

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of General Sessions

Thomas W. Cooper, Jr., Circuit Court Judge

Case No. 2013A0710400284

The State of South Carolina,

Respondent,

v.

Justin Perkins,

Appellant.

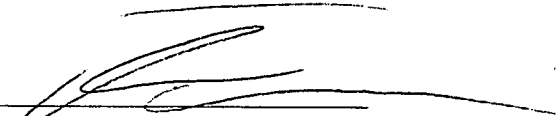
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SC Court of Appeals

Explanation of Appeal Pursuant to Rule 203(d)(B)(iv), SCACR

This appeal from a guilty plea is based on the following grounds:

- 1) The only evidence submitted at the hearing on the motion to withdraw supports a finding that Appellant was under the influence of narcotics at the time of the plea. Therefore, Appellant submits that the circuit court abused its discretion in denying the motion to withdraw the guilty plea.
- 2) Although during the plea Appellant was questioned, Appellant's guilty plea was entered into without the court making an affirmative finding that it was entered into knowingly, voluntarily and intelligently. *Cf. McCarthy v. United States*, 394 U.S. 459, 466, 89 S. Ct. 1166, 1171 (1969) (“[I]f a defendant's guilty plea is not equally voluntary and knowing, it has been obtained in violation of due process and is therefore void. Moreover, because a guilty plea is an admission of all the elements of a formal criminal

charge, it cannot be truly voluntary unless the defendant possesses an understanding of the law in relation to the facts.”). Appellant submits the court’s failure to affirmatively find that the plea was knowingly, voluntarily and intelligently is a fatal to allowing the plea to stand.



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