

TABLE OF CONTENTS

TABLE OF CONTENTS1

TABLE OF AUTHORITIES.....2

STATEMENT OF ISSUE ON APPEAL.....3

STATEMENT OF THE CASE4

ARGUMENT.....7

The Trial Court erred in failing to reduce Appellant’s twenty-five (25) year sentence pursuant to S.C. CODE ANN. § 17-25-65(A)(1) where after his sentencing, Appellant provided assistance to law enforcement in an effort to locate the stolen firearms.

CONCLUSION.8

PETITION TO BE RELIEVED AS COUNSEL9

TABLE OF AUTHORITIES

Statutes

S.C. CODE ANN. § 17-25-65(A)(1)..... 3, 5, 7, 8

STATEMENT OF ISSUE ON APPEAL

The Trial Court erred in failing to reduce Appellant's twenty-five (25) year sentence pursuant to S.C. CODE ANN. § 17-25-65(A)(1) where after his sentencing, Appellant provided assistance to law enforcement in an effort to locate the stolen firearms.

STATEMENT OF THE CASE

On May 7, 2012, the Aiken County Grand Jury indicted Appellant Daniel Frederick Miles on four counts of first degree burglary. R.p. 36-47.

Appellant appeared before the Honorable R. Ferrell Cothran, Jr. to enter a plea on the above-referenced indictments. R.p. 1-15. Courtney Clyburn Pope represented Appellant, and David W. Miller represented the State. R.p. 1.

Appellant entered a negotiated plea to three counts of burglary in the second degree non-violent and one count of burglary in the second degree violent. R.p. 2, ll. 9-14. The State recommended that Appellant receive a sentence of ten years on Indictment 623, ten years on Indictment 624, five years on Indictment 627, and ten years suspended on the service of five years probation on Indictment 629 with each sentence to run consecutively. R.p. 7, ll. 1-13.

The solicitor additionally informed the plea judge that Appellant indicated that he did intend to cooperate with investigators to help them locate additional items that were stolen during the course of the burglaries, including some stolen firearms. The solicitor stated to the plea judge that if Appellant did cooperate with investigators and provided them with useful information, that the State would file a motion to have his sentence reconsidered at some point in time. R.p. 7, ll. 14-25.

The plea judge accepted Appellant's plea and sentenced him to consecutive sentences of ten years each on two counts, five years on one count, and ten years suspended to five years on the last count. R.p. 8, ll. 9-14; 14, ll. 9-15.

On January 14, 2013, Appellant appeared before the Honorable Robert E Hood on the joint motion of Appellant and the State to modify the above sentenced imposed pursuant

to the negotiated plea. R.p. 16-33. Once again, Courtney Clyburn Pope represented Appellant, and David M. Miller represented the State. R.p. 16.

At the beginning of the hearing, the solicitor indicated that after he pled, Appellant wished to cooperate and offer statements against his co-defendants as well as to help law enforcement locate some of the stolen items in an effort to reduce his sentence. The solicitor indicated that Appellant had given a statement to law enforcement and therefore, the parties were before the judge regarding whether Appellant was entitled to a reduction in his sentence. R p. 17, ll. 5-19.

The solicitor also indicated that there was a discrepancy with Appellant's negotiated sentence on Indictment 629 in which he was sentenced to ten years suspended to five years and three years of probation. R.p 17, ll. 20-25. The solicitor informed the court that pursuant to the terms of the negotiation, that sentence should have been ten years suspended to five years of probation and that it was the intent of the State and Appellant that the Appellant was to receive an active sentence of twenty-five (25) years followed by five years probation. R.p. 18, ll. 2-7.

The solicitor also informed the court that Appellant had given statements to law enforcement on where the stolen items could be located but that law enforcement was ultimately not able to recover any of the stolen items. R.p. 19, ll. 13-21.

