

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Williamsburg County

Honorable Clifton Newman, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

WILLIAM BRIAN MCCANTS,

APPELLANT

APPELLATE CASE NO 2015-001794

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY of Williamsburg

Guilty Plea
2015-GS-45-00098

The State of South Carolina,
Plaintiffs

vs.

William Brian McCants,
Defendant

June 24, 2015
Kingstree, S.C.

Before the Honorable Clifton Newman, Judge.

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

Ms. Julie R. Swilley,
Assistant Solicitor for the State

Mr. Doward Harvin,
Public Defender for the State

Margaret T. Sullivan,
Court Reporter

1 THE COURT: Yes, ma'am.

2 MS. SWILLEY: May it please the court.

3 THE COURT: Yes.

4 MS. SWILLEY: This is indictment

5 2015-GS-45-0098. This is the State versus William

6 Brian McCants. He was indicted or was indicted on

7 June 18th 2015, for receiving stolen goods, third or

8 subsequent offense. He is pleading today as

9 indicted. And he's represented by Mr. Doward

10 Harvin of the public defender's office. And we have

11 a recommendation, Your Honor.

12 THE COURT: Which is what?

13 MS. SWILLEY: 10 years suspended to drug

14 court. And his victim Mr. Foxworth is present in

15 the courtroom today also.

16 THE COURT: Is that right, Mr. Harvin, he

17 wants to plead guilty to receiving stolen goods,

18 third offense? Third or subsequent offense?

19 MR. HARVIN: Yes, Your Honor.

20 THE COURT: And do you agree with his

21 decision to plead guilty?

22 MR. HARVIN: I do.

23 THE COURT: Mr. McCants, this offense

24 carries a prison sentence of up to 10 years. Do you

25 understand that?

1 THE DEFENDANT: Yes, sir, I do.

2 THE COURT: As you stand before you this
3 morning, you are presumed to be not guilty of this
4 charge. You have the right to have a jury trial
5 from this charge, if you want one. If you were to
6 have a jury trial, the State would have to present
7 witnesses to prove your guilt beyond a reasonable
8 doubt. And you'd also have the right to present any
9 defense that you might have to the charge. Do you
10 understand that?

11 THE DEFENDANT: Yes, sir, I do.

12 THE COURT: Do you wish to waive your
13 right to a jury trial plead guilty?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: The solicitor says that she is
16 making a recommendation concerning a sentence. Do
17 you understand that I do have to accept any
18 recommendation regarding the sentence. The decision
19 as to what the sentence should be is my decision.

20 THE DEFENDANT: Yes, sir, I do.

21 THE COURT: Are you on probation or parole
22 at this time?

23 THE DEFENDANT: No, sir.

24 THE COURT: Are you satisfied with the
25 representation of your attorney?

1 THE DEFENDANT: Very much so. Yes, sir.

2 THE COURT: And what did you do that makes
3 you guilty of receiving stolen goods?

4 THE DEFENDANT: Your Honor, I bought and
5 sold a chain saw, that I regret. I wish I could
6 take back. Your Honor, Mr. Foxworth, the victim,
7 I've known for many years, over 30 years. They are
8 wonderful people, that I only have the utmost
9 respect for. And I have a love for that goes a long
10 way back. And I hate this has happened. I wish I
11 could turn the hands of time back and change this.

12 THE COURT: You said you bought and sold a
13 chain saw.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And you knew it was stolen?

16 THE DEFENDANT: Well I probably should
17 have used better judgment. I should have known it
18 was -- something wasn't quite right, yes, sir.

19 THE COURT: You should know that it was
20 stolen?

21 THE DEFENDANT: I should have known
22 probably, yeah. Yes, sir.

23 THE COURT: Did you know it was his?

24 THE DEFENDANT: No, I didn't know whose it
25 was, no, sir.

1 THE COURT: And do you want to plead
2 guilty?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Ms. Swilley.

5 MS. SWILLEY: Thank you very much, Your
6 Honor. This comes to you from a call made
7 March 30, 2015, to Corporal Grayson responded to
8 Williamsburg County to the Andrews area of
9 Williamsburg County. It was in reference to a
10 burglary to a shed of Mr. Foxworth who is present
11 here. Mr. Foxworth was out of town visiting his
12 daughter in Greenville. And while he was out of
13 town for a period of time, when he returned, he
14 noticed that his shed had broken into and several
15 items were taken.

16 Reports from the neighborhood from other
17 members of the community suspected that it might
18 have been the defendant, because he had been in the
19 neighborhood several times. He has a history of
20 breaking in to that area. Investigation lead
21 Corporal Grayson led him the local pawn shop at
22 Radio Shack in the Andrews area, where he discovered
23 that Mr. McCants did pawn a husqvarna chain saw
24 there. The receipt is dated April 3rd. And the
25 reason we indicted the way we did is because he has

1 a history of property crimes specifically tied to
2 dollar amounts. And I would like to go over his
3 record whenever you are ready to hear it.

