STATE OF SOUTH CAROLINA
In the Court of Appeals

ORIGINAL

Appeal from Laurens County
Donald B. Hocker, Circuit Court Judge

THE STATE,

Respondent,

v.

ARTHUR JASON BOWERS,

Appellant.

Appellate Case No. 2018-000868

FINAL BRIEF OF RESPONDENT

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APPELLANT'S STATEMENT OF ISSUE ON APPEAL

Violating the Eighth Amendment's prohibition on cruel and unusual punishment and the South Carolina Constitution's ban on cruel and unusual punishment, did the trial judge err by sentencing appellant to fifty years in prison – the functional equivalent of life without the possibility of parole – for murder where appellant was a mere seventeen years old at the time of the offense and thirty-two years old at the time of his trial and the judge failed to conduct an individualized sentencing proceeding?

RESPONDENT'S COUNTERSTATEMENT OF ISSUE ON APPEAL

Did the trial court err in sentencing appellant to fifty years for murder where such a sentence allows for the possibility of release, particularly where our Supreme Court has explicitly declined to extend protections under federal law to juveniles serving *de facto* life sentences, *Miller* and *Aiken* do not extend to any sentence other than life without parole, and the arguments raised in appellant's brief are not preserved for review?

STATEMENT OF THE CASE

A Laurens County grand jury indicted appellant, Arthur Jason Bowers, for murder, armed robbery, and conspiracy in 2017 and 2018.[1] (R.pp.398-406). Seventy-six-year old James Bolt was found beaten to death on the floor of the VFW on September 26, 2003. (R.p.22, line 9-p.23, line 1; p.26, lines 10-16; p.64, line 25-p.65, line 19). Appellant was seventeen-years old at the time of the murder. (R.p.14, lines 1-4). Appellant proceeded to a jury trial on April 23, 2018, before the Honorable Donald B. Hocker, and was represented by Jay Anderson. (R.p.1). O. Warren Mowry, Jr., of the Eighth Circuit Solicitor's Office represented the State. (R.p.1).

On April 26, 2018, the jury found appellant guilty as indicted. (R.p.386, line 17-p.387, line 3). Judge Hocker sentenced appellant to concurrent terms of fifty years for murder, thirty years for armed robbery, and five years for conspiracy. (R.p.397, lines 3-7).

This appeal follows.

[1] Law enforcement charged appellant in 2003 with murder and armed robbery because he gave details about the crime no one else knew. (R.p.170, line 4-p.171, line 3). However, the charges were later dropped with leave to re-indict. (R.p.231, line 2-p.232, line 20). Investigator Walter Bentley testified he did not agree with the decision because he did not think the solicitor at the time was aware of all the evidence in the case. (R.p.232, line 21-p.233, line 3).

STATEMENT OF FACTS

A frantic 911 call led to the discovery of a seventy-six-year old man, beaten to death and bloody on the floor inside the VFW in Laurens. (R.p.21, lines 21-25; p.22, line 9-p.23, line 13; p.26, lines 10-16; p.30, lines 22-25; p.31, lines 1-6). Blood spatter on the walls and ceiling of the VFW indicated the force used to kill the victim. (R.p.89, lines 10-23). Investigators also saw evidence of a robbery as the register was on the floor with its drawer open and no cash inside, the victim's pockets were pulled out and empty, and his wallet was never found. (R.p.86, lines 9-24; p.87, lines 11-21; p.88, lines 7-13).

The pathologist testified James Bolt had nineteen injuries to the back and side of his head, and the blows broke his dentures and caused cuts to his mouth. (R.p.49, line 8-p.57, line 4; p.58, line 23-p.59, line 13; p.62, lines 7-20; p.66, lines 10-21). In addition, the victim had bruises on his legs, stomach, arms, and hands some of which the pathologist characterized as defensive wounds from the victim trying to block blows to protect his head. (R.p.59, line 18-p.61, line 22). The pathologist testified the victim died of blunt force trauma and the injuries were consistent with a hammer. (R.p.64, line 25-p.65, line 19; p.69, lines 15-21).

