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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County

Honorable Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CIEARA LAREE ROGERS.,

APPELLANT.

APPELLATE CASE NO. 2021-000288

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State of South Carolina) In the Court
County of Aiken) Of General Sessions

Indictment Number: 2017GS0202526

State of South Carolina,)
Plaintiff.)
vs.) Guilty Plea
Cieara Laree Rogers,) Transcript of Record
Defendant.)

March 6, 2019
Aiken, South Carolina

B E F O R E:

The Honorable Clifton Newman, Judge.

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(REPORTER'S NOTE: There were no exhibits
entered during this hearing.)

GUILTY PLEA

1
2 MR. MCCARLEY: I apologize for the delay, Your
3 Honor.

4 THE COURT: That's all right.

5 MR. MCCARLEY: Ms. Rogers tells me that she would
6 like to enter a guilty plea to a negotiated sentence of 8
7 years. It's been a long conversation and I have not been
8 able to thoroughly prepare her for a plea colloquy. I just
9 say that to Your Honor for information's sake.

10 THE COURT: We'll go through all that and make sure
11 she understands.

12 MR. MCCARLEY: I know you will, Your Honor, but if
13 there is something that goes wrong in that, as counsel I
14 would like the opportunity to speak with her before
15 anything is taken off the table or, quote unquote, falls
16 apart, because I have not advised her thoroughly on this
17 type of hearing.

18 THE COURT: All right. And of course, if there's a
19 negotiated plea, I'll either accept the guilty plea and
20 give the negotiated sentence or I will not accept the
21 guilty plea and we would go forward with the trial.

22 MR. MCCARLEY: Yes, sir, Your Honor.

23 THE COURT: You understand that, ma'am?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. And so you want to plead

1 guilty to a negotiated sentence of 8 years?

2 THE DEFENDANT: Yes, sir.

3 MR. FURSE: We're working on printing the sentence
4 sheet here.

5 THE COURT: I understand.

6 And you've had enough time to think about it?

7 THE DEFENDANT: No. Honestly, no, but -- yes.

8 THE COURT: Pardon?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Of course, you know the --
11 your jury is here and ready to proceed with your trial and
12 you have the right to proceed with a jury trial if you
13 would like.

14 THE DEFENDANT: Well, Your Honor, the way it's been
15 explained to me, the likelihood of you ruling with the
16 defense as opposed to the State is very unlikely as far as
17 the suppression.

18 THE COURT: Well, it's about, it's probably about
19 90 percent.

20 THE DEFENDANT: With the State, not with the
21 defense.

22 THE COURT: With the State right. Maybe 95
23 percent.

24 THE DEFENDANT: I understand.

25 THE COURT: Or 98 percent.

1 THE DEFENDANT: Exactly, so that 2 percent, 5
2 percent, 10 percent, Whatever it may be is really not in my
3 best interest. The fact that you gave me time to sleep on
4 it; you gave me more time to think about it this morning.
5 I knew where you were headed yesterday and I'm so grateful
6 for the opportunity to have that time with my family, to
7 have it again this morning just to think about it and, you
8 know, even though my heart is really heavy, all things
9 considered, the plea would be in my best interest.

10 THE COURT: All right.

11 THE DEFENDANT: Yes, I would like to take advantage
12 to the offer of 8.

13 THE COURT: All right. And you're a highly
14 intelligent young lady and you can analyze and parse every
15 statement, every thought and all, so wherever you go in
16 life you can take that intelligence with you and help guide
17 your decision making from henceforth.

18 You still put your mama out or is she coming back?
19 She still mad with you?

20 THE DEFENDANT: No, she's out there with the baby.

21 MR. MCCARLEY: She wanted -- again I apologize,
22 Your Honor. Her mother wanted me to apologize to you. She
23 meant no, genuinely by what she was saying, she tells me
24 she meant no respect whatsoever. She was simply asking
25 Your Honor for mercy for her child.

1 THE COURT: Oh, I understand. If I was standing in
2 her shoes and my mama was out there, she would -- I think
3 you wouldn't be able to quiet her. She -- you know, that's
4 normal. Of course, in court, we must have a little proper
5 decorum. The officers are obliged to make sure that we
6 have no disruption.

7 So we're going to go through this colloquy after
8 you sign these papers, the sentencing sheet.

9 (There was a pause in the proceedings.)

10 CIEARRA LAREE ROGERS, was duly sworn

11 THE CLERK: She's been sworn, Your Honor.

12 THE COURT: All right. Ms. Rogers, you said you
13 want to plead guilty?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And receive a sentence of 8 years?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Well you've been holding
18 out and that's only one more than you started with
19 yesterday.

20 Mr. Solicitor. Mr. Furse.

21 MR. FURSE: You want the facts, Your Honor?

22 THE COURT: Well, I know the facts. Just from
23 everything we spent the couple of days on. Anything else
24 you want to add before I talk with her?

25 MR. FURSE: Nothing, Your Honor. I could read her

1 prior record, which is an attempt to commit a non-capital
2 offense in 2012 in Virginia.

3 THE COURT: What was that Ms. Rogers? What was
4 that?

5 THE DEFENDANT: I have no idea. I really don't
6 know.

7 THE COURT: Attempt to commit a non-capital
8 offense. Of course, a capital offense is killing somebody.

9 THE DEFENDANT: A fight.

10 MR. MCCARLEY: It was fighting, Your Honor.

11 THE COURT: Fighting.

12 MR. FURSE: She got a suspended sentence, Your
13 Honor.

14 MR. MCCARLEY: Essentially assault and battery
15 second is what I gathered from an attorney in Virginia that
16 was not involved in the case in any form or fashion. He
17 actually did look up the incident report for me. Sounded
18 like a BOP HAN type of situation.

19 THE COURT: A what?

20 MR. MCCARLEY: What we would consider maybe a
21 breach of peace of a high and aggravated nature type.

22 THE COURT: Breach of peace?

23 MR. MCCARLEY: Yes, sir.

24 THE COURT: You remember that?

25 THE DEFENDANT: I've had quite a few fights, so...

1 THE COURT: They took you to jail for it?

2 THE DEFENDANT: Yes.

3 THE COURT: You know I usually ask defendants how
4 many times they've been to jail and when they tell me they
5 can't remember or can't remember the last time --

6 THE DEFENDANT: No, this incident --

7 THE COURT: -- that means they've been in there a
8 whole lot.

9 THE DEFENDANT: Not a whole lot, just I have some
10 pride issues.

11 THE COURT: Some pride issues? All right.

12 MR. FURSE: And on that same date, she was also
13 found guilty of, convicted of falsely -- to me it looks
14 like reporting false information to the police. Virginia
15 is different.

