

**ORIGINAL**

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM PICKENS COUNTY

Court of General Sessions

The Honorable Robin B. Stilwell, Circuit Court Judge

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Appellate Case No. 2017-001609

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SC Court of Appeals

THE STATE,

Respondent,

v.

MATTHEW STEVEN PILLON,

Appellant.

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**FINAL BRIEF OF RESPONDENT**

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ALAN WILSON  
Attorney General

V. HENRY GUNTER, JR.  
Assistant Attorney General

Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

WILLIAM W. WILKINS, III.  
Solicitor, Thirteenth Judicial Circuit

305 East North Street, Suite 325  
Greenville, SC 29601  
(864) 467-8282

ATTORNEYS FOR RESPONDENT

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## STATEMENT OF ISSUES ON APPEAL

### I.

The trial judge properly denied Appellant's motion for a directed verdict because the evidence and testimony presented during trial, when viewed in a light most favorable to the State, could induce a reasonable juror to find Appellant guilty of the charged offenses.

### II.

The trial judge properly denied Appellant's motion to reconsider his sentence where the sentence fell within the permissible statutory limits and Appellant failed to provide evidence that partiality, prejudice, oppression, or corrupt motive factored into the sentence.

## STATEMENT OF THE CASE

Appellant was indicted during the September 2013 term of the Grand Jury for Pickens County for assault and battery of a high and aggravated nature (2013-GS-39-02507) and unlawful neglect of a child (2013-GS-39-02508). The Grand Jury for Pickens County later indicted Appellant for child abuse with great bodily injury during its August 2016 term (2016-GS-39-01703). Appellant proceeded to a trial by jury from August 29-31, 2016, in Pickens, South Carolina before the Honorable Robin B. Stilwell. At the conclusion of trial, Appellant was found guilty as indicted. He was sentenced by Judge Stilwell to imprisonment for a term of ten years for assault and battery of a high and aggravated nature, ten years for unlawful neglect of a child, and fourteen years for child abuse with great bodily injury, with all sentences running concurrently. Appellant timely filed a notice of appeal and subsequently submitted a brief. This Brief of Respondent follows.

## STATEMENT OF FACTS

On June 7, 2013, Elise Morgan, an employee of Pickens County EMS, was dispatched to a residence in Easley, South Carolina. R. pp. 23-24. When she arrived at the residence, Morgan observed a woman holding a child (Victim) covered in blood. R. p. 24. Morgan stated Angel Atkins was the woman who was holding Victim. R. p. 32. Atkins later identified herself as Victim's mother. R. p. 35. Victim was nine days old. R. p. 25. Morgan observed multiple bruises on the child's face and body, as well as a number of lacerations. R. p. 25. Morgan noted, "As soon as I looked at him, I could tell he was not in good condition." R. p. 24. Morgan and her partner loaded the child into an ambulance and began administering care. R. pp. 25-26. Victim was taken to the pediatric emergency room at Greenville Memorial Hospital. R. p. 27. Morgan noted there was considerable urgency in transporting Victim to the hospital because, "This child had obviously gone - - undergone a good bit of trauma." R. p. 27. Morgan and her partner were concerned that internal injuries from the great extent of bruising would cause Victim to go into shock. R. pp. 27-28. At the time they arrived at the hospital, Victim was in severe distress. R. p. 28. Morgan testified her supervisor subsequently made contact with the Department of Social Services (DSS). R. p. 29.

Teena Watson, an investigator with DSS, responded to the hospital on June 7, 2013. R. p.

56. Watson testified that when she saw Victim:

I entered the room, the baby was lying on the table, the examination table. He was very lethargic, very pale, lifeless in my opinion. I immediately saw bruises all over his body, on his cheeks, on his head, on his torso, on his legs, on his arms. I saw scratches on his nose, around his nose. Blood was - - looked like dried blood coming from his nose. The ER nurse took the diaper down and at that time, I saw scratches on his scrotum area. The scrotum area was very swollen. His penis was swollen, his anus was swollen and very, very red.

