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DEFENDING YOUR FUTURE

August 30, 2018

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V. Claire Allen  
Deputy Clerk  
The South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

**RECEIVED**  
SEP 04 2018  
SC Court of Appeals

Re: The State v. Jasper C. Autrey  
Appellate Case No. 2018-001433

Dear Deputy Clerk Allen,

As this is an appeal from a guilty plea an explanation identifying the issue(s) to be raised on appeal in this matter was requested.

This appeal was filed at the request of Mr. Autrey and would present to the Court the question of the appropriateness of the sentence imposed on Mr. Autrey.

Mr. Autrey would raise two issues concerning his sentencing:

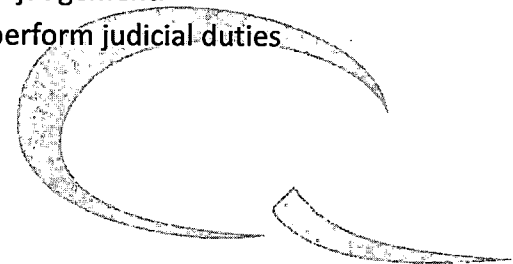
1. That his sentence was aggravated by the conflict the sentencing judge, The Honorable Edward W. Miller, had as the victim's grandfather and custodian had previously been an employee of the Greenville County Sheriff's Office assigned to the Greenville County Courthouse. While Judge Miller is an at-large judge his office is in the Greenville County Courthouse and he often holds court in that courthouse. The victim's grandfather addressed the Court at sentencing.

This issue was not raised below and the Court did not, therefore, have an opportunity to rule on it.

Pursuant to the Rules Governing the Judiciary, Employees of the Judicial Department, and Others Assisting the Judiciary, SCRE, Rule 501, Canon 2, "A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities."

Specifically pursuant to subsection (B) "A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgement."

Additionally pursuant to Rule 501, Canon 3(5) "A judge shall perform judicial duties without bias or prejudice."



Finally pursuant to Rule 501, Canon 3E(1), "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where (a) the judge has a personal bias or prejudice concerning a party..."

Mr. Autrey would argue that he should have been notified by the Court of the relationship prior to sentencing to determine whether a recusal motion was appropriate to avoid, as provided by the Rules cited, a bias which influenced, or could have influenced, the judge's impartiality and sentence. Mr. Autrey believes in this matter he should have had the opportunity to move the judge to step aside whether the Court had an actual conflict or merely to avoid the appearance of impropriety.

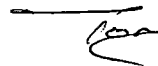
2. That the solicitor improperly argued to the Court at sentencing that Mr. Autrey's sentence should be more than 15 years because he had previously turned down a plea offer made by the State which caused the child victim to have to testify. The exercise of a defendant's constitutional right to proceed to trial should not ever be used against him in sentencing and unsuccessful plea negotiations is not a proper consideration to be raised before the sentencing judge.

This issue was not raised below and the Court did not, therefore, have an opportunity to rule on it.

Rule 404(4), SCRE, states that "any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn." are inadmissible in any civil or criminal proceeding against the defendant. A rejected plea agreement should not be used against the defendant in an attempt to argue the defendant should be sentenced to more time than was offered as a part of an earlier plea offer which happened here. The impropriety is aggravated when tied to the defendant's exercise of his constitutional right to proceed to trial.

Mr. Autrey would argue that his sentencing should be set aside and a new sentencing held.

Very truly yours,



Thomas J. Quinn

Cc: Robert Michael Dudek, Esquire  
John Benjamin Alpin, Esquire  
Kristie Bjorndal Hodge, Esquire

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DEPUTY CLERK

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