

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

**May 27 2020**

**SC Court of Appeals**

Appeal from Richland County

Honorable L. Casey Manning, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIE JEROME WILSON,

APPELLANT

APPELLATE CASE NO 2019-000576

ANDERS BRIEF OF APPELLANT

VICTOR R SEEGER  
Appellate Defender

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ATTORNEY FOR APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

Did the plea court err when it denied Appellant's motion to reconsider his sentence of fifty years' imprisonment after he pled guilty to two counts of murder, first degree burglary, and armed robbery where the plea court vindictively sentenced Appellant as evidenced by the plea court's assurances during sentencing that Appellant would die in prison?

## STATEMENT OF THE CASE

During the January 2017 term, the Richland County Grand Jury indicted Appellant for two counts of murder and first degree burglary. R. 68 – 76. During the June 2018 term, the Richland County Grand Jury indicted Appellant for armed robbery. R. 77 – 79.

On June 18, 2018, Appellant pled guilty as indicted before the Honorable L. Casey Manning. R. 1. Stephen F. Krzyston and Brie Rust Russell represented Appellant. Id. Kathryn Luck Campbell and Samuel C. McGlothin represented the state. Id.

Judge Manning accepted Appellant’s guilty plea as freely, voluntarily, knowingly, and intelligently made. R. 29, l. 23 – 30, l. 4. Appellant’s sentencing was deferred. R. 30, ll. 6 – 8.

On March 7, 2019, Appellant’s sentencing hearing was held before the Honorable L. Casey Manning. R.32. Stephen F. Krzyston represented Appellant. Id. Kathryn Luck Campbell and Joanna McDuffie represented the state. Id.

Judge Manning sentenced Appellant to fifteen years’ imprisonment for first degree burglary; thirty years’ imprisonment for armed robbery; and fifty years’ imprisonment for each count of murder. R. 63, ll. 11 – 22.

This appeal follows.

## STANDARD OF REVIEW

“In criminal cases, the appellate court sits to review errors of law only.” State v. Vick, 384 S.C. 189, 197, 682 S.E.2d 275, 279 (Ct. App. 2009)(quoting State v. Wilson, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001)). The appellate court is “bound by the trial court’s factual findings unless they are clearly erroneous.” Id. (quoting Wilson, 345 S.C. at 5-6, 545 S.E.2d at 829). The reviewing court “does not re-evaluate the facts based on its own view of the preponderance of the evidence but simply determines whether the trial court’s ruling is supported by any evidence.” State v. Slocumb, 412 S.C. 88, 91, 770 S.E.2d 436, 438 (Ct. App. 2015). “A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law or a factual conclusion without evidentiary support.” In re M.B.H., 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010).

## ARGUMENT

The plea court erred when it denied Appellant’s motion to reconsider his sentence of fifty years’ imprisonment after he pled guilty to murder, first degree burglary, and armed robbery where the plea court vindictively sentenced Appellant as evidenced by the plea court’s assurances during sentencing that Appellant would die in prison.

### **Relevant Facts**

On August 27, 2016, Appellant allegedly unlawfully entered the home of the decedents, Magaiteh and Dunbar Dolo. R. 26, l. 3 – 28, l. 21. Magaiteh and Appellant were in a relationship that ended in the days before the incident. Id.

After Magaiteh and Appellant broke up, Appellant learned she went out with another man. Id. Appellant arrived at the decedents’ home with a handgun and confronted Magaiteh. Id. Appellant then shot and killed the decedents. Id.

Appellant pled guilty without negotiating or receiving a recommendation from the state regarding sentencing. R. 22, ll. 14 – 20. Since Appellant, aged 27, had no prior record, the state did not seek the death penalty. R. 6, ll. 3 – 6; R. 51, ll. 12 – 18. After the court imposed a fifty-year prison sentence, the judge told the decedents’ family not to worry because Appellant was “never going to get out of prison... and doesn’t deserve to do so.” R. 63, ll. 11 – 22.

Appellant filed a motion to reconsider his sentence on March 15, 2019. R. 65. On April 1, 2019, Judge Manning denied Appellant relief. R. 66.

### **Discussion**

The comments made by the sentencing court showed that its intention was to impose a sentence long enough to ensure that Appellant would die in prison. R. 63, ll. 11 – 22. Accordingly,

the sentence imposed, while not outside the statutory limit, was excessive in this case and the plea court erred when it denied Appellant's motion to reconsider his sentence.

