

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jun 25 2020

SC Court of Appeals

Appeal from Sumter County

Honorable Thomas L. Hughston, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SINCERE JA RAY DINKINS,

APPELLANT

APPELLATE CASE NO 2019-001763

RECORD ON APPEAL

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Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
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Columbia, SC 29211-1589
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ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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2486

COUNTY OF Su
STATE VS.
Sincere Dinkins
AKA:
Race: Black Sex: M Age: 18
DOB: [REDACTED] SS#: [REDACTED]
Address: 20 Walsh Grove
City, State, Zip: Sumter, SC 29150
DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2018-GS-43-0381
A/W#: 2017A4320100895
Date of Offense: 11/24/2017
S.C. Code § : 16-11-0330(B)
CDR Code #: 0026

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Robbery / Attempted armed, or allegedly armed, robbery

CONVICTED OF or PLEADS

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
w/minor 1st or Lewd Act)

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

ATTEST: Ernest A. Finney III 2019 SCB101791
Finney, III, Ernest A SC Bar# [REDACTED] Defendant Little, Jr., Philip D. SC Bar# [REDACTED]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 20 years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ 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 Services 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 SCDOC.

The Defendant is to be placed on the 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: _____
 Set by SCDPPPS _____

Recipient: _____

*Fine:		\$	
§14-1-206 (Assessments 107.5 %)		\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	<u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
Proviso (Public Def/Probation)	\$500	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	<u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§50-21-114(BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)		\$	<u>3.75</u>
TOTAL		\$	<u>128.75</u>

Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/ Deputy Clerk James C. Campbell
Court Reporter: DCRP

Presiding Judge T.L. [Signature]
Judge Code: 2008
Sentence Date: 10-11-19

502 STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

OR 5K fin

586

COUNTY OF _____ Sui _____)
 STATE VS. _____)
 Sincere Dinkins)
 AKA: _____)
 Race: Black Sex: M Age: 18)
 DOB: [REDACTED] SS#: _____)
 Address: 20 Walsh Grove)
 City, State, Zip: Sumter, SC 29150)
 DL#: _____ SID#: _____)

INDICTMENT/CASE#: 2018-GS-43-0381
 A/W#: 2017A4320100896
 Date of Offense: 11/24/2017
 S.C. Code § : 16-17-0410
 CDR Code #: 0049

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

CONVICTED OF or PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

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

ATTEST: Ernest A. Finney III 2019 SCB101791
 Finney, III, Ernest A SC Bar# Defendant Little, Jr., Phillip D. SC Bar#
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 5 years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ 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 Services 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 SCDOC.

The Defendant is to be placed on the 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: _____
 Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$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(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk James C. Campbell
 Court Reporter: DCRP

Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Appointed PD or appointed other counsel,
 Proviso requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge T.L. Hughes, Jr.
 Judge Code: 2608
 Sentence Date: 10-11-19

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

503

6086

COUNTY OF _____ Sur. _____)
 STATE VS. _____)
 Sincere Dinkins)
 AKA: _____)
 Race: Black Sex: M Age: 18)
 DOB: [REDACTED] SS#: _____)
 Address: 20 Walsh Grove)
 City, State, Zip: Sumter, SC 29150)
 DL#: _____ SID#: _____)

INDICTMENT/CASE#: 2018-GS-43-0381
 A/W#: 2017A4310200898
 Date of Offense: 11/24/2017
 S.C. Code § : 16-03-0010
 CDR Code #: 0116

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Murder / Murder

CONVICTED OF or PLEADS

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

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

ATTEST: Ernest A. Finney III 2019 SC Bar# _____ Defendant SCB101791
 Little, Jr., Philip D. SC Bar# _____
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 30 ~~years~~ years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ 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 Services 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 SCDOC.

The Defendant is to be placed on the 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: _____

Set by SCDPPPS _____

Recipient: _____

*Fine:		\$	_____
§14-1-206 (Assessments 107.5 %)		\$	_____
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$	_____
§56-5-2995 (DUI Assessment)	\$12	\$	_____
§56-1-286 (DUI Breath Test)	\$25	\$	_____
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§14-1-213 (Drug Court Surcharge)	\$150	\$	_____
§50-21-114(BUI Breath Test Fee)	\$50	\$	_____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	_____
3% to County (if paid in installments)		\$	3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk James A. Campbell

Court Reporter: CA monitor

Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge T.L. Hightower
 Judge Code: 2008
 Sentence Date: 12/11/19

THE STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SUMTER) THIRD JUDICIAL CIRCUIT
2019 AUG -7 P 2: 52) Indictment No.: 2018-GS-43-0381
JAMES C. CAMPBELL)
CLERK OF COURT)
SUMTER COUNTY, S.C.)
v.)
))
SINCERE JA RAY DINKINS,)
))
DEFENDANT)

MEMORANDUM IN SUPPORT OF THE DEFENDANT’S SENTENCING RECOMMENDATIONS

Preliminary Statement

Mr. Dinkins was convicted on July 17, 2019 of murder, two counts of kidnapping, attempted armed robbery, conspiracy, and possession of a weapon during commission of a violent crime. We respectfully request that the court not give Mr. Dinkins a life sentence or a *de facto* life sentence.

Legal Issues

The court has been provided broad sentencing discretion by the General Assembly. Murder is punishable by “a mandatory minimum term of imprisonment for thirty years to life.” S.C. Code Ann. § 16-3-20(A). This sentence is not eligible for parole and must be served day for day. *See id.* Kidnapping carries the possibility of incarceration up to thirty years. S.C. Code Ann. § 16-3-910. Attempted armed robbery carries the possibility of incarceration up to twenty years. S.C. Code Ann. § 16-11-330(B). Conspiracy carries the possibility of incarceration up to five years. S.C. Code Ann. § 59-150-400(D). Possession of a weapon during commission of a violent crime carries five years which is in addition to any sentence for the principal offense. S.C. Code Ann. § 16-23-490(A). This sentence is “mandatory unless a longer mandatory minimum term of imprisonment is provided by law for the violent crime.” S.C. Code Ann. § 16-23-490(B). It is in the discretion of the court whether this sentence is applied consecutively or concurrently to the other charges. *Id.*

In situations where there is a potential for a life sentence for a person under the age of 18, courts are required to “take into account how children are different, and how those differences

counsel against irrevocably sentencing them to a lifetime in prison.” *Miller v. Alabama*, 132 S. Ct. 2455, 2469 (2012); *see also Aiken v. Byars*, 410 S.C. 534, 544, 765 S.E.2d 572, 577 (2014). This is because children have a “diminished culpability and heightened capacity for change.” *Miller*, at 2469. A sentencing judge must consider the following factors:

(1) The chronological age of the offender and the hallmark features of youth, including “immaturity, impetuosity, and failure to appreciate the risks and consequence”; (2) the “family and home environment” that surrounded the offender; (3) the circumstances of the homicide offense, including the extent of the offender’s participation in the conduct and how familial and peer pressures may have affected him; (4) the “incompetencies associated with youth – for example, [the offender’s] inability to deal with police officers or prosecutors (including on a plea agreement) or [the offender’s] incapacity to assist his own attorneys”; and (5) the “possibility of rehabilitation.”

Byars, 410 S.C. at 544, 765 S.E.2d at 577; *citing Miller* at 2468.¹ These factors taken together create a mandate for sentencing courts to “fully explore the impact of the defendant’s juvenility on the sentence rendered.” *Id.*, 410 S.C. at 543, 765 S.E.2d at 577. This is in line with the General Assembly’s intent for sentencing murder cases as well; courts “shall consider” various aggravating and mitigating circumstances in arriving at their sentences, including “age or mentality of the defendant” and whether “the defendant was below the age of eighteen at the time of the crime.” S.C. Code Ann. § 16–3–20(C).

Factors

A. Chronological Age and Immaturity

The first factor the court must consider is the chronological age and immaturity of the offender. Sincere Dinkins was 17 years old at the time of the offense. However, it is also important for the court to consider his maturity level as well.

Jim Manning testified to the court that Sincere is immature. *See* Tr. 24-25. His conclusion was based on several things. One was a lack of insight. This is particularly demonstrated by results on the Personality Assessment Inventory that was performed as part of his evaluation during his time at the Department of Juvenile Justice. On that test, he indicated that he did not see himself as having the “common shortcomings that most individuals will admit.” Family History Report 41, *quoting* DJJ Evaluation. Mr. Manning testified that this is an indication of a “high degree of self-confidence” and a “lack of self-insight.” Tr. 21-22.

Another indicia of immaturity that Mr. Manning pointed out was his behavior problems. When Sincere was in the 10th grade, he got into trouble for truancy, use of profanity, smoking on a school bus, and for talking when told not to, to name a few examples. *See* Tr. 14-15; Family History Report 36. This culminated in being expelled after being charged with disturbing

¹ Although the *Miller* court was contemplating a case where life without parole was statutorily mandated, the South Carolina Supreme Court decided that courts must still consider the factors despite the fact that life is not mandatory in South Carolina. *See Byars*, 410 S.C. at 542-43, 765 S.E.2d at 576-77.

schools. *See* Family History Report 36. Sincere also indicates using marijuana and alcohol from the age of 12. *See* Tr. 22. Since being arrested, Sincere has had behavior problems at the jail as well. *See* Family History Report 45-56. All of this is consistent with Mr. Manning's testimony that Sincere was diagnosed with Unspecified Disruptive, Impulse-Control, and Conduct Disorder. *See* Tr. 23. Mr. Manning said this was further indication of a lack of maturity. *See id.*

Mr. Manning testified about risk factors and protective factors. Protective factors are "things that would have a person do well in society." Tr. 6. Risk factors are anything that puts someone "at risk of [coming] in front of a court system." *Id.* Mr. Manning testified to some of these, but for a more complete listing, please see the Risk Factors and Protective Factors Chart that Mr. Manning created and which has been attached to this memorandum.

Sincere has all the hallmarks of youth that the *Miller* and *Byars* courts point towards. Because of his youth and immaturity, the court should consider a sentence that reflects that.

B. Family and Home Environment

The second factor the court must consider is the family and home environment of the offender. In this case, Sincere's family and home environment has been abysmal.

Sincere's family has been chaotic long before he was born. In 1968, Sincere's grandmother Jeanette Dinkins and by age 19 she has given birth out of wedlock to her second child, Sincere's mother Laquanda Dinkins. *See* Family History Report 5-6. As an example of the instability and trauma that goes back generations in his family, Sincere's great-grandmother Barbara Frierson once walked in on her husband and her daughter Jeanette Dinkins engaged in sexual intercourse. *See* Family History Report 6. She believed that this caused Sincere's grandmother to "go from man to man." *Id.*

Likewise, Sincere's mother Laquanda Dinkins has had a revolving door of men in her life. When she was 13, she met Jeron Cook, who was five years older than her, and she became pregnant with Sincere. Family History Report 11. Cook was never involved in a parental way with Sincere and is currently in prison for voluntary manslaughter. Family History Report 12; *see also* Jeron Cook SCDC Record. Because of her pregnancy, Laquanda Dinkins left school having just barely started the 9th grade. *See* Family History Report 12. When Sincere started kindergarten, his mother listed Chris Mellette as his father on his school records. *Id.* at 13. Although he initially tried to help out with Sincere, he left Sincere's mother when he discovered he was not actually the father. *See id.* Mellette is currently in prison for armed robbery. *See* Christophe Mellette SCDC Record. Sincere's mother went through several more relationships and eventually ended up with Tommy Lee Wheeler, which culminated in her setting his car on fire on two separate occasions. *See* Family History Report 32, 37-38.

In addition to his mother's unstable relationships, there are also some other concerns as to Sincere's home life. As already mentioned, Laquanda Dinkins was arrested on two occasions for setting a car on fire. *Id.* She also was arrested again in 2018 and would have been in the county jail at the same time as her son. *See* Tr. 10-11. Also, the Department of Social Services played a role in Sincere's life when he was young. When he was four, DSS opened a case but we have

been unable to ascertain what that case was about. See Tr. 11; Family History Report 12-13. A year later, Laquanda Dinkins was in family court because Sincere was truant. Family History Report 14. When Sincere was six, DSS opened yet another case after his teacher reported that Sincere came to school in December wearing wet clothes. *Id.* 19. When this was pointed out to his mother, he returned the next day wearing shorts and a sleeveless shirt. *Id.* Ultimately, the family court permitted Sincere to remain with his mother, despite the fact that there was any indication that she complied with the plan to go back to school and find work and housing. *Id.* at 19-21.

However, it is not just the family that contributes to the home environment but also the neighborhood that the family is located in. The court heard testimony from Calvin Hastie, Esq., that the neighborhood Sincere grew up in is very poor and “just crime filled.” Tr. 39. This lines up with the information that Sincere provided to the Juvenile Victimization Questionnaire. Sincere indicated that when he was 14, his phone and bicycle had been stolen. Midlands Evaluation Center (MEC) Comprehensive Evaluation 5. He also indicated that he saw “others fighting (not gang related), fights in the park in his neighborhood, and witnessing (along with others) a person getting cut with a knife in the streets.” *Id.* His cousin was shot to death, his mother was the victim of domestic violence at times, and he witnessed the aftermath of his aunt being struck and killed by a pickup truck. Tr. 20. Mr. Manning also testified that “at one point the family lived on what’s known as a drug corner.” *Id.*

Nobody’s home life or circumstances make them commit criminal activity and we are not arguing that Sincere should get a pass because of the terrible conditions that he grew up in. However, these things do present an explanation for how some children fall into criminal activity. Sincere should still be held accountable for his actions, but his family and home life should play a mitigating role as the court fashions a sentence for him and we would ask the court take it into consideration.

