

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

The Honorable Frank R. Addy, Jr., Circuit Court Judge

Case No. 2018-GS-32-03922 and 2018-GS-32-03923

RECEIVED
JUN 07 2019
SC Court of Appeals

The State,

Respondent,

v.

Lemont Michael B. Smith,

Appellant.

EXPLANATION OF APPEAL

This is an appeal from a guilty plea heard on June 5, 2019. A written explanation supplementing this notice of appeal pursuant to Rule 203 (d)(1)(B)(iv), SCACR, is enclosed. I hand delivered a copy of the written explanation and the enclosed letter to Appellant on June 6, 2019.

Respectfully submitted,



Sarah H. Mauldin
Attorney for the Defendant
202 E. Main Street
Lexington, SC 29072

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

THE STATE

vs.

Lemont Michael B. Smith,
Defendant.

) IN THE COURT OF GENERAL SESSIONS
) ELEVENTH JUDICIAL CIRCUIT

) INDICTMENT NUMBERS:
) 2018-GS-32-03922, 2018-GS-32-03923

) RULE 203(B) MEMORANDUM

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Pursuant to Rule 203(d)(1)(B)(iv), the undersigned asserts that she does not have a good faith basis to believe that any issues are properly before the Court of Appeals, and the undersigned did not object to the sentence or file a motion to reconsider the sentence. Nevertheless, the undersigned consulted with the Appellant about his right to appeal, and after consultation, the undersigned has filed the instant appeal at the request of the Appellant because the Sixth Amendment requires counsel to follow the Appellant's request. *See Frazer v. South Carolina*, 430 F.3d 696, 706 (4th Cir. 2005) ("A defendant has a right to pursue a direct appeal, even if frivolous, which counsel must assist as 'an active advocate on behalf of his client.'") (quoting *Anders v. California*, 386 U.S. 738, 744 (1967)).

Respectfully submitted,



Sarah H. Mauldin
Attorney for the Defendant
202 E. Main St.
Lexington, SC 29072
(803) 957-8873

OFFICE OF THE PUBLIC DEFENDER

ELIZABETH FULLWOOD
Lexington Public Defender
202 East Main Street
Lexington, South Carolina 29072
Telephone (803) 785-8873
Fax (803) 785-1443

Eleventh Judicial Circuit
Lexington, Saluda, Edgefield,
and McCormick Counties

ROBERT M. MADSEN
Circuit Public Defender

BENNETT CASTO
Tri-County Public Defender
Post Office Box 1852
McCormick, SC 29835
Telephone (864) 852-9555
Fax (864) 852-9554

June 6, 2019

HAND DELIVERED

Mr. Lemont Michael B. Smith, Inmate
Lexington County Detention Center
PO Box 2019
Lexington, SC 29071

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JUN 07 2019

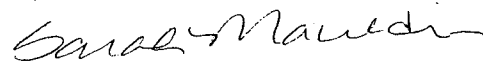
SC Court of Appeals

RE: The State v. Lemont Michael B. Smith

Dear Mr. Smith:

Please be advised that I am filing your notice of appeal. However, as we discussed in court, I know of no grounds for an appeal. Therefore, in order to appeal your case, you must provide the Court of Appeals with your reasons for the appeal. You have twenty (20) days from the date of this letter to inform the Court in writing of any arguable basis that there are issues preserved for appeal. Please address your correspondence with the Court to The Honorable Jenny Kitchings, Clerk, Court of Appeals, P.O. Box 11629, Columbia, South Carolina 29211.

Sincerely,



Sarah H. Mauldin
202 E. Main St.
Lexington, SC 29072
(803) 785-8873

cc: The Honorable Jenny Kitchings, Clerk, Court of Appeals

WITNESSES

West Columbia Police Department

Christopher J Morris

Law Enforcement Case #: 1825060

RWP

ARREST WARRANT NUMBER

2018A3221100624

ACTION OF GRAND JURY

TRUE BILL

Don B - GM 12-3-18
Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2018GS3203922

**The State of South Carolina
County of Lexington**

COURT OF GENERAL SESSIONS

DECEMBER TERM 2018

**THE STATE
vs.**

Lemont Michael B Smith

CDR #: 3410

Indictment for

Attempted Murder

§ 16-03-0029

S.R. Hubbard III, SOLICITOR

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JUN 07 2019
SC Court of Appeals**

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Attempted Murder
§ 16-03-0029

At a Court of General Sessions, convened on December 2018, the Grand Jurors of Lexington County present upon their oath:

That Lemont Michael B Smith in Lexington County, South Carolina, on or about September 1, 2018, did, with the intent to kill, attempt to kill another person with malice aforethought, either express or implied, to wit: the defendant shot Martha Reilly in the hand during an Attempted Armed Robbery, in violation of §16-03-0029 of the South Carolina Code of Laws of 1976, as amended.

