

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Charleston County
Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

COREY LAMONT SPARKMAN,

APPELLANT

APPELLATE CASE NO. 2018-000172

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON 1993-GS-10-00090
 1993-GS-10-00091
 1993-GS-10-00092

CORY LAMONT SPARKMAN,	)	
	)	
Applicant,	)	
	)	TRANSCRIPT OF RECORD
-vs-	)	
	)	November 13, 2017
STATE OF SOUTH CAROLINA,	)	
	)	Charleston, South Carolina
Defendant.	)	

B E F O R E:

The Honorable Deadra L. Jefferson, Judge.

A P P E A R A N C E S:

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Reported By:

Amanda Kelly Haffenden, RPR, CRR
 Circuit Court Reporter for the
 Ninth Judicial Circuit

1 (November 13, 2017.)

2 THE COURT: All right. Is the State ready to
3 proceed?

4 MR. CONDON: Yes.

5 THE COURT: Is the Applicant ready to
6 proceed?

7 MS. BLAZER: Yes, Your Honor.

8 THE COURT: Okay. This is this is Cory
9 Sparkman versus the State of South Carolina. He has
10 filed for a resentencing pursuant to Aiken vs. Byars. He
11 made that motion for resentencing on April 1 of 2016.
12 Subsequently, the Supreme Court assigned the case to this
13 Court. I then appointed Ms. Blazer to represent him and
14 also issue a scheduling order in the matter, and the case
15 was assigned to me on June 2nd of 2017.

16 The State filed its response. I received
17 that on October 10 of 2017, and, Mr. Condon, what date
18 was that filed with the Court, do you know?

19 MR. CONDON: Your Honor, I don't know off the
20 top of my head.

21 THE COURT: And in response to that,
22 Ms. Blazer filed a response for Mr. Sparkman, which I
23 received on 10/23 of 2017.

24 Ms. Blazer, do you know what date you
25 actually filed it?

1 MS. BLAZER: Your Honor, I believe I sent it
2 to be filed, but I could not confirm that it had been
3 filed, so out of an abundance of caution this morning I
4 filed another copy.

5 THE COURT: And I probably should have had
6 that file pulled, but it's so old.

7 MS. BLAZER: But it does reflect having been
8 filed with the Court as of today. And, again, I didn't
9 see anything when I checked Court Plus so it could have
10 been an oversight from my office, which is why I brought
11 another copy.

12 THE COURT: That's okay. I just wanted to
13 make sure, and the file is probably in storage because of
14 its significant age.

15 Mr. Sparkman filed a motion pursuant to Aiken
16 vs. Byars, and that motion again was filed -- let's see
17 here -- on April 1st of 2016. I'm sorry if I said 2017,
18 and this the motion arises -- at 16 years of age, he was
19 indicted on July 9th of 1992, along with codefendant
20 Jackie Robinson, and the State -- he allocuted to
21 executing the victims, Ronald Ravenel and Michael
22 Gadsden, by shooting them in the head with a handgun.

23 On September 27th of 1993, he pled guilty to
24 two counts of murder and armed robbery. Judge Smoak
25 sentenced him to life on both counts of murder concurrent

1 and 25 years on the armed robbery consecutive on April
2 1st of 2016; however, under the law existing at that
3 time, it was not a life without parole. It was before
4 truth in sentencing; therefore, he is eligible for parole
5 under his particular sentencing guidelines. These were
6 indictments 1993-GS-1090, 91, and 92. Okay?

7 And as the matter stands, or as I see it at
8 this point, it's purely a legal argument as to whether
9 Mr. Sparkman fits within the criteria articulated in the
10 Supreme Court's interpretation of the U.S. Supreme
11 Court's finding in Miller vs. Alabama, which is 132 S.
12 Ct. 2455, which is a 2015 case, which was taken up by our
13 Court in Aiken vs. Byars, which is 410 S.C. 534.

14 State may proceed.

15 MR. CONDON: May it please the Court, Your
16 Honor.

17 THE COURT: Yes, sir.

18 MR. CONDON: As outlined in our brief, our
19 argument is pretty simple here. Aiken vs. Byars only
20 applies to a class of defendants that are juveniles that
21 were sentenced to life without parole. In this case,
22 Defendant Sparkman was sentenced to life with parole
23 after 20 years. In fact, he is parole eligible at this
24 moment.

25 THE COURT: And I apologize. I meant to ask

1 that question. When is he parole eligible?

2 MS. BLAZER: He became parole eligible in
3 2012.

4 THE COURT: But when is his next parole
5 eligibility?

6 MS. BLAZER: 2018.

7 THE COURT: 2018 is when he's going to have
8 his next hearing?

9 MS. BLAZER: Theoretically. They move them a
10 good bit, because what he was supposed to have in 2016
11 happened in 2017.

12 THE COURT: I would imagine they get behind,
13 just like any other bureaucracy. All right.

14 MR. CONDON: Yes, Your Honor. The holding of
15 Aiken vs. Byars is pretty clear, only applying to
16 sentences that are life without parole, and both cases of
17 Miller and Aiken vs. Byars equate life without parole to
18 the death penalty in reasoning and rationale. We just
19 don't have that here because he has parole, and the
20 parole board can take into considerations that are
21 relevant to show rehabilitation and the other concerns of
22 the Court.

23 We'd also like to note that United States
24 Supreme Court in Montgomery vs. Louisiana held that
25 states that do violate the Miller case and there's a

1 juvenile life without parole, that there's two options to
2 rectify that issue: One option is to have a full-blown
3 resentencing hearing, where all these different factors
4 are evaluated by the judge, and the second option is that
5 the State does have a statute that allows parole
6 eligibility on a murder conviction.

7 You can just automatically convert the
8 sentence to a parole eligible sentence to satisfy a
9 Miller violation, and that's the exact sentence that the
10 defendant has in this case. I'd also like to note that
11 in the Montgomery case, it was parole eligibility after
12 25 years, and he has an even more lenient sentence, with
13 parole eligibility after 20 years.

14 THE COURT: Ms. Blazer -- and maybe you can
15 ask this question for me. I don't meant to eclipse your
16 argument, and I'll let you make a full argument.

17 What is it exactly that Mr. Sparkman will be
18 seeking to achieve? Let's say, for argument's sake, I
19 were to follow your argument that he is entitled to a
20 resentencing. Under our new sentencing guidelines, would
21 he be subject to a more harsh sentence, or even under the
22 old sentencing guidelines, could he not receive --

23 MS. BLAZER: I believe he would still need to
24 be sentenced under the sentencing scheme that was in
25 place in 1993 at the time of his conviction, and there is

1 certainly the possibility, however remote, that if
2 resentenced under that statute and if a full sentencing
3 hearing considering the Miller factors were held that
4 this Court could determine that a sentence -- a life
5 sentence would still be the appropriate sentence, or a
6 sentence in excess of 25 years on the armed robbery was
7 an appropriate sentence. I do not believe that this
8 Court --

9 THE COURT: Couldn't he have still gotten a
10 life sentence on kidnapping?

11 MS. BLAZER: Yes, I believe he could, and so
12 while I think it's accurate that he could conceivably be
13 exposed to the same or similar or marginally more severe
14 consequence, he could certainly be eligible for a less
15 severe.

16 THE COURT: Was this a negotiated plea?

17 MS. BLAZER: It was not. It was a straight
18 up plea, Your Honor. And, if I may, before launching
19 into my full-blown argument, I do believe that there is
20 an evidentiary issue that I can preserve for the record.

21 THE COURT: Well, I told you I would allow
22 you to supplement the record if I felt it was necessary
23 but the way it was presented at the time of your e-mail,
24 I didn't see what -- this is purely a legal issue.

25 MS. BLAZER: Well, for the purposes of today,

1 in light of the limitations that I have in terms of the
2 presentation of evidence, the person I would use to
3 present that evidence is Mr. Sparkman.

4 THE COURT: For what purpose?

5 MS. BLAZER: To establish the contours of the
6 parole system to which he has personally --

7 THE COURT: What does that have to do with
8 whether he fits into Aiken vs. Byars?

9 MS. BLAZER: Because the State relies on
10 Montgomery vs. Louisiana, which makes reference to the
11 State of Wyoming's parole eligibility statute which
12 provides for a very different set of considerations at
13 parole than the South Carolina parole.

14 THE COURT: I don't find that to be
15 dispositive. My only concern is Miller vs. Alabama and
16 South Carolina's interpretation of that.

17 MS. BLAZER: I think what is important from
18 my perspective is that Mr. Sparkman has had three
19 opportunities for parole. At all three of those
20 opportunities, the parole board was governed by the South
21 Carolina probation, pardon and parole policy and
22 procedure manual.

23 THE COURT: So how is that my lane because by
24 statute, they're allowed to make those decisions. My
25 only concern is whether under South Carolina law he was

1 subject as a juvenile to a life without parole sentence.

2 MS. BLAZER: But I actually don't think
3 that's the only question.

4 THE COURT: Tell me where in case law it says
5 that.

6 MS. BLAZER: It doesn't say that in case law.
7 What it says in case law --

8 THE COURT: Tell me how I have the ability to
9 extrapolate something case law doesn't say.

10 MS. BLAZER: Because Aiken vs. Byars does not
11 explicitly articulate coverage for Mr. Sparkman because
12 of his exposure to parole, but it does, in its preamble,
13 indicate that it granted certiori to address the effect
14 of Miller on the petitioners and others similarly
15 situated. My argument is that Mr. Sparkman is similarly
16 situated to those 15 defendants who appeared before the
17 Supreme Court in Aiken vs. Byars.

18 THE COURT: How? They all got life without
19 parole, which in South Carolina means you never get out
20 of prison.

21 MS. BLAZER: They all got life without
22 parole. Mr. Sparkman received life with the possibility
23 of parole, but the parole statute in South Carolina has
24 changed not one whit since Miller or since Aiken vs.
25 Byars, and the government is resting on the fact that he

1 has parole eligibility as making it similar to the
2 Wyoming situation, which Montgomery vs. Louisiana, the
3 Supreme Court said, Parole is fine. If you get parole
4 and you follow what Wyoming does, then yes, it's going to
5 work. The problem is that South Carolina's parole system
6 bears no resemblance whatsoever to the parole system in
7 Wyoming that Montgomery vs. Louisiana approved of.

8 And so I do think it is important to
9 establish for the record that Mr. Sparkman has been three
10 times considered for parole and that all three of those
11 parole considerations, the South Carolina Probation,
12 Pardon and Parole policy and procedural manual has been
13 in place, and that policy and procedural manual takes
14 into account -- if any, I would argue --

15 THE COURT: Is that not an administrative
16 remedy that he has to pursue through the SCDPPP
17 circumstance? If you're denied parole, you get to appeal
18 that through the administrative law process, right?

19 MS. BLAZER: Correct.

20 THE COURT: So how is that my prerogative
21 make any changes to that?

22 MS. BLAZER: Because the Supreme Court in
23 Miller and Aiken vs. Byars made it your prerogative
24 because the Supreme Court in Miller and vs. Aiken vs.
25 Byars said that if a parole eligibility is merely

1 illusory, it's no parole eligibility at all. I mean, the
2 parole factors --

3 THE COURT: That still leaves you a remedy
4 through the Department of Probation, Pardon and Parole.
5 They can appeal it, and then if the administrative law
6 judge says that it doesn't meet the criteria that they
7 affirm it, they get to go to the Supreme Court and talk
8 about it, and then they can review the Department of
9 Probation, Pardon and Parole's behavior, but not me. I'm
10 not an appellate Court over their agency. They're an
11 administrative agency.

12 MS. BLAZER: But what I'm suggesting is that
13 the probation, pardon and parole board, in considering
14 his parole for the last three times, has not
15 necessarily -- I do believe that they are actively
16 violating one of their statutes that does have an impact
17 on the constitutionality of this system, but I'm not
18 suggesting that they are necessarily violating their own
19 prescription for how to handle a parole board hearing.

20 What I'm suggesting is that the parole board
21 hearing itself is constitutionally deficient and that
22 this Court can hear evidence to establish that and that
23 the State has provided no evidence to refute it.

24 THE COURT: I think that that's through the
25 administrative law process, and then you get to appeal

1 that to the Supreme Court, and then they can tell them
2 whether their process is unconstitutional. By
3 regulation, they have an entirely different system that
4 they run.

