

Date / 1/2020

RECEIVED

FEB 20 2020

SC Court of Appeals

Antonio O Simmons, #279418  
Broad River C.I. Marion 162  
4460 Broad River Rd.  
Columbia, S.C. 29210

RE Appellate Case 2020-000088

Dear Jenny Abbot Kitehings

I asked for an Appeal of my resentencing.  
I ask that you make sure the following issues  
are raised to be reviewed by The Appellate court.

The court erred by increasing that appellants  
Sentence after he exercised his Constitutional  
right to challenge his conviction. here the record  
is void of any aggravating or New circumstances  
that would overcome the presumption of  
Prejudice set forth in North Carolina v Pearce  
395 US 725.

The Court erred in accepting the appellants Plea  
without inquiring about the effects the Medication  
the appellant received would have on his ability to  
understand the consequences, in order to determine  
that the Plea was knowing and intelligent US v Damon  
191 F 3d 561.

a Sentence that violated the 14<sup>th</sup> amendment the  
Constitution and article 1 section 3 of the SC  
Constitution by imposing a sentence that's indispate  
to his similarly situated, yet more culpable co-  
defendant,

Date 2/14/2020

While the Codefendant only recieved Five years Probation when he was found in Possession of all the aggravating evidence. The State allowed him to place the blame on the appellee who had NO evidence against him.

Can you please make sure these issues are properly raised for Appellate review as soon as possible

Thank you

Sworn to and Subscribed Before

Melton Bimm this 14<sup>th</sup> day Feb 2020

Kanzer Roberson

Notary Public of South Carolina  
My Commission Expires: 8/5/2024

Date 12/1/2019,

To Christopher Geel

We will be going for resentencing on January 8th. I need you to know that my plea was not knowing and intelligently made. Therefore I need you to motion the court for a new trial. Please also motion the court to withdraw the plea. I do not want to plea.

I was already Nolle Prosequi on these charges and been on probation before being sentenced on these same charges. I also need a refund on the probation now that I'm sentenced on the same charge. Please contact me with any questions.

Please send me any warrants involvements and any other information you have as soon as possible

This is an action for post-conviction relief. Petitioner Jordan pled guilty to assault 684 and battery with a deadly weapon before the Honorable Frank Eppes. He was sentenced to imprisonment for ten years. Suspended upon the service of three years and five years probation, Jordan collaterally attacked his conviction contending that his guilty plea was The Honorable Julius H. Baggett denied Jordan's petition for post-conviction relief. Judge, and remand for resentencing or a new trial. The Supreme Court applied the two part standard adopted in Strickland to guilty plea challenges based on ineffective assistance of counsel, the court, and reiterated that the defendant must show first that counsel's representation fell below the standard of reasonableness, and that there was a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. 106 S.Ct. at 370. Specifically, the Court stated that defendant must show that "there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial," 106 S.Ct. at 370

*cannot get a suspended sentence on armed robbery*

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON  
STATE VS.

ANTONIO ORLANDO SIMMONS

AKA:  
Race: Black/African American Sex: M  
DOB: [REDACTED] SS#: [REDACTED]  
Address:  
City, State, Zip: Johns Island, SC 29455-3306  
DL# [REDACTED] SID# SC01329192

INDICTMENT/CASE#: 2014GS1007111  
A/W: 2014A1010900193  
Date of Offense: 03/13/2014  
S.C. Code §: 16-11-0330(A)  
CDR Code #: 0139

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was

CONVICTED OF or  PLEADS

TO: Armed Robbery

In violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45  
(CSC w/minor 1<sup>st</sup> or Lewd Act)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentation to Grand Jury. (def.'s initials)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:  
[Signature] 101325 Antonio Simmons 101106  
David L. Osborne, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center,  
for a determinate term of 30 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 18 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 Service standard conditions of probation, which  
are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:  
 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 State  
Department of Corrections. April 11, 2014  
 The Defendant is to be placed on 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   
Random Drug/Alcohol Testing:

§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_ Fine may be pd. in equal consecutive weekly/monthly  
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00 pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_  
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_ \$ \_\_\_\_\_ Paid to Public Defender Fund

§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_  
Proviso 61.6 (Public Def/Prob) \$500 \$ \_\_\_\_\_  
§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00  
§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_  
§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
§56-5-2942(I) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
3% to County (if paid in installments) \$ \$ 3.75  
TOTAL \$ 128.75

Other: during C/S he must take all meds as required and comply with any treatment or counseling deemed necessary

Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk: [Signature]  
Court Reporter: [Signature]

Presiding Judge: [Signature]  
Judge Code: 2000  
Sentence Date: 3/20/18

Date 12/6/2014

2014651007111; 7123; 7142; 7145; 7147

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

County of  Charleston  Berkeley

Case No. 2018-CP-10-4505

Antonio Simmons

Applicant / Petitioner

vs.