C. Circumstances of the Homicide Offense

The third factor the court must consider is the circumstances of the homicide offense, particularly how peer pressure and familial pressure influenced the offender as well as his involvement in it.

Lorenzo Hagood testified that neither he nor Sincere had planned to kill Mr. Patel. In fact, the ad hoc nature of this incident points to a lack of maturity on the part of Sincere. Hagood testified that they spent much of the day wandering around with no real purpose. There was no planning that went into any of this. None of this absolves Sincere, but it does show a lack of maturity that the court should take into account in the sentence.

D. Possibility of Rehabilitation

The final factor that we would ask the court to consider is the possibility of rehabilitation. Mr. Hastie talked about his work with juveniles in Sincere’s neighborhood as well as with Sincere himself. Mr. Hastie said the following. Tr. 42.

I think all children are redeemable. I just think that they just need the proper guidance, the proper opportunity. I don't think anyone is not redeemable, and that is a problem in the community. Some of these young people don't have a chance at because they only see crime prostitution, no fathers.

Sincere has the possibility of rehabilitation because of his age. It will certainly take many years before he can be rehabilitated but we would ask that he be given that opportunity.

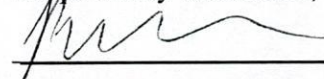
Conclusion

These factors provide ample reason for the court to show mercy to Sincere. The killing of Mr. Patel is absolutely horrific and no sentence can ever bring him back to his family. However, the General Assembly contemplated a wide range of sentences on murder because defendants come from a wide range of situations. Here we have a very young man in his teens who grew up in a chaotic family and a neighborhood riddled with drugs and violence. If the court sentences Sincere to a life sentence, there will never be a light at the end of the tunnel for him; there will never be a point where he can look forward to getting out. The court can craft a just sentence in this case that still holds Sincere accountable for his actions while also giving him hope.

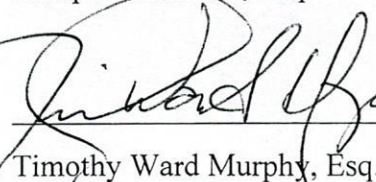
While the recommendation of the Solicitor's office for a fifty year sentence is not life, it runs, in our view, counter to the prospect for meaningful rehabilitation for Sincere. Such a sentence would release Sincere back into society at age 67—past the normal retirement age—with absolutely no meaningful opportunity to re-establish himself into a society that will likely be dramatically different than today. Absent changes in the current law, Sincere would not be eligible at that age for even basic federal social security support upon release. In short, it is our view that the Solicitor's recommendation constitutes a *de facto* life sentence.

We would respectfully ask that the court not impose a life sentence or a *de facto* life sentence, but rather impose the mandatory minimum of thirty years. Given Sincere's age, such a sentence takes into account the nature and circumstances of the offense, provides a substantial punishment while not erasing any prospect for Sincere to have a meaningful opportunity to reconnect with and contribute to society upon release.

Respectfully Submitted,



Philip D. Little Jr., Esq.



Timothy Ward Murphy, Esq.

COUNSEL FOR DEFENDANT

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF SUMTER)

RECORDED

The State of South Carolina, 2019 JUL 31 Indictment No.: 2018-GS-43-0381

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

v.

MEMORANDUM OF THE STATE
IN SUPPORT OF ITS SENTENCE
RECOMMEDATION

Dinkins, Sincere Ja Ray)

Defendant.)

I. INTRODUCTION

This matter comes before the court by way of an order by the Court for the State and also the Defense to submit separate written memorandums in support of its respective sentencing recommendation. On July 17, 2019, Sincere Ja Ray Dinkins (Defendant Dinkins) was found guilty by a jury, according to his indictment, for murder, two (2) counts of kidnapping, attempted armed robbery, and conspiracy. The next day, on July 18, 2019, a sentencing hearing for Defendant Dinkins was held pursuant to Aiken v. Byars, 410 S.C. 524, 765 S.E.2d 572 (2014), which mandates that a court must consider certain factors whenever a defendant could be sentenced to life in prison for a murder he committed while still a juvenile. Id. at 410 S.C. at 544, 765 S.E.2d at 577.¹

¹ Pursuant to §16-3-20 the punishment for murder is a mandatory minimum of term of imprisonment for thirty (30) years to life. In addition to his sentence for murder, Defendant Dinkins could also receive up to thirty (30) years for each count of kidnapping pursuant to §16-3-910. He could also receive up to twenty (20) years for attempted armed robbery per §16-11-330 and up to five (5) years or a fine of up to \$5,000.00 for conspiracy pursuant to §16-17-410. Finally, Defendant could also be sentenced additionally for up to five (5) years for possessing a weapon during a violent crime pursuant to §16-3-490.

At the conclusion of this hearing, the Court ordered each party to submit written support for its sentencing recommendation for these crimes as stated above. Finally, the Court held its decision on punishment in abeyance until August 16, 2019. This memorandum is now submitted by the State in support of its recommendation that for the murder of Mr. Vijaykumar Patel (Mr. Patel) Defendant Dinkins be sentenced to a term of fifty (50) years imprisonment. In addition, the State also recommends that Defendant Dinkins receive concurrent sentences of twenty (20) years of imprisonment for each count of the two (2) kidnapping convictions and for the attempted armed robbery conviction and also a sentence of five (5) years of imprisonment each for the possession of a weapon during a violent crime and for the conspiracy crime convictions. Additionally, the State incorporates all previously made motions, objections, exhibits, and argument submitted on behalf of the State in support of sentence recommendation as stated above.

II. PROCEDURAL HISTORY

On November 30, 2017, Defendant Dinkins and his Co-Defendant Lorenzo TyAndre Hagood (Co-Defendant Haygood) were arrested and charged individually for crimes of murder against Mr. Patel, two (2) counts of kidnapping, attempted armed robbery, conspiracy and their actual possession of a weapon during a violent crime that occurred on November 24, 9017 in Sumter County.² On July 10, 2019, Co-Defendant Hagood, represented by defense counsel, pled

² Defendant Dinkins and Co-Defendant Lorenzo each brought pistols into the store and each held a witness at gun point. Defendant Dinkins shot and killed Mr. Patel.

guilty to voluntary manslaughter, both counts of kidnapping, attempted armed robbery and possession of a weapon during a violent crime. On July 17, 2019, Defendant Dinkins, represented by defense counsel, was found guilty of committing the crimes of murder, two (2) kidnapping, attempted armed robbery, conspiracy and possession of a weapon during a violent crime. On July 18, 2019, Defendant Dinkins received an Aiken v. Byars sentencing hearing because he was a juvenile at the time he committed the crime of murder, as required by our South Carolina State law. However, sentencing was postponed until August 16, 2019, as stated above, to allow both parties to submit written support for their arguments concerning sentencing. On July 19, 2019, Co-Defendant Hagood was sentenced for his crimes.³ Co-Defendant Hagood did not receive an Aiken v. Byars hearing because he was nineteen-years-old when he and Defendant Dinkins committed these crimes, including the murder of Mr. Patel.

III. ARGUMENT

In light of Aiken v. Byars, 410 S.C. 524, 765 S.E.2d 572 (2014), the Court should impose upon Defendant Dinkins a sentence of fifty (50) years imprisonment for the murder of Mr. Patel and concurrent sentences of twenty (20) years of imprisonment for each count of the two (2) kidnapping convictions and for the attempted armed robbery conviction and also a sentence of five years of imprisonment each for the possession of a weapon during a violent crime and for the conspiracy crime convictions. Further, even though the State is not seeking a life sentence for

³ Co-Defendant Hagood, was sentenced to concurrent sentences of twenty (20) years for the voluntary manslaughter and armed robbery and five (5) years for two counts of kidnapping and possession of a weapon during a violent crime. These sentences were imposed after defense counsel asked the court to follow this recommendation from the State. Also, the conspiracy charge was dismissed as part of the plea agreement between the State and the Defense.

the murder of Mr. Patel, because Defendant Dinkins could receive life imprisonment, in spite of the fifty (50) years recommended by the State, an Aiken v. Byars hearing is appropriate in this instance. Specifically, the mandatory factors announced in Alabama v. Miller, 132 S.Ct. 2455, 2461, 2468-69 (2012) and recognized in Aiken are:

(1) The chronological age of the offender and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate the risks and consequences; (2) the family and home environment of the offender, (3) the circumstances of the offense, including the extent of the participation of the offender in the conduct and how familial and peer pressures may have influenced the offender; (4) the incompetencies associated with youth such as the ability of the offender to deal with police officers or prosecutors (including on a plea agreement), or the ability of the offender to assist his own attorney; and (5) the possibility of rehabilitation.

Aiken, 410 S.C. at 544, 765 S.E.2d at 577.

An analysis of the evidence available to the Court, such as, the transcripts of the trial and the sentencing hearing for Defendant Dinkins and of the Miller factors as presented below, shows support for the recommended sentences, including the fifty (50) term of years sentence recommended for the murder of Mr. Patel.

- 1. Defendant Dinkins was a juvenile at the time he and Co-Defendant Hagood committed murder, but according to the hallmark features of features of youth, his immature and impetuousness did not prevent him from appreciating the risks and consequences of his actions.**

Although Defendant Dinkins was over seventeen-years-old and a juvenile under South Carolina State law, his youthfulness did not hinder him from appreciating the risks and consequences associated with his actions. Just approximately five (5) months prior to committing these crimes, Defendant Dinkins had successfully completed a court ordered probationary period of

nine (9) months in the South Carolina Department of Juvenile Justice (DJJ). (See Attachment 1). He pled guilty to assault and battery in the third degree and disturbing schools, but the charges of armed robbery and assault and battery by mob, in the third degree were either dismissed or *nolle prosequied*. As part of the conditions of probation, Defendant Dinkins was ordered to (1) obey the rules in his parent's home, (2) attend anger management classes, (3) attend conflict resolution and decision making classes, (4) comply with any additional referrals from DJJ and (5) have no contact with the victim. (See Attachment 2). Further, prior to this probationary period for the nine (9) months, Defendant Dinkins was held in detention for three (3) months pending the investigation of the above charges and to facilitate an extensive evaluation to determine the best course of action to benefit him and to resolve these charges. (See Attachments 3 and 4). Additionally, the results from this evaluation led the Family Court in Sumter County to order the above-mentioned probation. (See Attachment 5). Moreover, Defendant Dinkins, as part of his evaluation, was given an opportunity to reflect on his behavior. *Id.* at p. 10. Specifically, Defendant Dinkins wrote, "I need to do better and start on the right track. I failed to realize that I do stupid stuff and I know it wrong, and I regret being at the wrong place at the wrong time." *Id.* Thus, based on the following (1) this assessment, (2) Defendant Dinkins's own admission to knowing when he did something wrong, (3) the detention period in DJJ followed by (4) the successful completion of probation, the hallmark features of youth did not prevent Defendant Dinkins appreciating the risks and consequences when he committed these horrendous crimes. Consequently, based on the argument above, this factor supports imposing the recommended sentence as stated above including the fifty (50) term of years sentence upon Defendant Dinkins for the murder conviction.

2. **The circumstances of the homicide offense, including the extent of the offender's participation in the conduct and how familial and peer pressures may have affected Defendant Dinkins support the sentence recommendation for the homicide that Defendant Dinkins committed against Mr. Patel.**

This factor supports the sentence recommendation made by the State to impose a fifty (50) term of years sentence upon Defendant Dinkins for the murder he committed because there was no familial or peer pressure placed on Defendant Dinkins to do the things he did that resulted in the murder of Mr. Patel. Defendant Dinkins actively participated in this crime. Defendant Dinkins was proved to have planned the robbery of the Save Mart with Co-Defendant Hagood. He took steps to arm himself and hide his identity. He was the only person who fired his weapon during the robbery and evidence supported the fact that he shot all of the bullets in his weapon striking the unarmed victim five times. Defendant Dinkins took no steps to render aid to Mr. Patel, call for EMS assistance or inform the police that he was responsible for the shooting. He was arrested five days later and refused to give a statement or cooperate with the police. Thus, for these reasons, the Court should follow the sentence recommendation made by the State.

3. **Defendant Dinkins did not have any incompetencies associated with his youth that prevented him from participating in the legal system for example, the ability to deal with police officers or prosecutors (including on a plea agreement) assist his own attorneys in his defense.**

Defendant Dinkins was able to assist his lawyers in the preparation of his case and understood the legal process and how it affected him. He had been in trouble before, was

represented by counsel during this process and was shown to be willing and able to follow the requirements of juvenile probation. Therefore, based on the above reason, Defendant Dinkins did not suffer from any incompetencies associated with his age that would have inhibited his ability to participate in the legal process, to assist with his defense and to be adequately prepared for both of these hearings.