5 MS. BLAZER: Agreed.

6 THE COURT: That they have complete authority
7 to run.

8 MS. BLAZER: Agreed.

9 THE COURT: I have no authority to review it.
10 I have no authority to dictate to them how to do it.
11 That's why when they have an appeal from anything they
12 do, it doesn't come to me. It goes to an administrative
13 law Court, and then they make a decision, and then it
14 goes to the Supreme Court. I think it goes directly to
15 the Supreme Court for appeal, or it may go to the Court
16 of Appeals. I have to admit my ignorance on that. I'm
17 not sure.

18 MS. BLAZER: I'm not sure either. I know it
19 goes to the ALC first, but my suggestion to the Court is
20 not that I'm seeking the Court to review a specific
21 action of the probation, pardon and parole board. What
22 I'm asking the Court to consider is that the structure of
23 PPP is at odds -- the structure of PPP's parole review
24 process is at odds with Miller because Miller requires
25 that at some point -- basically, Miller, and then as

1 interpreted by Montgomery vs. Louisiana by the United
2 States Supreme Court, at some point some Court somewhere,
3 or some administrative body, like a parole board, is
4 required to consider all of the issues related to
5 juvenility that require that we treat juvenile offenders
6 differently from adult offenders.

7 And if there is no evidence in the record,
8 and I believe there can be no evidence in the record,
9 that at any point in this process there is any
10 consideration made available for those Miller factors by
11 PPP or by any reviewing Court, I think it comes back to
12 this Court for the purposes of law to say, You know what?
13 You're right. The constitutional rights protected by
14 Miller and reviewed in Montgomery are not being honored
15 by the process we have right now.

16 THE COURT: I think Miller says that you
17 consider mitigating circumstances and whether you impose
18 a life without parole sentence. I think that's the
19 extent of it. I don't think it gives me any authority to
20 look at -- the issue is whether you get a chance at
21 parole. It's not whether you get parole. It's not
22 guaranteed.

23 MS. BLAZER: I agree.

24 THE COURT: Because there are too many things
25 that can happen in an institution that affect their

1 parole eligibility.

2 MS. BLAZER: I absolutely agree, Your Honor.
3 There is no guarantee in Miller for parole, but what
4 Miller -- as extended by Aiken vs. Byars, because Aiken
5 vs. Byars, as we know from the concurrence and the
6 dissent in Aiken vs. Byars actually expands the rights
7 provided by Miller under South Carolina law.

8 Basically, Aiken vs. Byars says, Yeah, but is
9 it fair? Is what we're doing fair? And what Aiken vs.
10 Byars says is, No. As it relates to these specific
11 conditions, it's not fair, and, oh, by the way, as it
12 relates to those similarly situated, and, again --

13 THE COURT: I think that's an extrapolation
14 of the language that is not supported logically. I think
15 it says that if you get a life without parole sentence --
16 in other words, a juvenile should just not get a life
17 sentence because they killed somebody because they are
18 very young, they lack discretion, and, as a matter of
19 procedure, you should consider all of that. You should
20 consider their immaturity. You should consider their
21 lack of experience. You should consider their
22 educational level, the same as you would consider in a
23 death penalty case.

24 The only difference is that you don't
25 consider aggravating circumstances. You only consider

1 mitigating circumstances, and instead of a Court in its
2 discretion simply saying a life for a life, that you look
3 at all of those things in a balance, and you say, In this
4 circumstance, is a life without parole sentence really
5 warranted, where you have somebody who, by technical
6 definition, although an adult, is immature and it should
7 be taken into consideration that in the process and scope
8 of being rehabilitated, which we know in our system can
9 be a misnomer to some extent, but it is possible that
10 people change, and they should be given the opportunity
11 to change, and they should have the opportunity to be
12 considered for parole. I do not read Miller to say by
13 extrapolation that you're guaranteed parole, that you're
14 guaranteed not to get a life sentence.

15 MS. BLAZER: I don't either.

16 THE COURT: That somehow this Court has the
17 authority to look at what probation, pardon and parole is
18 doing in the parole process. Now, I'm not saying your
19 argument may not have merit. I'm just saying this isn't
20 the forum to consider it. I think he has to go through
21 parole again. If he's denied parole -- it may well be a
22 moot issue. He may get parole, in which instance this
23 argument is for naught, because if he gets parole in
24 2018 --

25 MS. BLAZER: If he gets parole at any

1 point --

2 THE COURT: Which is possible.

3 MS. BLAZER: But therein lies the challenge,
4 I think, in terms of the due process issue.

5 For example, Mr. Sparkman will now be coming
6 up with his fourth parole consideration. South Carolina
7 PPP's statute for consideration of parole requires that
8 notwithstanding any other provision of this section or of
9 law, no prisoner who has served a total of ten
10 consecutive years or more in prison may be paroled until
11 the board has first received a report as to his mental
12 condition and his ability to adjust to life outside of
13 prison from a duly qualified psychologist or
14 psychiatrist.

15 Mr. Sparkman has been in custody for 25 years
16 and has never received any such evaluation which suggests
17 the illusory nature of the evaluation that PPP is doing,
18 because if it can't release him without an evaluation and
19 they're not having him evaluated --

20 THE COURT: But, again, that's still not my
21 lane. What he needs to do then is exercise all of his
22 rights under the system. He is not denied due process in
23 that system. He has the right to be heard. He has the
24 right to pursue everything he's entitled to under the
25 statute, so if they have not given him an evaluation, he

1 needs to ask for one. If they don't give him one, he
2 appeals it to the administrative law judge. If the
3 administrative law judge denies him that, he appeals it
4 again, and the Supreme Court can say, Guess what? Y'all
5 didn't do your job. He needs an evaluation.

6 MS. BLAZER: And I agree with every single
7 one of those procedural issues --

8 THE COURT: I don't see him being denied that
9 or preserving that because there's a system for him to
10 exercise his rights under that, and I haven't heard you
11 say one time that he has ever appealed his denial of
12 parole.

13 MS. BLAZER: No, and you know why, I think,
14 Your Honor, that is? Unlike this situation, unlike his
15 trial situation, unlike his plea situation, unlike his
16 sentencing situation, unlike his resentencing under Aiken
17 vs. Byars, there is one critical other missing piece in
18 terms of due process with the PPP process, which is that
19 he is not entitled to Court appointment.

20 THE COURT: Doesn't stop anybody else from
21 doing it. They do it all the time and do it
22 successfully. They get things overturned. They get
23 regulations overturned. They get the procedures in the
24 prisons changed, and they are incredibly astute.

25 MS. BLAZER: Agreed, but those people may be

1 litigating legal errors. This is an issue of
2 constitutional --

3 THE COURT: No, they argue constitutional
4 things that they're entitled to, and they argue it
5 astutely to the administrative law judges, and I've seen
6 them take it all the way up through the appellate
7 process.

8 MS. BLAZER: And it does happen, but I would
9 simply submit to the Court that that does not reach
10 constitutional muster when you've got somebody who's been
11 sitting in jail for 25 years with no consideration of the
12 juvenility -- the impact of juvenility on his crimes, on
13 his capacity for rehabilitation, on his capacity to live
14 independently of the confines of the prison system, and
15 to suggest that such a system is consonant with the
16 system that Montgomery vs. Louisiana said checked the box
17 is, I believe, incorrect because, again, the South
18 Carolina system is very different from the Wyoming system
19 that the United States Supreme Court approved of because
20 what the United States Supreme Court approved of in
21 Wyoming was after just such a situation as
22 Mr. Sparkman's, the Wyoming Supreme Court said, No, that
23 minimal opportunity for parole eligibility is not going
24 to cut it, and the Wyoming legislature went back and
25 changed Wyoming's statute to specifically address not

1 only the eligibility of parole for those juvenile
2 offenders, but the special conditions and the special
3 factors that the parole board was required to consider
4 when considering a defendant like Mr. Sparkman. No such
5 change has happened in South Carolina's legislative
6 structure.

7 THE COURT: I don't need to consider
8 Montgomery vs. Louisiana. I need to look at Aiken vs.
9 Byars and Miller. That's it.

10 MS. BLAZER: Again, I disagree because I
11 think that Montgomery vs. Louisiana is what the State
12 rests on in suggesting that this illusory --

13 THE COURT: Just because they make an
14 argument doesn't mean that I have to consider it valid or
15 make it the basis of a decision. Just because you argue
16 something in a memo doesn't mean I won't base my decision
17 on it, and I routinely write my own orders. I don't rely
18 on what somebody gives me. I do my own logic, my own
19 reasoning, my own research.

20 What you all have given me is helpful. It's
21 guidance. It lets me know the scope of your argument,
22 but rarely, if ever, do I rely on something -- because
23 it's too much advocacy, and I'm not an advocate. I have
24 to see it objectively. I have to see every argument. I
25 have to consider the totality of the argument and look at

1 it from an objective standpoint, so rarely, if ever, do I
2 sign anything that anybody just gives me.

3 I ask people to give me proposed orders
4 because people tend to be more succinct in their
5 arguments in an order. It tends to be more focussed
6 about what their posture is on a case, and it helps me --
7 it's more in the nature -- sometimes for me in the nature
8 of a closing argument because it allows me to see in
9 writing exactly what the posture of your argument is, and
10 I hate to say it, but that's usually what I use it for,
11 because it also gets the lawyers focussed on exactly what
12 the posture of an argument is, but I don't ever just sign
13 anything that anybody just gives me.

14 MS. BLAZER: Understood, and so I would
15 return to Aiken vs. Byars, which I read as an expansion
16 under South Carolina law of the rights guaranteed by
17 Miller. Miller didn't say we are we are limiting this
18 decision and it can never be expanded. Miller said we
19 only have before us the facts we have before us and the
20 people before us have LWOP, so that's what we're going to
21 talk about.

22 Aiken vs. Byars said we're actually going
23 to -- we're going to look at this just a little more
24 broadly, because in Miller, as you'll recall, it was
25 mandatory LWOP as opposed to discretionary LWOP. In

1 Aiken vs. Byars, the South Carolina Supreme Court said
2 we're not just going to look at people who receive
3 mandatory LWOP. We're going to look at people who
4 receive discretionary LWOP, because, in the words of
5 Aiken vs. Byars, that's what's fair.

6 And I think Aiken vs. Byars was fundamentally
7 concerned with the fairness of the considerations given
8 to defendant at sentencing and we cannot go back in time
9 and redo what happened in 1993, but we have an
10 opportunity to reflect on what we have learned in this
11 country through psychology, psychiatry, and the
12 penological advancements that states have made in terms
13 of rehabilitation of people like Mr. Sparkman, and we can
14 rectify what went wrong if, in fact, something went
15 wrong, and that's why I submit to you he should be
16 considered eligible for relief under Aiken vs. Byars and
17 all other related cases.

18 THE COURT: And he has a hearing coming up in
19 2018, and we don't know whether he's going to be released
20 or not, correct?

21 MS. BLAZER: Yes.

22 THE COURT: And I would assume that you have
23 advised him of how to appeal that process if, in fact, he
24 does not receive parole.

25 MS. BLAZER: I have given him information

1 about the appellate process, yes, Your Honor.

2 THE COURT: Anything further, Mr. Condon?

3 MR. CONDON: Just briefly, Your Honor, I
4 believe we made our point clear.

5 THE COURT: You need to clarify your alliance
6 on Montgomery vs. Louisiana because that's been the focus
7 of Ms. Blazer's argument.

8 MR. CONDON: I think it's just constructed in
9 that it shows that if there is a life without parole
10 sentence, a state can rectify that by just converting it
11 to a life with parole sentence. I was just using that as
12 a basis to show that Miller doesn't apply to life with
13 parole sentences. That's for argument purposes, and I
14 would also note, just for the record, the discipline
15 record of the defendant, Cory Sparkman, at the Department
16 of Corrections is long and lengthy --

17 MS. BLAZER: And, Your Honor, given the fact
18 that we are not here to do a resentencing, I don't know
19 that that's relevant.

20 THE COURT: You've raised the issue. You
21 said constitutionally, pursuant to due process, he's been
22 denied parole, and I have already noted that there are
23 many factors that would affect parole in an institution.
24 A lot of things happen, and so to the extent that he's
25 arguing that the probation and parole department has not

1 just unilaterally denied his right to parole, I think he
2 can mention it. I don't know that it's dispositive, but
3 I think it is -- you raised it, he gets to rebut it.