4 THE COURT: Are those facts true,
5 Mr. McCants?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: I accept the guilty plea. His
8 criminal history, and anything that you would like
9 to say, Mr. Foxworth.

10 MS. SWILLEY: Thank you very much, Your
11 Honor. In August of 2001, he was convicted of a
12 burglary second non-violent. And he received
13 15 years suspended to 3 years probation. And also a
14 forgery at the same time he was convicted, and
15 received concurrent time. In 2003, he was convicted
16 of burglary third. 2004, he was convicted of a
17 burglary third. 2004, November 2004, shoplifting.
18 2004 also, burglary second. 2008, he had his
19 probation revoked. He was on probation for that
20 earlier burglary, for a new burglary charge. 2012,
21 he had petty larceny conviction. He was revoked on
22 his parole. He was released from prison August of
23 2014.

24 And since August of 2014, he has had
25 6 convictions in the magistrate court locally. And

1 that is what lead us to enhance his property crimes
2 to a felony. Mr. McCants has a drug addiction
3 problem of crack cocaine. The State believes that
4 this is the reason behind his continual property
5 theft. He's familiar with the victim. He knows the
6 victim would like to speak to you. The reason why
7 we have a recommendation, we would hope to give the
8 defendant an opportunity to have his drug addiction
9 issues addressed and to hopefully stop.

10 THE COURT: Well if he gets 45 years, you
11 don't think he's had that opportunity before?

12 MS. SWILLEY: Your Honor, his attorney
13 advises me that he has never had any treatment for
14 his drug addition problems. The reason why I am
15 asking for the 10 years to be held over his head, is
16 so that if he knows if he violates the conditions of
17 drug court this one last chance, he would go to
18 prison for a long time.

19 THE COURT: Mr. Foxworth.

20 MR. FOXWORTH: Good morning.

21 THE COURT: Good Morning.

22 MR. FOXWORTH: I just -- I've known
23 Mr. McCants' family for many years there. They very
24 good people. I am very surprised Mr. Brian McCants
25 has come to this point in his life. I would hate to

1 be person who does not allow him another chance. I
2 think from listening to what I have, he has had
3 plenty of chances. Still I do know that he needs
4 drug addiction treatment of some sort. You know why
5 he hasn't had it before now, I don't know. But his
6 situation at this point I think would be dangerous
7 to him if he continues the activity that he's
8 involved in, because he has been to other people in
9 my community, and everybody is not as understanding
10 as I am. There are some people would take more
11 drastic measures.

12 THE COURT: Well the way this indictment
13 was written was he had in his possession a chain saw
14 or a weed eater or an air conditioner unit or a
15 combination thereof. What all did you lose?

16 MR. FOXWORTH: All of those items and some
17 other items.

18 THE COURT: And the only one he pawned was
19 the...

20 MR. FOXWORTH: That's the only one that we
21 have been able to find.

22 THE COURT: To find.

23 MR. FOXWORTH: Then the pressure washer
24 reappeared on its own.

25 THE COURT: Say again.

1 MR. FOXWORTH: The pressure washer
2 reappeared on its own after the deputies began their
3 investigation. How that happened, I don't know.
4 But this happened with the two sheds with one of
5 deputies, and there it was. But it was already on
6 the list as missing. Because one of the other
7 deputies and myself and Deputy Grayson, had been
8 there before then. And I don't what other tools
9 were missing. And I don't whether Mr. McCants was
10 involved in taking all of those, but I know all of
11 those items were taken at that time.

12 THE COURT: Someone did the burglary.

13 MR. FOXWORTH: Uh-huh. (Affirmative.)

14 THE COURT: He's had 3 prior burglaries.

15 MR. FOXWORTH: Yes, sir.

16 THE COURT: And if he did the burglary,
17 then he's facing life in prison, 15 years to life.
18 You don't have any video cameras over there, huh?

19 MR. FOXWORTH: No, sir, I do not.

20 THE COURT: Thank you, sir. Mr. Smith, do
21 you know him?

22 PROBATION AGENT: I don't know him. I
23 don't know if that was in this county for those
24 convictions.

25 THE DEFENDANT: Your Honor.

1 MR. HARVIN: Wait.

2 THE DEFENDANT: I'm sorry.

3 THE COURT: Have you ever been supervised
4 on probation in this county?

5 THE DEFENDANT: No, sir.

6 THE COURT: Then in Georgetown?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Where else?

9 THE DEFENDANT: That's it. Yes, sir.

10 THE COURT: Anything else from the State?

11 MS. SWILLEY: Your Honor, my original
12 inclination was to recommend active prison time.
13 And after speaking with his defense attorney, and
14 speaking with the victim and speaking with the
15 defendant himself, my recommendation changed to drug
16 court. Because I know that he has a drug addiction
17 problem. I know that's the root of all these
18 property crimes. It's my hope for this community
19 that if he is able to address these issues and
20 actually get help, It would stop the crime from
21 happening in the future.