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



SR. ASSISTANT SOLICITOR

WITNESSES

West Columbia Police Department

Christopher J Morris

Law Enforcement Case #: 1825060

RWP

ARREST WARRANT NUMBER

2018A3221100625

ACTION OF GRAND JURY

TRUE BILL

Quinn B. Em 12-3-18
Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2018GS3203923

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

DECEMBER TERM 2018

THE STATE
vs.

Lemont Michael B Smith

CDR #: 0026

Indictment for

Attempted Armed Robbery

§ 16-11-0330(B)

S.R. Hubbard III, SOLICITOR

RECEIVED
JUN 07 2019
SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Attempted Armed Robbery
§ 16-11-0330(B)

At a Court of General Sessions, convened on December 2018, the Grand Jurors of Lexington County present upon their oath:

That **Lemont Michael B Smith** did in Lexington County, South Carolina on or about September 1, 2018, knowingly and willingly either by action or words, did attempt to commit while armed with a deadly weapon, to wit: a handgun and did attempt to feloniously take from the person or presence of Martha Reilly by means of force, threats or intimidation goods or monies being described as follows: money, with intent to deprive the owner of the use of such property, in violation of Section 16-11-330 (B) of the South Carolina Code of Laws, 1976, as amended.

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



SR. ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington
STATE VS.

Lemont Michael B Smith

AKA:

Race: Black Sex: M Age: 27

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#: SC02812129

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Robbery / Attempted armed, or allegedly armed, robbery

INDICTMENT/CASE#: 2018GS3203923

A/W#: 2018A3221100625

Date of Offense: 9/1/2018

S.C. Code § : 16-11-0330(B)

CDR Code #: 0026

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SC Court of Appeals

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

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

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Solicitor 15969 Defendant Sarah Mamed 73681
SC Bar# SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 17 (seventeen) days/months/years under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 18-65-32-3922
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the SCDOC.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED

Set by SCDPPPS Attend Voc. Rehab. or Job Corp.

Recipient: May serve W/E beginning

*Fine: Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso (Public Def/Probation) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$

TOTAL \$ 175.00

Clerk of Court/ Deputy Clerk Leon Comerlip

Court Reporter: B. Creppan

SCCA/217 (04/2018)

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

prmts. of \$ beginning

\$ paid to Public Defender Fund

Other: ATU

Appointed PD or appointed other counsel,

§Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge

Judge Code: 2159

Sentence Date: 6-5-19

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.

Lemont Michael B Smith

AKA:

Race: Black Sex: M Age: 27

DOB: SS#

Address:

City, State, Zip:

DL#: SID#: SC02812129

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Assault / Assault & Battery of a High & Aggravated Nature

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS0208922

A/W#: 2018A3221100624

Date of Offense: 9/1/2018

S.C. Code § : 16-03-0029

CDR Code #: 3410

0-20 years

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SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Solicitor (Seventeen) SC Bar# 15969 Defendant Attorney for Defendant SC Bar# 73681

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 17 months under the Youthful Offender Act not to exceed years,
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 18-65-32-3923
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDOC.

Credit 276 days - jail.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
days/hours Public Service Employment

Payment Terms:
Set by SCDPPPS
Obtain GED
Attend Voc. Rehab. or Job Corp.

Recipient:
May serve W/E beginning
Substance Abuse Counseling

*Fine:
§ 14-1-206 (Assessments 107.5 %)
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso (Public Def/Probation) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25
§ 14-1-213 (Drug Court Surcharge) \$150 \$
§ 50-21-114 (BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$

3% to County (if paid in installments) \$
TOTAL \$ 105.00

Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (04/2018)

Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund

Other: ATU

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

Presiding Judge
Judge Code: 2159
Sentence Date: 6-5-19