

The South Carolina Court of Appeals

The State, Respondent,

v.

Shellie Lavette Davis, Appellant.


Appellate Case No. 2018-000366


ORDER

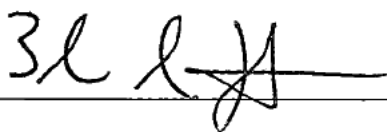
In April 2014, Appellant was convicted of murdering her husband. Prior to sentencing, trial counsel moved for a finding that Appellant was a battered spouse pursuant to S.C. Code Ann. § 16-25-90 (2015) and thus eligible for early parole. The circuit court held a sentencing hearing during which it denied Appellant's motion and sentenced her to thirty years' imprisonment. Appellant filed a motion for reconsideration, which the circuit court denied. However, the written order denying Appellant's motion for reconsideration was not filed until February 7, 2018. Appellant subsequently filed a notice of appeal with this Court and moved for a new sentencing hearing or for remand to the circuit court for reconstruction of the sentencing hearing because the transcript was unavailable by this time. This Court remanded to the circuit court for reconstruction, but the circuit court ultimately concluded reconstruction was not possible. Appellant has now filed a motion to vacate her sentence and remand for a new sentencing hearing.

Appellant has established that the lack of a sentencing transcript prevents this Court from engaging in meaningful appellate review. *See State v. Ladson*, 373 S.C. 320, 325, 644 S.E.2d 271, 274 (Ct. App. 2007) (stating a new trial is appropriate if the appellant establishes the incomplete nature of the transcript prevents the appellate court from conducting a meaningful appellate review). However, the order on appeal deals only with Appellant's motion for reconsideration of the circuit court's ruling that she was not a battered spouse pursuant to § 16-25-90. Appellant does not dispute the legality of her thirty-year sentence, which is the mandatory minimum for murder. *See* S.C. Code Ann. § 16-3-20(A) (2015) ("A person who is convicted of or pleads guilty to murder must be

punished by death, or by a mandatory minimum term of imprisonment for thirty years to life."). Accordingly, Appellant's motion to vacate her sentence is denied and this case is remanded to the circuit court for a new hearing only on Appellant's motion to be classified a battered spouse pursuant to § 16-25-90. Appellant shall provide a status update to the clerk of this Court no later than thirty days from the date of this order.



J.


J.


J.

Columbia, South Carolina

cc:
Alan McCrory Wilson, Esquire
Taylor Davis Gilliam, Esquire
Sherrie Butterbaugh, Esquire
Joshua Abraham Edwards, Esquire

FILED
Jan 14 2022