STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAMEON LAMAR THOMPSON

APPELLANT

APPELLATE CASE NO. 2015-001029

FINAL BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

STATEMENT OF ISSUE ON APPEAL

The trial judge erred in denying appellant's request for a hearing on his sentencing reconsideration motion in order to argue for specific performance per the sentencing terms of the plea agreement that reflected an eight-year sentencing cap or to withdraw the guilty pleas because the outcome of the case did not reflect the terms agreed upon via the plea bargain.

STATEMENT OF THE CASE

Appellant Dameon L. Thompson pled guilty to failure to stop for a blue light (2013-GS-18-437) and trafficking in crack cocaine, first offense, (2013-GS-18-438) during the November 2014 term of the Dorchester County General Sessions Court before Judge Kristi Lee Harrington. Sentencing was deferred until the January 2015 term of the Charleston County General Sessions Court before Judge Harrington during which time appellant pled guilty to an additional seven offenses.[1] Appellant received an aggregate fifteen-year prison term on all nine of his convictions. Peter Shahid represented appellant at both proceedings, and Assistant Solicitor Nina Savas appeared on behalf of the state at both proceedings.

Appellant appealed. This brief follows.

[1] Possession with intent to distribute crack cocaine (2014-10-7267); Possession with intent to distribute cocaine (2014-GS-10-7270); Failure to stop for a blue light, second offense (2014-GS-10-7271); Failure to stop for a blue light, second offense (2014-GS-10-7275); Hit and Run (2014-GS-10-7276); Possession with intent to distribute marijuana (2014-GS-10-7273); Possession with intent to distribute cocaine (2013-GS-10-7493).

ARGUMENT

The trial judge erred in denying appellant's request for a hearing on his sentencing reconsideration motion to argue for specific performance per the sentencing terms of the plea agreement that reflected an eight-year sentencing cap or to withdraw the guilty pleas because the outcome of the case did not reflect the terms agreed upon via the plea bargain.

After petitioner pled guilty on January 8, 2015, in Charleston County to four PWID drug charges emanating from Charleston County, the trial judge honored the agreement that his prior crack cocaine trafficking drug conviction obtained in Dorchester County on November 3, 2014, would not be used as a prior for the purpose of enhancing his sentence, and that appellant would be sentenced for all five drug convictions at "the same time"....all [as] one." R. 43, l. 19 – R. 44, l. 14. Also during the sentencing proceeding, the solicitor referenced a plea bargain reached in the case as follows:

> Your Honor, as part of this plea agreement, the state is recommending eight years. This is in addition to the trafficking in Dorchester County...We are doing these all as first offenses so the defendant does not get a second strike on his record as he has a first one from the trafficking that was part of our agreement here today with the defense that the state is willing to do. And we feel that eight years is a very minimal amount in consideration of the severity of these crimes and the severity of the drug case. R. 52, l. 18 – R. 53, l. 9.

However, instead of honoring the eight-year sentencing cap per the plea bargain, the trial judge sentenced appellant to imprisonment for an aggregate period of fifteen years on the PWID drug charges (and three years on the trafficking drug charge) in violation of the plea agreement. R. 73, l. 18 – R. 75, l. 3.

On January 9, 2015, appellant filed a request for a hearing on his sentencing reconsideration motion in order to argue for specific performance of the plea agreement or leave to withdraw the guilty pleas in the case. R. 77-80. In the motion, trial counsel argued as follows:

> The Court imposed the maximum sentence of fifteen (15) years on the possession with intent to distribute cocaine and cocaine base in indictment numbers 2014GS1007270, 2014GS1007267, and 2013GS1007493. These sentences were ordered to run concurrently with each and to run concurrent with the sentences imposed in the above referenced cases. The sentence imposed in those other matters was the maximum sentence allowed by law.
>
> The sentence imposed by this Court was a maximum sentence even though the State negotiated a lesser included offense and recommended a sentence of almost one-half of the maximum possible sentence. In addition, the fifteen-year sentence imposed is a third more severe than the maximum sentence for the greater offense of trafficking as opposed to possession with intent to distribute.
>
> The negotiated plea was construed so that the Defendant would be treated as a first time drug offender; however, this Court's sentence treated the Defendant as a repeat offender. While the Defendant recognizes the Court has a wide discretion in imposing a sentence of up to fifteen years for the possession with intent to distribute charges, the Court did not announce its reason for deviating from the recommended negotiated sentence of eight (8) years and for the recommended sentence by the probation office of ten years suspended upon the service of six years.