4. The family and home environment where Defendant Dinkins grew up did not significantly impact his ability to know right from wrong or negatively influence him to commit murder.

Defendant Dinkins has had a less than desirable youth, but he has shown the ability to form lasting relationships. He had a poor relationship with his mother and no relationship with his father, but was cared for and supported by a stable grandmother, great-grandmother and grandfather. Further, Defendant Dinkins was not suffering from any mental illness at the time of the murder and was not diagnosed as having ADD or other similar issues. Also, Defendant did well in math in school. However, while at DJJ, he was evaluated and found to have poor decision making skills and was also found to use marijuana regularly, but he followed directions given by counselors and at the community park. Thus, for these reasons, this factor does support imposing the punishment for murder as recommended by the State.

5. The Possibility of Rehabilitation for Defendant Dinkins.

Defendant Dinkins should be punished for committing murder because he has received the benefit of other rehabilitative efforts. For example, he was charged, but not adjudicated for the crime of armed robbery when he was sixteen-years-old. Additionally,

Defendant Dinkins was charged with assault and battery by mob when he was fifteen-years-old. He has been given chances to rehabilitate himself and conform to the laws of our state. Defendant Dinkins was on a downward spiral from age 15 to 17, but he chose to continue on that path and not seek to get an education or learn a trade. Thus, the history of the life of Defendant Dinkins has shown that despite the many rehabilitative efforts as stated above, he has repeatedly shown an unwillingness to conform his conduct or behavior to acceptable societal norms.

IV. CONCLUSION

Therefore, for all the foregoing reasons, State respectfully requests that the Court sentence Sincere Dinkins to a term of fifty (50) years in SCDC on the charge of murder.

Additionally, the State requests that the court impose concurrent sentences of 20 years on each of the two kidnapping charges and a five year sentence on the possession of a weapon during a violent crime and the criminal conspiracy charges. Finally, the State also requests a concurrent sentence of 20 years on the attempted armed robbery charge.



Ernest A. Finney, III
Solicitor of the Third Circuit Court

Sumter, South Carolina

July 31st, 2019

428348

DINKINS, SINCERE

7/12/2019 2:34:37 PM

Alias:

County: Sumter County

Physical Address: 402 BOULEVARD ROAD | SUMTER | SC | 29153

Race: Black Sex: Male Medicaid # 1434399603 Home Phone: 803-236-5987;

Age: 18 DOB: 8/28/2000 DOB Verified: No

Schooling: 08/15/2016 | Sumter High School | Attending Day School | Grade: 11th | Attendance: Good

Contacts

Mother: DINKINS, LAQUANDA Home: 803-847-6771; Work: 803-236-5987; Other: 803-262-1514;

Physical Address: 402 BOULEVARD ROAD SUMTER, SC 29153

Lives With: DINKINS, LAQUANDA

DJJ Personnel

Juvenile's Traits

019 - DNA Test Required No DNA Test Complete No

021 - Registry Required No

Legal History

Referral Date	Description	Source/Action By
10/13/2016	10/13/2016 Probation Order 06/01/2017 -- Probation Requirement Ended -- Taylor, Angela	Taylor, Angela
08/25/2016	08/25/2016 Evaluation Order	McFaddin Jr, George M
07/25/2016	07/25/2016 Robbery: Armed Robbery, robbery while armed or allegedly armed with a deadly weapon 07/27/2016 -- Prosecute -- Solicitor 3rd Circuit 10/13/2016 -- Dismissed -- Taylor, Angela	Sumter PD
	07/25/2016 Assault: Assault & Battery 3rd degree 07/27/2016 -- Prosecute -- Solicitor 3rd Circuit 10/13/2016 -- Probation -- Taylor, Angela	Sumter PD
11/04/2015	10/16/2015 School: Disturbing schools 04/28/2016 -- Prosecute -- Solicitor 3rd Circuit 08/25/2016 -- Evaluation (Secure) -- McFaddin Jr, George M 10/13/2016 -- Probation -- Taylor, Angela	Sumter County SD
07/09/2015	03/28/2015 Assault: Assault & Battery by Mob, 3rd degree (Bodily injury results) 04/28/2016 -- Prosecute -- Solicitor 3rd Circuit 08/25/2016 -- Dismissed/Nolle Prossed -- Solicitor 3rd Circuit	Sumter PD

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

IN THE INTEREST OF:

S JINGRE DINKINS
A Minor Under the Age of Seventeen (17) Years

RECORDED
2016 OCT 13 PM 4:35
JAMES C CAMPBELL
CLERK OF COURT
SUMTER COUNTY SC
2016-JU-43-082,083,147

ORDER FOR
PROBATION

HEARING DATE: 10/13/16 ATTORNEY FOR SOLICITOR: JAMES A. STODDARD

JUDGE: ANGELA R. TAYLOR ATTORNEY FOR JUVENILE: CALVIN K. HASTIE, SR.

COURT REPORTER: THELMA SALTERS

A verified Petition(s) was filed in this Court alleging that the above minor was delinquent in that the child did in Sumter County commit the offense(s) of:

ARMED ROBBERY
ASSAULT AND BATTERY 3rd DEGREE
DISTURBING SCHOOLS

An ADJUDICATORY HEARING was held before the Court on the 25th day of AUGUST, 2016 on the 13th day of OCTOBER.

The minor was adjudicated delinquent of the offense(s) of:

ASSAULT AND BATTERY 3rd DEGREE
DISTURBING SCHOOLS
ARMED ROBBERY (2016-JU-43-147) IS NOLLE PROSSED

A dispositional hearing was held before the Court at this time.

THIS COURT FINDS AND CONCLUDES AS FOLLOWS:

- That this Court has jurisdiction over the parties and subject matter of this action.
The above minor was represented by competent counsel with whose advice he / she was satisfied, and (knowing and understanding his / her right to a trial before this Court, freely and voluntarily entered a plea of guilty to) / (___ after a trial was found to be guilty of) the offense(s) as stated hereinabove.
- Based upon the facts presented to the Court and (the guilty plea) / (___ the trial), this is a suitable candidate to be placed on probation and be under the supervision of the Department of Juvenile Justice.
- That it is in the best interests of this minor that (he / she) be placed on probation WITH THE DEPARTMENT OF JUVENILE JUSTICE

AB

THEREFORE, IT IS ORDERED THAT the above minor shall be placed on probation FOR NINE (9) MONTHS with the following conditions:

- 1. Attend school with no unexcused absences, class cuts, tardies, or discipline problems.
- 2. Obey all rules and regulations of (his / her) parents' or guardians' home.
- 3. Cooperate with a referral to attend classes for Positive Mental Attitude / Anger Management classes, or _____.
- 4. Complete _____ hours of community service.
- 5. Cooperate with a tour of the Department of Juvenile Justice.
- 6. Cooperate with a referral for individual / family counseling for CONFLICT RESOLUTION AND DECISION MAKING.
- 7. Cooperate with a referral for _____ drug and alcohol counseling / _____ random drug screens.
- 8. Cooperate with a referral for a positive male / female role model, or a mentor.
- 9. Cooperate with a restraining order to have no contact, directly or indirectly, with DONALD DEAS
- 10. Cooperate with house arrest _____ then / or a curfew of _____.
- 11. Cooperate with a referral to _____ alternative education / _____ alternative placement to include _____.
- 12. Pay restitution in the amount of \$ _____ payable to DJJ Finance Division/Victims and mail to DJJ Finance Division/Victims at P.O. Box 21069, Columbia, SC 29221-1069. Restitution will be mailed to the victim by DJJ Finance Division. Victim(s) Information: _____
- 13. Write a letter of apology to _____.
- 14. Cooperate with any additional referrals deemed necessary by DJJ.
- 15. Other: _____

AND

IT IS FURTHER ORDERED THAT the above minor-Respondent and the parent(s) and/or legal guardian(s) of the minor Respondent shall cooperate with any additional referrals deemed appropriate by the Department of Juvenile Justice.

IT IS FURTHER ORDERED THAT the above minor-Respondent's parent(s) and/or legal guardian(s) shall immediately report any violation of this order to the Court.

IT IS FURTHER ORDERED THAT the Department of Juvenile Justice shall be allowed to share and receive information as deemed appropriate.

IT IS FURTHER ORDERED THAT any and all Sumter County Public or Private Educational Institution shall allow the Department of Juvenile Justice access to visit with juvenile's that have been adjudicated delinquent in the Family Court. The Department of Juvenile Justice shall have access to the juvenile's attendance, disciplinary records, grades, IEP information, and any and all special education records.

IT IS FURTHER ORDERED THAT the minor-Respondent shall comply with the DNA Requirements under S.C. Code Ann. § 23-3-620, if applicable to his or her charge.

AND IT IS FURTHER ORDERED THAT _____

AND IT IS SO ORDERED.

Angela R. Truf

FAMILY COURT JUDGE

Sumter, South Carolina

ATU

10.13, 2016

ATTEST A TRUE COPY
Roger B. Smith
CHIEF DEPUTY FAMILY COURT

STATE OF SOUTH CAROLINA

County of

SUMTER

RECORDED
2016 JUL 28 AM 11:45
JAMES C CAMPBELL
CLERK OF COURT
SUMTER COUNTY SC

IN THE FAMILY COURT

2016-Ju-43-082,083,147

JUVENILE
DETENTION ORDER

IN THE INTEREST OF

SINCERE DINKINS

This matter came before the Family Court of the THIRD Judicial Circuit on JULY 27, 2016, 2016 for the purpose of determining whether SINCERE DINKINS, a minor less than seventeen (17) years of age, should be detained or released.

The Court finds that it has jurisdiction of this minor for the purpose of determining whether (he)/(she) should be detained.

The Court considering the allegations recited in the Petition dated JULY 23, 2016 and filed by (the) DET. R. MORSE, the detention screening report prepared by the Department of Juvenile Justice, both by reference made a part hereof and the testimony and other evidence presented to the Court finds that the release of this minor would be contrary to (his)/(her) welfare, as well as contrary to the welfare of the public, that detention is justified, based upon one or more of the detention criteria set forth in Section 20-7-600(F), and that there is probable cause to believe that this minor committed the following acts:

ASSAULT AND BATTERY 3rd DEGREE

ARMED ROBBERY

JUVENILE HAS PENDING CHARGES OF DISTURBING SCHOOLS AND ASSAULT AND BATTERY BY MOB 3rd DEGREE.

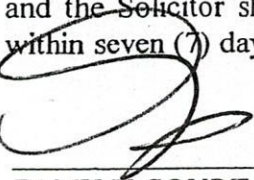
PUBLIC DEFENDER WAIVES 48 HOUR AND 10 DAY DETENTION HEARINGS.
and may BE A THREAT TO THE COMMUNITY if released pending a hearing on the petition cited above.

The Court being advised as to the best interest of this juvenile, **IT IS THEREFORE ORDERED** that SINCERE DINKINS be placed/remain in detention at the DJJ DETENTION CENTER until further Order of this Court.

IT IS FURTHER ORDERED that the need for the detention of this child shall be reviewed by this Court pursuant to Rule 31, S.C.R.F.C. and the Solicitor shall make a timely request for a hearing so that the hearing may be scheduled within seven (7) days from the date of this Order.

7/28, 2016

Sumter, S.C.



FAMILY COURT JUDGE

I CONSENT:

Calvin K. Hasple, Sr.
CALVIN K. HASPLE, SR.

Chief Clerk Family Court
Roger B. Smoot

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

RECORDED

2016 AUG 25 PM 12:13

JAMES C CAMPBELL
CLERK OF COURT
SUMTER COUNTY SC

IN THE FAMILY COURT
2016-Ju-43 -082,083, 147

IN THE INTEREST OF:

SINCERE DINKINS

COMMITMENT ORDER
FOR EVALUATION
(DJJ)

HEARING DATE: 8/25/16 ATTORNEY FOR SOLICITOR: JAMES A. STUPPARD

JUDGE: GEORGE M. MCFADDEN, JR ATTORNEY FOR JUVENILE: CALVEN K. HASTLER, S.R.

COURT REPORTER: THELMA SALTERS GUARDIAN AD LITEM: _____

On the 27th day of JULY, 2016, a verified Petition was filed in this court by DET. SHAUNE GILL ET AL. alleging that SINCERE DINKINS was a delinquent child in that (he)/(she) on 3/28/15, 10/10/15, JULY 25, 2016 in SUMTER County did: COMMIT THE FOLLOWING OFFENSES:

- 2016-Ju-43-082 - ASSAULT AND BATTERY BY MVA 3rd DEGREE - NOW PROSSED
 - 2016-Ju-43-083 - DISTURBING SCHOOLS - PLED GUILTY
 - 2016-Ju-43-147 - ARMED ROBBERY / ASSAULT AND BATTERY 2nd DEGREE
- CONTINUED

in violation of Section(s) 16-3-240/16-11-330(A)/16-3-600/16-17-420 Code of Laws of South Carolina (1976).

