

STATE OF SOUTH CAROLINA)

IN THE COURT OF APPEALS)

State of South Carolina)

-vs-)

Christopher Benjamin Mendez,)

Defendant.)

Indictment Nos.: 2018-GS-46-01923,

2018-GS-46-01923a

FILED-RECEIVED

2018 DEC 12 AM 11:08

DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

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SC Court of Appeals

RULE 203(B) EXPLANATION

Pursuant to Rule 203(B)(iv), the issue to be raised on appeal is whether the trial court abused its discretion when it imposed the time served and 3 year concurrent sentences upon the Appellant after he pled guilty to Possession of a Weapon during a Violent Crime and Murder.

The undersigned does not have a good faith basis to believe that this issue is properly before the Court of Appeals, and the undersigned did not object to the sentence or file a motion to reconsider the sentence. Nevertheless, the undersigned consulted with the Appellant about his right to appeal, and after consultation, the undersigned has filed the instant appeal at the request of the Appellant because the Sixth Amendment requires counsel to follow the Appellant's request. *See Frazer v. South Carolina*, 430 F.3d 696, 705 (4th Cir. 2005) ("A defendant has a right to pursue a direct appeal, even if frivolous, which counsel must assist as 'an active advocate on behalf of his client.'") (quoting *Anders v. California*, 386 U.S. 738, 744 (1967)).

Respectfully submitted,



Philip L. Smith

P.O. Box 691

York, South Carolina 29745

(803) 628-3031

Attorney for Christopher B. Mendez

York, South Carolina

December 12, 2018

COUNTY OF YORK

STATE VS.

CHRISTOPHER BENJAMIN MENDEZ

AKA: _____
Race: White Sex: M Age: 29
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# _____

INDICTMENT/CASE#: 2018-GS-46-01923
A/W: 2018A4620200016
Date of Offense: 01/23/2018
S.C. Code §: 16-03-0010
CDR Code #: 0116

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*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

In disposition of the said indictment comes now the Defendant who was [] CONVICTED OF or []

TO: Murder (Death, Life, or NLT 30 years to Life)

In violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

[] NON-VIOLENT [x] VIOLENT [] SERIOUS [x] MOST SERIOUS [] Mandatory GPS [] §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: [x] As indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: [x] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ATTEST:
Willy Thompson 65118 SC Bar #
Christoph B. Mendez Defendant
[Signature] Attorney for Defendant 0066597 SC Bar #

WHEREFORE, the Defendant is committed to the [x] State Department of Corrections [] County Detention Center,
for a determinate term of LIFE days/months/years or [] under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

[] CONCURRENT or [] CONSECUTIVE to sentence on: _____
[] The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
[] The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered PTUP _____ days/hours Public Service Employment
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____ Obtain GED []

[] Set by SCDPPPS _____

Table with 3 columns: Description, Amount, Total. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211 (A)(1)(Conv. Surcharge) \$100, §14-1-211 (A)(2)(DUI Surcharge) \$100, §56-5-2995 (DUI Assessment) \$12, §56-1-286 (DUI Breath Test) \$25, Proviso (Public Def/Probation) \$500, §14-1-212 (Law Enforce. Funding) \$25, §14-1-213 (Drug Court Surcharge) \$150, §50-21-114 (BUI Breath Test Fee) \$50, §56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$, TOTAL \$ 125

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling []
Random Drug/Alcohol Testing []
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund
Other: Life sentence, no parole
[] Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/Deputy Clerk: David Hamilton
Court Reporter: Aileen Butler

Presiding Judge: [Signature]
Judge Code: 2761
Sentence Date: 12-11-18

COUNTY OF YORK
STATE VS.

JAIL

CHRISTOPHER BENJAMIN MENDEZ

AKA: _____
Race: White Sex: M Age: 29
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# _____

INDICTMENT/CASE#: 2018-GS-46-0-1925a
A/W: 2018A4620200017
Date of Offense: 01/23/2018
S.C. Code §: 16-23-0490
CDR Code #: 0549

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SC Court of Appeals

SENTENCE SHEET

ORIGINAL

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Possession Of A Weapon During The Commission Of A Violent Crime (5 years)

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Willy Thompson 65118 Christopher B. Mendez Ray 0016597
Willy Thompson, Deputy Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 323 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time-served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-23-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:
 RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED

Set by SCDPPPS _____

Recipient: _____
*Fine: _____ \$ _____
§14-1-206 (Assessments 107.5%) \$ _____
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____
§56-5-2995 (DUI Assessment) \$12 \$ _____
§56-1-286 (DUI Breath Test) \$25 \$ _____
Proviso (Public Def/Probation) \$500 \$ _____
§14-1-212 (Law Enforce. Funding) \$25 \$ 25
§14-1-213 (Drug Court Surcharge) \$150 \$ _____
§50-21-114 (BUI Breath Test Fee) \$50 \$ _____
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
3% to County (if paid in installments) \$ \$ _____
TOTAL \$ 125

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

Other: Time served

Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/Deputy Clerk: David Hamilton
Court Reporter: Aileen Butler

Presiding Judge: _____
Judge Code: 2761
Sentence Date: 12-11-18

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

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At a Court of General Sessions, convened on March 22, 2018, the Grand Jurors of York County present upon their oath:

COUNT ONE – MURDER

Christopher Benjamin Mendez did in York County on or about January 23, 2018, unlawfully and with malice aforethought, either express or implied, kill Karson Whitesell by means of shooting her, and the victim died as a proximate result thereof. The murder occurred at The Peach Stand at 1325 Highway 160 in the Town of Fort Mill, South Carolina, all in violation of Section 16-3-10, *Code of Laws of South Carolina (1976)*, as amended.

COUNT TWO – POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

Christopher Benjamin Mendez did in York County on or about January 23, 2018, while committing the violent crime of Murder, possess a firearm. The murder occurred at The Peach Stand at 1325 Highway 160 in the Town of Fort Mill, South Carolina, all in violation of 16-23-0490, *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.


WILLY THOMPSON
DEPUTY SOLICITOR

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JAMES HAMILTON
CLERK OF COURT
YORK COUNTY, SC

WITNESSES

FMPD / Perkins

ARREST WARRANT NUMBER

COUNT ONE 2018A4620200016
COUNT TWO 2018A4620200017

ACTION OF GRAND JURY

TRUE BILL

MLP Barrow

Foreperson of Grand Jury
Date: 3-22-18

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2018-GS-46- 01923
2018-GS-46-01923a

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 22ND, TERM 2018

THE STATE

VS.

CHRISTOPHER BENJAMIN
MENDEZ

INDICTMENT FOR

COUNT ONE - MURDER

SC Code: § 16-03-0010
CDR Code: 0116

COUNT TWO - POSSESSION OF A
WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME

SC Code: § 16-23-0490
CDR Code: 0549

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Christopher B. Mendez
hereby appear in my own proper person and plead guilty to the within indictment or to
as charged on both counts

x Christopher B. Mendez
Defendant

Witness:

Daylis C. S. S. S.
C.C.C. PLS. AND G.S.

RECORDED
INDEXED
COMM. DIVISION