22 THE COURT: Well I certainly take into
23 consideration recommendations by everyone, but I am
24 not bound by any of them. Yes, sir, Mr....

25 MR. HARVIN: May It Please the Court, Your

1 Honor, Mr. McCants was arrested April 14th. He's
2 been in jail for approximately 71 days. He is
3 45 years of age. He's single with no children. He
4 tells me graduated from high school, and also took
5 computer classes at Horry/Georgetown Technical
6 College. For a large portion of his adult career or
7 adult life, he's been working at International
8 Paper. He tells me he's -- or was there for
9 approximately 12 years.

10 One of the things that we'd ask the court
11 to court to consider is the fact that Mr. McCants'
12 father, Mr. Thomas McCants, who used to be a highway
13 patrolman is currently in hospice, and it looks like
14 he may not be with us too much longer. And so, you
15 know, Mr. McCants is at that point in his life where
16 he understands that, I think more than at any point,
17 that he understands that him not being there for his
18 mother during this very difficult time, is causing
19 her great distress. And this is one of the
20 catalysts that is propelling him to finally want to
21 shake his drug addiction.

22 I explained to him repeatedly, that if you
23 were to accept the solicitor's recommendation that
24 this would not be a situation where if he failed
25 drug court, he would have another opportunity to

1 come before Your Honor and make a plea of mercy;
2 that he would be sent straight to prison for
3 14 years and there would be nothing that I would be
4 able to do to assist him. He, after explaining this
5 many times, each time stated that he understood, and
6 that he was going to do everything in his power to
7 finally shake this drug addiction, because a
8 situation at this point and time he should be with
9 his family. But nonetheless, he's sitting in a jail
10 on 22-hour lock down.

11 Judge, he does have an extensive record,
12 all of which are property crimes. We do understand
13 how the court feels about property crimes, and how
14 the community feels about property crimes. But we
15 would ask the court to give him this final
16 opportunity, because I do think it's a final
17 opportunity to try to get through the drug court
18 program here in Williamsburg County with Judge Amy
19 Land. Now if he were to be transferred to
20 Georgetown County, you know, we understand that
21 program is actually much, much, much, much harder to
22 get through than Judge Land. So I would imagine he
23 would want to stay here in Williamsburg County. But
24 nonetheless we would ask the court to accept the
25 recommendation. And I believe Mr. McCants would

1 like to address the court when Your Honor pleases.

2 THE COURT: Yes, sir.

3 THE DEFENDANT: Your Honor, this is very
4 embarrassing and humiliating for me and my family.

5 THE COURT: Embarrassing and humiliating.

6 Why is that?

7 THE DEFENDANT: Yes, it is.

8 THE COURT: Why is that?

9 THE DEFENDANT: Because, Your Honor, I'm a
10 better man than this. I never used drugs in my
11 life, a day in my life, until I was 32, 33 years
12 old. And it spiraled my life out of control. It
13 wreaked havoc upon my life and my family's. It has
14 caused a lot of heartache, disappointments,
15 setbacks. You name it. Nothing good has come from
16 it. I am a better man than this, Your honor. And I
17 plead for help. I need some help, because I lived
18 32 years with never getting in trouble a day in my
19 life. I don't even know if I ever had a speeding
20 ticket. But this stuff, it done something to me. I
21 need some help, Your Honor. And given this chance
22 today, after spending this 70 days, I told my lawyer
23 and I think Ms. Swilley the other day, because I am
24 single and I don't have any children. But one of
25 the two most people in my life, when they are laying

1 on their death bed, it gives you a new perspective
2 in life.

3 Knowing that hospice has been called in
4 for my dad since I've been in here, has been
5 difficult. It's given me a new outlook without a
6 doubt. I need to be home with him. All my family
7 is there. All my brothers and my sister is their by
8 his side. I am the only one that is not there. He
9 needs me, and I need him. Given this chance at drug
10 court also, Your Honor, I will go in, I'm going in
11 110 percent determined, to break this habit, this
12 addiction. It has owned my life for the past
13 10 years. Given this chance, I will also do my best
14 to be an advocate for drug court, and complete this
15 program as a success rate to promote this program.

