

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Marlboro County

J. Michael Baxley, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAVID ERIC DIXON,

APPELLANT,

APPELLATE CASE NO. 2013-002386

PRO'SE BRIEF OF APPELLANT

David Eric Dixon SCDC#331496
Pro'se Defender
BRCI Monticello 197
4460 Broad River Road
Columbia, S.C. 29210

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SEP 18 2014

SC Court of Appeals

STATEMENT OF ISSUE ON APPEAL

Whether the court erred by refusing to grant Appellant's Motion to keep the State's offer open until Discoverable Evidence is turned over.

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STATEMENT OF THE CASE

A Marlboro County Grand Jury indicted Appellant at the February 26, 2013 term of General Sessions for murder, attempted murder, possession of a weapon during the commission of a violent crime. R. 425-430. His case was called to trial on October 28, 2013 before the Honorable J. Michael Baxley, and a jury. R. 19. Brandon Steen represented Appellant and Mia David was the assistant solicitor. R. 19.

At the conclusion of the trial on October 31, 2013, the jury found Appellant guilty. R. 405, 11 6-15.

This appeal follows.

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ARGUMENT

The Court erred by refusing to grant Appellant's Motion to keep the State's offer open until Discoverable Evidence is turned over.

Relevant Facts:

Defense Counsel on September 9, 2013 submitted a Motion in the Court of General Sessions. R. 14-17. For production of Evidence, Continuance Scheduling Order, and to keep the State's offer open. At Appellant's August 13, 2013 Bond Hearing R. 1-12 The State informed the Honorable Edward B. Cottingham that a offer of 25 years was made and to expire on August 26, 2013. However the State failed to produce certain Evidence prior to this Plea expiration date which was the motivation for Counsel's said Motion. This Motion was heard for the First time on October 28, 2013 Appellate's trial date by the Honorable J. Michael Baxley during this hearing Defense Counsel stated that the State had not produced evidence nor gave Defense Counsel time to do a independent investigation of said evidence. Defense Counsel also stated that when himself and Appellant did receive and review said evidence that Appellant agreed to plea to State's offer of 25 years.

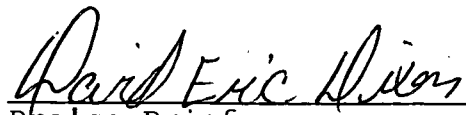
Discussion:

Pursuant to Chief Justice Toal's March 1, 2004 Order on Plea Agreements and Discovery Appellant's plea offer should not have been allowed to expire until Appellant and Counsel had a chance to review Appellants Discovery. In said Order, C. J. Toal stated that it is unethical to promise a plea agreement on the defendant relinquishing the right to Discovery in Criminal Cases. This practice is going to have adverse consequences in the future....

CONCLUSION

For the foregoing reasons, Appellant respectfully request this Court to Vacate his sentence and remand this case to the Marlboro County Court of General Sessions for resentencing consistent with the original Plea Agreement.

Respectfully Submitted


Pro'se Brief

Date: 9-12-14

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Marlboro County

J. Michael Baxley, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAVID ERIC DIXON,

APPELLANT,

CERTIFICATE OF SERVICE

I David Eric Dixon hereby certify that a true copy of this Pro'se Brief in the above reference Case has been served upon Donald J. Zelenka, Esp, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, S.C. 29201 on this 12 day of September 2014.

Subscribed and Sworn to

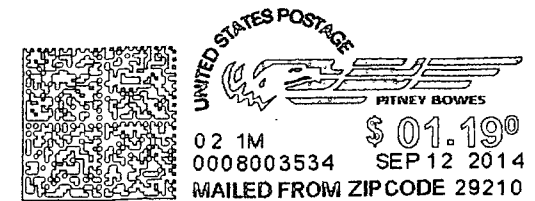
before me this 12th day of September, 2014

Susan H. Frye
Notary Public for South Carolina

My commission expires

March 5, 2018
My Commission Expires

David Eric Dixon
David Eric Dixon
Pro'se Brief



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