4 MS. BLAZER: I agree, but I think he's
5 relying on a public document that is a summary of things
6 that I would be able to conclusively rebut if I were able
7 to present testimony.

8 THE COURT: Whether he has a disciplinary
9 record?

10 MS. BLAZER: He does have a disciplinary
11 record, but the items that are listed on it, based on my
12 own investigation, bear very little resemblance to the
13 names they are given on his disciplinary record.

14 THE COURT: It's almost like -- let me see
15 how I can put this. It really doesn't matter whether he
16 did it or not. If he has a lengthy disciplinary record,
17 the parole board can deny him eligibility based on that.

18 It's their prerogative how they weigh it, how
19 they do it. I'm not going to go behind them and decide
20 whether it happened or not. I wasn't at the institution.
21 I don't know whether it happened or not, and he has a
22 hearing on that, doesn't he?

23 MS. BLAZER: He should, but --

24 THE COURT: I mean, on whether these
25 things -- a lot of these things, other than --

1 MS. BLAZER: An institutional hearing on
2 historical stuff, yes, and there are records, again, that
3 the South Carolina Department of Corrections has retained
4 that I think are relevant to PPP's review, other than
5 what's listed right there, but, again, if PPP -- I
6 actually think what the Court just said sort of
7 underscores my argument. If PPP can reject parole -- and
8 you're absolutely right, they can for, among other
9 things, unfavorable institutional record, without
10 consideration to the juvenility factors under Miller --.

11 THE COURT: I don't think they have to.

12 MS. BLAZER: Then we're essentially saying he
13 never gets a right to be considered.

14 THE COURT: I don't think that's true because
15 he might get parole in '18, I don't know, but the
16 legislature, in their infinite wisdom, and I agree with
17 them, has decided that the Department of Probation,
18 Pardon and Parole sets up their own system. They
19 regulate their own system. I have no review authority
20 over their system, and I think appropriately so.

21 It's almost like a hybrid of law enforcement
22 and the legal system, and it's their prerogative how they
23 run it; however, for due process purposes, our Court has
24 preserved his right to pursue any remedies he may have.
25 He can appeal it through the system. It goes through

1 several different levels. If he doesn't like what
2 they've done, he can appeal it to an administrative law
3 judge. If he doesn't like what the ALJ did, he can
4 appeal it to another Court.

5 So he is not denied due process. He is not
6 denied, substantive or procedural, the right to be heard,
7 and there's nothing in this hearing that deprives him of
8 his right to challenge if he's denied parole and take it
9 to every level he needs to to preserve his rights, but I
10 think the Supreme Court has spoken loudly and clearly
11 that there has been no denial of procedural or
12 substantive due process in that system, and they said it
13 over and over again.

14 And every time you try to come to this Court
15 to correct something that happens in that system, they
16 very pointedly tell us it is not our prerogative. They
17 have a separate system. They have a separate way to
18 appeal it, and you are to avail yourself of it.

19 Now, once you avail yourself of that, there's
20 nothing that precludes him from arguing that there's
21 something within that system that is unconstitutional
22 that needs to be protected, because guess what? It's
23 created by statute, and it gives the Supreme Court and
24 the Court of Appeals the ability to say there is
25 something that is defective within that system. That

1 does not mean that this Court does not have the ability
2 sometimes to say things are unconstitutional, but as it
3 regards that system, the Supreme Court has been very
4 clear that where there are defects, they are the ones to
5 correct it. It is not for the Circuit Court to correct
6 it, because they have made a very clear demarcation line
7 about this Court's involvement in that process.

8 MS. BLAZER: I agree.

9 THE COURT: And that line ends with us
10 revoking people. That's it, and once you go into that
11 system, that's why they have various ALJs, and sometimes
12 the ALJs say, You're absolutely correct. This should not
13 have happened, but when you have bodies that are vested
14 with a lot of discretion and a lot of variables -- and
15 I've never served on the parole board. I have no idea,
16 but I would imagine they have criteria they have to
17 consider. I would imagine that when they caucus, so to
18 speak -- isn't there three members on there? I forget.

19 MS. BLAZER: Depends -- sometimes they meet
20 as a --

21 THE COURT: Don't they have a maximum number?

22 MS. BLAZER: They do, minimum three ,
23 maximum -- yes, ma'am.

24 THE COURT: So you can have a maximum number
25 of people that will show up, but it only takes a minimum

1 to vote, but there is nothing, as I understand it, within
2 that system that precludes him from saying, listen, I
3 don't think they treated me fairly. I don't think they
4 considered everything they should have considered about
5 me, and guess what? If they disagree, he gets to go to
6 an administrative law judge and say, Guess what? I don't
7 think they treated me fairly.

8 So all I'm pointing out is I don't think --
9 I'm not saying I don't think his argument may have merit.
10 I have no clue. I'm simply saying this is not the
11 appropriate forum to consider.

12 MS. BLAZER: I understand, and I apologize
13 for circling back.

14 THE COURT: No, don't apologize. I appointed
15 you because I knew you would advocate. I knew you would
16 fight hard, and I am a great believer -- when we get
17 something like this from the Supreme Court, I believe we
18 should not adhere to the spirit of it, but to the letter
19 of it, and I think when the Supreme Court says there are
20 things you're supposed to consider, I think we're
21 supposed to do it.

22 So I'm very deliberate. I don't just sort of
23 willy-nilly appoint people. I thought this was a very
24 serious matter. I think it was entitled to serious
25 consideration, and I knew that you would be a zealous

1 advocate, so you don't have to apologize at all. I think
2 it's your job to do that.

3 We all have a function; Mr. Condon has a
4 function, you have a function, and the Court has a
5 function, which is not to take a side at all, but I also
6 am a great believer in the function of our system and how
7 it is designed, and the only way it works is when we all
8 sort of -- and I hate to use the vernacular, but we all
9 stay in our lanes and do what we're supposed to do, and I
10 don't think -- if he in some way has come before the
11 parole board over and over again and they have
12 unilaterally, arbitrarily just sort of never really given
13 consideration to his parole request -- and, again, I
14 don't know all of the details of his parole request. I
15 don't know if victims have shown up. I don't know
16 whether -- you know, I just have no clue. There are so
17 many variables that go into that process that I am not
18 privy to, but if somehow -- and we know that the
19 administrative standard is arbitrary, all those other
20 criteria that you look at, and if somehow he has been
21 denied that, there is a function within that system to
22 address it.

23 MS. BLAZER: I agree, and I think that the
24 challenge that we have with Aiken vs. Byars is that there
25 is a relatively small cohort of people who are

1 identically situated, not similarly situated, but
2 identically situated to Mr. Sparkman who remain in
3 custody at this point.

4 THE COURT: Well, you know, I think we went
5 through a period, and I have done it myself, where we
6 have determined that at the age of 13 a person becomes an
7 adult. We know that the juvenile brain does not work
8 like the adult brain; however, we have younger and
9 younger people doing the most egregious of acts, and when
10 faced with that and balancing it as a Court that is
11 designed to protect our society, it's very difficult
12 sometimes not to give a 17-year-old a life sentence, or a
13 16-year-old a life sentence when faced with the
14 egregiousness of an act, which usually involves the death
15 of someone, and not just the simple death of someone, but
16 the most aberrant way that people are killed. I think it
17 is very hard when faced with all of that and balancing
18 all of that to not give -- because I know I have given
19 out a couple myself.

20 Now, having read Aiken vs. Byars, I agree
21 with it, but I'm not saying that we haven't considered
22 those things. I just think it's a less formal way that
23 it has been done, and so -- but I would concede that
24 there are some circumstances where none of those factors
25 probably were considered appropriately, and this gives

1 people the mechanism to do that. As a matter of fact, if
2 any of the ones that I gave got converted, it doesn't
3 matter to me one way or the other. The context is always
4 20/20. I would like to think that -- if I did something
5 ten years ago, I would like to think I might think about
6 it differently now, and that's called maturity.

7 MS. BLAZER: Just like my client. That's
8 right.

9 THE COURT: So I'm not saying that he may not
10 well be entitled to some remedy within the separate part
11 of our system, I'm just saying that he may need to more
12 zealously advocate on his own behalf.

13 MS. BLAZER: And I certainly agree that is
14 another prong that he and I have discussed at length, his
15 ability with the resources he may be able to --

16 THE COURT: I have seen people in a pro se
17 capacity argue and navigate the system very well, and
18 they have brought about many changes in our system,
19 really, actually, it's almost like a class action in some
20 ways.

21 They have come forward with minimal
22 education, not even a GED, and, really, I assign passion
23 to it because it's their life. They're dealing with it
24 every day, and they have been able to navigate that
25 system all the way through the Supreme Court and bring

1 about tremendous changes in the Department of
2 Corrections, so the fact he doesn't have a lawyer I don't
3 necessarily see that as an impediment, and I don't think
4 the Supreme Court requires that level of expertise.

5 I think that they have enough common sense
6 where they have read between the lines and looked at
7 things when they have felt people were being treated
8 disparately and corrected it, even down to the
9 calculations of sentences and other things, where they
10 have said, Listen, this is not being done appropriately,
11 even down to the ALJ system now being incorporated into
12 that review process, because originally they weren't
13 involved in the review process of denials of certain
14 things, but now they are involved, and now you have the
15 mechanism to appeal that.

16 So I have seen people with very little
17 education because, you know, I think -- the older I get,
18 the more I think common sense wins out over a lot of our
19 legal arguments. They have been able to very
20 successfully navigate that system and come out very
21 successfully against very seasoned lawyers.

22 MS. BLAZER: Your Honor, you mentioned
23 earlier the factors -- and you rightly said, I'm not on
24 the parole board. I don't know what factors they
25 consider, I would like to -- I referenced this SCDPPP

1 policy and procedure manual today as well as in my brief
2 to the Court, and I would like an opportunity, with the
3 Court's approval, to submit that document as a Court's
4 Exhibit to this hearing because it does lay out the
5 factors that they're entitled to --

6 THE COURT: You can do that, but I don't
7 consider those. I don't think that's anything that Byars
8 requires. I mean, Mr. Condon, I would imagine you have
9 no objection to that?

10 MR. CONDON: I don't have an objection.

11 THE COURT: I'm not going to wait an undue
12 amount of time in order to get that.

13 MS. BLAZER: No, that's a document that's
14 readily available.

15 THE COURT: I don't have a problem with you
16 doing that, but I will say for the record that I'm not
17 going to consider the elements of what they -- I mean,
18 whatever the requirements for parole are, I don't think
19 that's a part of Aiken.

20 Aiken really deals with people who got a life
21 without parole sentence at, like, 16 or 17 years old, and
22 we know, under truth in sentencing, that life in South
23 Carolina means life. If you get sick, they put you in
24 the infirmary. If you die, they call your family to come
25 get your body, and I don't mean to sound that flat and

1 that morose, but we know that's the reality of it, versus
2 somebody who's got the ability to get out on parole.

3 Life without parole means life without
4 parole. It means when you expire from this earth, and I
5 think that's what Aiken addresses, because within it, it
6 gives no opportunity for a person to be rehabilitated,
7 someone of a young and tender age, which we know can
8 happen. Sometimes it doesn't; sometimes it does, and I
9 don't think Aiken says that you mandatorily do things.
10 It simply says in hindsight, maybe these things should
11 have been considered, and there's no guarantee that when
12 considering them, it's going to be mandatory.

13 MS. BLAZER: That's correct, because each of
14 the people who was considered under Aiken vs. Byars was
15 entitled to a individualized resentencing, and I believe
16 that some of them did receive LWOP and others received --
17 I saw one this morning, received a 30-year sentence.

18 THE COURT: And it would all be fact driven.
19 You know, it just depends on how egregious -- like I
20 said, usually if somebody gets an LWOP sentence, it has
21 been the most aberrant of acts.

22 It is beyond the pale. It is not just
23 shooting somebody. It's what led up and how egregious
24 because in the circumstances where I've given LWOP it has
25 been an execution-type killing. It has been the most

1 aberrant of acts, where somebody has been tortured, where
2 you would have been eligible for a death sentence but for
3 your age, so it's not -- you know, it's not willy-nilly
4 that judges give out -- I mean, it is like beyond -- like
5 I tell people all the time, we can't consider everything
6 that we do in this court a ten because we deal with the
7 most acts that are so outside the norm that a murder can
8 be a five on a one-to-ten scale, but there are other
9 factors that can make it a ten plus.