AN ADJUDICATORY HEARING was held and following (a plea of guilty)/(____ a hearing on the merits), the allegations were determined to be true upon proof beyond a reasonable doubt. I find that an evaluation of this child is necessary in order to aid the Court in the disposition of this matter and that said child is a suitable person to be committed to a South Carolina Department of Juvenile Justices' Reception and Evaluation Center.

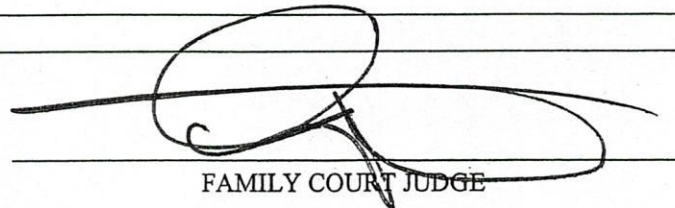
THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that SINCERE DINKINS is hereby committed to the South Carolina Department of Juvenile Justice for a period not to exceed forty-five (45) days for the purposes of conducting an evaluation on said child and making recommendations to the Court concerning proper disposition of this case.

This commitment is suspended upon the child's acceptance and successful completion of community evaluation and return to this Court for further disposition, and _____

JUVENILE TO REMAIN DETAINED UNTIL DISPOSITIONAL HEARING.

AUG. 25, 2016

SUMTER, S.C.


FAMILY COURT JUDGE

ATTEST A TRUE COPY


CHIEF DEPUTY FAMILY COURT

2016-JU-43-82,83,147

SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
MIDLANDS EVALUATION CENTER
COMPREHENSIVE EVALUATION

NAME: Sincere Ja'Ray Dinkins

DATE: September 23, 2016

JJMS: 428348

AGE: 16

DOB: August 28, 2016

DATE OF COMMITMENT: August 25, 2016

COUNTY: Sumter

DATE OF RELEASE: October 13, 2016

DISCHARGE TO: Sumter County

DETENTION ORDER: Yes

ALERT: None

RECORDED
INDEXED
SEP 27 11 08 AM
CLERK OF COURT
SUMTER COUNTY SC

ATTACHMENTS:

X FORM 5

X COURT ORDER

X PSYCHOSOCIAL EVALUATION

PSYCHIATRIC EVALUATION

X STUDENT TRANSCRIPT

X HEALTH EXAMINATION RECORD

X MEDICAL LAB REPORT

428348

DINKINS, SINCERE

9/8/2016 11:26:17 AM

Alias:

County: Sumter County

Physical Address: 402 BOULEVARD ROAD | SUMTER | SC | 29153

Race: Black

Sex: Male

Medicaid # 1434399603

Home Phone: 803-236-5987;

Age: 15

DOB: 8/28/2000

DOB Verified: No

Schooling: 07/26/2016 | Brewington Academy | Adult Education | Grade: 11th | Attendance: Fair | Special: Learning Dis:

Contacts

Mother: DINKINS, LAQUANDA

Home: 803-236-5987; Other: 803-262-1514;

Physical Address: 402 BOULEVARD ROAD SUMTER, SC 29153

Lives With: DINKINS, LAQUANDA

DJJ Personnel

Psychologist	Conyers-Rush, Cassandra	Midlands Evaluation	8/29/2016 12:00:00 AM
Social Worker	Shellenberg, Gayle	Midlands Evaluation	8/25/2016 12:00:00 AM
Intake Counselor	Ross, Desaray	Sumter County	8/2/2016 12:24:19 PM
Intake Counselor	Baynard, Genola	Lee County	11/4/2015 11:03:11 AM

Juvenile's Traits

019 - DNA Test Required	No	DNA Test Complete	No
021 - Registry Required	No		

Legal History

Referral Date	Description	Source/Action By
08/25/2016	08/25/2016 Evaluation Order	McFaddin Jr, George M
07/25/2016	<i>07/25/2016 Robbery: Armed Robbery, robbery while armed or allegedly armed with a deadly weapon</i>	Sumter PD
	07/27/2016 -- Prosecute -- Solicitor 3rd Circuit	
	<i>07/25/2016 Assault: Assault & Battery 3rd degree</i>	Sumter PD
	07/27/2016 -- Prosecute -- Solicitor 3rd Circuit	
11/04/2015	<i>10/16/2015 School: Disturbing schools</i>	Sumter County SD
	04/28/2016 -- Prosecute -- Solicitor 3rd Circuit	
	08/25/2016 -- Evaluation (Secure) -- McFaddin Jr, George M	
07/09/2015	<i>03/28/2015 Assault: Assault & Battery by Mob, 3rd degree (Bodily injury results)</i>	Sumter PD
	04/28/2016 -- Prosecute -- Solicitor 3rd Circuit	
	08/25/2016 -- Dismissed/Nolle Prossed -- Solicitor 3rd Circuit	

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

IN THE FAMILY COURT

2016-24-43 -082,083,147

2016 AUG 25 PM 12:13

IN THE INTEREST OF:

SINCERE DINKINS

D. M. CAMPBELL
CLERK OF COURT
SUMTER COUNTY SC

COMMITMENT ORDER
FOR EVALUATION
(DJJ)

HEARING DATE: 8/25/16

ATTORNEY FOR SOLICITOR: JAMES A. STUPARD

JUDGE: GEORGE M. MCFADDEN, JR.

ATTORNEY FOR JUVENILE: CAVENK. HASTLER, SR.

COURT REPORTER: THELMA SALTRENS GUARDIAN AD LITEM: _____

On the 28th day of APRIL

filed in this court by DET. SHANE GILL ET AL. alleging that SINCERE DINKINS was a delinquent child in that (he)/(she) on 3/28/15, 10/10/15, JULY 25, 2016 in SUMTER County did:

COMMIT THE FOLLOWING OFFENSES:

- 2016-24-43-082 - ASSAULT AND BATTERY BY ROB 3rd DEGREE - NOW PROSEC
- 2016-24-43-083 - DISTURBING SCHOOLS - PLED GUILTY
- 2016-24-43-147 - ARMED ROBBERY / ASSAULT AND BATTERY 2nd DEGREE

CONTINUED

in violation of Section(s) 16-3-200/16-11-330(A)/16-3-600/16-17-420 Code of Laws of South Carolina (1976).

AN ADJUDICATORY HEARING was held and following (a plea of guilty) / (_____ a hearing on the merits), the allegations were determined to be true upon proof beyond a reasonable doubt. I find that an evaluation of this child is necessary in order to aid the Court in the disposition of this matter and that said child is a suitable person to be committed to a South Carolina Department of Juvenile Justice's Reception and Evaluation Center.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that SINCERE DINKINS is hereby committed to the South Carolina Department of Juvenile Justice for a period not to exceed forty-five (45) days for the purposes of conducting an evaluation on said child and making recommendations to the Court concerning proper disposition of this case.

This commitment is suspended upon the child's acceptance and successful completion of community evaluation and return to this Court for further disposition, and _____

JUVENILE TO REMAIN DETAINED UNTIL DISPOSITIONAL HEARING.

AUG. 25, 20 16

SUMTER, S.C.

FAMILY COURT JUDGE

ATTEST A TRUE COPY

Roger B. Smack

CHIEF DEPUTY FAMILY COURT

CONFIDENTIAL

SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
MIDLANDS EVALUATION CENTER
PSYCHOSOCIAL EVALUATION

Name: Sincere Ja'Ray Dinkins

DOB: August 28, 2003

JJMS #: 428348

Date of Commitment: August 25, 2016

Evaluators: Gayle Shellenberg, LMSW

Cassandra Conyers-Rush, M.Ed.

County: Sumter

Date of Report: September 23, 2016

Community Specialist: Desaray Ross

REFERRAL STATEMENT:

The Honorable Judge George M. McFadden of the Family Court of Sumter County, committed Sincere Ja'Ray Dinkins, a 15 year-old African American male, to the Midlands Evaluation Center (MEC) on August 25, 2016 for the offense of Disturbing Schools. He turned 16 during his evaluation. A charge of Assault and Battery by Mob, 3rd Degree was Nolle Prossed at the same time. Charges of Assault and Battery, 3rd Degree and Armed Robbery were continued. A comprehensive, pre-dispositional evaluation was ordered to make recommendations regarding the most appropriate custodial and correctional care and any other interventions that might hold Sincere accountable for his current offense and reduce the likelihood of future offending. The court further ordered that Sincere be detained until his dispositional hearing. Sincere was detained at the DJJ Detention Center on July 25, 2016 pending his adjudicatory hearing. Drug screen results were positive for marijuana upon admission to the DJJ Detention Center.

NOTICE:

This report is meant only for the use of qualified professionals and others involved from a legal perspective with this psychological evaluation for disposition. No unauthorized disclosure of this report or information contained in this report is allowed and any person who, without proper authorization, discloses information contained in this report assumes all liability associated therewith. Some individuals and family members may tend to misunderstand and/or distort the information presented herein, which could result in significant stress to the individual or may interfere with rehabilitative services. For individuals with certain mental health or behavioral issues, the consequences of disclosure may be serious. Release should be limited to only that information which is pertinent to the needs of the requesting party. Prior to release to parents/caregivers, the evaluation should first be explained thoroughly by a qualified professional.

Before beginning the evaluation, Sincere and his mother, Ms. Laquanda Dinkins, were informed of the purpose of the evaluation, what type of information would be requested, and how it would be used. They were also told that the results of the evaluation were not confidential and would be shared with the attorneys, family court officials, and South Carolina Department of Juvenile Justice (SCDJJ) personnel. They were informed that suspected child abuse or neglect must be reported to the proper authorities. Sincere and Ms. Dinkins indicated that they understood the limits of confidentiality.

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SOURCES OF INFORMATION:

Clinical interviews with Sincere Ja'Ray Dinkins, juvenile
 Collateral telephone interviews with Ms. Laquanda Dinkins, juvenile's mother
 Collateral telephone/email correspondence with Ms. Desaray Ross, Sumter County DJJ Intake Counselor
 Collateral telephone interview with Ms. Deyun Riley, Sumter County DSS Intake Counselor
 Collateral email correspondence with Ms. Felicia McGhee, DJJ/DMH Liaison
 Collateral telephone interview with Ms. Veronica Frierson, Brewington Academy Guidance Counselor
 Sumter County Public Index Computer Search
 Sumter School District 17 Psychological Evaluation, dated 4/5/06
 Sumter County Sheriff's Office Incident Report, dated 10/16/15
 Sumter School District Individualized Educational Plan, dated 4/22/16
 Sumter High School Power School Records
 DJJ file information
 Behavioral Observations
 Psychological Testing:
 Beck Depression Inventory- Second Edition (BDI-II)
 Behavior Assessment System for Children- 3rd Edition (BASC-3) Self Report of Personality
 Juvenile Victimization Questionnaire, Screener Sum Version, Youth Lifetime Form-DJJ Revised (JVQ-R2)
 Personality Assessment Inventory-Adolescent (PAI-A)
 Rotter Incomplete Sentences Blank (RISB)
 Substance Abuse Subtle Screening Inventory-Adolescent, 2nd Edition (SASSI-A2)
 Wechsler Fundamentals: Academic Scales (WFAS), Selected Subtests
 Wechsler Abbreviated Scale of Intelligence- Second Edition (WASI-II)

DJJ HISTORY AND SUMMARY OF CURRENT OFFENSE

On August 26, 2016, Sincere was adjudicated delinquent of Disturbing Schools and was committed to the Midlands Evaluation Center for his first secure evaluation. A charge of Assault and Battery by Mob, 3rd Degree was Nolle Prossed at the same time. Charges of Armed Robbery and Assault and Battery, 3rd Degree were continued. Sincere was detained at the DJJ Detention Center on July 25, 3026 pending his adjudicatory hearing.

Pursuant to the Disturbing Schools offense, the Juvenile Petition indicated that on October 16, 2016 in the County of Sumter, SC, Sincere did willfully and unlawfully leave the front office without permission and went into another classroom and confronted his victim and struck him several times with his fist throughout the body without hesitation. Said incident occurred at Brewington Academy, 4300 Brewington Academy, Sumter, SC 29150.

JUVENILE/PARENT ACCOUNT OF THE CURRENT CHARGE

Sincere reported that another student had exchanged words with the victim. According to Sincere, the victim approached him in a threatening manner. Sincere indicated that he told the

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student to get out of his face. The student reportedly continued to harass Sincere even though Sincere had repeatedly told him to stop. Sincere acknowledged that he put his hands up in a boxing stance but did not do anything to the student. The instructor wrote Sincere up and sent him to the school office where Sincere was told that he could not return to school. He advised that he became very upset and returned to the classroom and threw punches at the student who he felt was responsible. This resulted in his Disturbing Schools charge.

According to Ms. Dinkins, a boy kept messing with Sincere and the administration was going to expel Sincere. She advised that Sincere was upset because he felt that he was being unjustly accused. Ms. Dinkins shared that Sincere became upset and physically assaulted the boy. She noted that Sincere is not an aggressive boy and only reacts when "someone messes with him".

Ms. Dinkins would like for Sincere to return home on probation and be required to comply with house arrest.