A possible witness testified he was cutting the grass outside the VFW on the night of murder. (R.p.39, line 2-p.40, line 20). The man saw someone walk out and urinate against the building and, while he could not see his face, he could tell it was a young, white male. (R.p.41, lines 12-23).

In an effort to locate suspects, investigator Tony Lynch (Lynch) testified he checked with his drug informants. (R.p.183, line 22-p.184, line 13; p.185, line 2-p.186, line 24). Shawn Case (Case) brought up the people working at the carnival in Travelers Rest, and she told Lynch he should talk to one of them staying at her aunt's house. (R.p.132, line 9-p.134, line 9; p.186, line

25-p.188, line 15). Case testified she met appellant the night before the murder through her cousin, R.G. (R.p.127, line 23-p.129, line 6). The next night, she saw him at a motel where she went to get high. (R.p.129, line 7-p.130, line 16). Appellant went to Case's room and she noticed a "pretty good bit" of blood on his shirt and pants, and appellant asked if could buy crack-cocaine from her. (R.p.130, line 17-p.131, line 17). Appellant offered money to Case, but she refused to take it because there was blood on it. (R.p.131, line 18-p.132, line 1).

After speaking with Case, Lynch drove by the house where appellant was staying, then called Investigator Walter Bentley (Bentley) and the two went over there. (R.p.188, line 19-p.189, line 13). Bentley and Lynch testified appellant was at the house and agreed to voluntarily go with them to the police department. (R.p.153, line 13-p.154, line 9; p.190, line 22-p.191, line 18). Once there, investigators read appellant his *Miranda* rights, which he waived. (R.p.155, line 20-p.159, line 6; p.159, line 18-p.162, line 6). Appellant was seventeen years old at the time and had finished the tenth grade, and Bentley testified he did not have any concerns about his intelligence and appellant understood the rights he waived. (R.p.159, lines 9-17; p.161, lines 7-9; p.165, lines 16-19). In appellant's first statement given on September 27, 2003, he admitted he was at the VFW on the night of the murder and told Bentley and Lynch he arrived with two people, he urinated against the back of the building then went inside, but the other two people left. (R.p.165, line 22-p.167, line 1). Appellant said he only saw Ray-Ray and "the old man" when he got inside the VFW. (R.p.167, lines 16-19). Appellant told the investigators the victim went to the bathroom and Ray-Ray followed him in, appellant heard a noise, he went to see what it was, and he saw the victim on the floor and blood everywhere, so he ran out. (R.p.167, line 20-p.168, line 2). Appellant did not get any money. (R.p.168, lines 3-9).

Bentley knew Ray-Ray's real name of Danny McDaniel and knew he worked at the

carnival, so he followed up on appellant's statement and learned Ray-Ray denied involvement, had an alibi, and could not have left the carnival during the time of the murder. (R.p.168, line 21-p.169, line 22). Investigators eliminated Ray-Ray as a suspect. (R.p.193, lines 18-25). Appellant was charged with murder and armed robbery because he knew details no one else did, such as the crime happened in the bathroom and someone urinated behind the building around the time of the murder. (R.p.170, line 4-p.171, line 3).

Appellant gave a second statement on September 29, 2003, because investigators wanted to clear up discrepancies in his first statement. (R.p.194, line 5-p.200, line 7). Appellant said he was in town to work at the fair and when he went to the VFW with a couple of people, including "Buck," and when "the old man" would not sell appellant beer, he went outside and left, but "Buck" stayed. (R.p.201, line 16-p.206, line 25). Appellant told investigators "Buck" later admitted he "whacked" the "old man" and took his money. (R.p.207, lines 1-17). The investigation continued. (R.p.207, lines 18-23).

Lynch received a phone call several days later that appellant wanted to talk to him. (R.p.207, line 24-p.209, line 3). Appellant gave a third statement which was recorded on October 9, 2003, and played for the jury without objection. (R.p.209, line 13-p.211, line 7; p.214, line 22-p.215, line 7). Appellant admitted he and a group of people were talking the night of the murder about wanting to make some money, so they agreed to go to the VFW. (R.p.216, lines 6-25). The group included R.G., Case's cousin. (R.p.217, lines 1-5). When they got to the VFW, appellant urinated outside while everyone except R.G. went inside. (R.p.217, lines 6-9; p.217, line 22-p.218, line 3). After going in, appellant stood by the bar near the door and watched as the others drug "the old man" into the bathroom, and a few minutes later, they came out and yelled, "run," so they all took off. (R.p.216, lines 10-15). They waited in the car while

one man went back inside for a few minutes, he eventually returned, and they left. (R.p.216, lines 16-21).