16 THE COURT: What did you tell them?

17 THE DEFENDANT: That it wasn't me.

18 THE COURT: That the name they called out was not
19 your name?

20 THE DEFENDANT: No, the picture images that they
21 showed me. At the time, I didn't know they had video
22 footage and pictures. But that was my story and I was
23 sticking with it so to speak and then when they showed me
24 the evidence, I couldn't deny it was not me because clearly
25 it was, at that time. I had to say, Okay, yes. That was

1 me.

2 THE COURT: All right. Well, I can't believe it.
3 Maybe know -- the reason I was praising her on her
4 intelligence is her date of birth, [REDACTED].

5 THE DEFENDANT: Yes, of '83.

6 MR. MCCARLEY: Pearl Harbor? No, that's December
7 7th.

8 Is that your date of birthday?

9 THE COURT: Yeah. I can't believe that. We
10 celebrate all month long. [REDACTED], we share the date
11 of birth day. I can't believe it. Wow, I'm disappointed.

12 THE DEFENDANT: I'm sorry.

13 THE COURT: You're not a member of the Scorpio Club
14 are you?

15 THE DEFENDANT: No, sir.

16 THE COURT: Okay. All right. Well, Ms. Rogers,
17 you want to plead guilty to trafficking in cocaine --

18 And the amount is less than what?

19 MR. FURSE: Greater than 28 grams but less than 100
20 grams, Your Honor.

21 THE COURT: And what's the minimum and maximum --

22 MR. FURSE: Sentence on that charge?

23 THE COURT: Yeah.

24 MR. FURSE: Minimum sentence is 7 years and maximum
25 sentence is 25 years.

1 THE COURT: Do you understand that, ma'am.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And you're pleading for a sentence of 8
4 years?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And where there's a negotiated
7 sentence, either I will accept the negotiated plea and give
8 the negotiated sentence or I will not accept the guilty
9 plea. You understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And in most instances, when I do not
12 accept the guilty plea, it's because the person has come
13 into court, placed their left hand on the Bible, swore to
14 tell the truth and then they start lying. You understand
15 that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Which means that I expect that when a
18 person swears to tell the truth, they will tell the truth.
19 You understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And you've been sworn to tell the
22 truth?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. And, of course, you have
25 the right to continue with the jury -- well, first of all

1 with regard to the traffic stop, I've indicated that I do
2 not believe the officer was credible when he denied knowing
3 about these various complaints. But I believe that he was
4 credible with regard to the facts of your specific stop and
5 the indicators that he saw that made him believe that this
6 wasn't simply a routine traffic stop, but that it required
7 him to go beyond the -- the extent of the stop for purposes
8 of possible drug detection.

9 And when the hearing started, I was full on your
10 side. I'm like, he stopped her and started searching
11 through all her things and I think I even saw where TSA had
12 looked in your bags.

13 THE DEFENDANT: Yes.

14 THE COURT: And, you know, when I travel, my wife
15 can't stand that. Whenever we get to where we're going
16 TSA's been through her bags and they've left their ticket
17 saying they'd been through her bags and she gets upset
18 every time. Why did they go through my bag -- they rarely
19 go through mine, but they always go through hers. So I've
20 been trained to be upset at searches of bags.

21 THE DEFENDANT: I understand.

22 THE COURT: Your bags all neatly packed and things
23 rolled up and in good order and -- and I looked at the
24 period of time it started, 8:12 and then the arrest didn't
25 take place until 8:38, so a period of 26 minutes you were

1 there on the -- standing, standing, standing. And -- and
2 there are cases where the search is extended beyond 10
3 minutes and then, well, the Court considered the 10 minutes
4 reasonable but other times would be unreasonable.

5 So I started out, you know, giving you the benefit
6 of the doubt for sure. And thinking one way. But then a
7 little more reality set in with me and I started reviewing
8 all the -- in a more serious way, all of the indicators
9 that were testified to, including all the other cases that
10 have had the opportunity to address these issues. And it
11 was my conclusion that those indicators led me to believe
12 that it was a proper stop and a proper search and that the
13 motion to suppress should be denied.

14 Many of the cases talk about the officers'
15 experience in drug interdiction and the officers working
16 drug activity and the open -- just overall experience of
17 the law enforcement officer is giving him a reasonable
18 basis to believe that something else was afoot.

19 And, first, you know, you were driving in that fast
20 lane, that was a sufficient indicator for him to stop you
21 because whether you're from South Carolina, Virginia, or
22 whatever and you're driving within South Carolina, South
23 Carolina law controls and the law is you cannot drive in
24 the fast lane unless you're passing someone. It made me
25 think that, Well, I imagine someone probably told her that

1 as long as you don't speed, you should be all right. And
2 you weren't speeding. Minimum speed is 45, maximum is 70,
3 so you were in that range. But mistakenly, you were in the
4 wrong lane.

5 That gave him a basis to stop, then if he didn't
6 have one, you were speeding, which you admitted, so that
7 gave him a basis to stop you. But you came to this rolling
8 stop, this -- you didn't stop. You kept, well, you
9 obviously didn't want to stop. You, you know, I could
10 imagine the multitude of things that were rolling through
11 your mind, but you couldn't get away either, so you had to
12 stop. But you came to this rolling stop, creeping
13 creeping, creeping, and didn't stop until he turned on the
14 emergency -- I mean the siren. And of course, if you
15 hadn't stopped then, you'd picked up another charge of
16 failure no stop for a blue light.

17 But you wisely stopped. But that was an indicator
18 that he could think that there's some reason she doesn't
19 want to stop. Something else is going on. And he believed
20 that you were making a phone call or doing something in the
21 car and, sort of like when a person's driving and they have
22 a beer in the car, an open container and the police are
23 ready to pull them over and they're like, Hmph, is the beer
24 in that can or is it an empty can or is it open. You know,
25 if someone has a reason to hesitate from stopping, then,

1 then it's natural for them to hesitate, but at the same
2 time it gives the officer a basis to believe something is,
3 is awry.

4 And then he saw the multiple cell phones, including
5 one burner phone, of course, as I indicated, I've had two
6 cell phones for the past 19 years, but one of them is not a
7 burner phone, they're all official, legitimate phones, and
8 he explained that concern that was an alarm or red flag.

