of the South Carolina 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.

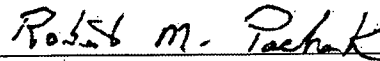


[Handwritten Signature]
ASSISTANT SOLICITOR

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,



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 11th day of August, 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

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Appellate Defender

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

ATTORNEY FOR APPELLANT

This 11th day of August, 2017.

RECEIVED

AUG 11 2017

SC Court of Appeals