10 So usually when a judge gives somebody a life
11 without parole sentence, under normal circumstances, if
12 you were over the age of -- you know, if you were beyond
13 the age of tender years, you would probably be sitting in
14 a capital situation.

15 MS. BLAZER: And at that point you would have
16 been entitled to learned counsel who would have been
17 obligated to present to the Court and a jury --

18 THE COURT: I'm sure he's filed a
19 PCR somewhere.

20 MS. BLAZER: He has filed several PCRs. He
21 did not directly appeal his conviction. He contacted --

22 THE COURT: Well, it wouldn't have. At that
23 time it wouldn't have.

24 MS. BLAZER: He did actually contact his
25 attorney after his sentencing, but it was outside of the

1 ten-day window, and so he was denied.

2 THE COURT: We know as a matter of course on
3 a guilty plea, you waive everything. I mean, an appeal
4 would have been perfunctory. It's unlikely that it would
5 have been reversed.

6 MS. BLAZER: I certainly don't think his
7 conviction would have been reversed. I think there's an
8 argument to made about the sentence if, in fact, the
9 presentation of this evidence at his sentencing failed to
10 address those special considerations that I do think have
11 to be --

12 THE COURT: I don't know. Under the facts of
13 this case, I don't know that it would matter.

14 MS. BLAZER: It might not have, but we don't
15 know, and without learned counsel to argue those things
16 here or in the parole board, I don't know that
17 Mr. Sparkman is ever going to get an opportunity to
18 meaningfully address those issues.

19 THE COURT: But you're talking about
20 appointment of counsel in a parole hearing, and that's a
21 whole other hill of beans that you would have to address
22 with another Court, but I don't think that's something
23 that I would have the prerogative for, nor that I would
24 order nor do I think it's necessary.

25 Again, I have seen too many people navigate

1 the system successfully in a pro se capacity, or they
2 decide to hire counsel, but I don't know that there's
3 anything in the law that would justify appointing a
4 lawyer in a parole hearing.

5 Anything further for the record, Mr. Condon?

6 MR. CONDON: We just ask that our brief be
7 made a Court's exhibit, Your Honor.

8 THE COURT: Just make sure it was filed with
9 the -- why don't y'all have your stuff marked. It might
10 be on microfilm right now, but it's still in a warehouse
11 somewhere.

12 Why don't we just do that out of an abundance
13 of caution, because I think from that file being so old,
14 I suspect it's in storage somewhere, and it might just be
15 easier to be able to -- even though I'm sure they will
16 probably send it for filing eventually at some time,
17 let's just, out of an abundance of caution, make sure
18 both of them are attached as Court's exhibits, and you
19 can supplement the record with the copy of the manual you
20 referenced.

21 Just make sure that the court reporter gets
22 it and has the appropriate file number so she can mark it
23 and keep it with the other records.

24 MS. BLAZER: Yes, ma'am.

25 (Court's Exhibits 1 and 2 were marked for

State of South Carolina
County of Charleston

In the Court of General Sessions
Ninth Judicial Circuit

Case No. 93-GS-10-0090
93-GS-10-0091
93-GS-10-0092

Vs

Corey L. Sparkman
Defendant

MOTION FOR RE-SENTENCING

The Defendant, Corey L. Sparkman # 199433, respectfully moves this court for re-sentencing of his two life sentences for murder and twenty-five years for armed robbery pursuant to our S.C. Supreme Court's decision in Aiken v. Byars, opinion no. 27465, November 12, 2014 and the United States Supreme Court Decision in Miller v. Alabama, 132 S. Ct. 2455 (2012).

Procedural History

Corey L. Sparkman was arrested on July 14, 1992 and was indicted for murder and armed robbery during the January 1993 term in Charleston County. He entered a plea to murder and armed robbery on September 27, 1993, before the Honorable Gerald C. Smoakes, Judge. Sparkman was sentenced to two life sentences for murder and twenty-five years for armed robbery. This motion follows.

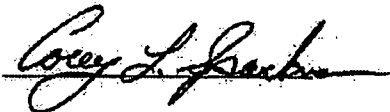
Argument

At the time of the crime, July 1992, Sparkman was sixteen years old, merely a child. He was a juvenile and lacked the maturity in which adults have. Sparkman had an underdeveloped sense of responsibility, and he was vulnerable to negative influences and outside pressures, including family and peers. Sparkman still had an evolving character and personality traits.

At the time of Sparkman's crime and plea, SC Code § 63-19-20 outlined a juvenile is a person less than seventeen years of age. Sparkman falls under the class of defendants who were juveniles at the time of his crime. Sparkman could not effectively or assist in dealing with the prosecution or negotiating with in plea agreement. At his plea hearing, Sparkman did not know he was going to court on that day, or that he was going to be asked to plead guilty. He refused to plead guilty until his attorney used Sparkman's mother to induce him to plead guilty. Sparkman was not properly advised of the direct and collateral consequences of his plea. Thus, Sparkman should be re-sentenced. At the time of his crime, youth was only a chronological fact and a plea for mercy. However, Aiken and Miller hold youth as a constitutional matter in sentencing.

Conclusion

Based on the foregoing reasons and authorities, Sparkman should be re-sentenced.



Corey L. Sparkman

SCDC# 199433

4460 Broad River Rd.

Columbia, SC 29210

Pro Se

FILED
MAR 20 2016
APR -1 PM 11:35
JULIE STRONG
CLERK OF COURT
BY

Columbia, South Carolina

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON,)

NINTH JUDICIAL CIRCUIT

CASE No: 93-GS-10-0090

93-GS-10-0091

93-GS-10-0092

V.)

COREY L. SPARKMAN,
DEFENDANT.)

CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES THAT HE SERVED THE STATE OF
SOUTH CAROLINA WITH THE DEFENDANT'S MOTION FOR RESENTENCING BY
MAILING A TRUE COPY VIA UNITED STATES MAIL ON MARCH 30, 2016, TO:

FILED

2016 APR -1 AM 11:35

JULIE A. SPARKMAN
CLERK OF COURTBY: 

SCARLETT A. WILSON

SOLICITOR'S OFFICE FOR THE

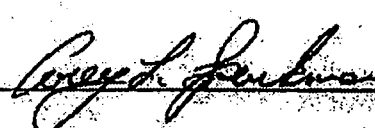
NINTH JUDICIAL CIRCUIT

101 MEETING ST.

CHARLESTON, S.C. 29401

MARCH 30, 2016

COLUMBIA, S.C. 29210

BY: 

Corey L. Sparkman, # 199433

4460 Broad River Rd.

Columbia, SC 29210

March 30, 2016

RECEIVED

MAR 30 2016

BRCI
MAILROOM

The Honorable Julie J. Armstrong

Clerk of Court, Charleston County

100 Broad St., Suite 106

Charleston, S.C. 29401-2258

RE: State of South Carolina v. Corey L. Sparkman

Case No. 93-GS-10-0090, 93-GS-10-0091, and 93-GS-10-0092

FILED
2016 APR -1 AM 11:35
JULIE J. ARMSTRONG
CLERK OF COURT
BY *[Signature]*

Dear Ms. Armstrong,

Enclosed please find my Pro Se motion for re-sentencing for filing in this office.

Also, enclosed is a copy and a self-addressed stamped envelope. Please send me a clocked-in copy for my records.

Sincerely,

[Signature]
Corey L. Sparkman

Enclosures

cc: Solicitor's Office for the Ninth Judicial Circuit

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON)

NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

State's Response to Defendant's Motion for
Resentencing

vs.)

INDICTMENT #'S: 1993-GS-10-0090,
1993-GS-10-0091, and 1993-GS-10-0092

CORY SPARKMAN,)

CHARGES: Murder (x2), Armed Robbery

Defendant.)

FILED
2017 OCT 11 AM 10:06
JULIE J. ARMSTRONG
CLERK OF COURT
BY *MA*

Procedural Background

On July 9th, 1992, in Charleston County, sixteen-year-old Defendant Cory Sparkman along with the Codefendant Jackie Richardson robbed and then executed the Victims Ronald Ravenel and Michael Gadsden by shooting them in the head with a handgun. On September 27, 1993, the Defendant pled guilty to two counts of murder and armed robbery. The Honorable Gerald C. Smoak sentenced the Defendant to life in prison on both counts of murder, concurrent with eligibility for parole, and twenty-five years on the armed robbery, consecutive. On April 1, 2016, the Defendant Cory Sparkman filed a motion for resentencing pursuant to *Aiken v. Byars*, 410 S.C. 534 (2014).

Legal Reasoning

The United States Supreme Court in *Miller v. Alabama*, 132 S.Ct. 2455 (2015) addressed the issue of whether a statutorily mandated sentence of life imprisonment without the possibility of parole for juveniles violated the Eight Amendment. *Id.* at 2457. The Court held that

"*Graham, Roper*, and our individualized sentencing decisions make clear that a judge or jury must have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty for juveniles. By requiring that all children convicted of homicide receive lifetime incarceration *without the possibility of parole*, regardless of their age and age related characteristics and the nature of their crimes, the mandatory sentencing schemes before us violate this principle of proportionality, and so the Eighth Amendment's ban on cruel and unusual punishment." *Id.* at 2475 (emphasis added). In reaching the decision, the Court reasoned that juveniles are constitutionally different from adults in that they have "diminished culpability and greater prospects for reform." *Id.* at 2464.

In *Aiken v. Byars*, the South Carolina Supreme Court addressed whether *Miller* applies retroactively to juveniles sentenced to life without the possibility of parole where the life without parole sentence was a discretionary decision made by the judge. *Aiken*, 410 S.C. 534. The South Carolina Supreme Court held that "[o]ur General Assembly has made the decision that juvenile offenders may be sentenced to life without parole, and we honor that decision. However, *Miller* requires that before a life without parole sentence is imposed upon a juvenile offender, he must receive an individualized hearing where the mitigating hallmarks of youth are fully explored." *Id.* at 578.

- I. *Miller* and *Byars* are Inapplicable to this Case because the Defendant is Eligible for Parole.

At issue in *Miller* and *Byars* were juvenile life sentences without the possibility of parole. Here, the same concerns of proportionality addressed in those cases are not invoked as the Defendant is parole eligible after service of 20 years of his sentence¹. He is currently eligible for

¹ Defendant was sentenced under the previous murder statute which provided for parole eligibility after 20 years. See *State v. Atkins*, 303 S.C. 214 99 S.E.2d 760 (1990).

parole as of July 14, 2012. See SCDC website². Because the sentence is parole eligible, this case is categorically different from *Miller* and *Byars*. Here the parole board can take into considerations of youthfulness and immaturity at the time of the crime, rehabilitation, along with other important considerations. See South Department of Probation, Parole and Pardons Services Policies and Procedures Handbook³. Consequently, the concerns of the *Miller* and *Byars* Courts are not present in this scenario where the Defendant is parole eligible.

II. A Remedy for an *Aiken v. Byars* Violation is to Convert the Life without Parole Sentence to Life with Eligibility for Parole

The Supreme Court in *Montgomery v. Louisiana*, 136 S.Ct. 718, 736 (2016), in addressing the remedy for a *Miller* violation concerning a juvenile who received an automatic life without parole sentence, stated that:

Giving *Miller* retroactive effect, moreover, does not require States to relitigate sentences, let alone convictions in every case where a juvenile offender received mandatory life without parole. A State may remedy a *Miller* violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them. See, e.g., Wyo. Stat. Ann § 6-10-301(c)(2013)(juvenile homicide offenders eligible for parole after 25 years). Allowing those offenders to be considered for parole ensures that juveniles whose crimes reflected only transient immaturity—and who have since matured—will not be forced to serve a disproportionate sentence in violation of the Eight Amendment.

Extending parole eligibility to juvenile offenders does not impose an onerous burden on the States, nor does it disturb the finality of state convictions. Those prisoners who have shown an inability to reform will continue to serve life sentences. The opportunity for release will be afforded to those who demonstrate the truth of *Miller's* central intuition—that children who commit even heinous crimes are capable of change.