9 Your bag of snacks, which I don't buy in itself. I
10 mean that's a personal choice and for those of us who lived
11 through the green book generation, if you didn't travel
12 with food, you wouldn't get anything to eat. You'd starve
13 because you stop at places that wouldn't serve you or you
14 might stop in a town that you might not make it out of, so
15 that could even be considered a cultural thing of traveling
16 in such a manner that you don't have to make unnecessary
17 stops in strange places in southern towns or wherever.
18 But, you know, that in and of itself -- and the Court has
19 rejected that as being a sufficient indicator.

20 Then the rental car. And that created, once he
21 discovered it was a rental car and a short term rental, a
22 one way rental, that was another red flag to him and
23 legitimately so. Of course, he thought that you were
24 overdue on your return. Then some of the cases where
25 someone's driving the wrong car and their explanation is

1 just not a normal type of the situation. That could be a
2 red flag.

3 And then he said you were unreasonably nervous.
4 You know, you were acting differently than other people who
5 he stopped. You were shaking abnormally he said and, of
6 course, no video to verify that, but I would imagine you
7 would have been pretty nervous. Of course, what caught my
8 eye is your -- after saying that you normally don't get a
9 speeding ticket unless you're going over 80 and you
10 admitted to speeding, that you seemed to really want him to
11 hurry up and give you that ticket. Like, please give me my
12 ticket so I can just get back on the road. And he says,
13 No, I have to go through my enforcement procedures. And
14 you kept wanting that ticket. And that kept making him
15 think that you want that ticket too fast or too bad, too
16 badly. That was an indicator that something else was
17 afoot.

18 Then the indicator of, to me, when the longer you
19 waited, you appeared to be nervous and like I see these
20 girls pull on their hair, pulling, pulling, pulling, you
21 know, either they're -- they had too much relaxer in there
22 hair and it's causing it to itch or they're nervous about
23 something and yours were natural that you were pulling,
24 pulling, pulling, displaying what appeared to be
25 nervousness on the video. I didn't see the portion he said

1 about shaking abnormally, but that's his testimony.

2 Then your travel plans and itinerary, the main
3 thing that got the guy convicted in State v Austin is that
4 unusual travel itinerary. And we talked yesterday about
5 the mother-in-law and he's going some place to get his
6 mother-in-law from -- his mother for Mother's day, but he's
7 got to turn the car in one day and Mother's day is not
8 until a month and a half away. But that's what got him
9 convicted, even though the other indicators were not
10 sufficiently reliable, that one got him and that one gets
11 you as well.

12 You got off the boat in Newark according to the
13 testimony and then immediately flew to Atlanta at night, I
14 imagine got into your mother's home, 10 o'clock or so, if
15 you went there. And then leaving 5 a.m. to drive back to
16 turn the car in, in another city. And though the officer
17 initially was mistaken as to your rental being overdue,
18 it's just a red flag that further made him feel something
19 wrong was afoot and that was a legitimate red flag in my
20 view.

21 And so considering the totality of those
22 circumstances, you know, one standing alone is not
23 sufficient, but considering all of those things, along with
24 the vast amount of experience and training of this officer,
25 that gave him a reasonable basis to extend the stop. And

1 then in some instances the stop is unreasonably extended,
2 you know. In many cases, on 95 when they have people
3 standing on the side of the road for an hour while they
4 wait for these drug dogs, sniffing dogs, drug sniffing dogs
5 to show up and courts's have found that that was an
6 unreasonable delay of someone, waiting for a drug sniffing
7 dog.

8 And what made me think initially that, when I was
9 on your side, because when I saw you standing they're all
10 that time, I thought they were waiting for the dog, but the
11 dog was right in his, the back of his vehicle, right there.
12 So the wait was only 15 seconds, so there's -- if that was
13 an essential element, and of course, I read the cases and
14 that would not in itself be determinative, but that
15 supports the evidence of the preparedness of the officer to
16 do interdiction in a way that is constitutional.

17 And so taking all that into consideration it was --
18 despite my earlier concern, I felt compelled to deny the
19 motion to suppress because, you know, we're a system of
20 laws, not of men. So I hold him to a higher standard, but
21 I have to hold myself to that same standard in enforcing
22 the law as a judge and ruling properly based on the law.
23 And you were going to lose that motion and face 25 years in
24 prison. So I think your inclination was absolutely
25 correct, in believing what I would have decided.

1 Now, the only thing that's left, you said you don't
2 want a trial. You're satisfied with the representation of
3 the three lawyers you've had?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you do not -- you have no defense
6 to these charges?

7 THE DEFENDANT: No, sir.

8 THE COURT: And you're guilty of the charges?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And so the question becomes why should
11 I accept this negotiated sentence.

12 THE DEFENDANT: Because I'd really appreciate it?
13 No, that's not why. Because the negotiated plea of 8 years
14 holds me accountable for a crime that I committed. It's
15 not totally excessive like the 25 I felt like would have
16 been and it still gives me time to see part of my infant's
17 childhood.

18 THE COURT: All right. Now, Mr. McCarley, what
19 would you like to say? And then we'll come back to
20 Ms. Rogers just one time after you.

21 MR. MCCARLEY: Nothing, unless there's something
22 you need to hear from me. I would just add the minimal
23 record to a reason for Your Honor to accept the
24 negotiation.

25 THE COURT: All right. So Ms. Rogers, what was

1 going on in this case? What's this all about?

2 THE DEFENDANT: The trafficking?

3 THE COURT: Yeah, why were you trafficking cocaine?

4 THE DEFENDANT: Well, I was going to open a
5 Tropical Smoothie. My career had afforded me a healthy
6 savings and I wasn't really --

7 THE COURT: How much money did you have saved up?

8 THE DEFENDANT: At that particular time it was like
9 25,000. So I was trying to not put all my eggs in one
10 basket. It kind of defeated the purpose. But in my mind I
11 was investing to stretch my money so that I wouldn't have
12 everything tied up into that business venture.

13 A friend of mine who was in the streets selling
14 drugs told me that he could move it for me and at the time
15 he didn't want cocaine. He wanted Percocet's. He said
16 that that was more lucrative. In my mind I didn't really
17 know anything about that. And never really heard of how
18 that could maneuver my money for me, so I knew that cocaine
19 would have been a better choice so that's what I had
20 chosen. So for lack of better words, investing.