R. p. 58. While at the hospital, Watson made contact with Appellant. R. p. 59. Appellant identified himself as Victim's father. R. p. 68, p. 64. Appellant lived with Atkins and her

immediate family in a mobile home. R. p. 74. A total of eleven people lived in the home together. R. p. 74. Appellant told Watson that he, Atkins, and Victim shared a room. R. pp. 58-59. Appellant kept the door to their room locked at all times and no one else was allowed in the room. R. p. 60. Watson testified that Appellant indicated on several occasions that he was the baby's primary caregiver. R. p. 59. Appellant told Watson that on the evening of June 6th, he and Atkins put Victim to sleep around 10:00 p.m. Appellant indicated he was responsible for taking care of Victim throughout the night. R. p. 63. Appellant stated Victim had been crying a great deal and they were giving him Tylenol because he was teething. R. pp. 64-65. Appellant stated he woke up around 4:00 a.m. and heard a gurgling noise. R. p. 63. Appellant claimed Victim stopped breathing and he performed CPR. R. p. 63. Appellant alleged that after he performed CPR, Victim began breathing again and he simply re-swaddled him and put him back in his crib. R. p. 63. Watson noted that during her nearly three hour interview with Appellant, he did not ask how Victim was doing. R. pp. 65-66. Instead, Appellant was very anxious to leave because he wanted to take a shower. R. p. 66.

Officer Sandro Jankovic of the Greenville Hospital System Police was called to the emergency room on June 7th. R. pp. 76-77. Officer Jankovic testified that when he entered the room, he noticed Victim looked very lethargic and had "bruising and lacerations literally from head to toe." R. p. 78. Officer Jankovic also noticed blood around Victim's nostrils and mouth. R. p. 78. After viewing Victim's condition, Officer Jankovic contacted the Pickens County Sheriff's Office. R. p. 79. Officer Jankovic testified that as he was leaving the emergency room, Appellant approached him, identified himself as Victim's father, and asked whether he was in some kind of trouble. R. p. 80. Officer Jankovic testified that he found Appellant's question to be

“irregular.” R. p. 82. Officer Jankovic elaborated Appellant’s behavior was also irregular in that he did not seem to be concerned for his child at all. R. p. 82.

Officer J.B. Kelley of the Pickens County Sheriff’s Office was dispatched to the Greenville Hospital System on June 7th in reference to Victim’s case. R. p. 109. Officer Kelley observed Victim and noted, “The baby had numerous scratches, marks, bruises, cheeks, over the portions of his body, also the bottom of his feet.” R. p. 110. Officer Kelley also testified he had two lacerations on his larynx, which is an area inside of the throat. R. p. 140. Officer Kelley felt that, as part of his investigation, he needed to question Appellant. R. p. 114. Appellant told Officer Kelley that he was responsible for taking care of Victim because Mother was still in a delicate condition following a C-section. R. p. 120. Appellant indicated he got up throughout the night to care for Victim. R. p. 120. Appellant alleged the source of the scratches on Victim’s body was that Victim scratched his face with his fingernails. R. p. 125. Appellant claimed the bruising on Victim’s body was caused during a doctor’s visit the day before where the doctor caused victim to bruise by holding him down. R. pp. 125-26.

Tammy Atkins testified at trial for the State. R. pp. 85-108. Atkins testified Angel Atkins is her daughter. R. p. 86. Atkins testified her mother owns the mobile home the family shared. R. p. 87. Atkins’s father built a bedroom in the home specifically for Appellant and Angel. R. p. 88. Atkins noted the room was very small. R. pp. 89-90. Atkins testified Appellant and Angel spent nearly twenty-four hours a day inside their bedroom. R. p. 90. Appellant and Angel did not allow anyone else into the room and kept it locked at all times. R. p. 90. Atkins stated if Appellant and Angel left the home, they would put a padlock on the door; when Appellant and Angel were home, they would nail the door shut. R. p. 90.