The State submits that the United States Supreme Court has made it clear that *Miller*, and consequently *Aiken v. Byars*, does not apply to juveniles who receive life with eligibility for

² <https://public.doc.state.sc.us/scdc-public/inmateDetails.do?id=%2000199433>

³ <http://www.dppps.sc.gov/content/download/68278/1576111/file/Parole+Board+Manual+April+2015.pdf>

parole sentences. In fact, a remedy for a *Miller* violation is to convert the sentence of life without parole to life with eligibility for parole, the same sentence which the Defendant Sparkman received in this case. The Defendant has been before the parole board three times. His parole was last denied on January 25, 2017. The Defendant will be eligible to return before the parole board on January 25, 2019, and can attempt to demonstrate his rehabilitation.

Therefore, the State respectfully requests that the motion be summarily denied without the necessity of a hearing because *Aiken v. Byars* is inapplicable as the Defendant did not receive a life sentence without the possibility of parole.

Respectfully submitted,

Charles M. Condon Jr.
Charles M. Condon, Jr., Assistant Solicitor

Date: October 10, 2017

FILED
2017 OCT 11 AM 10:06
JULIE J. ARMSTRONG
CLERK OF COURT
BY MM

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON) FOR THE NINTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA) INDICTMENT (S): 1993-GS-10-00090,
Plaintiff,) 1993-GS-00091, and
-versus-) 1993-GS-00092
COREY SPARKMAN,)
Defendant.)

**REPLY TO STATES RESPONSE IN
OPPOSITION TO DEFENDANT'S MOTION
FOR RESENTENCING**

The Defendant-Movant, Corey Sparkman, made a motion for resentencing pursuant to *Aiken v. Byars*, 410 S.C. 5534 (2014), on April 1, 2016. On July 31, 2017, the undersigned was appointed as counsel to represent Sparkman in his bid for resentencing. On October 11, 2017, the State formally responded in opposition to Sparkman's motion for resentencing and based its objection on its limited reading of *Aiken v. Byars*' applicability. For the reasons given below, Sparkman respectfully submits that *Aiken v. Byars*, which derived from *Miller v. Alabama*, 132 S.Ct. 2455 (2012), is applicable to juveniles whose sentences operate as a *de facto* term of life imprisonment. Moreover, Sparkman submits that *Montgomery v. Louisiana*, 136 S.Ct. 718 (2016), cited by the State as support for its position, instead supports Sparkman's request for resentencing in the absence of statutory and regulatory remedies to South Carolina's parole process for juveniles sentenced to life with the possibility of parole prior to 1995.

Background

When Corey Sparkman pled guilty to murder and armed robbery in 1993, for a crime committed in 1992 when he was still only sixteen years old, he was treated as an adult, given an adult prison sentence, and sent to serve time in an adult prison. He has spent more than half of his life—twenty-five years now—in the South Carolina Department of Corrections. In 2012, as

noted in the State's response, Sparkman first became eligible for parole. Since that time, Sparkman has had three parole hearings and was denied parole each time.

Argument

- I. The logic of *Miller* and *Byars* are applicable where, as here, parole hearings fail to meaningfully consider or apply the *Miller* factors and a parole-eligible sentence becomes a *de facto* life without parole sentence.

The State argues that Sparkman's motion for resentencing should be denied, as he does not fall within the narrow class of defendants contemplated by *Aiken v. Byars*. While Sparkman concedes that his sentence, handed down before the end of parole eligibility for murder convictions, is distinct from those sentenced after 1995, it is a technical distinction without a material difference.

Since 2012 when *Miller* decided that a lifetime in prison was a disproportionate sentence for "all but the rarest of children," *Montgomery* at 726 (citing *Miller* at 2469), Sparkman has had three parole hearings and has been three times cursorily denied parole on the basis of the seriousness of his offense. At no time was he afforded a specialized hearing to assess the applicability of the *Miller* factors to his parole eligibility. He will be eligible for parole again in 2018 and intends to seek relief at that time. But without a system in place to ensure a constitutionally compliant review of the *Miller* factors and their effect on his case, there appears to be no meaningful opportunity for him to secure the rights guaranteed to him by the Eighth Amendment as outlined in *Miller*.¹

- II. *Montgomery v. Louisiana's* endorsement of converting life without parole sentences to parole-eligible sentences as a remedy to the Eighth Amendment

¹ As *Montgomery* notes, the provision of a meaningful possibility of release is a necessary precondition for the rehabilitative effect that is to be among the chief goals of sentencing juveniles.

violation identified by *Miller* is only satisfied by a parole scheme that accounts for the *Miller* factors.

At his plea and sentencing, Sparkman did not have the benefit of the Supreme Court's wisdom in *Roper v Simmons*, 543 U.S. 551 (2005) (holding that "[w]hen a juvenile offender commits a heinous crime, the State can exact forfeiture of *some* of the most basic liberties, but the State cannot extinguish his life and *his potential to attain a mature understanding of his own humanity*.")(emphasis added), or *Miller*. Nor, however, had the state of South Carolina yet abolished parole for murder and armed robbery. His sentence, then, to a term of life with the possibility of parole is a legal anachronism. Whereas parole for murder was once common place, there are increasingly fewer and fewer inmates eligible for parole in murder cases and ever fewer opportunities for the South Carolina Parole Board to address the unique circumstances of juveniles convicted of murder who are now parole eligible.²

Moreover, permitting or expecting the Parole Board to determine the applicability of the *Miller* factors to Sparkman's case vests the sentencing decision in the executive rather than judicial branch.³ While the *Montgomery* court approved of a scheme providing parole eligibility to persons protected by the *Miller* ruling, that approval assumed that parole eligibility would be more than merely illusory. Absent a showing that the South Carolina Parole Board is equipped

² The State points to the Parole Board handbook as though it provides evidence of the Board's ability and willingness to consider the *Miller* factors at its hearings, but that document provides no reference whatsoever to the impact of juvenility on parole decisions and, indeed, in setting forth the criteria considered by the Board the Handbook lists some considerations that categorically disfavor the release of inmates who were very young at the time of their incarceration (e.g., employment history and job skills) and have been subject to extended incarceration (e.g. proposed residence and employment).

³ The State's reliance on *Montgomery's* reference to the Wyoming sentencing scheme is inapposite, as the Wyoming legislature responded to *Miller* with legislation that, in effect, creates a presumption in favor of parole by directing that all juveniles sentenced to life in prison be considered for parole after service of 25 years and further provides for executive commutations before the 25-year time frame. South Carolina's legislature has made no such legislative adjustments in the wake of *Miller* and has, thereby, offered no similar guidance to the Parole Board.

and prepared to meaningfully consider release for Sparkman and others similarly situated, the protections of *Aiken v. Byars* should be extended to protect him.

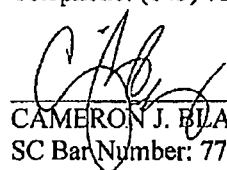
Conclusion

Sparkman acknowledges the structural distinctions between his case and those originally considered by the Supreme Court in *Aiken v. Byars*. These distinctions, however, obscure the overwhelming similarities. Sparkman requests this Court set a hearing at which both he and the state can present evidence as to the effect of parole eligibility in his case. Absent an evidentiary showing from the State that Sparkman has anything other than the *appearance* of an opportunity for parole, this Court should treat him just as any other juvenile defendant under *Aiken v. Byars* and schedule him for re-sentencing in keeping with the protections of the Eight Amendment and *Miller v. Alabama*.

Respectfully submitted,

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BY:


CAMERON J. BLAZER
SC Bar Number: 77000

ATTORNEY FOR DEFENDANT

Charleston, South Carolina

October 23, 2017

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA,

Plaintiff,

v.

CORY SPARKMAN,

Defendant.

In the Court of General Sessions
Ninth Judicial Circuit

**ORDER DENYING DEFENDANT'S
MOTION FOR RESENTENCING**

Indictment Numbers:

1993-GS-10-0090

1993-GS-10-0091

1993-GS-10-0092

Presiding Judge:
Counsel for the State:
Counsel for Defendant:
Date of Hearing:
Court Reporter:

Hon. Deadra L. Jefferson
Charles Condon, Esq.
Cameron Blazer, Esq.
November 13, 2017
Amanda Haffenden

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SC Court of Appeals

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CLERK OF COURT

This matter came before the Court on November 13, 2017 pursuant to the Defendant's Motion for Resentencing pursuant to the South Carolina Supreme Court's ruling in Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014). Present at the hearing was Charles Condon, Esquire on behalf of the State of South Carolina. The Defendant, Corey Sparkman, and his attorney, Cameron Blazer, Esquire, were also present. After reviewing the pleadings, considering the briefs submitted by the parties, and the arguments of counsel at the hearing, Defendant's Motion for Resentencing is **DENIED**.

FACTUAL BACKGROUND

The Defendant, Corey Sparkman, is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. Defendant was indicted at the January 1993 term of the Charleston Grand Jury for two (2) counts of Murder and one (1) count of Armed Robbery. These indictments arise from events occurring on July 9, 1992 whereby the Defendant (then sixteen years of age) was charged with robbing and then

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...killing Ronald Ravenel and Michael Gadsden by shooting them in the head with a handgun. On September 27, 1993, the Defendant pled guilty to two counts of Murder and one count of Armed Robbery. The Defendant was sentenced by the Honorable Gerald C. Smoak to life in prison on both charges of Murder, with eligibility for parole, and twenty (20) years for the charge of Armed Robbery to run consecutively.¹ Defendant first became eligible for parole on July 14, 2012, and, according to his counsel, has had three (3) parole hearings since that time, all of which for a myriad of reasons were denied by the parole board.

On April 1, 2016, the Defendant filed a Motion for Re-Sentencing pursuant to Aiken v. Byars. On July 28, 2017, the Court appointed Cameron Blazer, Esquire to serve as counsel for the Defendant in this matter. The State of South Carolina filed a response in opposition to Defendant's Motion for Re-Sentencing on October 11, 2017. The Defendant then filed a Reply in support of his Motion for Re-Sentencing. The Court conducted a hearing on November 13, 2017 to determine whether the Defendant meets the requirements articulated by the South Carolina Supreme Court and is thereby subject to a re-sentencing under Aiken v. Byars.

LAW

The Eighth Amendment of the United States Constitution states that "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted." U.S. Const. amend. VIII. In 2012, the United States Supreme Court held that the Eighth Amendment's prohibition on cruel and unusual punishment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders. Miller v. Alabama, 567 U.S. 460, 479, 132 S. Ct. 2455, 2469 (2012). In reaching this decision, the Court reasoned that juveniles are constitutionally different from adults for purposes of sentencing because they have diminished

¹ The statute in effect at the time of the murder, S.C. Code Ann. § 16-3-20(A) provided for parole eligibility after twenty (20) years. See State v. Atkins, 303 S.C. 214; 99 S.E.2d 760 (1990).

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culpability and greater prospects for reform." Id. at 471, 132 S. Ct. at 2464. First, "children have a lack of maturity and an underdeveloped sense of responsibility leading to recklessness, impulsivity, and heedless risk-taking." Id. at 471, 132 S. Ct. at 2464 citing Roper v. Simmons, 543 U.S. 551, 125 S. Ct. 1183 (2005). "Children are [also] more vulnerable . . . to negative influences and outside pressures including from their family and peers; they have limited control over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings." Id. citing Roper, 543 U.S. at 569, 125 S. Ct. at 1219. And lastly, "a child's character is not as 'well formed' as an adult's; his traits are less fixed and his actions less likely to be evidence of irretrievable depravity." Id. citing Roper at 543 U.S. at 570, 125 S. Ct. at 1183. A judge or jury must therefore consider mitigating circumstances before imposing the harshest penalty possible for juveniles. Id. at 489, 132 S. Ct. at 2475.

Subsequent to the Court's ruling in Miller v. Alabama, the South Carolina Supreme Court addressed the applicability of Miller to juveniles who received a life sentence without parole in South Carolina. This case, Aiken v. Byars, upheld the principles enunciated in Miller by holding that "any juvenile offenders who receives a sentence of life without the possibility of parole, whether the sentence is mandatory or permissible, is entitled to the constitutional protections afforded by the Eighth Amendment's guarantee against cruel and unusual punishment." Aiken, 410 S.C. at 544, 765 S.E.2d at 577. The Court further held that Miller applies retroactively to all juvenile offenders sentenced to life without parole and prospectively to all juvenile offenders who may be subject to a sentence of life imprisonment without the possibility of parole. Id. at 542, 765 S.E.2d at 578. Courts are, thus, required to provide juvenile offenders in South Carolina with individualized hearings where the mitigating hallmark features of youth are fully explored before a life sentence without parole is imposed. Id.