Numerous people were charged, in addition to appellant; however, the solicitor dismissed the charges with leave to re-indict pending further investigation. (R.p.231, line 2-p.232, line 20). Bentley testified he did not agree with the decision because he did not believe the solicitor was aware of some of the evidence in the case. (R.p.232, line 21-p.233, line 3). But they never stopped investigating. (R.p.233, lines 4-10). In November 2012, information was developed that led to charges of accessory after the fact to murder against Brenda Roberts (Roberts), R.G.'s grandmother and the owner of the home where appellant was staying in 2003. (R.p.191, lines 1-6; p.203, lines 12-18; p.233, lines 11-20). Investigators learned Roberts washed bloody clothes belonging to appellant and R.G. just after the murder. (R.p.233, line 21-p.234, line 2). Roberts was tried and found guilty. (R.p.234, line 20-p.235, line 15).

A grand jury re-indicted appellant. (R.p.238, line 23-p.239, line 14).

Following the State's case, the defense presented testimony from Holly Manning (Manning) with Pinellas County Schools in Florida where appellant attended classes. (R.p.275, line 21-p.276, line 2). Manning reviewed appellant's transcripts which revealed he was in self-contained classes and attended schools for students with emotional and behavioral disabilities. (R.p.278, lines 1-4; p.283, line 5-p.286, line 20; p.287, lines 22-25; p.288, lines 1-14). Manning also testified appellant was categorized as "severely emotionally disturbed," following standardized testing in eighth grade and the school created a plan to determine what courses he would be enrolled in. (R.p.288, line 15-p.291, line 13). Appellant also attended a school for students with emotional and behavioral disabilities in ninth and tenth grade. (R.p.291, lines 16-22).

Following closing arguments, the trial court charged the jury extensively, including an instruction on accomplice liability. (R.p.362, line 23-p.383, line 14). The jury found appellant guilty of murder, armed robbery, and conspiracy. (R.pp.386-87). The court sentenced appellant to an aggregate term of fifty years. (R.p.397).

ARGUMENT

The trial court did not err in sentencing appellant to fifty years for murder because such a sentence allows for the possibility of release, particularly where our Supreme Court has explicitly declined to extend protections under federal law to juveniles serving *de facto* life sentences, *Miller* and *Aiken* do not extend to any sentence other than life without parole, and the argument is not preserved for review.

The trial court did not abuse its discretion in sentencing appellant to fifty years for murder as he received a valid term-of-years sentence and is eligible for release when he finishes his sentence. By their plain language *Miller v. Alabama*, 567 U.S. 460 (2012) and *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014) apply only to juvenile homicide offenders sentenced to life without parole and appellant is not part of that class. Neither our courts nor the United States Supreme Court have extended the *Miller* rule to apply to any other type of sentence, or so broadly construed the rule to include the argument made by appellant that his sentence for murder amounts to a *de facto* life without parole sentence. Critically, our Supreme Court recently held it was unwilling to extend United States Supreme Court precedent related to juvenile sentencing beyond its "explicit holding" until given the authority to do so. *State v. Slocumb*, Op. No. 27877, at *25-26; *32 (S.C. Sup. Ct. filed Apr. 3, 2019) (Shearouse Adv. Sh. No. 14). The Court specifically held it would not extend relief to juveniles serving *de facto* life sentences in certain circumstances. *See id.* at *40 (declining to extend relief for non-homicide juvenile offenders serving *de facto* life sentences, holding it does not violate the Eighth Amendment).

Notably, the argument appellant is serving the functional equivalent of a life sentence is not preserved for review as it was never raised to the trial court. Accordingly, appellant's term-of-years sentence is not cruel and unusual punishment under the Eighth Amendment, and the

trial court did not err in making its determination.