21 THE COURT: So when did you make that decision.

22 THE DEFENDANT: That night before I disembarked the
23 ship.

24 THE COURT: This whole thing about disembarking,
25 what does that mean? How did you end up where you were?

1 THE DEFENDANT: As a merchant mariner I was a
2 contractor.

3 THE COURT: Is it mariner or mariner?

4 THE DEFENDANT: Same difference.

5 THE COURT: Mariner. All right. Go ahead.

6 THE DEFENDANT: I was contracted to work on that
7 vessel and that particular contract called a 120 day ship,
8 so I knew that I was scheduled to get off because once we
9 got --

10 THE COURT: And where had you been in that 120
11 days? Where did you go?

12 THE DEFENDANT: I don't really recall. I don't
13 even remember the name of the ship I was on.

14 THE COURT: Isn't like a life on a boat? I mean
15 what kind of ship are we talking about?

16 THE DEFENDANT: I remember that it was a cargo
17 ship. I've had quite a few vessels. Like I say I'm a
18 contractor so they send us to different ships based on
19 availability.

20 THE COURT: I mean do you stay in the United
21 States.

22 THE DEFENDANT: No. Some stay coast wide. Some go
23 overseas. I'm pretty sure that ship carried me overseas
24 because once I said -- once I got back to the States and I
25 got cell phone reception, that's when I had that

1 conversation.

2 THE COURT: So while you were on the ship you were
3 concocting this in your mind, a way of making some money?

4 THE DEFENDANT: Well, I knew that the money I had
5 in my savings was already going to be gone and then once I
6 had that conversation on the phone, that kind of confirmed,
7 yeah, I definitely won't be completely broke.

8 THE COURT: And how much money were you going to
9 make from transporting these drugs?

10 THE DEFENDANT: I'm not sure. We didn't really get
11 into the specifics of what I could make, but I know that it
12 would have been more than what I had started with.

13 THE COURT: Well, what were you supposed to do with
14 the drugs when you got to your destination?

15 THE DEFENDANT: I was just going to give them to
16 him and in a few days or few weeks, he --

17 THE COURT: So you were going to pick up drugs for
18 him in Atlanta and bring it to him in Norfolk?

19 THE DEFENDANT: Yes.

20 THE COURT: All right. I'll put a pin in that for
21 just a second and come back to it. But you don't know how
22 much money you were going to get from doing this?

23 THE DEFENDANT: I would have hoped to at least make
24 an extra 10,000 because that was kind of what I felt like
25 would have been a nice --

1 THE COURT: Was this person your boyfriend, or...

2 MR. MCCARLEY: May we approach, Your Honor?

3 Mr. Furse and I approach?

4 THE COURT: All right.

5 MR. MCCARLEY: Thank you so much, Ms. Rogers.

6 (There was a bench conference out of the hearing of
7 the court reporter.)

8 THE COURT: Now, Ms. Rogers, what did I ask you
9 last?

10 THE DEFENDANT: How much money was I going to make.

11 THE COURT: And you thought you were going to make
12 \$10,000?

13 THE DEFENDANT: At least, yes.

14 THE COURT: At least?

15 THE DEFENDANT: I hoped.

16 THE COURT: So were you supposed to continue
17 helping him to sell the drugs?

18 THE DEFENDANT: Oh, no, that wasn't anything I was
19 interested in. I just wanted the money.

20 THE COURT: All right. And I'm, you know, asking
21 these things because I see people all the time get wrapped
22 up in relationships and they take the fall for other
23 people. They have these boyfriends, drug dealers, people
24 outside of the courtroom helping to dictate their future,
25 basically. And they'd blindly go into these situations.

1 Now, do you know the guy on the back row.

2 THE DEFENDANT: Yes, I know him.

3 THE COURT: Who's he?

4 THE DEFENDANT: That's my mom's boyfriend.

5 THE COURT: Your mom's boyfriend. All right.

6 MR. MCCARLEY: He's been here all week --

7 THE COURT: Okay.

8 MR. MCCARLEY: -- with the family. He's been
9 staying with them in the motel. He's been caring for the
10 child when they --

11 THE COURT: Okay.

12 MR. MCCARLEY: I don't know anything else about
13 him. He's been nice to me.

14 THE COURT: Okay. Well, just, you know, many times
15 people -- you know, we arrested someone out of the audience
16 here this week. Were you here when the guy who was out on
17 house arrest just sitting in the courtroom and --

18 THE DEFENDANT: Yes, I saw that.

19 THE COURT: Yeah, so the courthouse is an open
20 courthouse, but then I don't want to say something to you
21 that might cause you some problems later that --

22 MR. MCCARLEY: She said there's no sensitivity that
23 Your Honor can talk about anything in front of in
24 gentleman.

25 THE COURT: Okay. All right. But there's a state

1 statute that -- and I say all this to you because you --
2 you've gotten yourself in this predicament, heading off to
3 prison and somehow or another miraculously here appears
4 with a how old baby in --

5 THE DEFENDANT: Seven month old.

6 THE COURT: A seven month old baby. How did you
7 manage that?

8 THE DEFENDANT: Your Honor, that is my miracle
9 baby. Well, I'm 35 now. And --

10 THE COURT: I wouldn't put you at -- other, you're
11 at 35. Someone was 41. Who was that? I'm on another case
12 apparently. I didn't think you looked 41. 35. Okay. Go
13 ahead.

14 THE DEFENDANT: I've been dating at least since I
15 was 21 and never have been pregnant, so I just assumed I
16 couldn't have kids, never got tested, but I've had
17 relations where there's no protection used and the guys
18 that I have dated, they ended up having children with other
19 women while we were still dating, so I just assumed I
20 couldn't conceive and just decided to, you know, kind of
21 take on the motherly roll with their children and help
22 raise them until we departed.

23 And -- but the stress that this case had brought
24 on, I don't know how that situation came about because the
25 young man who impregnated me, we really hadn't known each

1 other at all. It was, I don't want to say a jump off, but
2 it was a really random stranger that I didn't know. And
3 the act in my mind didn't really take place, but apparently
4 something happened. I wasn't to the place where I was
5 drunk or intoxicated, but I didn't know what was going on.
6 But I just didn't really felt like the situation happened.