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The U.S. Supreme Court has held that a Miller violation may be remedied by resentencing or by extending parole eligibility to previously ineligible juvenile offenders. See Montgomery v. Alabama, 136 S. Ct. 718, 736 (2016). "A state may remedy a Miller violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them" thereby ensuring that "juveniles whose crimes reflected only transient immaturity – and who have since matured – will not be forced to serve a disproportionate sentence in violation of the Eighth Amendment." Id. The South Carolina Supreme Court held that the appropriate remedy for juvenile offenders sentenced to life without parole is a re-sentencing hearing whereby the offender may present evidence specific to their attributes of youth. See Aiken, 410 S.C. at 544, 765 S.E.2d at 577.

ANALYSIS

The Defendant in the instant case was sentenced to confinement for a period of life with parole eligibility in 1993. Defendant currently seeks re-sentencing of his life sentence in accordance with Aiken v. Byars. In support thereof, Defendant asserts that he falls within the class of juvenile offenders referenced by the Court in Aiken because he was sixteen (16) years old at the time of his crime and sentenced to a term of life imprisonment. Defendant argues that his sentence is, therefore, unconstitutional under Miller v. Alabama and Aiken v. Byars.

The State disputes that Defendant is entitled to re-sentencing under Miller and Aiken on the basis that the Defendant is categorically different from the defendants in these cases since he is eligible for parole and has been since July 14, 2012. It is the State's contention that the holdings of Miller and Aiken solely apply to those juveniles sentenced to life without the possibility of parole. In support of this contention, the State cites to Montgomery v. Alabama in which the U.S. Supreme Court held that a Miller violation may be remedied by re-sentencing the juvenile offender.

or by extending parole eligibility to the offender. See Montgomery, 136 S. Ct. at 736 ("Giving Miller retroactive effect does not require states to re-litigate sentences, let alone convictions, in every case where a juvenile offender received mandatory life without parole. A State may remedy a Miller violation by permitting juvenile homicide offenders to be considered for parole rather than by resentencing them."). Because Montgomery provides that states may, in their discretion, remedy Miller violations by extending parole eligibility to juvenile offenders, the State argues that Miller and Aiken do not apply to juveniles who received life sentences with eligibility for parole as Defendant did here.

Defendant concedes that his sentence differs from those of the defendants in Miller and Aiken, but argues that any distinction between his sentence (life with parole eligibility) and those at issue in Miller and Aiken (life without the possibility of parole) is technical in nature. Indeed, Defendant asserts that there is no "material difference" between his sentence and a life sentence without parole because his eligibility for parole does not adequately protect the constitutional protections provided by Miller and Aiken. Defendant contends that all juvenile offenders are entitled to a meaningful review of the impact of age and maturity on their crimes and their potential for rehabilitation pursuant to Miller and Aiken, but maintains that he did not receive this type of meaningful review at his parole hearings. Accordingly, Defendant seeks a specialized hearing before this Court in order to evaluate his sentence in light of Miller and Aiken. In essence, the Defendant is asking this Court to grant him an Aiken hearing for the specific purpose of granting him parole thereby usurping the role of the parole board and their decision-making authority which is delegated to them by statute. This Court finds this request exceeds its authority as well as the purpose and goal of the Aiken decision. This Court does not find any support in the Defendant's reading of the Aiken precedent as a guarantee of the grant of parole versus parole eligibility.

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The Court has fully and carefully considered the documents and exhibits submitted to the Court and the arguments of counsel at the November 13, 2017 hearing. Upon careful and deliberate consideration, the Court hereby denies Defendant's request for re-sentencing under Aiken v. Byars. The Court finds that the Defendant does not fit within the ambit of juvenile offenders eligible for re-sentencing under Miller and Aiken. The Defendant here was sentenced to life with parole as a juvenile whereas the defendants before the Court in both Miller and Aiken were sentenced to life without parole as juveniles. See Miller, 567 U.S. at 465, 132 S. Ct. at 2460 ("The two fourteen-year old offenders [...] were convicted of murder and sentenced to life imprisonment without the possibility of parole."); Aiken, 410 S.C. at 536, 765 S.E.2d at 573 ("The [defendants] were all convicted for homicides committed while they were juveniles. All were sentenced to life without parole according to existing sentencing procedures."). Aiken provides that its holding and that of Miller apply retroactively "to those similarly situated" to the defendants in those cases. 410 S.C. at 537, 765 S.E.2d at 573. That is to say, only those defendants sentenced to life without parole as juveniles are eligible for re-sentencing under Miller and Aiken. Because the Defendant here is parole-eligible, the Court finds that the Defendant is not "similarly situated" to those in Miller and Aiken, and is, thus, not a proper candidate for re-sentencing in accordance with the guidelines set forth by these cases. In so ruling, the Court notes this interpretation of Aiken is supported by Montgomery v. Alabama wherein the U.S. Supreme Court held that giving Miller retroactive effect does not require courts to re-litigate sentences in every case where the defendant received life without parole. See Montgomery, 136 S. Ct. at 736. A court may instead elect to extend parole eligibility to juvenile offenders rather than re-sentence them. See id.

The Court finds that the instant case is indeed categorically different from Miller and Aiken, and that, consequently, it lacks authority to reconsider Defendant's sentence under these

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cases. Moreover, because Defendant is presently parole-eligible, he already enjoys one of the potential remedies afforded to juvenile offenders by the U.S. Supreme Court. See Montgomery, 136 S. Ct. at 736 ("A State may remedy a Miller violation by permitting juvenile homicide offenders to be considered for parole, rather than by re-sentencing them."). Once a defendant is parole eligible, it then becomes the duty of the South Carolina Board of Pardons and Paroles, not this Court, to consider the cases for pardon, parole, and any other form of clemency provided by law. See S.C. Code Ann. § 24-21-13(B). In performing this duty, the parole board considers a number of criteria, including the circumstances surrounding the offense and the potential for rehabilitation.²

Defendant asks this Court to evaluate the criteria relied upon by the parole board in making its determination of the Defendant's parole eligibility for constitutional muster. The parole board is required to establish written, specific criteria for the granting of parole, and this criteria must incorporate all the requirements of S.C. Code § 24-21-640.³ Section 24-21-640 requires the board to carefully consider whether the prisoner has shown a disposition to reform, whether the prisoner is likely to obey the law and lead a correct life in the future, whether the prisoner's conduct has merited a lessening of the rigors of imprisonment, whether society's interest will be impaired by parole, and whether suitable employment has been secured for the inmate. The parole board must also consider the record of the prisoner before, during and after imprisonment. S.C. Code § 24-21-640.

² Alternatively, even if the Court were to accept the Defendant's argument and grant a re-sentencing hearing there is no guarantee that any potential change of sentence would make any appreciable difference in his parole eligibility, consideration for parole or guarantee the grant of parole. In effect he would maintain his current posture regarding his consideration for parole.

³ The criteria considered by the parole board in making its parole decisions is set forth in the South Carolina Board of Pardons and Paroles Policy and Procedure Manual. See <https://www.dppps.sc.gov/content/download/120663/2749351/file/Parole+Board+Manual+June+7+2017.pdf>

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Defendant contends that the criteria listed above fails to consider the factors of youthfulness and immaturity set forth by Miller, and that as a result, Defendant has been denied "meaningful review" of his sentence as afforded to him by Miller. This contention is solely based upon the fact that Defendant has had three (3) parole hearings since he first became parole eligible in 2012, and has been denied parole all three (3) times. In asking this Court to evaluate the criteria utilized by the parole board in making these decisions, the Defendant is, in effect, asking this Court to review the decisions made by the board as well as the decision-making process itself. The Defendant is in effect asking this Court to usurp the board's statutory decision-making authority and substitute it with its own. Such a request is improper as this Court is without the jurisdiction to sit in judgment of the decisions of the parole board. "The parole board has the sole authority to determine parole eligibility separate and apart from a court's authority to sentence a defendant." Cooper v. S.C. Dep't of Prob., Parole, and Pardon Serv., 377 S.C. 489, 496; 661 S.E.2d 106, 110 (2008).

An inmate who wishes to appeal a decision of the parole board must seek review from the Administrative Law Court rather than the Circuit Court.⁴ See Cooper, 377 S.C. at 497, 661 S.E.2d at 110 ("The ALJD has subject matter jurisdiction to hear appeals from the final decision of [the Department] in a non-collateral or administrative matter."); Al-Shabazz v. State, 338 S.C. 354, 376, 527 S.E.2d 742, 754 ("An inmate may seek review of the Department's final decision of an ALJ in a non-collateral or administrative matter under the APA."). However, "parole is a privilege, not a right," and, thus, not all of the Department's decisions are subject to review. See Cooper, 377

⁴ "The name was changed from the Administrative Law Judge Division to the Administrative Law Court by Act No. 202, effective April 26, 2004." James v. S.C. Dep't of Prob., Pardon and Parole Serv., 376 S.C. 392, 656 S.E.2d 399 n. 3 (Ct. App. 2008) (citing Civil Action No. 2001-CP-32-0711 Carolina Water Serv., Inc. v. Lexington County Joint Mun. Water & Sewer Comm'n, 367 S.C. 141, 625 S.E.2d 227 (Ct. App. 2006)).

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S.C. at 496, 661 S.E.2d at 496; Furtick v. S.C. Dep't of Prob. Pardon and Parole Serv., 352 S.C. 594, 597, 576 S.E.2d 146, 148 (2003). The South Carolina Supreme Court has repeatedly recognized that an inmate has a right to administrative law review of an agency's final decision denying parole eligibility, but does not have the same right to review of a temporary denial of parole. See, e.g., Furtick, 352 S.C. at 598, 576 S.E.2d at 148-49 (holding that "the permanent denial of parole eligibility implicates a liberty interest sufficient to require at least minimal due process."). "The distinction is that review or consideration for parole is a right granted by statute whereas parole is only a privilege." Steele v. Benjamin, 362 S.C. 66, 72, 606 S.E.2d 499, 502 (Ct. App. 2004).

The Defendant has been denied parole by the board three (3) times since he first became parole eligible in 2012, however, the board has never permanently denied Mr. Sparkman parole. Further, a denial of parole, in and of itself, does not mean that the Defendant has been denied a meaningful review. In fact, the parole board is required, by law, to review Defendant's case every twelve (12) months after a negative parole determination. S.C. Code Ann. § 24-21-620 (Supp. 2002). The Defendant is nevertheless asking this Court to review the board's negative parole determination in his case on the basis that the criteria promulgated by the legislature and utilized by the parole board does not comply with Miller, and is, therefore, unconstitutional. This Court recognizes that it has the authority to interpret the statute setting forth the parole criteria, but finds that the Defendant here is effectively asking the Court to usurp the authority of the parole board to make parole determinations, and instead substitute its own judgment as to whether Defendant should have been granted parole. This Court will therefore not render an opinion as to the appropriateness of the parole board's decision. Such a determination is not dispositive as to the applicability of Aiken to the Defendant's sentence. The Court does, however, acknowledge the

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jurisdiction of the Administrative Law Court to determine whether the parole board's decision was made without consideration of the appropriate criteria, and would encourage the Defendant to seek such relief there if he so desires.

CONCLUSION

In conclusion, the Court finds that Defendant is not entitled to re-sentencing under Aiken v. Byars. **THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT Defendant's Motion for Re-Sentencing is hereby DENIED.**

AND IT IS SO ORDERED.