FAMILY FUNCTIONING

Sincere is the biological son of Ms. Laquanda Dinkins (DOB 7/8/86) and Mr. Johann Cook (DOB Unknown). Ms. Dinkins advised that she and Mr. Cook were never married or in a relationship. She shared that Mr. Cook is currently incarcerated "for something bad" and the DJJ Child Assessment and Evaluation form indicated that Mr. Cook is serving a life sentence. Sincere reported that he is unaware of any information related to his father's identity or history.

Prior to Sincere's MEC commitment, he resided with his maternal great aunt, Ms. Yolanda Wright and his maternal cousins (age 9, 12 18 and 27). Sincere advised that he moved in with his aunt after their house burned down in April 2016. Contrary to this information, Ms. Dinkins indicated that he went to live with his great aunt after the school year ended. Previously, Sincere lived with his mother, his maternal great grandparents, Ms. Barbara Jean Frierson and Mr. Willie Ford and his maternal half-siblings (age 3 and 4). Sincere reported that their house burned down due to "electrical problems" although records indicated that Ms. Dinkins incurred two Arson charges (4/19/16, 4/22/16). A Sumter County Public Index Computer Search revealed that Ms. Dinkins pled guilty to one of the charges and was sentenced to a five year suspended sentence with time served and two years of probation. Her probationary requirement mandated that Ms. Dinkins complete "drug court or substance abuse counseling if not accepted into drug court". Ms. Dinkins was placed on probation on April 19, 2016 and her probationary requirement ends on April 18, 2018. This information was confirmed by a SC Probation and Parole Computer Search.

Ms. Dinkins denied drinking alcohol and/or smoking marijuana but indicated that "she smoked marijuana a long time ago." Sincere opined that his mother quit drinking alcohol recently and "goes to court for hair follicle tests".

Ms. Dinkins acknowledged that she was classified as learning disabled in school and did not complete high school. She indicated that she is unemployed and has no previous work history. Ms. Dinkins disclosed that she is in the process of applying for disability. Ms. Dinkins shared that Sincere is not a behavior problem and has a positive relationship with all of his family members. She noted that he assisted her with the care of his siblings and with his great grandfather's care as well, since he is disabled after suffering a stroke. Ms. Dinkins

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acknowledged that transportation is problematic so her brother, Mr. Michael Dinkins, provides assistance when he is not working.

According to Ms. Dinkins, Sincere was a good boy and has never been a behavior problem. She reported that Sincere was very helpful around the house and assumed household responsibilities willingly. As a result, Ms. Dinkins shared that Sincere had no assigned chores. Sincere disclosed that he kept his room clean and took out the trash. Sincere reportedly had a curfew of dusk and Ms. Dinkins advised that he was compliant. Contrary to this information, Sincere indicated that he had a curfew of "10 PM during the week and 11 PM on the weekends." He shared that he stayed out all night on one occasion when he was at a "room party" (a party at a hotel room) but his mother gave her permission. Additionally, Ms. Dinkins shared that Sincere would occasionally stay overnight with his cousin. Ms. Dinkins advised that Sincere would "just sit down when he got mad." Contrary to this, Sincere reported that he put his headphones on and listened to music when he was upset. For discipline, Ms. Dinkins indicated that she placed Sincere on house restriction. She acknowledged that discipline measures were effective.

Ms. Dinkins shared that Sincere suffered tremendous losses in 2014. She disclosed that her mother, Ms. Jeanette Washington died of cancer and her sister died of sickle cell disease. Additionally, one of Sincere's maternal cousins was shot and killed. Ms. Dinkins did not elaborate regarding the shooting though. She indicated that Sincere was more "quiet" following their deaths.

Ms. Dinkins denied that any maternal family members suffered from mental health issues or had been psychiatrically hospitalized. Regarding the maternal family's medical histories, Ms. Dinkins acknowledged that there is a genetic predisposition to heart disease, cancer and sickle cell anemia in her family. She was unaware of any mental health or medical history in the paternal family.

Ms. Dinkins denied that the Department of Social Services (DSS) has been involved with the family. Contrary to this information, Ms. Deyun Riley, Sumter County DSS Intake Counselor, indicated that there was a report on December 8, 2006 after Sincere's sister came to school in wet clothes and dressed inappropriately for the weather conditions. Ms. Riley shared that the report was unfounded. In 2007, there was a case founded for neglect against Ms. Dinkins because the home had no electricity. A treatment case remained open from January 17, 2007 until May 16, 2007.

ADOLESCENT FUNCTIONING

Relevant History

According to Ms. Dinkins, Sincere was born following an uneventful, full term pregnancy and vaginal delivery. He weighed 8 lbs. 12 oz. and attained his developmental milestones within normal timeframes. Sincere stated that he suffers from seasonal allergies and takes NyQuil to treat the symptoms. Ms. Dinkins denied any major physical illnesses, loss of consciousness, head injuries or history of a seizure disorder.

Ms. Dinkins reported that Sincere "split his leg open" when he was "9, 10 or 11." She was uncertain how the injury occurred and stated he was treated at the emergency room where he

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obtained stitches. According to Sincere, he was playing hide and go seek and fell and hit his leg on something. He has a visible scar on his right leg. Sincere acknowledged that he broke his pinkie finger on his left hand playing football last year but indicated that he received no medical treatment. As a result, Sincere's finger is misshapen. Sincere denied any other major accidents or illnesses.

Ms. Dinkins denied that Sincere ever received mental health treatment or had been psychiatrically hospitalized. Sincere concurred and also denied any history of psychotropic medications. Ms. Felicia McGhee, DJJ/DMH Liaison, confirmed that he has not received services through mental health.

Regarding possible symptoms of Attention-Deficit/Hyperactivity Disorder (ADHD), although oppositionality and substance use may also be factors, Sincere endorsed being easily distracted by extraneous stimuli, talking excessively after completing his school work, losing things necessary for tasks, failing to give close attention to details, and avoiding engaging in tasks that require sustained mental effort. During assessment, Sincere did not exhibit any significant ADHD symptomatology.

Sincere denied any history of suicidal or homicidal ideation. On the BDI-II, a depression screening measure, he did not endorse significant depressive symptoms, consistent with his denial of being depressed. On this measure, Sincere endorsed guilty and punishment feelings, sleeping less, and craving food all the time, since his arrival at MEC. He related his responses to his current legal situation.

Sincere denied a history of physical/sexual abuse or neglect. He completed the JVQ-R2, a screening instrument designed to assess a child's lifetime history of exposure to violence, crime and abuse. On this measure, Sincere endorsed his phone and his bicycle being stolen at age 14 from his front yard but later returned. He related during middle school, witnessing others fighting (not gang related), fights in the park in his neighborhood, and witnessing (along with others) a person getting cut with a knife in the streets. Sincere stated he was informed by family members of the death of his cousin (shot), one year prior. He denied being traumatized by these events and denied symptoms of Posttraumatic Stress Disorder (PTSD) or any other anxiety disorder. To the MEC psychologist, Sincere did not mention the loss of several family during 2014, as reported by his mother.

Sincere also denied symptoms of mania/hypomania, psychosis, obsessive thoughts or compulsive behaviors and no such symptoms were observed during the evaluation.

Regarding oppositional behaviors, Sincere acknowledged being easily annoyed by others, acting in ways that are spiteful and vindictive, and using obscene language. School records indicated school behavioral problems such as refusal to comply with teachers' request, use of profanity, class disruption, and bus violation.

Regarding more conduct-disordered behaviors, Sincere related shoplifting from a store, "once", at age 9 or 10. He reported getting into fights, during the sixth and seventh grades and being "jumped" in the streets (at age 13 or 14). He also related being "jumped" by three males, while visiting his girlfriend in Sumter at age 15. Sincere denied the altercations being gang related. He denied major injury or use of weapons. He stated the altercations were not reported to law enforcement. Regarding his current offense (Disturbing Schools), Sincere acknowledged

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acting in an aggressive manner in reaction to a male student first approaching him (Sincere) aggressively. Sincere denied physical injury to the student or use of a weapon. Sincere denied his personal involvement in other conduct-disordered behaviors despite his association with male cousins who have been involved in delinquent behaviors. Sincere denied truancy. A diagnosis of Unspecified Disruptive, Impulse-Control, and Conduct Disorder will be given.

Sincere reported smoking cigarettes at age 14 and smoking less than one per day. He related first use of marijuana at age 14 and smoking one blunt twice per week. After turning 15, Sincere reported smoking three blunts of marijuana per week. He stated he last used marijuana two days before his arrest in July, 2016. He related being present at the school bus, while others were using marijuana (10th grade) which resulted in his being cited for bus violation for smoking. Sincere denied use of marijuana while at school. He reported drinking alcohol since age 14 on special occasions, but denied intoxication. He denied selling drugs or use of other illicit substances. He also denied ever participating in substance abuse treatment services. Sincere tested positively for marijuana upon admission to the DJJ Detention Center on 07/25/2016.

Results of the SASSI-A2, a self-report substance abuse screening inventory, indicated that Sincere has a low probability of having a substance use disorder. This inconsistent with his admission of weekly marijuana use; however, his results are of questionable validity, based on the validity scale of this measure.

School records indicated that Sincere was enrolled in 10th grade classes at Brewington Academy for the 2015-2016 academic year and was promoted to the 11th grade for the current academic year. According to Ms. Dinkins, Sincere was in resource classes for reading and language arts.

According to Sincere's individualized Educational Plan (IEP), he has below average basic skills in reading and mathematics and his behavior makes it difficult for him to progress in the general curriculum. His IEP indicated that Sincere does not follow the rules and rushes through his work resulting in careless errors. Additionally, he becomes easily frustrated, which caused him to shut down. As a result, Sincere is classified as learning disabled and received specialized instruction that supplements his general education curriculum.

Records indicated that Sincere received nine behavior infractions during his 10th grade year. On September 3, 2015, Sincere was cited for refusal to obey/defiance after he refused to comply with staff instruction. He received one day of in-school suspension. Sincere was written up on September 4, 2015 after he failed to comply with a teacher's request, which resulted in a write up for refusal to obey/defiance again. He received another day of in-school suspension. That same day, he was cited for refusal to obey/defiance while in ISS after he refused to stop talking. This resulted in another in-school suspension. On September 11, 2015, Sincere was written up for use of profanity and received one day of in-school suspension. Sincere was cited for a bus violation on September 22, 2015 after he refused to turn down his music while riding the bus. Two days later, Sincere was written up for another bus violation after he refused to turn his music down on the bus again. As a result, Sincere had to obtain alternate transportation for a day. On September 29, 2015, Sincere was cited for another bus violation after he was caught smoking at the bus stop. He received one day of in-school suspension. Sincere was written up for horseplay on October 15, 2015 after he chased another student and threatened to box him. As a result, he received a modified expulsion and was

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referred to Sumter County Resource Center for the duration of the 2015-2016 academic year. His final semester grades were: English 1 (75), Academy Prep. 1 (79), Geometry (75) and Core Curriculum (84). Sincere accrued 16 unexcused absences but 10 of these were pending his disciplinary hearing that resulted in his placement at the Resource Center.

Sincere has an extensive history of behavior problems in the school beginning in the 6th grade. In 6th grade, Sincere was cited for five infractions (three were physical in nature). He was written up seven times in the 7th grade with only one infraction being physical. In the 8th grade, Sincere was cited for nine behavior infractions prior to being referred to the Alternative School due to excessive write ups. Sincere began his 9th grade year at Sumter High School but was referred to the Alternative School again after he obtained 27 behavior infractions related to truancy, disrupting class, inappropriate language and refusing to obey rules. During this 9th grade year, school records indicated that he was cited for inappropriate behavior in the classroom, as well as stating "I'm a Crip."

Sincere reported that he has three male friends that range in age from 16-18 years. He shared that two of his friends are his maternal cousins and he refers to the other friend as a cousin. He described his friends as positive influences although one of his cousins (friends) is out on bond after incurring charges of Contributing to the Delinquency of a Minor and Armed Robbery on July 25, 2016. This information was confirmed by a Sumter County Public Index Computer Search. Sincere acknowledged that his cousin is his co-defendant in his pending charges. Sincere admitted that he and his friends smoke marijuana but denied national gang affiliation. He acknowledged that he is a member of a neighborhood clique, Lil' Brother Love, though. Sincere denied that the clique engages in any illegal activity. Ms. Dinkins acknowledged that Sincere only associates with his cousins and she approves of them. She denied that Sincere and his friends smoked marijuana or were affiliated with a gang. She acknowledged that they were currently involved with the legal system.

Sincere indicated that he became sexually active at the age of 12 and has had two same age female partners. He reported that he used sexual protection with his first partner but shared that he and his current girlfriend have been in a relationship for "a year and some months" so he does not need prophylactics. This social work evaluator cautioned Sincere regarding sexually transmitted diseases and premature fatherhood. Sincere was aware of what constituted safe sexual practices though. He acknowledged receiving sex education classes in Middle School. Ms. Dinkins was unaware of any sexual involvement.

Prior to Sincere's MEC commitment, he resided in a three-bedroom home with his maternal great aunt in a residential area of Sumter. Sincere described the neighborhood as safe and shared that he has lived at his current residence since April 2016. Prior to that time, Sincere resided in another three-bedroom house with his mother. He described that neighborhood as safe and quiet. Contrary to this information, Ms. Dinkins stated that the neighborhood that her aunt lived in was "so-so," noting that there was violence and criminal activity in the area.