On the evening before Victim was taken by ambulance to Greenville Memorial, Atkins's parents took Appellant and Angel to Cannon Memorial Hospital because Victim was having difficulty breathing. R. pp. 91-92. When Appellant and Angel returned from Cannon Memorial, they took Victim through the living room and into their bedroom. R. p. 92. Atkins did not observe any apparent injuries or blood on Victim. R. pp. 92-93. During the night, Atkins heard Victim screaming and crying. R. p. 94. Atkins went to Appellant and Angel's door to try to help but was turned away. R. pp. 94-95. Atkins heard Appellant yelling, "You need to shut your damn mouth. You don't need to be damn crying all the time." R. p. 96. Atkins also heard Appellant call Victim a "little bastard" and heard him yell "shut the F up" on multiple occasions. R. p. 96. Atkins testified the baby emanated a high pitched scream all night long. Atkins continued to go to Appellant's bedroom door and begged them to bring Victim out of the room so she could help. R. pp. 96-97. The next morning, Atkins viewed Victim in the living room and told Angel, "That baby is real bad, it needs to go to the hospital." R. p. 97. While Victim was in the living room, Appellant locked himself into the bedroom and nailed the door shut. R. p. 98. Appellant told Atkins that she, "was not calling no 911 out to the house. That was his child and he was not letting them come out." R. p. 98. Atkins eventually called 911 against Appellant's wishes. R. p. 98. After EMS transported Victim to the hospital, Appellant rode with Atkins and her husband to the hospital. R. p. 99. On the way to the hospital, Appellant told them Victim fell off the bed and he performed CPR on him. R. p. 99. Appellant stated he did not call anyone after allegedly performing CPR on Victim. R. p. 99. At the conclusion of her testimony on cross-examination, Atkins noted Angel absconded prior to trial. R. p. 106.

Dr. Cliff Caldwell is employed as an emergency room physician at Cannon Memorial Hospital. R. pp. 179-80. Dr. Caldwell examined Victim at 5:26 p.m. on June 6, 2013. R. p. 182.

Dr. Caldwell testified Victim's parents brought him in complaining he was exhibiting shortness of breath. R. p. 182. The results of Dr. Caldwell's examination of Victim were normal. R. p. 183. Additionally, Dr. Caldwell did not document any blood coming from Victim's nose or mouth. R. p. 184. Dr. Caldwell testified he did not see any teeth in Victim's mouth and would not expect a nine day old child to be teething. R. p. 185. Dr. Caldwell testified there were no bruises on Victim when he examined him and he did not cause any bruising. R. p. 186.

Dr. Mary Martin is employed as a pediatrician at Pediatric Associates in Easley, South Carolina. R. p. 165. Dr. Martin examined Victim for a newborn well care visit on June 3, 2013. R. p. 167, p. 170. Dr. Martin testified she did not use any force to hold Victim down on the examination table. R. p. 172. Dr. Martin stated that while it is not abnormal for a child to scratch their face with their fingernails, it is very minimal and would not cause any damage. R. p. 173. Dr. Martin noted there were no marks on Victim's body at the time she examined him. R. p. 174.;

Dr. Nancy Henderson is employed as a child abuse pediatrician at Greenville Health System. R. p. 190. Dr. Henderson observed Victim while he was in the pediatric intensive care unit on June 7th. R. pp. 192-93. Dr. Henderson testified she was called in to consult on Victim's case because there was a concern with non-accidental trauma. R. p. 196. Dr. Henderson stated during her examination of Victim she noticed:

At that time, he was 10 days of age and he wasn't very responsive to movement and interaction. He was not intubated at that point in time. He was on some oxygen. He did have bruising to the left side of his head, circular bruising on what we call the temporal parietal area. He also had bruising on the left side of his cheek. He had scratches over his nose. He had some redness on the left ear and abrasion on his right ear. He was always noted to have a pattern bruises on his left arm. He also had bruising to his scrotum area as well as some abrasions on his penis. There were some redness around his rectal area and also had a bruise on the bottom of his left foot.

R. p. 196. Dr. Henderson further noted the location of Victim's various injuries was significant because:

Well, in a baby of this age, really, any bruise is significant because they are not mobile at all. So they don't have opportunity to really have accidents, to bump into things and things like that. So, any kind of bruise is always significant in a baby this age. But when we look at bruises behind the ear, bruises on the feet, those are even more uncommon accidental injuries in young children. Not very common places for children to get injured.