16 Your Honor, I am looking so forward to
17 getting in drug court and changing my life and
18 becoming Brian McCants who I used to be again, Your
19 Honor, and find myself as a person again. I lost
20 contact with who I was, Your Honor, because of it.
21 This stuff really hurt me. I want to find out who I
22 am again. And I want to be me again, and make
23 things right in the community, and make things right
24 with Mr. Foxworth. The last thing I want is to have
25 animosity, for his family to animosity with me in

1 any way. But given this chance at drug court today,
2 Your Honor, I will not disappoint you, Ms. Swilley,
3 Mr. Harvin, nor my family. And I plead today for
4 drug court. I need this. And I look forward to it.
5 I am better than this, Your Honor. I am better than
6 this. And I plead for the chance on behalf of me
7 and my family, especially my dad.

8 I was raised in a good christian home,
9 Your Honor. I wasn't raised to be standing in this
10 courtroom right here.

11 THE COURT: The first conviction that you
12 mentioned what was year?

13 MS. SWILLEY: 2001, Your Honor.

14 THE COURT: 2001. And that was for what?

15 MS. SWILLEY: Burglary second degree
16 nonviolent.

17 THE COURT: Burglary second degree. 2001.
18 How old were you then?

19 THE DEFENDANT: I was 31. 32 years. 31
20 years.

21 THE COURT: Who did you burglarize?

22 THE DEFENDANT: I think it was actually a
23 gas can.

24 THE COURT: Say again.

25 THE DEFENDANT: It was a gas can.

1 THE COURT: You burglarized---

2 THE DEFENDANT: I think.

3 THE COURT: ---a gas can.

4 THE DEFENDANT: From under a shed, yeah.

5 THE COURT: You stole a gas can from under
6 a shed in Georgetown County?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: What was the next thing he
9 did.

10 MS. SWILLEY: 2003, burglary third.

11 THE COURT: Burglary third degree.

12 2003, what did you burglarize then?

13 THE DEFENDANT: I'm trying to remember
14 what it was, Your Honor. It was something on the
15 same line. It was on the same line, Your Honor.

16 THE COURT: You can't remember what it
17 was. What's the next one?

18 MS. SWILLEY: He was revoked and taken
19 into custody for the burglary. It looks like he got
20 6 months.

21 THE COURT: You got probation, and you
22 didn't comply so you were revoked.

23 MS. SWILLEY: Yes, sir.

24 THE COURT: And you went to prison for
25 6 months.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: What's next?

3 MS. SWILLEY: November 2004, shoplifting.

4 THE COURT: Shoplifting. What did you
5 steal?

6 THE DEFENDANT: A computer.

7 THE COURT: A computer. Were you on drugs
8 then?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: For this?

11 THE DEFENDANT: All of it, Your Honor.

12 THE COURT: Did you ever recognize at that
13 point drugs were a problem?

14 THE DEFENDANT: I knew it was, Your Honor.
15 But I think when drugs gets a grip on your life like
16 that, you're not thinking rationally any longer.
17 You lose focus on who you are.

18 THE COURT: At that point you were pushing
19 35, I guess.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: What else have you got there?

22 MS. SWILLEY: December 2004, burglary
23 second degree nonviolent.

24 THE COURT: What is that?

25 THE DEFENDANT: Set of golf clubs.

1 THE COURT: A set of golf clubs. From
2 who?

3 THE DEFENDANT: It was over in Georgetown.
4 I don't know who the victim was.

5 THE COURT: It wasn't Mr. Foxworth.

6 THE DEFENDANT: No, sir.

7 THE COURT: What happened to you then?

8 THE DEFENDANT: Sir?

9 THE COURT: What happened to you then, you
10 went to prison for it?

11 THE DEFENDANT: I think so. Yes, sir.

12 THE COURT: That was your second time in
13 prison.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: At that point. Go ahead.

16 MS. SWILLEY: March 2008, he was
17 convicted of burglary second degree.

18 THE COURT: 2008, burglary second degree.
19 What is that about?

20 THE DEFENDANT: That was -- Your Honor, to
21 be honest with you, that was one that I didn't
22 commit, but I was with someone that I would not want
23 my family to know I was with, and I kind of eat that
24 one my own. It was sure a poor decision, but....

25 THE COURT: You were with someone who

1 committed a burglary.

2 THE DEFENDANT: Yeah.

3 THE COURT: You said you didn't commit it.
4 What do you mean?

5 THE DEFENDANT: I went and sold the
6 merchandise. But I didn't commit it. But I took
7 the charge on it, Your Honor.

8 THE COURT: Receiving stolen goods. You
9 were helping someone do a burglary.

10 THE DEFENDANT: Yes, sir. I guess.

11 THE COURT: What happened to you then, you
12 went to prison for it?

13 THE DEFENDANT: Your Honor, I think. I'm
14 not, I think so.

15 THE COURT: What was the sentence?

16 MS. SWILLEY: 12 years.

17 THE COURT: 12 years.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You think you, got a
20 12-year-sentence.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Did you tell the judge at that
23 point, Judge, I got a drug problem. I need some
24 help. I wasn't raised like this. I'm from a good
25 family. My daddy is a highway patrolman. These

1 are good people out of Georgetown County. Please
2 give me a chance. You know, I've committed two
3 burglaries and a shoplifting before that I caught
4 for. I've committed many other crimes that I didn't
5 get caught for. But, Judge, please if you give me
6 this 12-year-sentence at least, Judge, help me to
7 get some drug treatment while I'm in prison. In the
8 ATU unit maybe. Please give me some treatment while
9 I'm doing this 12 years, Judge. What did you -- did
10 you all go through that spill?