Regarding extracurricular activities, Sincere shared that he enjoyed playing sports, particularly football and basketball, and working with electronic devices. He opined that he used to play athletics in Middle School and would like to participate in the athletic program again. Sincere's mother shared that he is very skilled athletically and she was uncertain why he quit playing school sports. Ms. Dinkins shared that the family enjoyed spending together.

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Sincere had a favorable adjustment to the Midlands Evaluation Center and received no behavior infractions. According to the Residential Observations Form, which is completed by the juvenile correctional officer, Sincere was well mannered and related well with peers and staff. He willingly followed directions and was compliant with staff directives. Sincere was described as easy going and not a behavior problem. He participated in recreational activities and was attentive to personal hygiene, as well.

Sincere's MEC Educational Summary indicated that Sincere adjusted well to the learning environment at MEC. He kept to himself in the classroom setting and only spoke when he needed help academically. Sincere was attentive and maintained a positive attitude. He was able to ignore negative influences and completed his assignments in a timely manner.

PSYCHOLOGICAL ASSESSMENT AND INTERPRETATION

Behavioral Observations

Sincere is a tall, 16 year-old, left-handed male who appeared older than his stated age. He was dressed appropriately in institutional attire. He stated that he does not wear glasses and he denied visual difficulty with testing measures. He denied having any tattoos and none were observed. Sincere did not display difficulty with concentration, hyperactivity, or impulsivity. He described his mood as "good". His mood and affect appeared to be within the normal range. Sincere appeared to apply adequate efforts on tasks.

Mental Status

Sincere appeared alert and oriented and his thought processing appeared logical and coherent. Also, his speech was logical and coherent during testing. He was cooperative and rapport was easily established. Test results are considered to be valid estimates of Sincere's intellectual and psychological functioning, unless otherwise indicated.

Cognitive and Academic Functioning

Sincere was administered the Stanford Binet Intelligence Scale –Fifth Edition(SB-5) during his Sumter School District Seventeen Psychological Evaluation (2006), at age five, to assess his cognitive level of functioning. Results yielded a Full Scale IQ score of 94 (Average range), comprised of Nonverbal IQ score of 100 (Average range) and a Verbal IQ score of 88 (Low Average range).

Sincere was currently administered the WASI-II, an individually-administered measure of intelligence with empirically-supported reliability and validity. Results indicated a Verbal Comprehension Index score of 88 (Low Average range) and a Perceptual Reasoning Index score of 76 (Borderline range), which yielded a Full Scale-4 IQ score of 79 (Borderline range). There was no statistically significant difference between domains, indicating similarly developed skills.

A summary of Sincere's performance on the WASI-II is provided below:

Wechsler Abbreviated Scale of Intelligence – Second Edition (WASI-II)

<u>Verbal Comprehension</u>	<u>T Score (Avg=50 +/-10)</u>	<u>Perceptual Reasoning</u>	<u>T Score (Avg=50 +/-10)</u>
Vocabulary	43	Block Design	31
Similarities	42	Matrix Reasoning	40

<u>Domain</u>	<u>Composite Score</u>	<u>Percentile</u>	<u>Qualitative Description</u>
Verbal Comprehension	88	21	Low Average range
Perceptual Reasoning	76	5	Borderline range
Full Scale-4 IQ	79	8	Borderline range

Selected subtests of the WFAS were administered to measure two of Sincere's academic skills, during this evaluation. Sincere completed the Reading Comprehension subtest which yielded a standard score in the Low Average range and the Numerical Operations subtest which yielded a standard score in the Borderline range.

**Wechsler Fundamentals: Academic Scales (WFAS)
(Selected Subtests)**

<u>Subtest</u>	<u>Standard Score</u>	<u>Percentile</u>
Reading Comprehension	80	9
Numerical Operations	79	8

Personality/Emotional Testing

Based on the validity scales, Sincere produced a valid profile on the BASC-3, a global assessment of emotional functioning, behavior and interpersonal relationships. The Emotional Symptoms Index, the most global indicator of serious emotional disturbance was within the normal range. No responses were endorsed in the At-Risk or Clinically Significant range, indicating that Sincere perceives himself to be generally well-adjusted. Given his behavioral and legal history, this suggests that he may lack insight into his behaviors and/or may not have disclosed on this measure.

Sincere was also administered the PAI-A, a self-report instrument that measures personality patterns, interpersonal functioning, expressed concerns and clinical syndromes. Additionally, the PAI-A contains validity scales to help determine whether the juvenile was paying attention when answering questions, was consistent in their responses to similar items and/or tried to portray themselves in an overly positive or negative light. The Infrequency (INF) validity scale suggested the possibility that Sincere attended appropriately to item content in responding to similar items. Based on the Positive Impression (PIM) Validity Scale, Sincere's responses indicated the possibility that Sincere responded in a manner that portrayed him as being

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relatively free of common shortcomings to which most individuals will admit, although such scores can result from limited self-insight in addition to effortful deception. His response pattern was similar to his response pattern on the BASC-3. Given the moderate elevation on the PIM, the accuracy of interpretations based on the PAI-A clinical scale profile may be distorted and interpretation of his profile should be considered with caution.

Sincere's scores on the Dominance (DOM) scale of the PAI-A was markedly elevated indicating his need for control, being generally domineering, and a tendency to have little tolerance for those who disagree with his plans or desires. Sincere's interpersonal style seems best characterized as being domineering and over-controlling. Sincere appears self-confident with well-articulated sense of who he is and what his goals are. Sincere stated, "I'm confident in myself".

Sincere was also administered the Rotter Incomplete Sentences Blank (RISB) in order to evaluate his ability to put ideas into writing, as well as to obtain a semi-projective measure of his personality functioning. His responses indicated awareness of the need to improve his behaviors. He wrote, "I need to do better and start on the right track", "I failed to realize that I do stiuip(sic) stuff and I know it wrong", and "I regret being at the wrong place at the wrong time".

RESILIENCY FACTORS

Sincere was polite and cooperative with the MEC evaluators.
 Sincere had a favorable adjustment to MEC.
 Sincere received no behavior infractions while at MEC.
 Sincere aspires to join the military.
 Sincere is reportedly skilled in athletics.
 Sincere expressed plans to refrain from further delinquency.

SUMMARY AND CONCLUSIONS

Sincere is a 16 year-old male who was committed to the Midlands Evaluation Center on August 25, 2016 (at age 15) after being adjudicated delinquent of Disturbing Schools. Charges of Armed Robbery and Assault and Battery 3rd Degree were continued. A charge of Assault and Battery by Mob, 3rd Degree was Nolle Prossed at the same time. Sincere was detained at the DJJ Detention Center on July 25, 3026 pending his adjudicatory hearing.

Sincere is the biological son of Ms. Laquanda Dinkins (DOB 7/8/86) and Mr. Johann Cook (DOB Unknown). Ms. Dinkins advised that she and Mr. Cook were never married or in a relationship. She shared that Mr. Cook is currently incarcerated "for something bad" and the DJJ Child Assessment and Evaluation form indicated that Mr. Cook is serving a life sentence. Sincere reported that he is unaware of any information related to his father's identity or history.

Prior to Sincere's MEC commitment, he resided with his maternal great aunt, Ms. Yolanda Wright and his maternal cousins (age 9, 12 18 and 27). Sincere advised that he moved in with his aunt after their house burned down in April 2016. Contrary to this information, Ms. Dinkins indicated that he went to live with his great aunt after the school year ended. Previously, Sincere lived with his mother, his maternal great grandparents, Ms. Barbara Jean Frierson and Mr. Willie Ford and his maternal half-siblings (age 3 and 4). Sincere reported that their house

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burned down due to "electrical problems" although records indicated that Ms. Dinkins incurred two Arson charges (4/19/16, 4/22/16). A Sumter County Public Index Computer Search revealed that Ms. Dinkins pled guilty to one of the charges and was sentenced to a five year suspended sentence with time served and two years of probation. Her probationary requirement mandated that Ms. Dinkins complete "drug court or substance abuse counseling if not accepted into drug court". Ms. Dinkins was placed on probation on April 19, 2016 and her probationary requirement ends on April 18, 2018. This information was confirmed by a SC Probation and Parole Computer Search.

Ms. Dinkins acknowledged that she was classified as learning disabled in school and did not complete high school. She indicated that she is unemployed and has no previous work history. Ms. Dinkins disclosed that she is in the process of applying for disability. Ms. Dinkins shared that Sincere is not a behavior problem and has a positive relationship with all of his family members. She noted that Sincere assisted her with the care of his siblings and with his great grandfather's care as well, since he is disabled after suffering a stroke. Ms. Dinkins acknowledged that transportation is problematic so her brother, Mr. Michael Dinkins, provides assistance when he is not working.

According to Ms. Dinkins, Sincere was a good boy and has never been a behavior problem. She reported that Sincere was very helpful around the house and assumed household responsibilities willingly. As a result, Ms. Dinkins shared that Sincere had no assigned chores. Sincere disclosed that he kept his room clean and took out the trash. He reportedly had a curfew of dusk and Ms. Dinkins advised that Sincere was compliant. Contrary to this information, Sincere indicated that he had a curfew of "10 PM during the week and 11 PM on the weekends." He shared that he stayed out all night on one occasion when he was at a "room party" (a party at a hotel room) but his mother gave her permission. Additionally, Ms. Dinkins shared that Sincere would occasionally stay overnight with his cousin. Ms. Dinkins advised that Sincere would "just sit down when he got mad." Contrary to this, Sincere reported that he put his headphones on and listened to music when he was upset. For discipline, Ms. Dinkins indicated that she placed Sincere on house restriction. She acknowledged that discipline measures were effective.

School records indicated that Sincere was enrolled in 10th grade classes at Brewington Academy for the 2015-2016 academic year and was promoted to the 11th grade for the current academic year. According to Ms. Dinkins, Sincere was in resource classes for reading and language arts. He is classified as Learning Disabled through his IEP. Records indicated that Sincere received nine behavior infractions during his 10th grade year. His last write up involved threatening behavior towards another student, which resulted in a modified expulsion and a referral to Sumter County Resource Center for the duration of the 2015-2016 academic year. His final semester grades were: English 1 (75), Academy Prep. 1 (79), Geometry (75) and Core Curriculum (84). Sincere accrued 16 unexcused absences but 10 of these were pending his disciplinary hearing that resulted in his placement at the Resource Center.

Ms. Dinkins denied that Sincere ever received mental health treatment or had been psychiatrically hospitalized. Sincere concurred and also denied any history of psychotropic medications. Ms. Felicia McGhee, DJJ/DMH Liaison, confirmed that he has not received services through mental health.

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Results of personality measures and the clinical interview did not indicate psychiatric/psychological issues contributing to Sincere's delinquency. Sincere's index offense suggests extremely poor judgement and decision making, poor anger management, and a disrespect for authority figures. Sincere's substance use may further impede his ability to make more positive decisions without interventions.

Results of the SASSI-A2, a self-report substance abuse screening inventory, indicated that Sincere has a low probability of having a substance use disorder. This inconsistent with his admission of weekly marijuana use; however, his results are of questionable validity, based on the validity scale of this measure. He tested positively for marijuana on a drug screen upon admission to the DJJ Detention Center on 07/25/2016.

Results of current intellectual testing indicated that Sincere's cognitive abilities fall within the Borderline range. Results of an achievement measure indicated functioning within the Low Average range for Reading Comprehension and functioning in the Borderline range for Numerical Operations.

DSM-5 (ICD-10) DIAGNOSTIC IMPRESSIONS

312.9 (F91.9) Unspecified Disruptive, Impulse-Control, and Conduct Disorder
305.20 (F12.10) Cannabis Use Disorder, Mild
V62.5 (Z65.3) Problems Related to Other Legal Circumstances (commitment to MEC)
V62.89 (R41.83) Borderline Intellectual Functioning

RECOMMENDATIONS

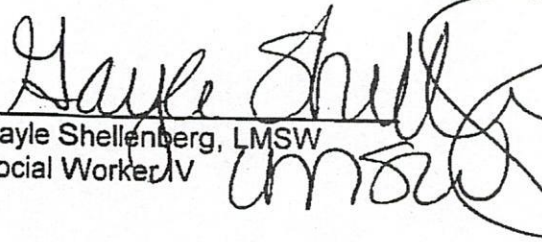
1. It is recommended that Sincere be placed on Probation with the Sumter County Department of Juvenile Justice. Additionally, a period of community service is recommended to remind Sincere that his behavior has consequences and to provide some added structure to his leisure time. In addition to this, if returned home, House Arrest/Electronic Monitoring should be a condition of his probation. His mother should be made party to the Action.
2. It is recommended that Sincere return home to his mother's home. Home placement is contingent upon his compliance with all probationary guidelines, as well as cooperating fully with all referrals deemed necessary.
3. Sincere admitted to regular use of marijuana and experimentation with alcohol. It is recommended that he be required to participate in and complete a substance abuse treatment program.
4. Counseling is recommended to assist Sincere in taking full responsibility for his negative and delinquent behaviors, improve his judgment and to assist him in improving his independent decision making and victim empathy. In addition, Sincere needs to learn to respect authority figures, improve his social skills and find more appropriate ways to deal with frustrations and stressors rather than resorting to substances. He also needs to anticipate how his behavior impacts others and victim empathy.