7 Nevertheless, when I found out that I was pregnant,
8 I presented it to -- I called me defense attorney.

9 I presented it to him and he denied it. He said we
10 didn't even have sex.

11 Whatever. So I was kind of deciding, battling with
12 myself, you know, what to do. Presented it to my parents.
13 And my dad was like, Well, you got this legal stuff going
14 on, I don't think it's a good idea. My mom was like, No,
15 you need to keep that baby. You've been wanting a baby
16 for, you know, however long. I wanted a grandbaby, so she
17 convinced me to keep him and he's just been my safe haven.
18 My peace of mind.

19 THE COURT: So you're pursuing child support or is
20 he trying to get the baby?

21 THE DEFENDANT: I would assume that the kid looks
22 more like him to me than he does me, so he can't deny him.
23 He's never questioned paternity once the baby was born.

24 THE COURT: Where does he live?

25 THE DEFENDANT: In Georgia. I can't really say

1 what his intent is, but I know, hopefully between my mom
2 and him, you know, they can come together and keep my baby
3 safe.

4 THE COURT: I guess on my mind as I started asking
5 you about this, I wanted to make sure there wasn't some
6 drug dealer who had you under control and who got you
7 pregnant too.

8 THE DEFENDANT: No, sir.

9 THE COURT: It's not that type of scenario.

10 MR. MCCARLEY: I can't imagine there's many people
11 that could control Ms. Rogers, Your Honor.

12 THE COURT: Well, what's your educational
13 background?

14 THE DEFENDANT: I have a bachelor's degree.

15 THE COURT: Bachelor's degree. From where?

16 THE DEFENDANT: Old Dominion University.

17 THE COURT: Old Dominion, in Richmond?

18 THE DEFENDANT: No, it's in Norfolk, Virginia.

19 THE COURT: Norfolk.

20 THE DEFENDANT: And it's in business management.

21 THE COURT: So what else do I need to know about
22 Ms. Ciarra Laree Rogers?

23 MR. MCCARLEY: Your Honor, I am going to file a
24 motion to reconsider based on my side bar. I think you'll
25 retain jurisdiction because of that and it was heard in

1 front of you, whether Mr. Furse or even I remain in our
2 current positions. I can tell Your Honor that me or my
3 office will keep an eye on that and revisit it if and when
4 those conversations bear fruit that might be to
5 Ms. Rogers's advantage.

6 THE COURT: Well, under the statutory scheme, any
7 reconsideration -- I don't know that there's even, could
8 ever be a basis to reconsider a negotiated sentence. But
9 under the statute, there is a -- well a similar federal
10 statute -- what was that rule number? 35(d) or what was
11 the federal departure? Whatever the number is. And I was
12 on the civil rules advisory committee where we proposed
13 rules, to really rewrite the whole Rules of Criminal
14 Procedure because we had a few pages here and we proposed a
15 sweeping revamp, the rules be revamped. And that was never
16 adopted.

17 But the Court submitted to the legislature a
18 statute which allows a solicitor -- and I'll read it to you
19 in a minute when we find it -- to reconsider or -- I'll
20 tell you what it says in a minute.

21 But I'm saying all that to you and I go back once
22 again to this girl down in Camden, who was first offered
23 probation if she cooperated and she didn't. Then got
24 closer to trial she was offered 3 years and she didn't want
25 it. Then she was offered 7 years during trial and she said

1 she'd lose her real estate license. And she, like you, had
2 a bachelor's degree and she went to trial and got that 25
3 years.

4 (There was a pause in the proceedings.)

5 THE COURT: So people, you know, the law
6 enforcement want hardened criminals incarcerated. They
7 want real drug trafficking in jail. They want whoever gave
8 up two pounds of cocaine in jail. We know you didn't bring
9 it off the ship.

10 THE DEFENDANT: Okay.

11 THE COURT: They want people in that situation, or
12 who are involved, and many times when people cooperate,
13 well everyone who gets caught typically tries to cooperate
14 to reduce their exposure, but you find yourself perhaps not
15 being from here and being removed from what's going on here
16 only to come here for a trial and to come here thinking
17 that you're going to win and walk away to be facing 25
18 years in prison; that had you had more of an opportunity to
19 focus on things of that nature, you might have moved to do
20 that to reduce your exposure.

21 So there is a statute, 17-25-65 captioned Reduction
22 of Sentence for Substantial Assistance to the State. It
23 says upon motion of the State made within one year of
24 sentencing, the Court may reduce the sentence if the
25 defendant -- a sentence, provided substantial assistance in

1 investigating or prosecuting or helping the department of
2 corrections who -- employee who is in danger, that's
3 generally -- generally the gist of -- of that. And it says
4 a motion made pursuant to this shall be filed by the
5 circuit solicitor.

6 So it's not up to me, it's not up to him. It's up
7 to the circuit solicitor in the county where the case arose
8 and the State shall send a copy to the chief judge, who,
9 I'm the chief judge, the number one judge, you know that?
10 For this territory right now.

11 THE DEFENDANT: Okay.

12 THE COURT: I'm the chief judge or circuit court
13 judge currently assigned or presiding, shall have
14 jurisdiction to hear the motion and it's -- but
15 jurisdiction is not limited to the original sentencing
16 judge, so it may be some other judge who has that hearing,
17 but it must be given to me.

18 And, you know, you -- you made a tragic mistake and
19 you must suffer the consequences, but I'm good to know that
20 you're at peace with yourself at this moment in time. And
21 you know, you can hopefully do some things to inspire
22 others. I've seen a lot of innocent young ladies,
23 generally the ones who get caught with the wrong
24 boyfriends, who ended up going to jail -- who end up going
25 to jail, or taking the rap or even just being in a car

1 where drugs are being transported.

2 Unfortunately in your situation, you're the sole
3 occupant of the car and it was found in your luggage. And
4 you just made a terrible mistake and hopefully you can
5 figure out some way to come within that statute and
6 convince the State through your lawyers.

7 Now, that's not up to me, just as your negotiation
8 is not up to me, that is not up to me either, for the most
9 part it's up to you and the solicitor with the assistance
10 of your lawyer.

11 Anything else you want to tell me?

12 THE DEFENDANT: About myself?

13 THE COURT: About anything.

14 THE DEFENDANT: Well, once I did relocate to
15 Georgia because of the circumstances, I was no longer
16 allowed to sail, couldn't renew any of my documents, kind
17 of went into a depression and humbled myself by being with
18 my mom. Restarting. I don't want to say coming down to
19 normalcy, but a lot of people looked up to me and were very
20 disappointed and surprised that I had chose to make that
21 decision. After I came to grips that it's not going
22 anywhere, it is what it is, I decided to go back to school,
23 which was -- I hated school. And went to school for
24 nursing. I ended up getting hired at Northside Hospital,
25 but ended up going into labor early before I had met my

1 probationary period.