11 THE DEFENDANT: I am sure we did, Your
12 Honor. I can't remember precisely how it went.
13 What kind of treatment did you get during them 12
14 years?

15 THE DEFENDANT: We did have the ATU
16 program.

17 THE COURT: The ATU unit in the prison for
18 people on drugs to help them while they're in there.

19 THE DEFENDANT: Well I can't say. And
20 I'm not trying to down the program, Your Honor. It
21 wasn't a whole lot of help. But it was---

22 THE COURT: Well none of the programs are
23 a whole lot of help if you don't have the will to---

24 THE DEFENDANT: I agree, yes, sir.

25 THE COURT: You can go in---

1 THE DEFENDANT: You're right.

2 THE COURT: ---and talk to a psychiatrist,
3 and he can give you all kind of good advice---

4 THE DEFENDANT: Yes, sir.

5 THE COURT: ---you know if you have the
6 mindset to accept it.

7 THE DEFENDANT: That's exactly right, Your
8 Honor.

9 THE COURT: What year are we at now?

10 MS. SWILLEY: 2012, Your Honor.

11 THE COURT: We've made it up to 2012.
12 What happened then?

13 MS. SWILLEY: June 2012. Petty larceny.

14 THE COURT: Petty larceny. After you got
15 out of a prison from a -- from a 12-year-sentence?

16 MS. SWILLEY: Yes, sir.

17 THE COURT: Petty larceny, where?

18 MS. SWILLEY: Georgetown, sir.

19 THE DEFENDANT: Yeah.

20 THE COURT: What did you steal? It didn't
21 start out as a petty larceny. You maybe pled to
22 petty larceny.

23 MR. HARVIN: It started -- well, yeah, it
24 was a petty larceny.

25 THE COURT: What did you steal? Of course

1 petty larceny is, you know, the statute you can
2 steal something up to -- valued up to \$2,000. You
3 know, It used to be, if the value was less than
4 \$1,000 is petty larceny, you know. Mr. Harvin's
5 fancy iphone there, if he paid \$70 for it, they can
6 steal that, and that's petty larceny. If they
7 raise it from 1,000 to 2,000, it's still petty
8 larceny. What did you steal?

9 THE DEFENDANT: Your Honor, being honest
10 with you, I don't recall which one it was.

11 THE COURT: What happened to you with that
12 charge?

13 THE DEFENDANT: It violated my....

14 THE COURT: Violated parole.

15 THE DEFENDANT: Yes, sir. It sure did.

16 THE COURT: They sent you back to prison
17 for the third time?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Third time. And what happened
20 next?

21 MS. SWILLEY: And then we're here today.

22 THE COURT: He was released in August of
23 2014.

24 MS. SWILLEY: Yes, sir. And he had
25 convictions in magistrate's court for magistrate

1 level offenses since then.

2 THE COURT: Like what?

3 MS. SWILLEY: Petty larceny, petty
4 larceny, receiving stolen goods.

5 THE COURT: From August of 2014, until
6 now, six different stealings.

7 MS. SWILLEY: Yes, sir. This one
8 included.

9 THE DEFENDANT: It's sad, Your Honor. It
10 sure is. It's sad. And I wish I could say
11 something today to try to make it, but I can't.

12 THE COURT: Well I consider what the
13 solicitor says. I mean she has files that she has
14 to move. Mr. Harvin has got people he has got to
15 represent.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Mr. Foxworth, you know, he's
18 the victim. He's a compassionate man. He knows
19 your family. And he doesn't want to be the obstacle
20 as being someone who didn't put out a helping hand.
21 He can't be the bad guy, because he's not going to
22 do the sentence. My concern is not only for him,
23 but for everyone else who owns property.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Everyone else who can't go to

1 bed at night because they're wondering whether
2 someone will be lurking around their shed, their
3 garage, their house. They can't park -- they can't
4 leave their lawn mower in the yard. You can't
5 chain -- you know, everything's got to be chained
6 down. You know, I guess with a boat cutter, you
7 can cut the chain if you want to. What do you think
8 about all that, Mr. Foxworth?

9 MR. FOXWORTH: Well I tell you you're
10 right. Because it is problem as far as, you know,
11 every time you hear your dog bark, or every time you
12 hear a loud noise, you get up out of bed and go look
13 see what's been taking place. You can't help it if
14 you're a person. You're concerned about your
15 personal property.