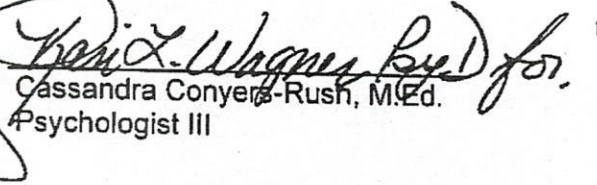
Sincere Ja'Ray Dinkins

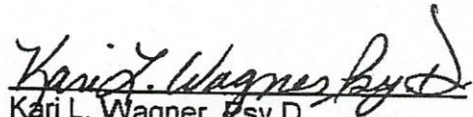
JJMS # 428348

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5. Sincere's leisure time should be highly structured and supervised. Participation in prosocial activities, a mentoring program or extra-curricular community activities may provide with opportunities to interact and develop relationships with more positive peers, if available.
6. Family therapy (preferably in home therapy, if available) is recommended to assist Sincere's mother to set appropriate limits, establish clear expectations for behavior and improve communication within the family unit.
7. Based on current achievement testing, Sincere may benefit from some remediation and/or tutoring in his math and reading skills.


Gayle Shellenberg, LMSW
Social Worker IV


Cassandra Conyers-Rush, M.Ed.
Psychologist III


Kari L. Wagner, Psy.D.
Licensed Clinical Psychologist
Director of Clinical Services

Name: SINCERE DINKINS **DOB:** 8/28/2000 **Student ID:** 428348
 (M)
Date: 08/04/2016

JDC Dispensary (JDC-M)
 1725 Shivers Rd.
 Columbia, SC 29210
 (803)896-5747

SINCERE DINKINS (M) [2609]
 Pt. Phone:

DOB: 08/28/2000 (Age 15)

Note Date: 08/04/2016 09:37 AM

Summary of note: physical assessment part 2

Allergies: (No Entry)

Current Medications: (No Entry)

Intake:

Subjective:

15 y/o AA male presents for physical exam. Denies allergies to food or medications. Reports seasonal allergies, specifically to mold. Reports left lower posterior tooth pain x ~1 month, that is worsened when biting down while eating. Reports filling placed in left lower molar x ~ 1 year ago. Reports sexual history with 1 partner in past year. Reports wearing condoms occasionally. Denies any further concerns at this time.

Objective:

Physical Exam

General appearance: patient in no acute distress, well developed, well nourished, well appearing.

Head and neck: head normal. Neck supple, nontender to palpation, full range of motion. No rigidity, thyroid enlargement, carotid bruit, mass, nuchal rigidity, or lymphadenopathy.

Eyes: PERRLA, EOMI, conjunctivae clear with no conjunctival pallor. Lids and lashes within normal limits. No discharge.

Ears: normal external ears; no swelling or erythema. Canals and TM's with no erythema or inflammation. Hearing is normal.

Mouth and throat: no oral lesions or enlarged tonsils. Teeth in good repair. No cervical lymphadenopathy.

Nose and sinuses: external nose normal appearing, symmetric. No swelling, ecchymosis, tenderness, erythema, or bleeding

Nares: no swelling, erythema, bleeding, drainage, or discoloration

no septal hematoma, erythema, or swelling. No septal deviation turbs +2 bilaterally, pink.

Chest/breast exam: nontender to palpation, no lesions. No palpable masses found on breast exam. No nipple discharge.

Heart: regular rate and rhythm, no murmurs, gallops, rubs, or palpable thrill. Good peripheral pulses. No pedal edema.

Lungs: clear to auscultation. No wheezes, rhonchi, or rales. No accessory muscle use, intercostal retractions, or nasal flaring.

Abdomen: nondistended. Bowel sounds normoactive. Palpation reveals soft abdomen, no masses, organomegaly or tenderness LBM 8/3/16.

Extremities: normal range of motion. No tenderness, swelling, ecchymosis, erythema, or deformity.

Musculoskeletal: walks with normal gait. Strength and range of motion grossly intact upper and lower extremities and spine.

Skin: skin warm and dry. No rashes, lesions, lacerations, or skin defects Skin with dry flaky patches to elbows, knees and hands.

Lymph nodes: palpation revealed no enlarged lymph nodes in cervical, axillary or inguinal regions.

Neurological: alert and oriented times 3. Cranial nerves II - XII grossly intact. No slurred speech or facial asymmetry. Normal strength and sensation, 2+ deep tendon reflexes.

Name: SINCERE DINKINS DOB: 8/28/2000 Student ID: 428348
(M)
Date: 08/04/2016

Genitalia: normal male external genitalia. No palpable testicular masses testes descended; neg hernia exam; circumcised. Tanner stage (male)4

Assessment:

- 1) Encounter for examination for adolescent development state - Z00.3
- 2) Other unsatisfactory restoration of tooth - K08.59
- 3) Atopic dermatitis, unspecified - L20.9

Plan:

Nurse Orders: Dove Soap (Z00.3)

(x 60 days)

Other (Z00.3)

(Eucerin cream to dry areas daily; have JV put lotion on at nurses station; x 60 days)

DISCHARGE PLAN

NOTE: Please follow the instructions that have been provided for you. If your symptoms persist or worsen, CALL US IMMEDIATELY, or go to an emergency room.

Referral Orders: Referral To Dentist (Z00.3)

1. Adolescent male exam
2. STI counseling and prevention education. Patient reports understanding and has no further questions at this time.
3. TSE education. Patient reports understanding and has no further questions at this time.
4. Atopic Dermatitis. Begin Dove Soap with showers daily x 60 days and Eucerin lotion daily x 60 days.
5. Tooth pain. Refer to Dental for further evaluation and treatment
- Entered by Victoria Davis APRN-BC on Aug-04-2016 09:37 AM

Signed by: Victoria Davis APRN-BC on Aug/04/2016 09:37 AM

Locked by: Victoria Davis APRN-BC on Aug/04/2016 09:37 AM

RECORDED

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SUMTER)

INDICTMENT No. 2018-GS-43-0381

2019 AUG -6 AM 10:36
JAMES C. CASTRO
CLERK OF COURT
SUMTER COUNTY, S.C.

The State,)

vs.)

MOTION FOR NEW TRIAL

Sincere Dinkins)

Defendant.)

NOW COMES THE DEFENDANT, by and through counsel, requesting that he be granted a NEW TRIAL on the basis of erroneous instruction. The motion is based on the Supreme Court's decision in *State v Burdette*, Opinion No. 27910 (July 31, 2019). Defendant respectfully requests that this matter be heard during the hearing scheduled for August 16, 2019.

Sumter, South Carolina
August 5, 2019

Respectfully submitted,

Timothy W Murphy, Esq.

Philip Little, Esq.

ATTORNEYS FOR THE DEFENDANT

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
 COUNTY OF SUMTER)

STATE OF SOUTH CAROLINA)
 STATE,)

v.)

TRANSCRIPT OF RECORD
 18-GS-43-0381

SINCERE JA RAY DINKINS,)
 _____ DEFENDANT.)

August 16, 2019
 Sumter, South Carolina

B E F O R E :

THE HONORABLE THOMAS HUGHSTON, JUDGE

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

ERNEST A. "CHIP" FINNEY, III, ESQ.
 Solicitor

TIMOTHY W. MURPHY, ESQ.
 Attorneys for Defendant

FRANCES B. RAY, RPR
 Circuit Court Reporter

INDEX

Motion for new trial

3

1 THE COURT: Okay, we're here this morning
2 in regard to the case of the State versus Sincere
3 Dinkins, and Mr. Dinkins is present along with his
4 attorneys and the Solicitor is here. And what has
5 happened, well, of course I was here — we scheduled
6 this for the purposes of sentencing, and by the way,
7 I want to say that I have received sentencing
8 memorandum from both the State and the defendant's
9 attorneys, and I want to compliment each side in
10 regard to all your efforts in the information that
11 both sides have presented to me for my consideration
12 between when I last saw you and today, and the fact
13 that I've read everything that both sides have
14 submitted in connection with the possible sentences,
15 what I should do as far as sentencing Mr. Dinkins,
16 and I'm very appreciative of what both sides have
17 done in connection with that.

18 And also I've, I had tried to educate
19 myself in regard to the area of law involved as far
20 as sentencing a defendant who was a juvenile at the
21 time of the offense and done a great deal of, did
22 some research and reading and thinking about the
23 cases involved, both U.S. Supreme Court cases and
24 the South Carolina Supreme Court cases and was
25 proposed to go forward with sentencing; but then the

1 defendant's attorneys on August 5 filed a motion for
2 a new trial based on a case that was decided by the
3 South Carolina Supreme Court, State versus Burdette,
4 B-U-R-D-E-T-T-E, which was filed on July 31 of this
5 year which may have some application as to this
6 particular case. The law that was in the, that was
7 good law so to speak at the time of the trial may
8 have been impacted and not be good law now and under
9 State versus Burdette so I'll be glad to hear from
10 the attorneys for Mr. Dinkins in regard to your
11 motion for a new trial, your motion for new trial.

12 MR. MURPHY: Your Honor, basically as the
13 Court recalls, there was an instruction given. At
14 the time we objected and asked you to give what at
15 that time seemed to be the correct law which is the
16 Belcher instruction. You gave that instruction.
17 And then here we are a few days after the end of the
18 trial the Supreme Court overrules Belcher and the
19 last paragraph of the Supreme Court opinion
20 indicates that their ruling is applicable to all
21 cases ---

22 THE COURT: They have not become final.

23 MR. MURPHY: They did not get final which
24 means the issue then preserved. Obviously, we
25 objected at the time. We have filed this motion in

1 order to preserve this issue. Obviously, the Court,
2 you, or if you rule against us, will have to
3 determine whether or not there was prejudicial
4 error, but we believe very strongly that the
5 Belcher -- now given this opinion that the Belcher
6 instruction which was given at the time of the trial
7 was error and, therefore, is the basis for a new
8 trial at this time. Thank you, Your Honor.

9 THE COURT: All right, I appreciate that.
10 And Mr. Solicitor, anything that you'd like to say?

11 SOLICITOR FINNEY: Just, Your Honor, that
12 at this point, without having the transcript to
13 review, it was my opinion and recollection that at a
14 certain point in the jury charge there was an
15 objection made. We had a conference with the judge
16 at the Bench and the judge basically ---

17 THE COURT: I asked y'all to help me in
18 regard to what you think I should say and both sides
19 did. I can't remember whether I actually left the
20 courtroom and did a little bit of checking myself;
21 but anyway, I came back, said what I thought both
22 sides, both sides at that point was telling me to
23 say ---

24 SOLICITOR FINNEY: Yes, sir.

25 THE COURT: ---and all, as far as charging

1 the jury. That's my recollection.

2 SOLICITOR FINNEY: And my uneasiness today
3 is that when there was an agreement as to what we
4 wanted you to say, and you said it, there was no
5 objection on the record; and therefore, the charge
6 that you gave, there's no objection on the record to
7 say now that they have a right to appeal from.

8 THE COURT: Yeah, that might just mean
9 that the error, if there was an error, shifted from
10 one person to another as far as the final outcome is
11 concerned, you know.

12 SOLICITOR FINNEY: Yes, sir.

13 THE COURT: But anyway, and I had already
14 requested, asked the court reporter to try to get me
15 a rough copy of the transcript and now I'm gonna
16 have, I think I'm gonna ask her to get me a pure
17 version of the transcript as far as my charge is
18 concerned before I do anything to see exactly what
19 was said, exactly what I said, and before I can make
20 a decision about this. So I think I'm gonna have to
21 take this matter under advisement as far as your
22 motion is concerned, get the official transcript
23 from the court reporter, and then be back in touch
24 perhaps with both sides after y'all have had a
25 chance to look at the transcript and see exactly

1 what I said and exactly what y'all said and see
2 where we go after that. That's not, that's not what
3 I thought I was gonna do when we scheduled this, but
4 I think's what we're gonna have to do at this
5 juncture.

6 MR. MURPHY: That's fine, Your Honor.

7 SOLICITOR FINNEY: That's fine with us,
8 Your Honor.

9 THE COURT: Okay. So the State's gonna
10 request the court reporter to give us an official
11 copy at least of the charge, okay.

12 SOLICITOR FINNEY: Of the charge? Yes,
13 sir.

14 THE COURT: Isn't that what you ---

15 SOLICITOR FINNEY: I think that's what we
16 need.

17 THE COURT: Anything else you want, but
18 that's what I want anyway.

19 SOLICITOR FINNEY: Yes, sir.

20 MR. MURPHY: The charge.

21 SOLICITOR FINNEY: That's fine.

22 THE COURT: Okay, all right. We'll take
23 care of that then.

24 All right. And Mr. Dinkins, so that's
25 what's gonna happen today. No, he can keep, that's

1 all right, you don't have to -- just keep, thank you
2 very much, you just stay seated. All right, and so
3 that's what we're gonna have to develop this
4 further. And in the meantime and all, I'd ask you
5 to, your lawyers to talk over the case also and
6 explore the various possibilities that may be out
7 there as far as how it's best to handle this in the
8 future. All right?