The trial judge denied the request for a hearing on the sentencing reconsideration motion and in effect the opportunity to withdraw the pleas by Order dated January 30, 2015. In the Order, the trial judge ruled that the sentences imposed upon appellant "would remain in place." R. 83-84

Specific performance is the remedy used where one has been denied a constitutionally-guaranteed right. Davie v. State, 381 S.C. 601, 675 S.E.2d 416 (2009), citing to Turner v. Tennessee 858 F.2d 1201 (6th Cir. 1988) and United States v. Morrison 449 U.S. 361 (1981). In

Davie, the Court held that counsel was ineffective in failing to communicate a plea offer to the defendant. Moreover, specific performance of a plea agreement is an allowable remedy. In Sprouse v. State, 355 S.C. 335, 585 S.E.2d 278 (2003), the case was remanded for specific performance on the plea agreement where counsel was ineffective in failing to ensure that the state adhered to the original plea agreement in order to grant the defendant the benefit of the bargain. In Sprouse, supra, the plea agreement breach was the solicitor's classification of the defendant's second-degree burglary offense as violent because this deviated from the plea agreement. See also Custodio v. State, 373 S.C. 4, 644 S.E.2d 36 (2007),where the case was remanded for specific performance where counsel was ineffective in failing to have a plea agreement enforced because the defendant detrimentally relied on the promised plea bargain. In Custodio, supra, there was a breach of a plea agreement that included a fifteen-year cap on non-violent burglary charges in exchange for the defendant's cooperation in returning stolen items and where there was reliance on the plea bargain by the defendant when he pled guilty in the case. In Jordan v. State, 247 S.C. 52, 374 S.E.2d 683 (1988), the Court remanded the case for specific performance on the plea agreement where the solicitor did not fulfill his promise not to oppose probation at the plea proceeding according to the plea agreement. See also Smith v. State, 413 S.C. 194, 775 S.E.2d 696 (2015), affirming reversal in Smith v. State, 407 S.C. 270, 754 S.E.2d 900 (S.C. Ct. App. 2014), and Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000). In Thompson, and Smith, the Court remanded for specific performance in both cases on both of the plea agreements where both of the solicitors promised not to make sentencing recommendations on the defendants' voluntary manslaughter pleas, but breached the agreements and asked for maximum sentencing in those cases.

As a rule, once a defendant enters a guilty plea and the plea is accepted by the court, due process requires that the plea bargain be honored. State v. Thrift, 312 S.C. 282, 440 S.E.2d 341

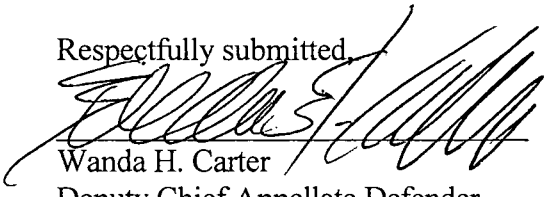
(1994); Santobello v. New York, 404 U.S. 257 (1971). Prosecutors are obligated to fulfill the promises they make to defendants when the promises are inducements to plead guilty. State v. Miller, 375 S.C. 370, 652 S.E.2d 444 (2007). Breached plea agreements will invalidate guilty pleas. Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000). In Thompson, there was a breached plea agreement in existence in appellant's case, and thus the trial judge erred in failing to hold a hearing to entertain the motion for specific performance or a request for the withdrawal of appellant's guilty pleas. The Thompson Court struck down a guilty plea where the plea agreement in that case was violated because the solicitor promised that there would be no specific sentencing recommendation requested in the case, but yet recommended the maximum sentence of thirty years at sentencing after the defendant plead guilty to voluntary manslaughter. Appellant was prejudiced because the sentence he received was greater than the sentence agreed upon via the plea bargain.

In the case at bar, the solicitor promised that appellant's guilty plea on the drug charges would result in an eight-year sentence per the terms of the plea bargain, but appellant did not receive the benefit of the plea bargain as he received a fifteen-year sentence in the case.

CONCLUSION

Based on the foregoing argument, petitioner requests that his sentences be vacated and his case remanded to the lower court for a new sentencing proceeding.

Respectfully submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 21st day of November, 2016.

CERTIFICATE OF COUNSELPRIVATE

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

November 21, 2016

Wanda H. Carter
Deputy Chief Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAMEON THOMPSON,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Karen Ratigan, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 21st day of November, 2016.

Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 21st day of November, 2016.

(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

The Honorable Kristi L. Harrington, Circuit Court Judge

Appellate Case No. 2015-001029

State of South Carolina, ...Respondent,

v.

DAMEON LAMAR THOMPSON .....Appellant.