Analysis

Standard of Review

In criminal cases, appellate courts review errors of law only. *State v. Gamble*, 405 S.C. 409, 415, 747 S.E.2d 784, 787 (2013) (citing *State v. Jacobs*, 393 S.C. 584, 586, 713 S.E.2d 621, 622 (2011)). A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law. *Jacobs*, 393 S.C. at 584, 713 S.E.2d at 622. This Court reviews questions of law *de novo*. *State v. Whitner*, 399 S.C. 547, 552, 732 S.E.2d 861, 863 (2012) (citations omitted).

Objection to Sentence Generally, Whether it is Functional Equivalent of Life Sentence, and Whether it Violates State Constitution Not Preserved for Review

The issues raised in the brief to this Court are not preserved for review, as conceded by appellant. (FBOA.pp.4-6). Defense counsel did not object to the sentence appellant received, generally, nor did he request any sentence beyond something other than "the maximum amount of years available" and sought credit for time served. (R.p.395, lines 9-15). From the context of the transcript it appears the parties discussed in chambers a possible sentence and agreed appellant would not receive life without parole, but it cannot be said other sentences were discussed or challenged. (R.p.395, lines 1-7). Without more, defense counsel was required to object on the record to the sentence appellant received. Moreover, the argument that appellant's sentence was the functional equivalent of a life sentence was never raised to the trial court. *See State v. Rogers*, 361 S.C. 178, 183, 603 S.E.2d 910, 912-913 (Ct. App. 2004) (explaining for an issue to be preserved for appellate review, it must have been: (1) raised to and ruled upon by the trial court; (2) raised by appellant; (3) raised in a timely manner; and (4) raised with sufficient specificity). Appellant also argues his sentence violates the state constitution which provides

greater protection than the federal constitution. (FBOA.pp.33-35). However, from the transcript, it appears the issue raised below was limited to whether appellant's sentence was unconstitutional under the Eighth Amendment of the federal constitution. (R.p.395); *see also State v. Freiburger*, 366 S.C. 125, 135, 620 S.E.2d 737, 742 (2005) (holding if an issue—including a constitutional one—is not presented to and ruled upon by the circuit court, it cannot be raised for the first time to the appellate court); *see also Slocumb*, Op. No. 27877, at *32 n.8 (declining to "address the import of state constitutional protections on Slocumb's sentence" because he "did not argue he would be entitled to relief under [the] state constitution's cruel and unusual punishments clause"). Because these issues were not raised to the trial court, it was denied an opportunity to consider, address, or rule upon the arguments. As a result, the arguments are not properly presented for appellate review to this Court.

Regardless, as will be discussed below, because our Supreme Court has explicitly declined to extend relief to juveniles serving *de facto* life sentences, appellant's sentences are not cruel and unusual and his sentences should be affirmed. *See id.* at *40 (declining to extend relief for non-homicide juvenile offenders serving *de facto* life sentences, holding it does not violate the Eighth Amendment).

Appellant Did Not Receive Functional Equivalent of a Life Sentence

Appellant did not receive a life sentence or the functional equivalent of one. He received a valid term-of-years sentence within the statutory range of murder. Appellant received an aggregate fifty-year sentence and will be released at the end of that term. Appellant has the possibility of release when his sentence ends. He was already afforded the relief *Miller* contemplates. Neither our courts nor the United States Supreme Court have held the *Miller* rule applied to sentences other than life without parole, such as a *de facto* life sentence or, for that

matter, defined or determined what constitutes a *de facto* life sentence. Critically, our Supreme Court chose not to extend protections to juveniles serving any sentence other than life without parole, such as a *de facto* life sentence. *See Slocumb*, Op. No. 27877, at *40 (declining to extend relief for non-homicide juvenile offenders serving *de facto* life sentences, holding it does not violate the Eighth Amendment). While *Slocumb* involved a non-homicide juvenile offender and the question of whether his aggregate 130-year sentence violated the Eighth Amendment, the Court's opinion is instructive for its reluctance to extend Supreme Court precedent beyond their "explicit holding[s]." *Id.* at *32. Following a discussion about specific juvenile sentencing cases and general Supreme Court jurisprudence, the Court explained:

> The *Roper* [*v. Simmons*, 543 U.S. 551 (2005)]-*Graham* [*v. Florida*, 560 U.S. 48 (2010)]-*Miller* trilogy has resulted in much confusion and conflicting opinions in ascertaining the reach of the Eighth Amendment in the sentencing of juveniles. . . . Courts have struggled in good faith in trying to determine the manner in which juveniles may be constitutionally sentenced. We are one of those courts. Rather than predict what the Supreme Court may or may not do, we believe the proper course is to respect the Supreme Court's admonition that lower courts must refrain from extending federal constitutional protections beyond the line drawn by the Supreme Court.