R. p. 197. Dr. Henderson categorized Victim's various injuries as life threatening. R. p. 200.

Dr. Darrell Gwyn works in the pediatric critical care unit at Greenville Health system. Dr. Gwyn testified that because of Victim's bruising, in particular one deep pharyngeal injury, he had to be placed on a ventilator. R. p. 221. Dr. Henderson noted in her testimony that she had never seen the injury Dr. Gwyn categorized as a "deep pharyngeal injury" to be an accidental injury. R. p. 213. Dr. Gwyn diagnosed Victim's injuries as a non-accidental trauma. Dr. Gwyn testified it was likely Victim would have died had he not been brought to the hospital. R. p. 229.

## ARGUMENT

### I.

**The trial judge properly denied Appellant's motion for a directed verdict because the evidence and testimony presented during trial, when viewed in a light most favorable to the State, could induce a reasonable juror to find Appellant guilty of the charged offenses.**

#### Relevant Facts

At the conclusion of the State's case, Appellant moved for a directed verdict. R. p. 251. Appellant contended that while the State proved Victim was harmed, there was no evidence presented establishing Appellant was involved. R. p. 251. The trial judge ruled:

It's incumbent upon the Court in a motion for directed verdict to view the motion in the light most favorable to the nonmoving party. The Court must determine not what - - the weight of the evidence, the sufficiency of the evidence, but if there is any evidence which would support the State's case upon which the jury could decide they have met their burden of proof. R. p. 253. Under that standard of any evidence, I do find that there is at the very least circumstantial evidence of which - - upon which the jury could determine the State has met its burden of proof. Therefore I respectfully deny your motion for directed verdict.

R. p. 253.

#### Discussion

Appellant contends the trial judge erred in denying Appellant's motion for directed verdict because the State failed to produce any direct or substantial circumstantial evidence of Appellant's guilt. While he acknowledges Victim was injured while in the room with Appellant and Angel Atkins, Appellant contends there was insufficient proof that Appellant was the willing actor who harmed Victim. Appellant essentially asks this Court to weigh the evidence presented during the defense's case in chief which alleged Appellant cared for Victim greatly in order to conclude that Atkins, rather than Appellant, was the individual responsible for Victim's injuries. To the contrary, the State presented substantial circumstantial evidence demonstrating Victim

was in the exclusive custody of Appellant and Angel Atkins on the evening he was injured; Appellant had an angry outburst and screamed at Victim; when Victim first emerged from Appellant and Angel Atkins's locked bedroom, Victim was critically injured; Appellant actively attempted to prevent anyone from calling 911; in the hours following Victim's admission to the hospital, Appellant's behavior was not consistent with one concerned with his child and he gave demonstrably false versions of events of Victim was injured. This Court should affirm the trial judge's ruling because the evidence and testimony presented during Appellant's trial was sufficient to establish his guilt for all elements of the charged offenses.

When considering a motion for directed verdict, the trial court is concerned with the existence of evidence, not its weight. State v. Walker, 349 S.C. 49, 53, 562 S.E.2d 313, 315 (2002). The task of the trial court is to simply determine "whether the evidence presented is sufficient to allow a reasonable juror to find the defendant guilty beyond a reasonable doubt." State v. Bennett, 415 S.C. 232, 781 S.E.2d 352 (2016). The United States Supreme Court has noted:

[T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. . . . This familiar standard gives full play to the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the evidence, **and to draw reasonable inferences from basic facts to ultimate facts.**

Jackson v. Virginia, 443 U.S. 307, 319 (1979) (second emphasis added) *quoted with approval in* State v. Pearson, 415 S.C. 463, 471 n.2, 783 S.E.2d 802, 806 n.2 (2016).

If there is **any** direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the appellate court must affirm the trial judge's ruling. State v. Cherry, 361 S.C. 588, 593-94, 606 S.E.2d 475, 478 (2004). The appellate court may only reverse the trial judge's denial of a directed verdict motion if there is no evidence supporting the

trial judge's ruling. State v. Gaster, 349 S.C. 545, 555, 564 S.E.2d 87, 92 (2002). “[U]nless there is a total failure of evidence tending to establish the charge laid in the indictment, the trial judge’s ruling upon a motion for a directed verdict must stand absent an error of law.” State v. Nix, 288 S.C. 492, 496, 343 S.E.2d 627, 629 (Ct. App. 1986); see also Crawford v. United States, 375 F.2d 332, 334 (D.C. Cir. 1967) (“It is not the function of appellate judges to weigh the evidence and decide that if they had doubts other reasonable persons were compelled to have the same doubts. If that were the test the jury of twelve would be relegated to the very low grade function of secondary fact finders.”).

