

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville County

Honorable Letitia H. Verdin, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

WILLIAM Z. NEWTON,

APPELLANT

APPELLATE CASE NO. 2019-001797

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ANDERS BRIEF OF APPELLANT

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**SC Court of Appeals**

**TABLE OF CONTENTS**

TABLE OF CONTENTS..... i

TABLE OF AUTHORITIES ..... ii

STATEMENT OF ISSUE ON APPEAL.....1

STATEMENT OF THE CASE.....2

STANDARD OF REVIEW .....3

ARGUMENT

The trial judge abused her discretion by sentencing Appellant to twenty-five years for voluntary manslaughter when Appellant was only nineteen years old at the time of the shooting, had no involvement in planning the attempted robbery, fully cooperated with law enforcement, was willing to testify against his codefendant, and only had one misdemeanor conviction on his record.....4

CONCLUSION.....10

PETITION TO BE RELIEVED AS COUNSEL .....11

**TABLE OF AUTHORITIES**

**Cases**

State v. Hicks, 377 S.C. 322, 659 S.E.2d 499 (Ct. App. 2008) ..... 3, 9

State v. Smith, 276 S.C. 494, 280 S.E.2d 200 (1981)..... 3

Wasman v. United States, 468 U.S. 559 (1984) ..... 3, 9

**Statutes**

S.C. Code. Ann. § 16-3-50..... 9

**STATEMENT OF ISSUE ON APPEAL**

Did the trial judge abuse her discretion by sentencing Appellant to twenty-five years for voluntary manslaughter when Appellant was only nineteen years old at the time of the shooting, had no involvement in planning the attempted robbery, fully cooperated with law enforcement, was willing to testify against his codefendant, and only had one misdemeanor conviction on his record?

## **STATEMENT OF THE CASE**

A Greenville County grand jury indicted Appellant on July 31, 2018 for the offense of murder. R. 27-28. On October 10, 2019, Appellant pled guilty to the lesser included offense of voluntary manslaughter before the Honorable Letitia H. Verdin. R. 1-3. Assistant Solicitor Kimberly Howard represented the state, and Chad Propst represented Appellant. R. 1. Judge Verdin sentenced Appellant to twenty-five years imprisonment. R. 21, ll. 5-7.

On October 23, 2019, Appellant filed a motion to reconsider sentence. R. 23-25. On October 28, 2019, Judge Verdin denied the motion. R. 23.

This appeal follows.

## **STANDARD OF REVIEW**

“The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion.” State v. Hicks, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008) (citing State v. Smith, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981)). “A judge is . . . accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed.” Id. (citing Wasman v. United States, 468 U.S. 559, 563 (1984)).

## ARGUMENT

The trial judge abused her discretion by sentencing Appellant to twenty-five years for voluntary manslaughter when Appellant was only nineteen years old at the time of the shooting, had no involvement in planning the attempted robbery, fully cooperated with law enforcement, was willing to testify against his codefendant, and only had one misdemeanor conviction on his record.

### **Relevant Facts**

The state alleged Appellant, along with three codefendants, Alexis Means, Michelle Ike, and Trevonte Watts, was involved in the attempted robbery of Javione Rosemond. Appellant and Watts, who were both nineteen years old, were friends from high school. Alexis Means was Watts's girlfriend. R. 8, ll. 3-16. On the afternoon of January 30, 2016, Appellant and Watts were at Means's house when Michelle Ike came over. Ike was upset with her ex-boyfriend, Javione Rosemond, and convinced Appellant, Watts, and Means to "set up Javione and rob him." R. 8, ll. 17-23.

"Javione Rosemond was known to be a marijuana dealer." R. 8, ll. 20-21. The group "used Alexis Means's phone to Snapchat with Javione." They pretended they wanted to purchase marijuana. R. 8, ll. 23-25. According to the assistant solicitor, "there was never any intention of purchasing drugs from Javione . . . the intention from the outset of the plan was to rob him." R. 8, l. 25 – 9, l. 2.

The group arranged to meet Javione at a Bojangles restaurant at nine o'clock that night. R. 9, ll. 6-8. Means drove Appellant, Watts, and Ike to an apartment complex behind Bojangles. Appellant and Watts got out of the car. Means opened the trunk to allow Appellant and Watts to retrieve weapons. Appellant was allegedly armed with a pistol and Watts with an AR-15. Means

then drove Ike to Bojangles to meet with Javione. R. 9, ll. 12-16. The solicitor claimed Appellant and Watts “crept up the hill behind the Bojangles and waited to approach Javione and rob him when he arrived ambush style.” R. 9, ll. 17-20.