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

KAREN C. RATIGAN
Senior Assistant Attorney General
S.C. Bar # 68331

Post Office Box 11549
Columbia, S.C. 29211
803-734-3737

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

STATEMENT OF ISSUE ON APPEAL

1. The plea judge did not abuse her discretion in denying Appellant's motion for reconsideration.

STATEMENT OF THE CASE

Appellant was indicted by the Dorchester County Grand Jury for failure to stop for a blue light (2013-GS-18-0437) and trafficking cocaine base (2013-GS-18-0438). Peter Shahid, Esquire represented Appellant.

On November 3, 2014, Appellant pled guilty to these charges as indicted before the Honorable Kristi L. Harrington. (R.pp.17-35). Sentencing was deferred. (R.p.35).

On January 8, 2015, Appellant appeared before Judge Harrington for sentencing. Appellant was again represented by Mr. Shahid. The Charleston County Grand Jury had indicted Appellant during the December 2014 term for the following charges: two counts of trafficking cocaine base (2013-GS-10-7493, 2014-GS-10-7267), trafficking cocaine (2014-GS-10-7270), two counts of failure to stop for a blue light (2014-GS-10-7271, 2014-GS-10-7275), possession with intent to distribute (PWID) marijuana (2014-GS-10-7273), and leaving the scene of an accident (2014-GS-10-7276). (R.pp.93-106). Appellant pled guilty to the Charleston County charges as indicted with three exceptions: the three trafficking charges were all reduced to PWID. (R.pp.40-72).

Judge Harrington then sentenced Appellant for both his Dorchester County and Charleston County charges. For the Dorchester County charges, Judge Harrington levied concurrent sentences of three (3) years for failure to stop for a blue light and ten (10) years for trafficking cocaine base. For the Charleston County charges, Judge Harrington levied concurrent sentences of fifteen (15) years for each count of PWID cocaine base, fifteen (15) years for PWID cocaine, five (5) years for each count of failure to stop for a blue light, second offense, five (5)

years for PWID marijuana, and one (1) year for leaving the scene of an accident.[1] (R.pp.73-74).

Appellant's counsel filed a motion for reconsideration on January 9, 2015. (R.pp.77-80). Judge Harrington denied the motion by order filed February 2, 2015. (R.pp.83-84).

[1] The drug charges were all sentenced as first offenses.

STATEMENT OF FACTS

Dorchester Plea Hearing

The assistant solicitor handling Appellant's Dorchester County charges noted he had made a recommendation in this case to dismiss three (3) charges and recommend a 5-6 year sentence for the remaining charges of failure to stop for a blue light and trafficking cocaine base. (R.p.7). Both the assistant solicitor and plea counsel stated their preference was for the plea judge to accept Appellant's guilty pleas to the Dorchester charges that day but defer sentencing in order to allow plea counsel to attempt to obtain a recommendation on Appellant's pending Charleston County charges. (R.pp.6-7). The plea judge agreed to proceed in this manner. (R.p.9).

The plea judge advised Appellant of the sentence ranges for failure to stop for a blue light and trafficking cocaine base and Appellant stated he understood and wished to plead guilty. (R.pp.17-18). The plea judge noted the solicitor's recommendation was for 5-6 years but stated that she could sentence Appellant to a sentence of 3-10 years and Appellant said he understood. (R.p.19). The plea judge advised Appellant that he should assume he would "serve that day for day" on his sentences and Appellant agreed. (R.pp.19-20). Appellant stated he was pleading guilty to these charges because he was guilty. (R.pp.26-27; p.30). Appellant waived the various rights associated with a jury trial. (R.pp.27-28). Appellant agreed with the assistant solicitor's recitation of the facts of his case. (R.pp.31-34). As agreed to before the plea hearing, the plea judge deferred sentencing on these charges to a later date.

Charleston Plea Hearing

At the subsequent hearing two months later, Appellant pled guilty to seven (7) Charleston

County charges before being sentenced on the Dorchester County charges. The plea judge advised Appellant of the sentence ranges for these charges and Appellant stated he understood. (R.pp.40-43). Appellant waived the various rights associated with a jury trial. (R.pp.45-46). Appellant stated he was satisfied with plea counsel's representation. (R.p.46). Appellant stated he had not been promised anything in exchange for his guilty pleas, that it was his decision to plead guilty, and that he was guilty. (R.pp.46-47). Appellant agreed with the assistant solicitor's recitation of the facts of his case. (R.pp.53-54). The assistant solicitor stated the plea agreement was for a recommendation of an eight-year sentence.[2] (R.pp.52-53). After speaking in mitigation, plea counsel asked the plea judge to accept the recommendation. (R.p.67).