2 THE COURT: The one on Johnson's Ferry Road?

3 THE DEFENDANT: Yes. So anyway I had my baby and
4 had missed too many days, like they wouldn't let me come
5 back until I was medically cleared and that took like six
6 weeks, so because I hadn't completed my probation, they
7 wouldn't let me stay on, but I was happy that I was able
8 to, you know, start a new career, not really sure what this
9 -- this will probably affect a lot of different career
10 paths I could, you know, come out and do, but I'm glad that
11 I was still able to have to time that I had out here
12 because I could have been, I guess, in prison all this time
13 too. So I'm thankful for the bond. I'm thankful for the
14 negotiated plea of 8. Thankful of the Court.

15 THE COURT: You negotiated to the bitter end. You
16 got as much out of it as you could get. And that's where
17 it stands at this point in time.

18 So I'm going to accept the guilty plea and impose a
19 sentence of 7 years -- I have no problem with retaining
20 jurisdiction. I will probably have to retain if you file a
21 motion.

22 MR. FURSE: Your Honor.

23 THE COURT: Yes, sir?

24 MR. FURSE: 8 years.

25 THE COURT: Oh, I'm sorry, 8 years. I said 7. I'm

1 sorry. 8 years. I saw 7 to 25 written just below. I
2 better write that 8 years. 8 years, you get credit for any
3 time -- how long were you in jail before you were released?

4 THE DEFENDANT: Three days.

5 THE COURT: Wow. All of this transpired and just 3
6 days in jail. What kind of bond did you get?

7 THE DEFENDANT: 30,000 so 3,000 was paid.

8 THE COURT: Where did that money come from?

9 THE DEFENDANT: This guy who sold me the drugs.

10 THE COURT: And he got you out, huh? Did he
11 convince you that you had a good case?

12 THE DEFENDANT: He didn't feel indifferent. I
13 think he just did it so I wouldn't --

14 THE COURT: Tell on him?

15 THE DEFENDANT: -- cooperate.

16 THE COURT: Well, you need to certainly reconsider
17 all of that.

18 THE DEFENDANT: I had that.

19 THE COURT: No, he said so you wouldn't cooperate,
20 so you certainly need to reconsider all of that.

21 Considering all that you have in your mind.

22 MR. MCCARLEY: Your Honor, may I make one request?

23 THE COURT: Yes, sir.

24 MR. MCCARLEY: One last request on this case, or
25 the next big request? That she be allowed to just hug her

1 mom and child. We ran -- I almost had to put hands on her
2 to get her back in when Your Honor wanted us.

3 THE COURT: All right. Where is her mom and the
4 child?

5 MR. MCCARLEY: I know that's a --

6 THE COURT: Tell her mama don't come in crying too
7 bad.

8 (There was a pause in the proceedings.)

9 THE COURT: And back to the officer. Anything else
10 you would like to say about this case?

11 MR. BLACKWELDER: No, Your Honor, I -- I hate that
12 Ms. Rogers, that it came to this. As it's alluded to, I
13 was only doing my job. There's certainly no vendetta or
14 attack toward Ms. Rogers. It was simply a traffic stop
15 that resulted in this outcome. I've expressed to the
16 State, especially after seeing Ms. Rogers' son in here, my
17 sympathies as well to her and I think that was part of the
18 decision that the State offered that reduction.

19 So I don't want Ms. Rogers to think that I was
20 personally attacking her for any specific reason. I do
21 want her to know that I did have some sort of say so in the
22 offer that was given to her. Especially after knowing a
23 little bit more about her.

24 THE COURT: Thank you, I appreciate that. You
25 know, you -- I commend you. In observing the tape you were

1 highly professional and very meticulous in scrutinizing
2 your actions through the lens of the cases. You followed
3 the law and -- to the tee. And this is the end result. So
4 I commend you for doing a highly professional job and that
5 you did what your job called for. You utilized all of your
6 training and experience and it leads us to this point. So
7 I want to thank you for that.

8 MR. BLACKWELDER: Thank you, Your Honor.

9 THE COURT: Yes, sir.

10 Ms. Rogers, a 7 month old baby and most importantly
11 born on [REDACTED], I just hate it when I get a fellow
12 person who I share a date of birth coming in court with a
13 case. And -- because I don't see very many.

14 THE DEFENDANT: Yeah.

15 THE COURT: I get them on jury duty sometimes and I
16 make all of them foreperson of the jury. Put them all in
17 charge because I instantly say they're highly intelligent
18 people and you should have pursued an alternative course to
19 pursue that and it might have been better for you to not
20 get that Smoothie King. Some of them do well and some of
21 them don't get any business.

22 (The defendant was hugging her baby.)

23 THE COURT: That's the nicest baby I've ever had in
24 court.

25 MR. MCCARLEY: He's been like that all week. It's

1 -- what's funny is when I'm on the phone with her, he
2 yells. When we talk, because she lives out of town, it's
3 all been on the phone and I mean, I have to ask her to, you
4 know, put the baby down or something.

5 THE COURT: He knows how to conduct himself in
6 court.

7 (The baby and mom of the defendant are leaving the
8 courtroom.)

9 THE COURT: All right. Ms. Rogers, good luck to
10 you.

11 THE DEFENDANT: Thank you, Your Honor.

12 * * * * * END OF TRANSCRIPT * * * * *

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1	State of South Carolina)	
2	County of Aiken)	Certificate of Reporter
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5			
6	I, Brenda J. Sigwald, Official Court Reporter for		
7	the Second Judicial Circuit of the State of South Carolina,		
8	do hereby certify that the foregoing is a true, accurate,		
9	and complete Transcript of Record of the proceedings had		
10	and evidence introduced in the trial of the captioned case,		
11	relative to appeal, in the Court of General Sessions in and		
12	for the State of South Carolina on the 6th day of March		
13	2019.		
14	I FURTHER CERTIFY that I am neither kin, counsel,		
15	nor of interest to any party hereto.		
16	IN WITNESS WHEREOF, I have hereunto set my hand and		
17	seal at Aiken County, this 13th day of July, 2019.		
18			
19			
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21			
22	<i>Brenda Sigwald</i>		
23	Brenda J. Sigwald, Court Reporter and Notary Public For the State of South Carolina My commission expires January 4, 2020		
24			
25			