In Bennett, 415 S.C. 232, 781 S.E.2d 352, the South Carolina Supreme Court considered a case where the State contended this Court erred in reversing the trial judge’s denial of directed verdict by weighing the evidence and considering alternative hypotheses. In examining the decision of this Court, the Supreme Court concluded this Court erroneously weighed the evidence and reversed Bennett’s conviction based on its belief that there was a plausible alternative theory inconsistent with Bennett’s guilt. Id. at 236. The Supreme Court clarified that analysis was, “contrary to our jurisprudence and misapprehends the court’s role in making this determination.” Id. In reversing this Court, the Supreme Court concluded that, in examining the evidence in the light most favorable to the State, the evidence, “could induce a reasonable juror to find Bennett guilty.” Id. at 237.

In the current case, Appellant points out perceived weaknesses in the State’s case and urges this Court to consider his alternative hypotheses that Angel Atkins was the one who actually harmed Victim in order to find the State’s evidence insufficient. However, as discussed in Bennett, there is no requirement that the State present evidence sufficient to exclude every

other hypotheses of Appellant's guilt. The evidence presented at Appellant's trial was sufficient to induce a reasonable juror to find Appellant guilty.

Viewing the evidence in the light most favorable to the State, the following substantial circumstantial evidence establishing Appellant's guilt was presented:

1. Victim was examined by Dr. Cliff Caldwell on June 6, 2013. This examination yielded normal results and Dr. Caldwell did not observe any bruising, nor did he observe any blood coming from Victim's nose or mouth.
2. On the morning of June 7, 2013, Pickens County EMS was called to the home shared by Appellant, Angel Atkins, and her family. Else Morgan of Pickens County EMS observed multiple bruises and lacerations on Victim's face and body.
3. Further medical examination of Victim revealed bruises on his cheeks, head, torso, arms, and legs, as well as scratches around Victim's face, scrotum, penis, and anus. Victim also suffered a deep pharyngeal injury. Medical professionals concluded these injuries were the result of non-accidental trauma.
4. Victim was in the exclusive custody of Appellant and Angel Atkins on the evening of June 6th through the morning of June 7th. Tammy Atkins, Angel Atkins's mother, testified Appellant and Angel kept their bedroom locked at all times and no one was allowed in the room. Tammy Atkins recalled that on the evening of June 6th Victim screamed and cried through the night and she heard Appellant yell at Victim and call him a "little bastard" and told him to "shut the F up."
5. The next morning, Appellant attempted to prevent anyone from calling 911 because Victim "was his child and he was not letting them come out."
6. While at the hospital, Appellant did not seem concerned with his child's welfare and only concerned himself on when he could leave and whether he was in any trouble.
7. Appellant offered a variety of strange and medically impossible explanations for Victim's injuries. Appellant initially claimed Victim fell off the bed and he performed CPR on him. Appellant later told authorities Victim's bruises were from medical visits during prior stays and the scratches were from victim scratching himself. Both of these theories were conclusively disproved by medical testimony.

Viewing all of this evidence together with the natural and logical inferences to be drawn from it, the jury could rationally conclude Appellant was guilty of each element of the indicted offenses. The theory of guilt presented by the State's evidence could induce a reasonable juror to conclude that Appellant and Atkins harmed Victim while he was in their locked bedroom because he would not stop crying. While Appellant alleges there was no evidence that he, rather than Atkins, harmed Victim, this assertion ignores the evidence presented by Tammy Atkins

establishing Appellant was yelling at Victim and he was actively the individual actively concealing from law enforcement the true nature of what happened in his locked bedroom on the evening of June 6th. The aforementioned evidence represents significant circumstantial evidence showing Appellant and Angel Atkins's guilt for the charged offenses. Contrary to what is required before a directed verdict should be granted, Appellant's case did not present a complete failure of evidence of his guilt. See State v. Brown, 205 S.C. 514, 520, 32 S.E.2d 825, 827 (1945) ("Where there is any evidence, however slight, on which the jury may justifiably find the existence or the non-existence of material facts in issue, or if the evidence is of such character that different conclusions as to such facts reasonably may be drawn therefrom, the issues should be submitted to the jury."). Instead, considerable evidence of Appellant's guilt for each of the indicted offenses was presented and his motion for a directed verdict was properly denied. Appellant's convictions and sentences should be affirmed.