Deandra L. Jefferson
Presiding Judge
9th Judicial Circuit

December 20, 2017
Charleston, South Carolina

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JULIE J. ARMSTRONG
CLERK OF COURT

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

Corey Sparkman ^{VS-}
DEFENDANT

IN THE COURT OF GENERAL SESSIONS
MOTION COVERSHEET

WARRANT/TICKET/
INDICTMENT #'s

PA3-GS-1000090
1993-GS-10-00091
1993-GS-10-00092

Solicitor: <u>Charles Condon</u> , Bar No. _____		Defendant's Attorney: <u>Cameron Blazer</u> , Bar No. <u>77000</u>	
Address: <u>101 Meeting St</u>		Address: <u>1037 Church Danley Blvd Ste 104, Mt P</u>	
Phone: <u>843-958-1900</u>		Phone: <u>843-732-4441</u>	
E-mail: <u>condonc@scsolicitors.org</u>		E-mail: <u>cameron@blazerlaw.com</u>	
☐ MOTION HEARING REQUESTED ☒ FORM MOTION, NO HEARING REQUESTED		COURT 10:30 1/8/18	
SECTION I: Hearing Information			
Nature of Motion: <u>Motion to Reconsider</u>		Court Reporter Needed: ☒ YES ☐ NO	
Estimated Time Needed: _____		Court Reporter Needed: ☒ YES ☐ NO	
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order			
I hereby move for relief or action by the court as set forth in the attached proposed order.			
Signature of ☐ Solicitor ☒ Attorney for Defendant		Date submitted	
<u>[Signature]</u>		<u>1/8/18</u>	

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	INDICTMENT (S):
	)	1993-GS-10-00090,
STATE OF SOUTH CAROLINA	)	1993-GS-00091, and
Plaintiff,	)	1993-GS-00092
	)	
-versus-	)	
	)	
COREY SPARKMAN,	)	
Defendant.	)	

MOTION TO RECONSIDER

The Defendant-Movant, Corey Sparkman, made a motion for resentencing pursuant to *Aiken v. Byars*, 410 S.C. 5534 (2014), on April 1, 2016. On July 31, 2017, this Court appointed Cameron Blazer, Esq., as counsel to represent Sparkman in his bid for resentencing. On October 11, 2017, the State formally responded in opposition to Sparkman's motion for resentencing and based its objection on its reading of *Aiken v. Byars*' applicability. Sparkman replied, through counsel, on October 23, 2017. This Court heard oral arguments on the matter on November 13, 2017, and filed an order denying Sparkman's motion on December 21, 2017, a copy of which was received by the undersigned counsel on December 28, 2017, as was the electronic notice of filing. Exhibit A. This motion to reconsider is timely under Rules 29 and 35 of the South Carolina Rules of Criminal Procedure.^{1,2}

Sparkman now seeks reconsideration of the order denying his motion for resentencing for the reasons outlined below.

¹ With regard to the calculation of time, the undersigned would also note that all county offices, including that of the Clerk of Court, were closed from January 3, 2018, until the date of this filing.

² At the direction of the Court, the undersigned prepared a proposed order, a copy of which is included in this filing as Exhibit B.

Argument

In denying Sparkman's motion for resentencing, the Court stated, "In essence, the Defendant is asking this Court to grant him an *Aiken* hearing for the specific purpose of granting him parole thereby usurping the role of the parole board and their decision making authority which is delegated to them by statute." Order at 5. But rather than seeking that this Court substitute its judgment for that of the Parole Board, or that this Court sit in judgment of that body's particularized execution of its statutory and regulatory functions, Sparkman sought to elicit testimony to demonstrate the degree to which the statutory and regulatory framework directing the Parole Board's activities comports with the constitutional protections demanded by *Miller* and its progeny. Sparkman acknowledges that he may be entitled to appellate review through the administrative law court of the conduct of his own individual parole hearing. But those individualized, administrative rights are separate from his right as a matter of law to equal protection under the Eighth Amendment as others similarly situated.

The Court's order indicates that Sparkman's contention that he is being denied meaningful review, "is solely based upon the fact that Defendant has had three (3) parole hearings since he first became parole eligible in 2012, and has been denied parole all three (3) times." But that is not Sparkman's basis at all—Sparkman's contention is that the process, the very structure and plan of South Carolina's parole system, is directly at odds with the meaningful review contemplated by *Montgomery v. Alabama*. Sparkman's three parole denials in and of themselves do not prove or disprove the structural deficiencies. But because the State did not and cannot demonstrate that the parole process—as it relates to *any* defendant—involves any

meaningful consideration of the *Miller* factors, his case is not materially different from those considered in *Aiken v. Byars*.³

As with other defendants covered by *Miller* and *Aiken*, Sparkman is entitled to and seeks *de novo* review of his sentence, not review of his parole worthiness.

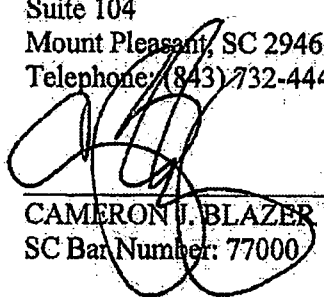
Conclusion

For these reasons, and those previously argued, Sparkman respectfully requests this court reconsider its decision to deny his motion for resentencing.

Respectfully submitted,

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Telephone: (843) 732-4441

BY:


CAMERON J. BLAZER
SC Bar Number: 77000

ATTORNEY FOR DEFENDANT

Charleston, South Carolina

January 8, 2018

³ See Policy and Procedure Manual, South Carolina Department of Probation, Parole and Pardon Services, Division of Pardons and Pardon Services, 21-34 (April 2015).

Exhibit A



Cameron Blazer <cameron@blazerlaw.com>

My Cases Notification

1 message

My Cases Notification <Notifications@courtplus.org>

Thu, Dec 28, 2017 at 10:20 AM

Reply-To: DoNotReply@courtplus.org

To: CAMERON@blazerlaw.com

List of notifications for User Account: CAMERONJBLAZER

1993GS1000090

The State of South Carolina VS Cory Sparkman
ORDER FILED ON 12/21/2017

1993GS1000091

The State of South Carolina VS Cory Sparkman
ORDER FILED ON 12/21/2017

1993GS1000092

The State of South Carolina VS Cory Sparkman
ORDER FILED ON 12/21/2017

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	INDICTMENT (S): 1993-GS-10-00090,
	)	1993-GS-00091, and
STATE OF SOUTH CAROLINA	)	1993-GS-00092
Plaintiff,	)	
	)	
-versus-	)	
	)	ORDER GRANTING DEFENDANT'S MOTION
COREY SPARKMAN,	)	FOR RESENTENCING
Defendant.	)	
	)	

PROCEDURAL HISTORY

The Defendant-Movant, Corey Sparkman, made a motion for resentencing pursuant to *Aiken v. Byars*, 410 S.C. 5534 (2014), on April 1, 2016. On July 31, 2017, this Court appointed Cameron Blazer, Esq., as counsel to represent Sparkman in his bid for resentencing. On October 11, 2017, the State formally responded in opposition to Sparkman's motion for resentencing and based its objection on its reading of *Aiken v. Byars*' applicability. Sparkman replied, through counsel, on October 23, 2017. This Court heard oral arguments on the matter on November 13, 2017. For the reasons given below, this Court grants Sparkman's motion for resentencing.

FACTUAL BACKGROUND

When Corey Sparkman pled guilty to murder and armed robbery in 1993, for a crime committed in 1992 when he was still only sixteen years old, he was treated as an adult, given an adult prison sentence of life in prison, and sent to serve time in an adult prison. He has spent more than half of his life—twenty-five years now—in the South Carolina Department of Corrections. Sparkman's prosecution predates South Carolina's Truth in Sentencing Act when

the legislature abolished parole for murder and other offenses; as such, in 2012, Sparkman first became eligible for parole. Since that time, Sparkman has had three parole hearings and was denied parole each time. At issue is whether the *Aiken v. Byars* decision can be read to provide resentencing relief for juveniles convicted of murder who were sentenced to life in prison but are now putatively eligible for parole. This class of defendants whose cases were consolidated for hearing in *Aiken* was limited to those whose sentences of life in prison were imposed without the possibility of parole, leaving this Court to determine whether Sparkman's case falls within *Aiken's* ambit.

LEGAL REASONING

The State argues that Sparkman's motion for resentencing should be denied, as he does not fall within the narrow class of defendants whose cases were decided by *Aiken v. Byars*. At argument, Sparkman conceded that his sentence, handed down before the end of parole eligibility for murder convictions, is distinct from those sentenced after 1995, but argues that this is a technical distinction without a material difference because his eligibility for parole does not adequately protect the constitutional protections provided by *Miller*, explained by *Montgomery v. Louisiana*, 136 S.Ct. 718 (2016), and extended by *Aiken*.

The gravamen of *Miller* and *Aiken* is that children—even those convicted of the most serious of criminal offenses—are deserving of a meaningful review of the impact of immaturity on their crimes and on their potential for rehabilitation. In *Montgomery*, which approved of Wyoming's legislative "fix" of conferring automatic parole eligibility for *Miller* defendants, the United States Supreme Court makes it clear that re-litigation is not the only remedy for juvenile offenders whose original sentences did not contemplate the rights conferred in *Miller*.

Montgomery does, however, depend on states' parole systems to meaningfully consider the effects of juvenility on both a Defendant's crimes *and* on his present maturity.

Since 2012 when *Miller* decided that a lifetime in prison was a disproportionate sentence for "all but the rarest of children, Sparkman has had three parole hearings and has been three times denied parole on the basis of the seriousness of his offense. Although invited upon to do so by Sparkman, the State provided no evidence at his hearing to establish the sufficiency of South Carolina's parole review process for juveniles. The State brought no witnesses and provided no documentary evidence to establish whether South Carolina's parole process is designed to give effect to the consideration of the *Miller* factors at parole hearings. Sparkman, referencing the Parole Board's manual (Court's Exhibit 1), argues that the laws and policies governing the Parole Board's actions do not contemplate the *Miller* factors and, indeed, may in some cases be at odds with fair consideration of the *Miller* factors. While this Court does not have jurisdiction to consider the specific actions of the Parole Board, consideration which is the domain of the administrative law courts, as a court of law, this Court does have jurisdiction to inspect the laws and regulations of the South Carolina Parole Board to determine whether they meet constitutional muster. On the evidence provided, it appears they do not.

At no time has Sparkman been afforded a specialized hearing to assess the applicability of the *Miller* factors to his parole eligibility. And no policy, procedure, or authorizing legislation provides for such a specialized hearing. Without a system in place to ensure a constitutionally compliant review of the *Miller* factors and their effect on his case, there appears to be no meaningful opportunity for him to secure the rights guaranteed to him by the Eighth Amendment as outlined in *Miller*.¹

¹ As *Montgomery* notes, the provision of a meaningful possibility of release is a necessary precondition for the rehabilitative effect that is to be among the chief goals of sentencing juveniles.

CONCLUSION

Sparkman acknowledges the structural distinctions between his case and those originally considered by the Supreme Court in *Aiken v. Byars*. These distinctions, however, obscure the overwhelming similarities. Rather than a cribbed reading of the rights extended by *Miller*, South Carolina extended that cases protections even more widely than required to do so. Although Mr. Sparkman's case was not among those consolidated before the Supreme Court in *Aiken*, the rights our Supreme Court sought to protect there are materially indistinct from those Sparkman seeks to vindicate. While the State could have remedied the issue by implementing laws or regulations to ensure a specialized parole hearing in keeping with *Miller* and *Montgomery*, it has thusfar declined to do so. In the absence of such a specialized process to cure the constitutional defect present, I find the Defendant is entitled to a hearing on resentencing.

IT IS SO ORDERED this _____ day of _____, 2017.

THE HONORABLE DEADRA L. JEFFERSON
CIRCUIT JUDGE

Charleston, South Carolina

FILED

STATE OF SOUTH CAROLINA JAN 24 PM 4:00 COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUITCOUNTY OF CHARLESTON CLERK OF COURT INDICTMENTS: 1993-GS-10-00090
1993-GS-10-00091
1993-GS-10-00092BY MH

State of South Carolina,

vs.

Corey Sparkman,

Defendant.

ORDER DENYING DEFENDANT'S
MOTION TO RECONSIDERPresiding Judge:
State's Attorney:
Defendant's Attorney:
Date of Hearing:
Court Reporter:Hon. Deadra L. Jefferson
Charles Condon, Esq.
Cameron Blazer, Esq.
November 13, 2017
Amanda HaffendenRECEIVED
FEB 05 2018
SC Court of Appeals

THIS MATTER is before the Court on Defendant's Motion to Reconsider filed on January 8, 2018 and received by the Court on that same date. This case initially came before the Court on November 13, 2017 for a hearing on Defendant's Motion for Resentencing. At that time, Defendant asked the Court to reassess his sentence in light of the South Carolina Supreme Court's decision in Aiken v. Byars. Defendant was given a life sentence by the Honorable Gerald C. Smoak on September 27, 1993 upon pleading guilty to two counts of Murder and one count of Armed Robbery.¹ On December 21, 2017, the Court issued an Order denying Defendant's Motion for Re-Sentencing on the basis that the Defendant is an ineligible candidate for re-sentencing under the parameters set forth by the Supreme Court in Aiken v. Byars. Defendant filed the instant Motion to Reconsider on January 8, 2018.² Counsel for the State of South Carolina was given an

¹ Pursuant to the sentencing parameters in place at the time of his guilty plea the Defendant is subject to parole eligibility.