16 THE COURT: And then when the police
17 finally gets their hand on the person, finally, to
18 track it down, Mr. Grayson, makes it over there in
19 the Andrews to a what kind of place? A pawn shop?

20 OFFICER GRAYSON: A pawn shop. Yes, Your
21 Honor.

22 THE COURT: A pawn shop in Andrews. And
23 they finally get a name, a face, a mug shot, and
24 they bring him in to court and they say, for the
25 past 15 years, this man has had a conviction, after

1 conviction, after conviction. He's been to prison
2 three times. Every time he got out on parole, he
3 violated the parole. And since the last time he got
4 out of prison, he's been caught six more times. And
5 now he's before the bar of justice. And what should
6 the judge do?

7 THE DEFENDANT: Your Honor, I need help.

8 THE COURT: Give him for one more time.
9 Give him some help he says.

10 THE DEFENDANT: Yes, sir, please.

11 THE COURT: You know, the court is the
12 last time place you come for help. Help is what you
13 get when you have all the social service programs
14 and all, when they release you from prison, and
15 they've got the Waccamaw Mental Health. They have
16 got the drug program. They have got the Light
17 House.. They've got workers all over the place who
18 are out there to help people who needs help. But
19 after you get caught and you're brought in chains,
20 the courthouse is the last place you come for help.
21 You know, you come here for a sentence for the crime
22 that you've done.

23 This is not -- you know, we're not out
24 here -- I'm not here to give out help. You know, I
25 am here to dispense justice, not just for

1 Mr. Foxworth, but for every other citizen of
2 Williamsburg County and of this State. Whereas, you
3 can be as sorry as you want to be for what you did
4 to Mr. Foxworth, because he's a good man. And
5 your family knows his family. You know, I'm looking
6 at the 50 something people who have been victimized
7 in different settings, and who continue to be
8 despite all these chances. And Mr. Smith there on
9 probation. How many people have you got on your
10 probation role?

11 PROBATION AGENT: About 105.

12 THE COURT: He's got 105 people that he's
13 got to keep track of on probation. People who
14 deserves, that that person he or she deserves some
15 chance, they have used up their chances already.
16 And then to add him to number 106. Someone who has
17 been through the cycle over and over and over again
18 for the past 15 years. And say, Mr. Smith, see what
19 you can do this man right here. See if you can
20 watch him and keep him -- get him off of drugs, and
21 keep him from breaking into people's places, or
22 stealing their things out in the yard. And so
23 that's the situation that I have got with you,
24 Mr. McCants. Go ahead.

25 THE DEFENDANT: I know it's horrible. I

1 don't know what to say. It is, it's horrible.

2 THE COURT: Well that's why you have
3 prisons. You know, if a person can't live
4 peacefully in society as a law abiding citizens,
5 then what the prisons do, is that they protect. I
6 mean you can go to jail and Mr. Foxworth still has
7 to worry about someone coming and stealing his
8 stuff. But at least it won't be you doing the
9 stealing. So, you know, I love success stories. I
10 love people---

11 THE DEFENDANT: Amen. Amen.

12 THE COURT: And I see them all the time.
13 They have been given a chance, and they say, they
14 come and thank me that I give them that chance. And
15 they turn their lives around as a result of getting
16 probation, and realizing that what they did was
17 wrong. Because we all make mistakes. But we've had
18 someone who for a period 15 years has been
19 continuous.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You know, and the fact that a
22 loved one --you know, one time they used to bring
23 people home from prison for funerals. And they used
24 to bring them from 200 miles away so that they can
25 be with a loved one. And just this week, you know,

1 I've had 4 or 5 people whose loved ones have passed
2 during their incarceration. And they've come and
3 cried and they blame themselves, and they miss this
4 and they miss that. They missed a child being born,
5 a child graduation. Or they missed a lot of stuff.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: But, you know, unfortunately
8 the law is not designed about, you know, what you
9 have in your plans. And people come in and say,
10 well, judge, please don't send me to me prison, I
11 plan on getting married next year. They tell me all
12 kind of things. You know, everything you can
13 imagine. But when I put the hammer down, it can't
14 be based on all those things. It has to be based on
15 not just justice for you, but justice for everyone
16 who stands in your position.

17 THE DEFENDANT: Yes, sir. And, you know,
18 I am not here to make any kind of excuses today,
19 because there is no excuse. There is no excuse
20 whatsoever. But given this opportunity with drug
21 court again, I will be a success rate. And I will
22 make each and every one of you all proud of me
23 today, for overcoming this thing. And you will not
24 regret this decision to allow me to do this. And I
25 know you've heard it a 1,000 times, but I can't

1 speak for everyone else, Your Honor, I can only
2 speak for myself.