Appellant's attorney argued to the court that Appellant tried to the best of his ability to help the investigators recover the stolen firearms and for his cooperation, Appellant should receive some form of sentence reduction pursuant to S.C. CODE ANN. § 17-25-65(A)(1), whether that be run the all or some of the charges concurrent. R p. 23, ll. 17-21; 25, ll. 1-12.

The trial court denied Appellant's motion to reduce his sentence based on his assistance to law enforcement, but did issue an order modifying the sentence on Indictment 629 to ten years suspended to five years probation to reflect the parties' intent that Appellant serve a twenty-five (25) year total sentence. R.p. 31, l. 19 – 32, l. 2; 34-35.

Appellant timely filed and served his Notice of Appeal on January 25, 2013.

ARGUMENT

The Trial Court erred in failing to reduce Appellant's twenty-five (25) year sentence pursuant to S.C. CODE ANN. § 17-25-65(A)(1) where after his sentencing, Appellant provided assistance to law enforcement in an effort to locate the stolen firearms.

S.C. CODE ANN. § 17-25-65(A)(1) provides that “[u]pon the State’s motion made within one year of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided: (1) substantial assistance in investigating or prosecuting another person.”

In this case, the State made a motion within one year of the sentencing in agreement with Appellant’s attorney to have the sentence reduced for Appellant’s cooperation. R.p. 27, l. 25 – 28, l. 15. There was no dispute that Appellant did try to the best of his ability to assist law enforcement to locate the stolen firearms. Where the State moved in agreement with Appellant’s attorney to have Appellant’s sentence reduced for his cooperation, the Trial Court should have reduced Appellant’s twenty-five (25) year sentence pursuant to § 17-25-65(A)(1).

CONCLUSION

Based upon the foregoing reasons, Appellant Daniel Frederick Miles respectfully requests this Court to reverse the Trial Court's denial of the parties' joint motion to have his sentence reduced pursuant to S.C. CODE ANN § 17-25-65(A)(1) and remand for resentencing.

Respectfully submitted,



Carmen V. Ganjehsani
Appellate Defender

ATTORNEY FOR APPELLANT

This 3rd day of October, 2013.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County
R. Ferrell Cothran, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DANIEL F. MILES,

APPELLANT

APPELLATE CASE NO 2013-000174

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Daniel Miles states:

1 She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant

2 She has reviewed the record of appellant's guilty plea before Judge R. Ferrell Cothran, Jr, which was held on May 7, 2012, and appellant's motion to modify the negotiated sentence before Judge Robert E Hood, which was held on January 14, 2013, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial or resentencing

3 She has, pursuant to Anders v California, 386 U.S. 738, 87 S Ct 1396 (1967), briefed an arguable legal issue which arose during the course of the trial

WHEREFORE, she asks the Court to relieve her as counsel for Daniel Miles

Respectfully submitted,



Carmen V Ganjehsani
Appellate Defender

ATTORNEY FOR APPELLANT

This 3rd day of October, 2013.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County
R. Ferrell Cothran, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DANIEL F. MILES,

APPELLANT

APPELLATE CASE NO. 2013-000174

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Arrest warrants;
- (2) True-billed indictments;
- (3) Sentence sheets;
- (4) Entire transcript of May 7, 2012 hearing;
- (5) Entire transcript of January 14, 2013 hearing; and
- (6) Order to Modify Negotiated Sentence.

I certify that this designation contains no matter which is irrelevant to this appeal.

October 3rd, 2013



Carmen V. Ganjehsani
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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Attorney for Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

October 3rd, 2013



Carmen V. Ganjehsani
Appellate Defender

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County
R. Ferrell Cothran, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DANIEL F. MILES,

APPELLANT

CERTIFICATE OF SERVICE

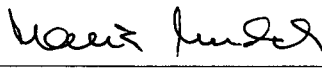
The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal have been served on Daniel Miles, #331866, at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 3rd day of October, 2013



Carmen V. Ganjehsani
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 3rd day of October, 2013.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.