9 MR. MURPHY: Yes, sir.

10 THE COURT: You hear that, Mr. Dinkins?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And where are you?

13 Is he in the Sumter -- are you having any
14 problems as far as access is concerned at this
15 point?

16 MR. MURPHY: I'm not exactly sure where he
17 is. I don't see any problem.

18 THE COURT: Well, ask him.

19 MR. MURPHY: Where are you at?

20 OFFICER: He's being held in Columbia,
21 Your Honor.

22 MR. MURPHY: That will be fine. We have
23 access. We can go to Columbia.

24 THE COURT: I just want to make sure you
25 have access to him because I think there's a good

1 bit that you need to discuss with him between now
2 and when we decide how this is going be handled in
3 the future.

4 MR. MURPHY: That -- Alvin Glenn is fine.

5 THE COURT: All right, thank you very
6 much.

7

8 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

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STATE OF SOUTH CAROLINA)	IN THE COURT OF
)	GENERAL SESSIONS
COUNTY OF SUMTER)	IN THE THIRD
)	JUDICIAL CIRCUIT
)	
)	
THE STATE OF SOUTH CAROLINA,)	
Plaintiff,)	TRANSCRIPT OF RECORD
)	2018-GS-43-00381
vs.)	
)	
SINCERE JA RAY DINKINS,)	
)	
Defendant.)	

October 11, 2019
Sumter, South Carolina

B E F O R E:
HONORABLE THOMAS L. HUGHSTON, JR., Judge.

Proceedings recorded by DCRP,
Digital Courtroom Recorder Project

Transcribed by:
Julie A. Cendroski,
Circuit Court Reporter
Seventh Judicial Circuit

1 A P P E A R A N C E S

2 EARNEST A. FINNEY, III, Solicitor
3 For The State

4 TIMOTHY WARD MURPHY, ESQUIRE
5 For the Defendant

6 PHILLIP LITTLE, ASSISTANT PUBLIC DEFENDER
7 For The Defendant

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I N D E X

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EXHIBITS

MARKED ENTERED

NO EXHIBITS PROFFERED

1 THE STATE VS. JA RAY DINKINS SENTENCING HEARING

2 THE COURT: This is the State versus Ja Ray
3 Dinkins, and Mr. Dinkins is present, along with his
4 attorneys.

5 And I want to, first of all, I want to thank both
6 sides for the information that has been provided to me
7 since the completion of the jury trial. Both sides did
8 a thorough job of presenting information that was
9 relevant, relative to the issues that I had before me,
10 and I'm thankful for both sides and the work that you
11 did in doing that.

12 And in connection with this, I have two written
13 orders that I've done that I'll give to the clerk and to
14 the court reporter for filing in this case. The first
15 one deals with the issue of a motion for a new trial.
16 After the trial in this case, our Supreme Court on July
17 31, 2019, decided the case of The State versus Verdet,
18 And it is on the basis on the holding in that case that
19 the defendant asked for a new trial.

20 Our Supreme Court held, and this is a quote:
21 Regardless of the evidence presented at trial, a trial
22 court shall not instruct the jury that it may infer the
23 existence of malice when the deed was done with a deadly
24 weapon, end quotations.

25 And further, the Supreme Court said: This ruling

1 is effective in those cases which are not yet final so
2 long as the issue is preserved. This case is not yet
3 final. However, in my opinion the issue is not
4 preserved. The instruction that I gave the jury on this
5 issue was correct at that time, and the instruction was
6 agreed to by the State and the defendant through his
7 attorneys. Therefore, the issue is not preserved. I
8 deny the motion for a new trial.

9 Now, therefore, in these unusual circumstances, a
10 harmless error analysis is also appropriate. I believe
11 the, I believe the jury instructions as a whole to be
12 without error. It was not an inferred malice charge
13 that convicted the defendant, the uncontradicted facts
14 did. The inferred malice charge did not contribute an
15 iota, in my opinion, to this conviction.

16 Now then, since the Motion for a New Trial is
17 denied, I'll proceed with sentencing. And I've done a
18 sentencing order, a three-page sentencing order in
19 connection with the sentences that I'll impose in this
20 case.

21 And, Solicitor, do you have sentencing sheets?

22 MR. FINNEY: Yes, sir. I've handed them to the
23 clerk.

24 THE COURT: Okay. Where are they? Thank you.
25 We'll take a few minutes, then to fill these out.

1 All right. As I said, I will give a copy of each
2 of these orders to the clerk and to the court reporter
3 and I'll -- for filing in this case. And I want to make
4 sure the record reflects also all the information that
5 was given to me by the State and by the defendant after
6 the jury trial. It's also made a part of the record in
7 this case, particularly in regard to the sentences that
8 I'm imposing now.

9 So the sentence on the indictment for possession
10 of a weapon during the commission of a violent crime is
11 five years. The sentence on the, on each of the
12 kidnapping is five years concurrent. The sentence on
13 the attempted armed robbery is 20 years concurrent. The
14 sentence on the criminal conspiracy is five years
15 concurrent. And the sentence on the murder conviction
16 is 30 years concurrent.

17 All right. That finishes the purposes of this
18 trial -- of this proceeding then. We'll be in recess
19 for a --

20 MR. MURPHY: Your Honor ---

21 THE COURT: -- few minutes and I'll come back and
22 do the other work that I had to do this morning.

23 MR. MURPHY: Your Honor, if I may? On the
24 kidnapping charges, you have to make a finding on the
25 record that they are not sexually motivated in which ---

1 THE COURT: They were not, they were not sexually
2 motivated.

3 MR. MURPHY: Thank you, Your Honor. Thank you.

4 THE COURT: All right. Thank you very much. If
5 you want a copy of these orders, you can come get them.

6 MR. FINNEY: Thank you, Your Honor.

7 MR. MURPHY: Thank you, Your Honor.

8 (Hearing concluded at 9:50 a.m.)

9

10 --- THIS ENDS REQUESTED TRANSCRIPT ---

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STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

IN THE CIRCUIT COURT
FOR THE 3RD JUDICIAL CIRCUIT
2018-GS-43-0381

STATE OF SOUTH CAROLINA,)

Agt.)

Sincere Ja Ray Dinkins,)

Defendant.)

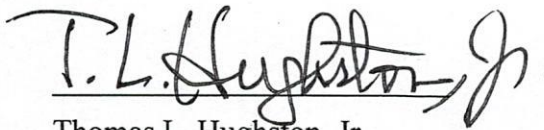
RECORDED
2019 OCT 11 A 10:09
JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

ORDER

This case is before me on Defendant’s Motion for a New Trial. After the trial our Supreme Court on July 31, 2019, decided *State v. Burdette* (--- S.E.2d ---- (2019), 2019 WL 347783), and it is on the basis of the holding in that case that Defendant asks for a new trial. Our Supreme Court held, “regardless of the evidence presented at trial, a trial court shall not instruct the jury that it may infer the existence of malice when the deed was done with a deadly weapon.” Further, this “ruling . . . is effective . . . in those cases which are . . . *not yet final, so long as the issue is preserved.*” This case is not yet final. However, in my opinion the issue is not preserved. The instruction that I gave the jury on this issue was correct at that time, and the instruction was agreed to by the State and Defendant. Therefore, the issue is not preserved. I deny the Motion for a New Trial.

Now therefore, in these unusual circumstances a harmless error analysis is appropriate. I believe the jury instructions as a whole to be without error. It was not an inferred malice charge that convicted him. The uncontradicted facts did. Defendant and another planned to rob a store. They armed themselves and walked the neighborhood for hours before deciding to rob this store rather than another. After entering with guns drawn things “went wrong,” and perhaps Defendant thought the deceased was reaching for a gun. No other gun was there. Defendant shot and killed Mr. Patel. An inferred malice charge did not contribute an iota to this conviction.

Sumter, South Carolina
Oct. 11, 2019


Thomas L. Hughston, Jr.
Presiding Judge

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

STATE OF SOUTH CAROLINA,

Agt.

Sincere Ja Ray Dinkins,

Defendant.

)
 RECORDED IN THE CIRCUIT COURT
) FOR THE 3RD JUDICIAL CIRCUIT
 2019 OCT 11 A 10:08 2018-GS-43-0381
)
) J. G. WELLS
) CLERK
) SUMTER COUNTY, S.C.
)
) **SENTENCING ORDER**
)
)
)
)

This case is before me for sentencing following a jury trial, and the Defendant being found guilty of violations of Sec. 16-23-490, S.C. Code, Possession of a Weapon (a Firearm) during the commission of a violent crime; Sec. 16-3-910, S.C. Code, 2 counts of Kidnapping; Sec. 16-11-330(B), S.C. Code, Attempted Armed Robbery; Sec. 16-17-410, S.C. Code, Criminal Conspiracy; and Sec. 16-3-10, Murder. The Defendant was 17 at the time these acts were committed. Therefore, a pre-sentence hearing was conducted to receive evidence relevant to his sentences.

Miller v. Alabama, 567 U.S. 460, and subsequent cases including *Aiken v. Byars*, 410 S.C. 534, require an individualized sentence in cases that could involve a life sentence for a juvenile Defendant. I am considering (1) the chronological age of the offender and the hallmark features of youth, including “immaturity, impetuosity, and failure to appreciate the risks and consequence”; (2) the “family and home environment” that surround the offender; (3) the circumstances of the homicide offense, including the extent of the offender’s participation in the conduct and how familial and peer pressures may have affected him; (4) the “incompetencies associated with youth—for example, [the offender’s] inability to deal with police officers or prosecutors (including on a plea agreement) or [the offender’s] incapacity to assist his own attorneys”; and (5) the possibility of rehabilitation.”

#1
 T.L.H.A.

562

The Defendant was 17 at the time of his crimes. The evidence is overwhelming that he was immature, impetuous, and failed to appreciate the risks and consequences of his actions. His family and home environment have practically all been of a negative nature. A loving grandmother who died when he was 11, and his great grandmother who he helps now are practically the only persons mentioned positively. There were no positive male role models. There has been no contact with his father. His neighborhood is described as "the poorest and most deprived" and "just crime filled." The circumstances of these crimes are what we often hear in similar cases. Two young men talk about doing something, randomly set about doing the robbery, the robbery attempt "goes wrong", shots are immediately fired by one of the robbers (this Defendant), and they flee. The entire incident lasts 1-2 minutes. There is some evidence to suggest possible rival gang influence on the two young Defendants. The evidence overwhelmingly supports the Defendant's incompetency to deal with "growing up." There is nothing but "trouble" in his house and school life. He was the subject of juvenile court proceedings including an evaluation at DJJ. He did succeed on juvenile probation. This suggest there is a "possibility of rehabilitation." As Calvin K. Hastie testified: I think all children are redeemable. I just think that they need the proper guidance, the proper opportunity. I don't think anyone is not redeemable, and that is a problem in that community. Some of these young people don't have a chance because they only see crime, prostitution, no fathers. Not that that's a requirement to do wrong, but I think we can make not only this community, but all communities better by more of us being involved in these young people.

In addition to these 5 factors, I have considered the general purposes of a sentence: 1. Deterrence, specific to this Defendant and general to others; 2. Incapacitation of this Defendant; 3. Rehabilitation of this Defendant; and 4. Retribution. I believe my sentence will be both a specific

#2
T.L. [Signature]

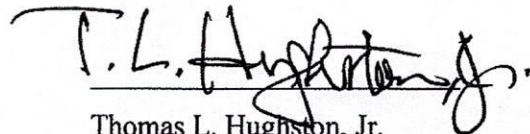
and general deterrence. It will incapacitate this Defendant. It will serve as retribution/punishment for this Defendant. It will allow for the possibility of rehabilitation for this Defendant.

Much information about the Defendant has been presented and I have carefully considered it. His history has few positives and many negatives. His environment could almost guarantee a bad outcome. This presents the dilemma of society and environment versus individual responsibility. How much is each to blame, and how does that weigh in my decision? I recommend reading the entire submissions from the State and the Defendant to anyone interested in learning more about this tragic case. These are in the file.

Sentences are as follows: violation of Sec. 16-23-490, S.C. Code, Possession of a Weapon (a Firearm) during the commission of a violent crime, 5 years concurrent; Sec. 16-3-910, S.C. Code, 2 counts of Kidnapping, 5 years on each count, concurrent; Sec. 16-11-330(B), S.C. Code, Attempted Armed Robbery, 20 years concurrent; Sec. 16-17-410, S.C. Code, Criminal Conspiracy 5 years concurrent; and Sec. 16-3-10, Murder, 30 years concurrent.

#3

Sumter, South Carolina

Oct. 11, 2019

Thomas L. Hughston, Jr.
Presiding Judge

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,

RECEIVED
Jun 25 2020
SC Court of Appeals

s/ Kathrine Hudgins

Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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ATTORNEY FOR APPELLANT

This 25th day of June, 2020.