3 THE COURT: Well, you know, when you have
4 the persons and you ask you what is the record, what
5 that's person's record, you know, absolutely
6 everyone who stands there makes a solemn promise.
7 When they're locked in the jail, in the jailhouse,
8 they make a -- they found God. They read the bible
9 now. They read this. They read that. They'll
10 never get in trouble before. They all make that
11 solemn promise.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: if I bank to them, you know,
14 some of them steal a lot of money. And I'll pay
15 this man his money back. And I'll do this. I'll
16 pay for Mr. Foxworth's chain saw. I'll do this.
17 I'll do that. I mean, they have perfect intentions
18 when they're sitting, sleeping, and being locked up
19 in jail. And once freedom comes, boy, you know, all
20 those promises that were made. So, you know, you
21 don't back on these promises. You kind of look at
22 what you've done in the past as a guide to what you
23 most greatest likelihood.

24 I can't accept promises. Because, you
25 know, whereas I have same hope for you as you have

1 for yourself, I have to gauge it some extent based
2 on what's been demonstrated before. Go ahead,
3 Mr. Harvin, you get the final word. Anyone who
4 wants a final word. I've said my speech.

5 MR. HARVIN: Well, Judge, I have stood
6 before you many times with many different people,
7 and so I do understand your sentiments. We would
8 just ask the court that if some jail time were
9 given, that after that jail time he be allowed to
10 end the drug court program at that time. And maybe
11 that will help him with the transition back into the
12 community.

13 THE COURT: You know, about 70 percent, 80
14 percent of the people who go to prison, they go
15 there because they've been involved in some kind of
16 drugs, or you know many mental illness issues and
17 all that. And if they -- if that was an exception
18 from people going to jail, woe, you know, 70
19 percent, 80 percent of the people in jail would just
20 be let out. With the chaos we have going on now,
21 imagine what that would be then.

22 MR. HARVIN: Some states do have drug
23 courts that deal with just with individuals who have
24 drug issues.

25 THE COURT: Yeah, well and drug court is,

1 you know, really a fantastic thing. I mean before
2 it -- you know, I went all the way to Albuquerque,
3 New Mexico for a week, 15 years ago. And they were
4 talking about bringing in drug courts and
5 redirecting lives of people and to give them that
6 opportunity. And because people, and at the same
7 time you could pick up your first case. I was out
8 there getting drug court training.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: The federal government paid
11 special money to train people across the country in
12 drug courts in how to do it. And it's proven to be
13 very successful, particularly people who, you know,
14 who are kind of starting out on drugs. But when you
15 get someone who is ingrained in drugs and criminal
16 life, all wrapped into one, then the question
17 becomes whether these resources would be better
18 spent on someone else who makes a better
19 demonstration as to their -- what they're likely to
20 benefit from it.

21 THE COURT: Anything else, Madam
22 Solicitor?

23 THE DEFENDANT: Your Honor, I don't think
24 no one is going to put no more in to this program,
25 than what I'll put into this program.

1 THE COURT: Well it's not about the
2 program. It's about whatever you put in to your
3 life.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You know there are a lot of
6 people who go cold turkey. They just make a
7 determination that they're going to turn their lives
8 around.

9 THE DEFENDANT: Amen. Amen. Yes, sir.

10 THE COURT: Anything further, Solicitor?

11 MS. SWILLEY: Nothing from the State, Your
12 Honor.

13 THE COURT: Mr. Foxworth?

14 MR. FOXWORTH: No, sir.

15 THE COURT: Are you related to Randy.

16 MR. FOXWORTH: We were neighbors for a
17 long time, but I'm not related to him.

18 THE COURT: You're a Trio Foxworth?

19 MR. FOXWORTH: No, sir.

20 THE COURT: It used to be Foxworth Garage.
21 Foxworth Grocery.

22 MR. FOXWORTH: I know a married man.

23 Other than I knew his father for years. We were
24 very good friends.

25 MR. FOXWORTH: Your Honor, I'm a

1 hillbilly. I come from the mountains.

2 THE COURT: Mountains. You know up in
3 those mountains where somebody would come around
4 your property like this man, he would be -- he
5 wouldn't make it down the mountain.

6 MR. FOXWORTH: That's exactly right.

7 THE DEFENDANT: Please, Your Honor. Your
8 Honor, my family needs me right now. I need them.

9 THE COURT: They've needed you for a long
10 time.

11 THE DEFENDANT: Yes, they have -- yes,
12 sir.

13 THE COURT: The sentence is that you be
14 committed to the state Department of Corrections for
15 a period of 5 years. That is sentence. I am not
16 accepting the recommendation. I can't help you.