## II.

**The trial judge properly denied Appellant's motion to reconsider his sentence where the sentence fell within the permissible statutory limits and Appellant failed to provide evidence that partiality, prejudice, oppression, or corrupt motive factored into the sentence.**

### **Relevant Facts**

On September 6, 2016, Appellant filed a motion for reconsideration of sentence. R. p. 390. In his motion, Appellant alleged the penalty imposed was unnecessarily severe under the circumstances. R. p. 390. Appellant subsequently made an amended motion for reconsideration of sentence on June 1, 2017. R. p. 388-389. In his amended motion, Appellant argued that his sentence was disproportionate compared to the sentence received by his co-defendant, Angel Atkins. R. p. 388-389. Atkins pled guilty to unlawful neglect of a child and received a sentence of five years' imprisonment. R. p. 397-399. Appellant alleged it was inequitable that Appellant

received a higher sentence than Atkins because Victim was in their joint custody when he was harmed. R. p. 388-389. The trial judge subsequently denied Appellant's motion. R. p. 1.

### **Discussion**

Appellant contends the trial judge erred in denying his motion to consider his sentence. Specifically, Appellant contends the disparity between his sentence and that of Angel Atkins was too significant, as Appellant was sentenced to an aggregate of fourteen years imprisonment after being found guilty of child abuse with great bodily injury, assault and battery of a high and aggravated nature, and unlawful neglect of a child, while Atkins was sentenced to five years after pleading guilty only to unlawful neglect of a child. Appellant avers his sentence is tantamount to a punishment for exercising his right to a jury trial. These arguments lack merit. Initially, Appellant's issue should not be reviewed by this Court because Appellant failed to allege his sentence was the result of partiality, prejudice, oppression, or corrupt motive. Furthermore, the trial judge's decision to sentence Appellant to a greater term of years was warranted where Appellant was found guilty of three offenses, while Atkins pled guilty to only one offense. The facts and circumstances of the case also support the proposition that Appellant was the primary aggressor.

The trial judge has broad discretion in imposing a sentence within the statutory limits. State v. Sidell, 262 S.C. 397, 398, 205 S.E.2d 2, 3 (1974). "A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed." State v. Hicks, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008). Generally, appellate courts will only interfere with the discretion of a judge in the imposition of a sentence in rare and unusual circumstances. State

v. Ferguson, 221 S.C. 300, 307, 70 S.E.2d 355, 358 (1952). “Absent partiality, prejudice, oppression, or corrupt motive, [the appellate court] lacks jurisdiction to disturb a sentence that is within the limits prescribed by statute.” State v. Barton, 325 S.C. 522, 531, 481 S.E.2d 439, 444 (Ct. App. 1997).

The mere fact a defendant receives a sentence disparate to the sentences received by his accomplices for the same offense does not automatically render the defendant’s sentence an abuse of the trial judge’s discretion. See State v. Fleming, 228 S.C. 129, 133–34, 89 S.E.2d 104, 106 (1955) (“In this question, appellants complain of the sentence in that their accomplice received a sentence of 18 months while they received a sentence of 10 years. This Court has no jurisdiction on appeal to correct a sentence alleged to be excessive when it is within the limits prescribed by law in the discretion of the trial judge and is not the result of partiality, prejudice, oppressive or corrupt motive.”). A sentencing judge can properly consider the relative degree of participation of different co-defendants in a single incident along with any other relevant factors before issuing differing sentences appropriate for each individual defendant. See State v. Dozier, 263 S.C. 267, 271–72, 210 S.E.2d 225, 226 (1974) (finding no abuse of discretion in the trial judge’s issuance of a greater sentence to Dozier than to his co-defendants for the same offenses where the trial judge concluded Dozier’s co-defendants “were not tainted with the same degree of guilt” as Dozier). “[W]hen the record clearly reflects an appropriate basis for a disparate sentence, the sentencing judge may impose a different sentence on a co-defendant in a criminal trial.” State v. Follin, 352 S.C. 235, 257, 573 S.E.2d 812, 824 (Ct. App. 2003).