Before imposing sentence, the plea judge noted Appellant was on probation when the Charleston County offenses occurred and stated Appellant "continued to go out and put people in danger and put others at risk." (R.p.73). The plea judge then levied an aggregate sentence of fifteen (15) years imprisonment for both the Dorchester County and Charleston County charges. (R.pp.73-74).

[2] The assistant solicitor noted that, as part of the plea agreement, she dismissed several charges and reduced the trafficking charges to PWID. (R.pp.48-50).

ARGUMENT

The plea judge did not abuse her discretion in denying Appellant's motion for reconsideration.

Appellant argues "[t]he trial judge erred in denying [A]ppellant's request for a hearing on his sentencing reconsideration motion to argue for specific performance per the sentencing terms of the plea agreement that reflected an eight-year sentencing cap or to withdraw the guilty pleas because the outcome of the case did not reflect the terms agreed upon via the plea bargain." (Final Brief of Appellant, p. 5). Appellant argues "the [assistant] solicitor promised that [A]ppellant's guilty plea on the drug charges would result in an eight-year sentence per the terms of the plea bargain, but [A]ppellant did not receive the benefit of the plea bargain as he received a fifteen-year sentence in the case." (Final Brief of Appellant, p. 8).[3] Appellant's argument is without merit.

"In criminal cases, appellate courts sit to review errors of law only, and are therefore bound by the trial court's factual findings unless clearly erroneous." State v. Robinson, 410 S.C. 519, 526, 765 S.E.2d 564, 568 (2014) (citations omitted). "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) (citing Wasman v. United States, 468 U.S. 559, 563, 104 S. Ct. 3217, 3220 (1984)); see also In re M.B.H., 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010) ("A judge must be permitted to consider any and all information that reasonably might bear on the

[3] Appellant is only challenging the Charleston County charges.

proper sentence for a particular defendant.") (citation omitted).

"The authority to change a sentence rests solely and exclusively within the discretion of the sentencing judge." State v. Warren, 392 S.C. 235, 237-38, 708 S.E.2d 234, 235 (Ct. App. 2011) (citing State v. Smith, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981)). "An abuse of discretion occurs where the conclusions of the trial court are either controlled by an error of law or lack evidentiary support." Id. at 238, 708 S.E.2d at 235 (citing State v. Winkler, 388 S.C. 574, 583, 698 S.E.2d 596, 601 (2010)).

The plea judge did not abuse her discretion in denying Appellant's motion to reconsider sentence. As noted supra, the assistant solicitor handling the Dorchester County charges stated there was a sentence recommendation of 5-6 years on those charges and the assistant solicitor handling the Charleston County charges stated there was a sentence recommendation of 8 years on those charges. (R.p.19; pp.52-53). While the parties may have agreed to these sentence recommendations, it is the sentencing judge – not the parties – who decides a defendant's sentence. "A trial judge has broad discretion in sentencing within statutory limits." In re M.B.H., 387 S.C. at 326, 692 S.E.2d at 542 (citing Brooks v. State, 325 S.C. 269, 271, 481 S.E.2d 712, 713 (1997)). "A court is not required to accept a plea agreement reached by the State and the defendant." See Brooks, 325 S.C. at 272, 481 S.E.2d at 713 (citing State v. Rosier, 312 S.C. 145, 148, 439 S.E.2d 307, 309-10 (Ct. App. 1993)). The plea judge in Appellant's case was not bound by the sentence recommendations. The plea judge even advised Appellant of such during the Dorchester County plea hearing. (R.p.19). It was clearly within the plea judge's discretion to levy a 15-year sentence instead of following the recommendations from the parties. There was no error of law in levying these sentences because they were within statutory limits.

And, while it was clear the plea judge considered the facts of the offenses in determining Appellant's sentences, this was clearly permissible and within her discretion. The record makes it clear that the plea judge was disturbed by Appellant's decision to continually engage in criminal acts while on probation, especially since these acts resulted in a danger to the public. (R.p.73). The plea judge is "permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed." Hicks, 377 S.C. at 325, 659 S.E.2d at 500. The plea judge simply weighed this information against the sentence recommendations and determined a harsher sentence was more appropriate in Appellant's case.

Furthermore, the plea judge advised Appellant of the sentence ranges for the Dorchester County and Charleston County charges and Appellant stated he understood. (R.pp.17-18; pp.40-43). The plea judge also told Appellant at the Dorchester plea that "the recommendation that the solicitor has made is from five to six years. So I can sentence you up to ten years in the department of corrections." (R.p.19). Appellant stated he understood. (R.p.19). As such, Appellant was clearly on notice that the plea judge was not bound by the recommendation and could levy a sentence in excess of that recommendation. Based on the clear record before this Court, Appellant could not have had any misconceptions about the possible sentences he could receive. See, e.g., Stalk v. State, 375 S.C. 289, 300, 652 S.E.2d 402, 407 (Ct. App. 2007) (noting the guilty plea transcript clearly refuted a post-conviction relief applicant's allegation that he did not understand the terms of the guilty plea) (citations omitted).