State of South Carolina) In the Court of General Sessions
) Second Judicial Circuit
 County of Aiken)

Docket No. 2017-GS-02-02526

State of South Carolina,)
)
 vs.) Transcript of Record
)
 Cieara Laree Rogers,)
)
 Defendant.)
 _____)

March 5, 2021
 HEARING CONDUCTED REMOTELY
 VIA WEBEX VIDEOCONFERENCE

B E F O R E:

The Honorable Clifton B. Newman, Judge

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

Cassie W. Hall, Assistant Solicitor
 Attorney for State of South Carolina

Ola A. Johnson, Esquire
 Attorney for Defendant

Maryann S. Nevers, CVR-M-CM, RVR, RVR-M
 Circuit Court Reporter
 Certified Verbatim Reporter - Master
 Certificate of Merit
 Realtime Verbatim Reporter - Master

I N D E X

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TRANSCRIPT OF RECORD

(Whereupon, the proceeding commenced at 10:34 a.m.)

THE COURT: Who is for the state in this case?

MS. HALL: All right. I'm unmuted now. I am, Your Honor.

THE COURT: Okay. And we have Mr. Johnson, Ola Johnson.

MR. JOHNSON: Yes, sir.

THE COURT: And that's Ms. Cieara ---

THE DEFENDANT: Yes.

THE COURT: --- Cieara Rogers.

All right. Good morning, Ms. Rogers.

THE DEFENDANT: Good morning.

THE COURT: And how are you today?

THE DEFENDANT: I'm well. Thank you.

THE COURT: Okay. All righty. Well, we have a motion filed by Mr. Johnson. Before going to Mr. Johnson and the motion, Ms. Hall, is there anything you would like to say?

MS. HALL: Your Honor, for the record, I'll go ahead and put the indictment number on for the court reporter. This is a motion to reconsider sentence as to Indictment 2017-GS-02-02526.

She -- what she actually pled to was trafficking, 28 to 100 grams. It was a -- it was reduced from the actual charge, which was trafficking cocaine greater than 400

1 grams. The sentencing range on the charge that she pled
2 guilty to was 7 to 25 years. And she received an 8-year
3 sentence.

4 THE COURT: Okay. And according to the plea sheet,
5 this was a negotiated sentence?

6 MS. HALL: That is correct, Your Honor. This plea was
7 entered -- you were the presiding judge for the motion to
8 suppress involving Officer Blackwelder. And after that
9 hearing, we did a negotiated plea for 8 years.

10 (Off the record briefly.)

11 THE COURT: Okay. Mr. Johnson?

12 MR. JOHNSON: Yes, sir, Your Honor. As I've discussed
13 with my client, it appears that the Court only has the
14 ability to reduce this by one year, since the minimum was
15 7. We're asking the Court to do that. This was a 7-to-25
16 range -- penalty range under the statute.

17 I'd ask Your Honor to please reduce the sentence. And
18 based on incredible amount of support, I've never had a
19 client with this many people, family members and friends,
20 accomplishments, and things that people want to say
21 positively about the client.

22 I've wanted to also confirm I've recently e-mailed to
23 Your Honor and to the solicitor, there was a letter from
24 Ebony -- Ebony Salaam and, I believe, a relative, Jermaine
25 Crandell, as well as the defendant's mother. I'm not sure

1 -- Janice Rogers -- I'm not sure if she could be present.

2 She was going to attempt to either be online or call
3 in. And I told her to call me if she had problems. So I
4 think she's trying to be online, as well as all these other
5 people. I've sent those supporting documents to Your
6 Honor.

7 Ms. Rogers has done some pretty amazing things with
8 her education. I'm sure she can get into greater detail,
9 her employment and going overseas. And I think, when you
10 look at some of the things she's done in her life, it's
11 pretty obvious that she can still accomplish great things.

12 It's -- it's very impressive to see somebody who's
13 built such a solid foundation. And she's got family and
14 friends that are going to help her. And it's amazing to
15 see all that support.

16 And I would ask Your Honor to please consider
17 listening to these people. There might be quite a number
18 of them online. I've sent contact information to all of
19 them to attend today. So there -- there's probably several
20 people trying to participate. I would just ask Your Honor
21 to listen to them and to my client.

22 That's all I have, Judge, at this time.

23 THE COURT: What's your interpretation of a negotiated
24 sentence being reduced from what was negotiated by the
25 defendant, the solicitor, and her counsel?

1 MR. JOHNSON: Well, I think -- it'd be my position
2 Your Honor can reduce it, and I would ask Your Honor to do
3 that.

4 THE COURT: Well, I understand ---

5 MR. JOHNSON: I know ---

6 THE COURT: --- it could be your position, because
7 that's what you want. I'm saying, what's the -- what's the
8 basis for your authority or belief that the Court can do
9 that?

10 MR. JOHNSON: Well, Judge, just that based on the
11 amount of support the client -- my -- my client has and I
12 think that if it's a nonconforming sentence, I think, you
13 know, SCDC will certainly follow the order of the Court, as
14 they've done in the past.

15 THE COURT: You want me to issue a nonconforming
16 sentence or an illegal sentence, or what are you asking me?

17 MR. JOHNSON: Well, Your Honor, I don't know if it's
18 illegal. They -- it -- it does say negotiated on the
19 sentencing sheet. I would -- I would ---

20 THE COURT: You use the word "nonconforming." Maybe I
21 don't understand what you mean by using that term.

22 MR. JOHNSON: Well, if it's not conforming to the
23 sentencing sheet. I -- I guess, since the statute allows
24 it, I would say that it was legal to -- to have a 7-year
25 sentence, Your Honor.

1 MS. HALL: Your Honor, if I -- if I may, Mr. Johnson
2 did not represent Ms. Rogers at the time of the plea. This
3 case was primarily handled by Jack Furse in our office, who
4 is no longer with our office. I second-chaired him for
5 purposes of this motion.

6 At the time of the plea and the negotiated sentence,
7 it was contemplated that she may provide information in a
8 federal investigation to some targets that they were
9 interested in. And it was contemplated, when she entered
10 that negotiated sentence, that if she was able to provide
11 accurate information, that they could come back before the
12 Court for this reduction in sentence.