The Eighth Amendment prohibits not only barbaric punishments but also sentences that are disproportionate to the crime committed. Solem v. Helm, 463 U.S. 277, 284 (1983). Appellant's sentence of fifty years' imprisonment was excessive and vindictive because it was the sentencing court intention for it to be the equivalent of a life sentence as evidenced by the court's comments at sentencing. R. 63, ll. 19 – 22. Furthermore, the court abused its discretion when it denied the motion to reconsider because did it not properly take into account Appellant's clean record prior to this incident. R. 65 – 66.

The preeminent case recognizing the "proportionality principle," was in Weems v. United States, 217 U.S. 349 (1910) where the defendant was convicted of falsifying public documents and sentenced to fifteen years of, "cadena temporal," or hard labor in chains, and to permanent civil penalties. Id. at 367. The United States Supreme Court held that punishment was cruel and unusual because it was not graduated and proportioned to the offense. Id.

In State v. Kimbrough, 212 S.C. 348, 46 S.E.2d 273 (1948), the South Carolina Supreme Court held that Kimbrough's sentence of thirty years imprisonment for burglary was "manifestly too severe," and violated Kimbrough's Constitutional rights against cruel and unusual punishment. Id. at 357, 46 S.E.2d at 277. The jury found Kimbrough guilty of burglary with a recommendation to mercy. Id. at 352, 46 S.E.2d at 275.

The Kimbrough Court stated, "everyone concedes that burglary is one of the worst crimes and the offender should be severely punished, but still it, like every other crime, has its grades of aggravation and enormity... [however] upon the facts heretofore reviewed... show no particular circumstances of aggravation." Id. at 356, 46 S.E.2d at 277. Evidenced by the recommendation of

mercy, the jury did not think sentencing Kimbrough to life in prison was proper. Id. at 356, 46 S.E.2d at 277. Therefore, because the judge imposed a term that exceeded the, "ordinary expectancy of life," the sentence of thirty years' imprisonment was unconstitutional. Id. at 355, 46 S.E.2d at 276.

In the present case the plea court sentenced Appellant to fifty years' imprisonment despite the fact that Appellant had no prior record before the present charges. R. 17, ll. 1 – 5; R. 63, ll. 11 – 22. The sentencing court's remarks after imposing the fifty-year sentence of imprisonment showed that it was the court's intention to imprison Appellant beyond the "ordinary expectancy of [Appellant's] life," so that he would certainly die in prison. Kimbrough, at 355, 46 S.E.2d at 276; R. 63, ll. 19 – 22. That sentence and the intention behind it were vindictive and disproportionate to the crimes Appellant committed. Accordingly, the lower court abused its discretion when it refused to reconsider Appellant's sentence of fifty years' imprisonment.

**CONCLUSION**

By reason of the foregoing arguments, Appellant respectfully requests that this Court vacate Appellant's sentence and remand his case to the Richland County Grand Jury for re-sentencing.

s/ Victor R. Seeger

Victor R Seeger  
Appellate Defender

ATTORNEY FOR APPELLANT

This 27<sup>th</sup> day of May, 2020.

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---

**PETITION TO BE RELIEVED AS COUNSEL**

---

Counsel for Willie Jerome Wilson states:

He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.

He has reviewed the record of appellant's trial before Judge L. Casey Manning, which was held on June 18, 2018, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.

He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Willie Jerome Wilson.

Respectfully Submitted,

s/ Victor R. Seeger

Victor R Seeger  
Appellate Defender  
ATTORNEY FOR APPELLANT

This 27<sup>th</sup> day of May, 2020.

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**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s):
- (2) Plea Hearing Transcript Dated June 18, 2018
- (3) Hearing Transcript Dated March 7, 2019
- (4) Notice of Motion and Motion to Reconsider Sentence
- (5) Order Denying Motion to Reconsider Sentence

I certify that this designation contains no matter which is irrelevant to this appeal.

May 27, 2020.

s/ Victor R. Seeger

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Appellate Defender

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ATTORNEY FOR APPELLANT

**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and 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.”

May 27, 2020.

s/ Victor R. Seeger

Victor R Seeger  
Appellate Defender

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