² The Order denying Defendant's Motion for Re-sentencing was filed on December 21, 2017, and received by Defendant via U.S. Mail on December 28, 2017. Defendant's Motion to Reconsider was thus timely filed and served

10/2
2018

opportunity to respond to Defendant's Motion to Reconsider and indicated that the State stands by the memoranda submitted in opposition to Defendant's Motion for Re-Sentencing as well as the arguments propounded by Counsel at the November 13, 2017 hearing. Having considered the Defendant's Motion to Reconsider as well as the various interests balanced by the Court at the time of the ruling, the Defendant's Motion to Reconsider Sentencing is hereby denied.

This Court stands by its previous ruling that the Defendant is ineligible for re-sentencing under Aiken v. Byars. The Court rendered this decision after careful and deliberate consideration of Aiken v. Byars and its predecessors, Miller v. Alabama and Montgomery v. Alabama. The Defendant's Motion to Reconsider does not raise any issues, nor proffer any argument not considered by the Court at the November 13, 2017 hearing and in its subsequent analysis of the applicable law and facts. To the contrary, Defendant's Motion simply restates previous arguments made by the Defendant and considered by the Court.

Thus, having fully considered the Defendant's Motion to Reconsider, the evidence presented at the hearing as well as having fully reviewed the record and the various interests balanced by the Court at the time of the ruling, the Defendant's Motion for Reconsideration of Sentence is hereby **DENIED** pursuant to Rule 29, SCRCrimP.³

IT IS SO ORDERED.

January 23, 2018
Charleston, South Carolina

BY [Signature]
Hon. Debra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

FILED
2018 JAN 24 PM 4:45
CLERK OF COURT

upon the Court See Rule 29, SCRCrimP ("Post-trial motions shall be made within ten (10) days after receipt of written notice of the entry of the order or judgment disposing of the appeal.")

³ This motion is disposed of without the necessity of a hearing and decided on the record and briefs and motions submitted by the parties. See Rule 29, SCRCrimP.

DOCKET NO. 93-GS-10-0090

The State of South Carolina,

County of CHARLESTON

COURT OF GENERAL SESSIONS

JANUARY

TERM 1993

THE STATE

VS.

CORY SPARKMAN

DIRECT INDICTMENT

Indictment for

MURDER

WITNESSES

JOHN BURNETT AND/OR BOB BALCERZAK

DET. MIKE GORDON, CPD

OCA#: 9214823

ARREST WARRANT NO.

ACTION OF GRAND JURY

Man of Grand Jury

[Signature] 1993

VERDICT

Foreman of Petit Jury

Date:

Name *Cory L. Sparkman*

ADDRESS *5 Francis St.*

29402

Black Male

9-12-55

249 32 4134

Bill Rimmer

ONE APPEAR IN PERSON AND PLEAD GUILTY
TO THE ABOVE INDICTMENT.

[Signature]

WITNESS

[Signature]

DATE *9-27-93*

FORM 32 (12/87)

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on JANUARY 4, 1993
the Grand Jurors of CHARLESTON County present upon their oath:

THAT CORY SPARKMAN DID IN CHARLESTON COUNTY ON OR ABOUT THE 9TH DAY OF JULY, 1992,
while at [REDACTED], with malice aforethought, shoot one Ronald Ravenel
in the head with a handgun, the wound from said shooting being the proximate cause
of Ronald Ravenel's death. This is in violation of Section 16-3-10 of the South
Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.

Alton C. Bogan
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

SENTENCE

GENERAL SESSIONS COURT

Murder

CASE NO. 93-GS-10-0090

TICKET/WARRANT NO. DI

TICKET WARRANT NO. _____

The defendant, Cory Sparkman, is committed to the State Dept. of Corrections / County Detention Center for a term of LIFE days/months/years and/or to pay a fine of \$ _____; provided the sentence be suspended upon the service of _____ days/months/years and/or payment of \$ _____ plus pay/waive costs and assessment as applicable*, the balance suspended with probation for _____ months/years.

Special conditions: Consecutive to 93-GS-10-0091 and 93-GS-10-0092.

Restitution (YES/NO) (NO) \$ _____ /3% _____ Total \$ _____

Weekly/Monthly \$ _____

to Clerk for _____

Public Defender Fund \$ _____

Date: 9-27-93

James E. Smith
Resident/Presiding Judge, Ninth Judicial Circuit

Fine\$ _____
Law Enforcement and Hall
of Fame\$ _____
Community Corrections
Assessment/Waive Indigent\$ _____
25% of Fine or \$14.00\$ _____
DUI Test, if Applicable\$ _____
10.00 G.S. Assessment\$ _____
3% County, if Applicable\$ _____
Total Fines and Costs\$ _____

Clerk of County/Deputy Clerk

White copy to Clerk
County to Detention Center
Pink to Probation
Green to Prosecutor
Yellow to Defendant

INFORMATION ON DEFENDANT

Age: 17 S.S. No. 249-33-4174

M ☒ F _____ Married _____ Single ☒

Date of Birth: 9-12-75

Attorney: Wm. L. Lunsford (R)

ALL PAYMENTS MUST BE MADE BY CASH,
MONEY ORDER OR CASHIER CHECK. WE
CANNOT ACCEPT PERSONAL CHECKS.

CLERK OF COURT
2144 MELBOURNE AVE.
CHARLESTON, SC 29405
740-5780

WITNESSES

JOHN BURNETT AND/OR BOB BALCERZAK

DET. MIKE GORDON, CPD

OCA#: 9214823

ARREST WARRANT NO.

ACTION OF GRAND JURY

T. M. Bill

Foreman of Grand Jury

Ross. J. C. 2-1-93

VERDICT

Foreman of Petit Jury

Date:

DOCKET NO. 93-GS-10-0091

The State of South Carolina,

County of CHARLESTON

COURT OF GENERAL SESSIONS

JANUARY TERM 1993

THE STATE

vs.

CORY SPARKMAN

DIRECT INDICTMENT

Indictment for

ARMED ROBBERY

I/WE APPEAR IN PERSON AND PLEAD GUILTY
TO THE WITHIN INDICTMENT.

Cory Sparkman

9-27-83

FORM 32 (12/87)

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT FOR
ARMED ROBBERY

At a Court of General Sessions, convened on JANUARY 4, 1993
the Grand Jurors of CHARLESTON County present upon their oath:

THAT CORY SPARKMAN DID IN CHARLESTON COUNTY ON OR ABOUT THE 9TH DAY OF JULY, 1992,
while at the residence at [REDACTED], while armed with a handgun, take
away the personal property of Ronald Ravenel and Michael Gadsden. This is in
violation of Section 16-11-330 of the South Carolina Code of Laws (1976) as
amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided,

Alton C. Ziegen
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

SENTENCE

GENERAL SESSIONS COURT

ARMED ROBBERY

CASE NO. 93-GS-10-0091 (0091)

TICKET/WARRANT NO. D.I.

TICKET WARRANT NO.

The defendant, Cory Sparkman, is committed to the State Dept. of Corrections / County Detention Center for a term of 25 days/months/years and/or to pay a fine of \$ —; provided the sentence be suspended upon the service of — days/months/years and/or payment of \$ — plus pay/waive costs and assessment as applicable*, the balance suspended with probation for — months/years.

Special conditions: Consecutive.

Restitution (YES/NO) (NO) /3% Total \$ —

Weekly/Monthly \$ —

to Clerk for —

Public Defender Fund \$ —

Date: 9-27-93

[Signature]
Resident/Presiding Judge, Ninth Judicial Circuit

Fine \$ —
Law Enforcement and Hall of Fame \$ —
Community Corrections Assessment/Waive Indigent \$ —
25% of Fine or \$14.00 \$ —
DUI Test, if Applicable \$ —
10.00 O.S. Assessment \$ —
3% County, if Applicable \$ —
Total Fines and Costs \$ —

INFORMATION ON DEFENDANT

Age: 17 S.S. No. 249-33-4174

M ✓ F — Married — Single ✓

Date of Birth: 9-12-75

Attorney: Wm. Kinsler (R)

ALL PAYMENTS MUST BE MADE BY CASH,
MONEY ORDER OR CASHIER CHECK. WE
CANNOT ACCEPT PERSONAL CHECKS.

Clerk of County/Deputy Clerk

White copy to Clerk
Canary to Detention Center
Pink to Probation
Green to Solicitor
Cobalt/Red to Defendant

CLERK OF COURT
2144 MELBOURNE AVE.
CHARLESTON, SC 29405
740-5700

JURY

1)

Dept.
line of
years
balance

74

CASH.
WE
S.

WITNESSES

JOHN BURNETT AND/OR BOB BALCERZAK

DET. MIKE GORDON, CPD

OCA#: 9214823

ARREST WARRANT NO.

ACTION OF GRAND JURY

True Bill

Foreman of Grand Jury

[Signature] 2-1-93

VERDICT

Foreman of Petit Jury

Date

DOCKET NO. 93-GS-10-0092

The State of South Carolina,

County of CHARLESTON

COURT OF GENERAL SESSIONS

JANUARY TERM 1993

THE STATE

vs.

CORY SPARKMAN

DIRECT INDICTMENT

Indictment for

MURDER

I/WE APPEAR IN PERSON AND PLEAD GUILTY
TO THE WITHIN INDICTMENT.

[Signature]

[Signature] 9-27-93

FORM 32 (12/87)

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on
the Grand Jurors of CHARLESTON

JANUARY 4, 1993

County present upon their oath:

THAT CORY SPARKMAN DID IN CHARLESTON COUNTY ON OR ABOUT THE 9TH DAY OF JULY
1992, while at the residence at [REDACTED], with malice aforethought,
shoot one Michael Gadsden in the head with a handgun, the wound from said shooting
being the proximate cause of Michael Gadsden's death. This is in violation of
Section 16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.

Alton C. Beal
ASSISTANT ATTORNEY GENERAL

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

GENERAL SESSIONS COURT
Murder
SENTENCE

CASE NO. 93 -GS-10- 0092 (0092)
TICKET/WARRANT NO. D.I.
TICKET WARRANT NO. _____

The defendant, Cory Sparkman, is committed to the State Dept. of Corrections / County Detention Center for a term of LIFE days/months/years and/or to pay a fine of \$ _____; provided the sentence be suspended upon the service of _____ days/months/years and/or payment of \$ _____ plus pay/waive costs and assessment as applicable*, the balance suspended with probation for _____ months/years.
Special conditions: Consentance.

Restitution (YES/NO) NO /3% _____ Total \$ _____
Weekly/Monthly \$ _____

to Clerk for _____

Public Defender Fund \$ _____
Date: 9-27-93
Resident/Presiding Judge, Ninth Judicial Circuit [Signature]

Fine	\$ -	INFORMATION ON DEFENDANT
Law Enforcement and Hall of Fame	\$ -	Age: <u>17</u> S.S. No. <u>249-33-4174</u>
Community Corrections Assessment/Waive Indigent	\$ -	M ☒ F _____ Married _____ Single ☒
25% of Fine or \$14.00	\$ -	Date of Birth: <u>9-12-75</u>
DUI Test, if Applicable	\$ -	Attorney: <u>Wm. Lunsford (R)</u>
10.00 G.S. Assessment	\$ -	*****
3% County, if Applicable	\$ -	ALL PAYMENTS MUST BE MADE BY CASH, MONEY ORDER OR CASHIER CHECK. WE CANNOT ACCEPT PERSONAL CHECKS.
Total Fines and Costs	\$ -	*****

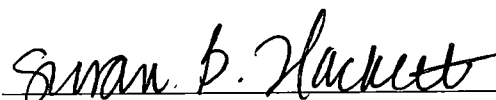
Clerk of County/Deputy Clerk
White copy to Clerk
County to Detention Center
Pink to Probation
Green to Solicitor
Goldend to Defendant

CLERK OF COURT
2144 MELBOURNE AVE.
CHARLESTON, SC 29405
740-5700

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with 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."

Respectfully Submitted,

A handwritten signature in cursive script, reading "Susan B. Hackett", is written over a horizontal line.

Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of April, 2019.