17 --End of Requested Transcript of Record--

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in General Sessions Court, on June 24, 2015, in Williamsburg County, Kingstree, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

8-10-16
DATE

Margaret T. Sullivan
COURT REPORTER
My Commission expires: 9/7/21

WITNESSES

Alex Edwards
Williamsburg County Sheriff

DOCKET NO. 2015-GS-45-0098

The State of South Carolina

County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

JUNE TERM 2015

THE STATE

vs.

WILLIAM BRIAN MCCANTS

ARREST WARRANT NUMBER

2015A4510100230

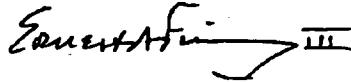
Indictment for

Receiving Stolen Goods
(Third or Subsequent Offense)

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:



VERDICT

ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF WILLIAMSBURG)

INDICTMENT FOR
 Receiving Stolen Goods
 (Third or Subsequent Offense)

At a Court of General Sessions, convened on June 18, 2015 the Grand Jurors of WILLIAMSBURG County present upon their oath:

COUNT ONE – RECEIVING STOLEN GOODS (THIRD OR SUBSEQUENT OFFENSE)

That William Brian McCants did in Williamsburg County on or about February 9, 2015, with criminal and fraudulent intent, buy, receive or possess stolen goods, chattels or other property knowing or having reason to believe the goods, chattels or property was stolen, to wit; that he did have in his possession a Husqvarna Chainsaw or a Shindower Weedeater or a Frigidaire Air Condition Window unit, or any combination thereof, all belonging to and having been reported stolen from ██████████, this in violation of §16-13-180, South Carolina Code of Laws, 1976, as amended, such being the defendant's third or subsequent offense for which the penalty is contingent upon the value of the property involved, in violation of §16-01-0057, 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.

Solicitor

Ernest A. Finney III

THE STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)
THE STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
Warrant/Indictment Nos.: 2015-44002

RECEIVED

v.

WILLIAM BRIAN MCCANTS,
DEFENDANT.

MOTION
FOR
RECONSIDERATION

AUG 18 2015

SC Court of Appeals

SHARON L. BARNETT
CLERK OF COURT
KINGSTREE, S.C.
15 JUN 24 PM 3:07

FILED

TO: THE PRESIDING CIRCUIT COURT JUDGE; &
Julie Swilley, Assistant Third Circuit Solicitor.

PLEASE BE ADVISED AND TAKE NOTICE that the Defendant, William Brian

Mccants, through His undersigned attorney, hereby moves and request of this Honorable Court that the sentence imposed on the Defendant, William Brian Mccants, on June 24, 2015 be reconsidered.

The Defendant pled guilty on the charge of Receiving Stolen Goods less than \$2,000 with a Property Enhancement for it being a Third or Subsequent Property Offense before Judge Newman. The court sentenced the Defendant to 5 years in the South Carolina Department of Corrections.

The Defendant would move for a reconsideration of the sentence for the following reasons:

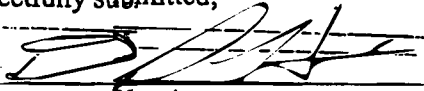
1. The Defendant's father died on the day of sentencing and that information was not presented to the Court because it was unknown at the time of sentencing;
2. The Defendant's family was unable to be present at the sentencing hearing because they were dealing with the recent death of the Defendant's father and;
3. The Defendant's family needs him at home during their time of bereavement.

WHEREFORE, the Defendant respectfully requests and prays that this Honorable Court do:

- 1.) Reduce his sentence to a probationary sentence to include the drug court program;
- 2; Allow the Defendant to spend time with his family and attend his father's

funeral.

Respectfully submitted,

By: 

Doward K. Harvin
Attorney for the Defendant

Date: June 24, 2015

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

) IN THE COURT OF GENERAL SESSIONS
) THIRD JUDICIAL CIRCUIT

) 2015-GS-45-0098

RECEIVED

AUG 18 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA

) ORDER DENYING
) DEFENDANT'S MOTION FOR
) RECONSIDERATION

v.

WILLIAM BRIAN MCCANTS,
DEFENDANT.

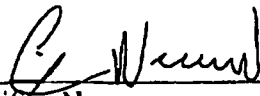
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THIS MATTER came before the Court pursuant to the Defendant's Motion for Reconsideration filed on June 24, 2015.

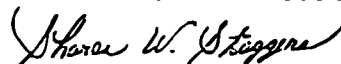
Based on the arguments of counsel and other presentations to the Court, I find that the Defendant was appropriately sentenced and the Motion for Reconsideration should be denied.

It is therefore ORDERED that the Motion for Reconsideration is hereby DENIED.

AND IT IS SO ORDERED.


Clifton Newman
Presiding Judge

July 25, 2015
Columbia, South Carolina

A CERTIFIED TRUE COPY

SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY

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,



Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 11th day of October, 2016.

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,



Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 11th day of October, 2016.

RECEIVED

OCT 11 2016

SC Court of Appeals