Appellant also argues the plea judge erred in denying him the opportunity to withdraw his guilty pleas (as the request to do so was contained in the motion for reconsideration). (Final

Brief of Appellant, p. 3; p. 5; p. 6; p. 8). This argument is similarly without merit. The plea judge did not abuse her discretion in denying Appellant's motion for reconsideration and the request to withdraw the guilty pleas. In State v. Thomason, 355 S.C. 278, 584 S.E.2d 143 (Ct. App. 2003), the defendant did not dispute the facts presented at his guilty plea and the judge accepted his pleas. After defense counsel presented mitigation, the defendant wanted to withdraw his guilty pleas. The judge refused to allow the withdrawal and the Court of Appeals affirmed. The Court found that, once a defendant enters a guilty plea, it is within the plea judge's discretion whether to allow it to be withdrawn. Id. at 283, 584 S.E.2d at 146 (citing State v. Riddle, 278 S.C. 148, 292 S.E.2d 795 (1982)). "An accused is not permitted to speculate on the supposed clemency of the judge and enter a plea of guilty with the right to retract it if he finds that his expectation was not realized." State v. Cantrell, 250 S.C. 376, 380, 158 S.E.2d 189, 191-92 (1967). Appellant has failed to demonstrate the plea judge abused her discretion in this matter. The issue of whether Appellant should be permitted to withdraw his guilty pleas was brought before the plea judge and she found "the sentence imposed January 8, 2015, shall remain in place and hereby denies [Appellant]'s Motion." (R.p.80; p.84). Appellant cannot demonstrate the plea judge's denial was controlled by an error of law or lacked evidentiary support. As such, the plea judge did not abuse her discretion in denying Appellant's motion for reconsideration and the request to withdraw the guilty pleas. See Warren, 392 S.C. at 238, 708 S.E.2d at 235.

The plea judge had wide discretion to consider the facts and evidence before her in determining Appellant's sentence. The aggregate sentence levied was within statutory limits and supported by the evidence provided to the plea judge. The plea judge did not abuse her discretion in deviating from the sentence recommendations and levying a harsher sentence.

Accordingly, the plea judge did not abuse her discretion in denying Appellant's motion to reconsider sentence and this Court must affirm.

CONCLUSION

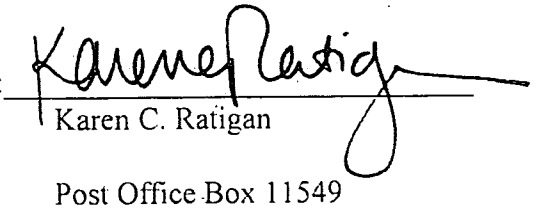
For the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

KAREN C. RATIGAN
Senior Assistant Attorney General
S.C. Bar # 68331

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit

By: 
Karen C. Ratigan

Post Office Box 11549
Columbia, S.C. 29211
803-734-3737

ATTORNEYS FOR RESPONDENT

November 4, 2016

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
The Honorable Kristi L. Harrington, Circuit Court Judge

Appellate Case No. 2014-002206

THE STATE,

Respondent,

v.

Dameon Thompson,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCAR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Findings."

ALAN WILSON
Attorney General

KAREN C. RATIGAN
Senior Assistant Attorney General

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit

BY: _____
Karen C. Ratigan

S.C. Bar No. 68331
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3922

ATTORNEYS FOR RESPONDENT

November 4, 2016

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

The Honorable Kristi L. Harrington, Circuit Court Judge

Appellate Case No. 2015-001029

State of South Carolina, ...Respondent,

v.

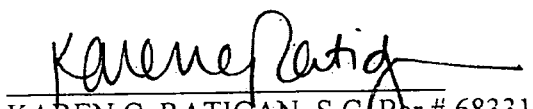
Dameon Thompson, ...Appellant.

CERTIFICATE OF SERVICE

I, Karen C. Ratigan, certify that I have today served the within Final Brief of Respondent upon Appellant by depositing a copy of the same into inter-agency mail and addressed to:

Wanda H. Carter, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, South Carolina 29211-1589

I further certify that all parties required by Rule to be served have been served. This 4th day of November, 2016.



KAREN C. RATIGAN, S.C. Bar # 68331
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737
ATTORNEY FOR RESPONDENT