Id. at *38-39. In revisiting the Eighth Amendment jurisprudence involving juvenile sentencing, the Court held:

> [P]recedent dictates that only the [United States] Supreme Court may extend and enlarge the protections guaranteed by the United States Constitution. Once the Supreme Court has drawn a line in the sand, the authority to redraw that line and broaden federal constitutional protections is limited to our nation's highest court.

Id. at *25-26. The holding in *Slocumb* does not extend protection to juveniles such as appellant serving a valid term-of-years sentence for murder.

While appellant cited in his brief to cases which found a term-of-years or aggregate

sentence were the functional equivalent of life, there are many other courts which have found otherwise. *See e.g.*, *Bunch v. Smith*, 685 F.3d 546, 552 (6th Cir. 2012) (determining until the Supreme Court rules term-of-year sentences resulting in the functional equivalent of life without parole offend the Eighth Amendment, such sentences do not violate clearly established federal law); *Contreras v. Davis*, 716 F. App'x 160, 163 (4th Cir. 2017) (declining to determine whether a 77-year sentence was a *de facto* life sentence that violated *Miller* and *Graham*); *In re Harrell*, 6th Cir. No. 16-1048, 2016 WL 4708184 (Sept. 8, 2016) (denying motion for successive federal habeas corpus petition, because defendant's 60-150 year sentence for murder when he was seventeen was not the functional equivalent of mandatory life without parole; defendant was eligible for parole at seventy-seven-years old); *State v. Nathan*, 522 S.W.3d 881, 893 (Mo. 2017) (en banc) (holding sentencing a juvenile to consecutive, lengthy sentences for multiple non-homicide offenses along with homicide was not the functional equivalent of life without parole); *State v. Ali*, 895 N.W.2d 237, 246 (Minn. 2017) (holding *Miller* did not apply to consecutive life sentences with possibility of release on multiple counts of murder, even if such sentence, in aggregate, was functional equivalent of life without possibility of parole); *Hobbs v. Turner*, 431 S.W.3d 283, 285, 289 (Ark. 2014) (holding an aggregate term of 55 years was constitutional under *Miller* because *Miller* applies only to mandatory sentences of life without parole); *State v. Kasic*, 228 P.3d 410, 414 (Ariz. Ct. App. 2011) (finding a sentence of 139.75 years, exceeding life expectancy, was not constitutionally excessive). A defendant's average life expectancy is not a "guaranteed date of death" and might change depending on his individual health, available healthcare, and other factors such as drug use. It is difficult to draw a line to conclude at what point a juvenile received a *de facto* life sentence so his term-of-years sentence violates the constitution, particularly in this case where no evidence of appellant's individual characteristics

was presented at trial as argued above. Therefore, because appellant did not receive a life without parole sentence, he received a fifty-year sentence for murder, he is eligible for release, and his sentence does not violate the Eighth Amendment, the trial court did not abuse its discretion and this Court should affirm the sentence.

Individualized Sentencing Hearing Not Required Because Appellant Not Exposed to Life Sentence

The trial court did not err in when it did not hold an individualized sentencing hearing because the parties agreed appellant would not receive a life without parole sentence. At trial, the solicitor noted a discussion in chambers and stated on the record, "I understand based on the U.S. Supreme Court case given [appellant's] age at the time of this event, he is not eligible for life without parole; however, we would request that Your Honor sentence him to a substantial number of years that would achieve the same effect." (R.p.395, lines 2-7). While not a correct statement of the law, this benefited appellant as it did not expose him to a life sentence which he was eligible for by statute following his conviction for murder.