Initially, this issue should not be reviewed by this Court because Appellant failed to allege his sentence is the result of prejudice, oppression, or corrupt motive from the trial judge. In his initial motion for reconsideration of sentence, Appellant made the bare assertion the

penalty imposed was unnecessarily severe. In his amended motion for reconsideration of sentence, Appellant contended it was simply inequitable he received a higher sentence than Atkins. Similarly, in his Brief of Appellant, Appellant avers there is a wide disparity in the sentences resulting in an inequitable result that essentially rewards Atkins for pleading guilty and punishing Appellant for going to trial. None of these allegations are tantamount to a contention that the trial judge sentenced Appellant to a greater term of years as a result of prejudice, oppression, or a corrupt motive on his part. Thus, there is no justifiable basis for this Court to review the merits of Appellant's claim. See State v. Franklin, 267 S.C. 240, 246, 226 S.E.2d 896, 898 (1976) (“[T]his Court has no jurisdiction to review a sentence, provided it is within the limits provided by statute for the discretion of the [plea] court, and is not the result of prejudice, oppression[,] or corrupt motive.”).

Jurisdictional concerns notwithstanding, the trial judge's decision to deny Appellant's motion for reconsideration of sentence was warranted under the facts and circumstances of this case. Appellant was found guilty of assault and battery of a high and aggravated nature, unlawful neglect of a child, and child abuse with great bodily injury. Distinguishably, Atkins pled guilty only to unlawful neglect of a child. It seems elementary that a higher sentence is warranted for a defendant found guilty of three offenses than a defendant who acknowledged her own guilt for one offense. While Appellant asserts Atkins was “rewarded for fleeing by received a sentence almost three times lower than Appellant not should Appellant be punished for going to trial,” Atkins was not rewarded for fleeing, nor was Appellant punished for going to trial. Instead, Atkins received the benefit of bargaining with the State in exchange for solemnly acknowledging her own guilt. It is essential to the functioning of our judicial system that one may seek preferential sentencing in exchange for an acknowledgement of guilt. See Brooks v. Estelle, 697

F.2d 586, 588 (5th Cir. 1982) (“It is well-settled that the State may favor with clemency a person who confesses his guilt.”). Furthermore, the facts and circumstances of the case indicate Appellant had a higher degree of culpability than Atkins. Evidence presented at trial established that on the evening Victim sustained significant injuries, Appellant was overheard yelling at Victim and calling him a number of obscene names. Evidence was also presented establishing Appellant actively attempted to thwart attempts to obtain emergency medical attention for Victim, and Appellant did not express any concern for Victim whatsoever while at the hospital. This leads to the natural conclusion that Appellant’s role in the brutal beating of Victim was greater than that of Atkins. The trial judge therefore did not err in denying Appellant’s motion for reconsideration of sentence. Appellant’s convictions and sentences should be affirmed.

**CONCLUSION**

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON  
Attorney General

V. HENRY GUNTER, JR.  
Assistant Attorney General

WILLIAM W. WILKINS, III  
Solicitor, Thirteenth Judicial Circuit

BY: 

V. Henry Gunter, Jr.  
Bar # 102259

Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEYS FOR RESPONDENT

January 16, 2018

STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**  
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SC Court of Appeals

APPEAL FROM PICKENS COUNTY  
The Honorable Robin B. Stilwell, Circuit Court Judge

Appellate Case No. 2017-001609

THE STATE, .....RESPONDENT

v.

MATTHEW STEVEN PILLON, .....APPELLANT.


**CERTIFICATE OF COUNSEL**

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b),  
SCACR.

ALAN WILSON  
Attorney General

V. HENRY GUNTER, JR.  
Assistant Attorney General

WILLIAM W. WILKINS, III.  
Solicitor, Thirteenth Judicial Circuit

BY:   
V. HENRY GUNTER, JR.  
S.C. Bar No. 102259

Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211-1549

(803) 734-3727

ATTORNEYS FOR RESPONDENT

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