When the car allegedly carrying Javione arrived, Appellant and Watts “surprised” the occupants. Watts walked to one side of the car and Appellant to the other. Watts and Appellant presented their weapons and multiple shots were fired. It was undisputed as to who shot first. The state alleged Appellant shot first. R. 10, ll. 1-4. Appellant asserted that he only fired after he was fired upon by the occupants of the car. R. 14, l. 22 – 15, l. 2.

Watts was shot in the arm. He dropped his weapon and ran back to Means’s car. R. 10, ll. 4-6. Appellant ultimately picked up Watts’s gun and put both weapons in the trunk. Means then drove Watts to the hospital. R. 10, ll. 7-14. Means stayed with Watts while Appellant and Ike drove back to Means’s house. R. 11, ll. 4-7.

It turned out Javione, the alleged target, was not present at Bojangles. He sent Savon Allen and Willie Wilson to conduct the planned drug deal. Savon Allen was shot and killed. Willie Wilson was shot and injured. R. 10, ll. 15-20.

The assistant solicitor told the trial judge that Alexis Means, a juvenile, pled guilty to murder and was given an indeterminate sentence by the presiding family court judge. Trevonte Watts was set to plead guilty to voluntarily manslaughter. R. 8, ll. 7-11. However, Michelle Ike was not willing to plead guilty and the state planned to go forward with a trial. R. 11, ll. 13-14. During the plea hearing, the solicitor wanted to ensure Appellant agreed with the facts as to both his own involvement and Ike’s involvement in an effort to assist the state in its prosecution against Ike. R. 11, ll. 13-18.

Appellant substantially agreed with the “facts” as alleged by the solicitor. R. 11, l. 23 – 12, l. 3. The judge then allowed the solicitor to ask Appellant factual questions about what happened. Appellant confirmed Michelle Ike “was the one that showed up and had the contacts to be made with Javione Rosemond.” R. 12, ll. 4-10. He also admitted Ike was “the one that helped y’all and convinced y’all to set up the drug deal and rob him [Javione].” R. 12, ll. 11-14. Moreover, while Appellant acknowledged Ike went back to the house with him after the shooting, he denied that Ike “helped” with “the car and the guns.” R. 12, l. 15 – 13, l. 4.

After this question and answer session, the trial judge accepted Appellant’s plea “as being freely and voluntary made” and found there was “a substantial factual basis.” R. 13, ll. 5-9.

Without giving any reason as to why, the assistant solicitor asked the trial judge to sentence Appellant to thirty years, the maximum sentence for voluntary manslaughter. R. 13, l. 23 – 14, l. 1.

Defense counsel explained that Appellant had accepted responsibility for his actions and fully cooperated with the state. R. 14, 10-17. Appellant was willing to “help secure . . . a conviction against Michelle, Ms. Ike.” R. 14, ll. 15-16. Defense counsel asserted that the events surrounding the attempted robbery “happened fast” and the incident “turned into a situation of fire or be killed.” R. 15, ll. 5-6. He further explained that Appellant had actually parted with the group earlier in the day and then “got a call to come back to Ms. Ike’s house with the car and then was filled in and convinced to be a part of this plan . . . so he wasn’t a ringleader.” R. 15, ll. 13-17. Moreover, counsel asserted that the firearms used during the attempted robbery belonged to codefendant Watts. R. 15, ll. 18-20.

Having been denied bond several times, Appellant remained incarcerated for over three and a half years until his plea. During this time, counsel explained that he watched Appellant

grow as a person. Appellant went “from trying to lessen his responsibility to owning up and understanding what he did and the consequences of his actions.” R. 15, l. 25 – 16, l. 6. Appellant also spent “roughly three years in protective custody because the victims have associates in the jail” that “made threats and went out against Mr. Newton [Appellant].” R. 16, ll. 6-11.

Appellant was only a “credit and a half short of graduating from high school just because he was being a dumb kid.” Defense counsel explained Appellant “was focused more on clowning around in school” and “acting up in class.” Because he dropped out of school, Appellant’s mother “kicked” him out of the house. At the time of this offense, Appellant was “floating around” and “leaned heavily on his codefendant Mr. Watts.” R. 16, l. 24 – 17, l. 13. Counsel asserted that Appellant “is a very impressionable young man” and “followed along” with Watts and his other codefendants “when he shouldn’t have.” R. 17, ll. 7-18.

Defense counsel ultimately asked the trial judge to sentence Appellant to fifteen years given his cooperation, the fact that he took responsibility for what he did, his lack of a prior record, and his good behavior in the jail during his pretrial detention. R. 17, l. 19 – 18, l. 3. Counsel added that Appellant had been very “remorseful.” R. 19, l. 20.

Before being sentenced, Appellant asserted, “I’m accepting full responsibility today for what I’ve done. And I’d like to say sorry to all parties that were involved.” R. 20, ll. 6-9.