ORDER

State of South Carolina,

Respondent.

JULIE J. ARMSTRONG  
CLERK OF COURT  
JUL 26 PM 12:50

This post-conviction relief case came before the court for a hearing. Having now heard this matter, the court orders as indicated herein.

1. The application for post-conviction relief is hereby:  denied \_\_\_\_\_ granted \_\_\_\_\_ under advisement; a formal order will be filed (see below - No.6)

\_\_\_\_\_ 2. Motion(s) was/were heard in this case and the court orders: The motion to dismiss and/or for summary judgment is hereby \_\_\_\_\_ granted \_\_\_\_\_ denied \_\_\_\_\_ under advisement, based upon the \_\_\_\_\_ statute of limitations and/or \_\_\_\_\_ the successive nature of the application or \_\_\_\_\_ other reason as follows:

\_\_\_\_\_ 3. A conditional order of dismissal was previously filed in this case. Upon review of the matter, the court finds:  
\_\_\_\_\_ Good cause as to why the case should not be dismissed has been shown in response to the order of dismissal; therefore, a hearing on the merits of the application shall be scheduled.  
\_\_\_\_\_ The court has considered the response to the conditional order of dismissal and finds that good cause has not been shown or \_\_\_\_\_ no response has been filed to the conditional order of dismissal; therefore, the application is hereby dismissed.

\_\_\_\_\_ 4. The application was freely, voluntarily, and intelligently withdrawn as indicated on the record; therefore, this case is dismissed \_\_\_\_\_ with prejudice \_\_\_\_\_ without prejudice.

5. Other: Applicant's sentence is vacated and will be remanded to general sessions for re-sentencing within 17-28 year range as negotiated

6. The court further orders:  
 The  Attorney General \_\_\_\_\_ Applicant's counsel is directed to submit to the court a proposed order and to serve the order on opposing counsel within 15 days.

\_\_\_\_\_ Both sides are directed to submit proposed orders to the court and to serve the orders on each other within \_\_\_\_\_ days.

\_\_\_\_\_ The court does not request proposed orders.

IT IS SO ORDERED.

Date: 07, 23, 2019  
Charleston, S.C.

Michael Potts  
Presiding Judge

Court Reporter: Joyce Ruger  
Attorney for Plaintiff: Christopher Murphy  
Attorney for Defendant: Jacob Isenberg

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
CLERK, C.P., G.S. & F.C.  
By: [Signature]  
DEPUTY CLERK

Revised 12/10/04

Please send A COPY back

V. 11-12-01 2:17

~~in the single decision of the post-conviction  
rebuttal judge we vacated Jordan's sentence, and  
remand for either specific performance of the plea  
agreement and resentencing or attachments~~

297 S.C. 52. 374 S.E 2d 683 Rules of Civil Procedure

Rule 38. JURY TRIAL of Right VI. TRIALS

Right Preserved, Rule 39. TRIAL BY Jury or BY The Court

Rule 40. GENERAL DOCKET, TRIAL ROSTERS, AND CALL OF CASES

FOR TRIAL

Antonio Simmons #279418  
Broad River C.I.  
~~XXXXXXXXXXXX~~

460 Broad River Rd  
Columbia SC 29210  
Marion 162

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FEB 20 2020

SC Court of Appeals

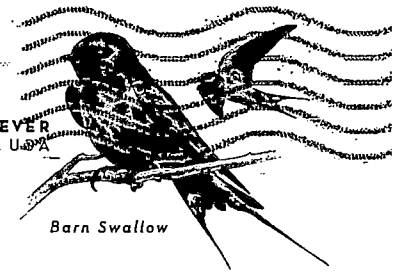
SCDC  
Christmas  
Packet

TO Jenny Abbot Kitchings  
Clerk of Cour  
S.C. Court of Appeals  
P.O. Box 11629  
Columbia SC 29211

29211-162929

COLUMBIA SC 29290

18 FEB 2020 PM 2 FOREVER  
USA



Barn Swallow