In *Miller v. Alabama*, 567 U.S. 460 (2012), the United States Supreme Court held mandatory life without parole sentences for juvenile homicide offenders violated the Eighth Amendment's prohibition against cruel and unusual punishment. 567 U.S. at 465, 470. *Miller* did not categorically bar life sentences for juvenile murderers; rather, the Court held only that a sentencing court is required to "take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." *Id.* at 480. The Court held a sentencing authority must consider youth a factor which carries with it immaturity, irresponsibility, and recklessness. *Id.* at 476. Further, the age of the defendant, along with his family background, and emotional development must be considered in assessing his culpability. *Id.*

Two years later, our Supreme Court held *Miller* applied retroactively to juveniles in South Carolina previously sentenced to life without parole. *Aiken*, 410 S.C. at 540-41, 765 S.E.2d at 575. Acknowledging *Miller* applied only to mandatory sentencing schemes rather than discretionary schemes such as ours, our Court stated "any juvenile offender who receives a sentence of life without the possibility of parole is entitled to the same 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 determined the factors in *Miller* were those which must be considered during sentencing, such as the offender's age and other features of youth, family life, circumstances of the crime, understanding of the legal process, and possibility of rehabilitation. *Id.* at 544-45, 765 S.E.2d at 577-78. Just as the *Miller* court held, our Court explained juveniles could still receive life without parole, but only after "an individualized hearing where the mitigating hallmark features of youth are fully explored." *Id.* at 545, 765 S.E.2d at 578.

In 2016, the United States Supreme Court held its rule in *Miller* was retroactive on state collateral review. *Montgomery v. Louisiana*, 136 S.Ct. 718, 736 (2016). The Court also offered parole eligibility as a solution to states tasked with re-litigating cases where a juvenile received mandatory life without parole, as our Supreme Court did in *Slocumb*, because it offered juveniles an opportunity for release. *See Slocumb*, Op. No. 27877, at *39-40 (discussing juvenile sentencing statutes enacted in states such as Iowa which provide juvenile offenders "a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" and detailing the bill introduced in South Carolina which provides, among other things, parole eligibility for juvenile homicide offenders after twenty-five years). The United States Supreme Court explained states could remedy a *Miller* violation—i.e. an unconstitutional sentence—by

permitting juvenile homicide offenders to be considered for parole, rather than resentencing them. *Montgomery*, 136 S.Ct. at 736. The Supreme Court carefully explained its determination did *not* require the states "to relitigate sentences, let alone convictions," despite the fact juvenile offenders sentenced before *Miller* likely would not have received the type of sentencing considerations mandated by that decision. *Id.*; *see also Miller*, 567 U.S. at 483 ("Our decision . . . mandates only that a sentencer follow a certain process—considering an offender's youth and attendant characteristics—before imposing [life without parole]."). Citing with approval a Wyoming statute which provided for juvenile parole eligibility after twenty-five years, the Court found allowing "those offenders to be considered for parole ensures those 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." *Montgomery*, 136 S.Ct. at 736. The Court continued, "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." *Id.*

In appellant's case, there was no need for the trial court to hold an individualized sentencing hearing to examine the hallmark features of youth because the court was not going to consider a life sentence for appellant. Such a hearing is only necessary before a juvenile can be sentenced to life. *See Aiken*, 410 S.C. at 545, 765 S.E.2d at 578 (holding juveniles can still receive life without parole, but only after "an individualized hearing where the mitigating hallmark features of youth are fully explored."). Further, during appellant's case-in-chief, defense counsel presented testimony about his school history and the trial court heard about his struggles in class, his emotional and behavioral disabilities, time spent as schools for children

with disabilities, and classification as a child with severe emotional disabilities. (R.pp.275-91). While not presented during a sentencing hearing, it cannot be said the trial court never heard mitigating details about appellant's life.

Accordingly, because an individualized sentencing hearing was not required as appellant was not exposed to a life sentence, the trial court did not err in failing to hold a hearing. Appellant's sentence was valid, constitutional, and the trial court did not abuse its discretion in its sentencing determination. Therefore, this Court should affirm the trial court's decision.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted the judgments and sentences of the trial court should be affirmed.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, Order of the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 1st day of July, 2019.

SHERRIE BUTTERBAUGH
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ATTORNEY FOR RESPONDENT