The judge sentenced Appellant to twenty-five years imprisonment. R. 21, ll. 5-6. Before announcing sentence, the judge stated, “I can’t ignore the fact that we’re got a person who’s dead as a result of what you [Appellant] did, and I can’t ignore the fact that it was done under the circumstances it was done under. But I take into account your age. I take into account that you were young when you did it. I take into account that I think you are truly remorseful today and

really do want to change your life. You've got a wonderful family that's supporting you. And I take into account you served considerable time." R. 20, l. 20 – 21, l. 4.

On October 23, 2019, Appellant filed a motion to reconsider his sentence. R. 23-25. In his motion, he emphasized that on October 17, 2019, seven days after Appellant pled guilty, Trevonte Watts, "a similarly situated codefendant," pled guilty to voluntary manslaughter and was sentenced to a mere thirteen years in the Department of Corrections. R. 23. Appellant again emphasized his lack of a prior record, his young age, and his extensive cooperation with the state, including his interview with law enforcement shortly after the incident and his forthcoming answers to the assistant solicitor's questions during his plea hearing. R. 23-25. Appellant also asserted that he "took no part in the planning of the robbery" and that the firearms used during the crime "belonged to and were provided by codefendant Watts." R. 24. He respectfully urged the trial judge to reduce his sentence. R. 25.

On October 28, 2019, the trial judge denied the motion without a hearing. She merely wrote at the bottom of Appellant's motion to reconsider, "Denied," with her initials and the date. R. 23.

### **Discussion**

The trial judge abused her discretion by sentencing Appellant to twenty-five years for voluntary manslaughter when Appellant was only nineteen years old at the time of the shooting, had no involvement in planning the attempted robbery, fully cooperated with law enforcement, was willing to testify against his codefendant, and only had one misdemeanor conviction on his record. Appellant's sentence is particularly harsh when compared to his similarly situated codefendant, Trevonte Watts, who was sentenced to a mere thirteen years for voluntary manslaughter.

“A judge is . . . accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed.” State v. Hicks, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008) (citing Wasman v. United States, 468 U.S. 559, 563 (1984)).

“A person convicted of manslaughter, or the unlawful killing of another without malice, express or implied, must be imprisoned not more than thirty years or less than two years.” S.C. Code. Ann. § 16-3-50. While Appellant’s twenty-five year sentence falls within the sentencing range for voluntary manslaughter, it was excessive given the facts and circumstances of Appellant’s case. The thirteen year sentence Appellant’s similarly situated codefendant received demonstrates the disproportionality of Appellant’s sentence. If anything, Appellant’s codefendant Watts was more culpable than Appellant since he was involved in the planning of the attempted armed robbery and supplied the two firearms used in the crime.

Appellant was only nineteen years old at the time of the offense and was “very impressionable.” R. 17, l. 7. He “followed along” with his codefendants and was not a “ringleader.” R. 15, ll. 12-17; R. 17, ll. 14-18. He took responsibility for his actions, fully cooperated with law enforcement and the solicitor, and was very remorseful for his actions. Moreover, his only prior conviction was a misdemeanor shoplifting offense. Given all these mitigating circumstances, Appellant’s twenty-five year sentence was too harsh.

Respectfully, this Court should hold the trial judge abused her discretion by sentencing Appellant to twenty-five years, reverse Appellant’s sentence, and remand for a new sentencing hearing.

**CONCLUSION**

Based on the foregoing argument, this Court should reverse Appellant's sentence for voluntary manslaughter and remand for a new sentencing hearing.

Respectfully submitted,

s/ Lara M. Caudy \_\_\_\_\_  
Appellate Defender

ATTORNEY FOR APPELLANT

This 20th day of August, 2020.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for William Zachary Newton states:

1. She is an appellate defender for the South Carolina Office of Appellate Defense, and was appointed to represent Appellant.

2. She has reviewed the record of Appellant's guilty plea hearing, which was held on October 10, 2019 before the Honorable Letitia H. Verdin, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. She has, pursuant to Anders v. California, 386 U.S. 738 (1967), briefed an arguable legal issue which arose during the course of the hearing.

WHEREFORE, she asks the Court to relieve her as counsel for William Zachary Newton.

Respectfully Submitted,

s/ Lara M. Caudy \_\_\_\_\_  
Appellate Defender

ATTORNEY FOR APPELLANT

This 20th day of August, 2020.

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

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

- (1) Complete Guilty Plea Hearing Transcript Dated October 10, 2019;
- (2) Motion to Reconsider Guilty Plea Sentence filed October 23, 2019;
- (3) Order Denying Motion to Reconsider Guilty Plea Sentence dated October 28, 2019;
- (4) True-Billed Indictment;
- (5) Sentence Sheet.

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

August 20, 2020

s/ Lara M. Caudy

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**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

August 20, 2020.

s/ Lara M. Caudy \_\_\_\_\_  
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