13 She did provide information to Task Force Officer
14 Lionel Jackson with the DEA. I spoke with him. And he
15 indicated that the information she provided was accurate,
16 could be corroborated, and was consistent with everything
17 that they knew about these targets. He indicated that he
18 had approached her previously, prior to her being caught
19 here, and asked her to cooperate. At that point she didn't
20 want to.

21 Now they -- I guess, since she's provided the
22 information, because of other things that they were already
23 working on, they haven't had the opportunity to pursue an
24 investigation, based on the information she provided. He
25 indicated that he had no time frame of when that would be

1 possible or if, given the lapse in time, how effective that
2 would be at this point. But he did indicate that that
3 information was accurate.

4 (Off the record briefly.)

5 THE COURT: Now, Ms. Hall, what's the controlling
6 statute regarding the -- the state seeking a modification
7 of a sentence?

8 MS. HALL: Well, Your Honor, this -- this case -- this
9 motion before you is actually a motion to reconsider
10 sentence, filed by the defense right after her guilty plea
11 ---

12 THE COURT: No. I ---

13 MS. HALL: --- based on ---

14 THE COURT: --- I -- I understand that. I've received
15 every piece of -- every document, I reviewed. Every
16 document -- I just asked and -- a -- a question. And what
17 is the controlling statute? We can ---

18 MS. HALL: I can -- I do not know that. I can look it
19 up, though.

20 THE COURT: Well, let me jump to Mr. Johnson with the
21 same question.

22 MR. JOHNSON: Your Honor, are you referring to the
23 trafficking statute, 44-53-370 ---

24 THE COURT: No. I'm not referring to that. I'm
25 referring to the state corollary to the federal statute

1 where the federal government can come in after a sentence
2 and seek the reduction of a sentence based on cooperation
3 of a -- by a defendant. For -- (audio distortion) -- South
4 Carolina -- (audio distortion) -- not have that statutory
5 authority and it -- and it was proposed in a proposed
6 modification to the South Carolina Rules of Criminal
7 Procedure. Those rules were not adopted. But the General
8 Assembly adopted a statute ---

9 MS. HALL: Your Honor, I believe that's 17-25-65 for
10 substantial assistance investigating and prosecuting
11 another person.

12 THE COURT: 17-25-65. Okay. So we're going to put a
13 pin in that for the moment. Then I'm going to hear from
14 others who would like to speak.

15 So, Mr. Johnson, who would you like to speak first?
16 Or, Mr. Johnson, have you reviewed that statute, first of
17 all?

18 MR. JOHNSON: Yes, sir. I've got the statute pulled
19 up here. I'm reviewing that. If you'd like to -- I was
20 going to ask that her mother be allowed to speak ---

21 THE COURT: Yeah.

22 MR. JOHNSON: --- just because she is, obviously, the
23 one closest to ---

24 THE COURT: Yeah. Well ---

25 MR. JOHNSON: --- the defendant.

1 THE COURT: --- first -- first, why don't you read
2 that statute so that, for all those who may be listening,
3 would -- would know what the statute says.

4 MR. JOHNSON: Yes, sir.

5 (Off the record briefly.)

6 MR. JOHNSON: Well, it does say "upon the state's
7 motion," Your Honor.

8 THE COURT: Please read the statute for me.

9 MR. JOHNSON: Yes, sir. You want me to read the
10 entire statute?

11 THE COURT: Yes.

12 MR. JOHNSON: (As read): "Upon the state's motion
13 made within one year of sentencing, the court may reduce a
14 sentence if the defendant, after sentencing, provided:
15 substantial assistance in investigating/prosecuting another
16 person; or aid to a Department of Corrections employee or
17 volunteer who was in danger of being seriously injured or
18 killed.

19 "Section (B) Upon the state's motion made more than
20 one year after sentencing, the court may reduce a sentence
21 if the defendant's substantial assistance involved:
22 information not known to defendant until one year or more
23 after sentencing; information provided by the defendant to
24 the state within one year of sentencing, but which did not
25 become useful to the state until more than one year after

1 sentencing; information, the usefulness of which could not
2 be reasonably have been anticipated by the defendant until
3 more than one year after sentencing, which was promptly
4 provided to the state after its usefulness was reasonably
5 apparent to the defendant; or aid to a Department of
6 Corrections employee or volunteer who was in danger of
7 being seriously injured or killed.

8 "(C) A motion made pursuant to this provision shall be
9 filed by that circuit solicitor in circuit -- in the county
10 where the defendant's case arose. The state shall send a
11 copy to the chief judge of the circuit within five days of
12 filing. The chief judge or a circuit judge currently
13 assigned to that county shall have jurisdiction to hear and
14 resolve the motion. Jurisdiction to resolve the motion is
15 not limited to the original sentencing judge."

16 THE COURT: Do you believe that that statute applies
17 to this hearing today?

18 MR. JOHNSON: Well, Your Honor, if the state was in
19 communication with the original attorney on this case and
20 the motion was filed, then I guess I could argue that it
21 would be.

22 THE COURT: Yeah. The original motion was filed by
23 counsel who represented her. You took over from -- you
24 filed a motion to be substituted as counsel, didn't you?

25 MR. JOHNSON: Yes, sir. Mr. McCarley was the original

1 counsel.

2 THE COURT: And was a motion filed by the state or by
3 Mr. McCarley?

4 MR. JOHNSON: Mr. McCarley, and then filed by me.

5 THE COURT: Right. So does the statute apply where
6 the statute provides that upon motion by the state, by the
7 solicitor ---

8 MR. JOHNSON: Well, it's -- if it applies specifically
9 to state's motion, then that was the defense motion, Judge.

10 THE COURT: All right. So I'll be happy to hear from
11 her mother and any others who'd like to speak.

12 (Off the record briefly.)

13 THE COURT: Ms. Rogers, Janice Rogers?

14 MS. JANICE ROGERS: Hi, Judge Newman.

15 THE COURT: Good morning.

16 MS. JANICE ROGERS: Good morning.

17 THE COURT: Yes, ma'am. How are you today?

18 MS. JANICE ROGERS: I'm excited to hear from you
19 again. Didn't expect it.

20 THE COURT: Well, you -- you called my office several
21 times, maybe three/four/five. And I -- I had ---

22 MS. JANICE ROGERS: Yeah.

23 THE COURT: I had some of my folks call you back: the
24 law clerk or ---

25 MS. JANICE ROGERS: Yeah.

1 THE COURT: --- administrative assistant and -- and
2 provide you with whatever information you requested.

3 MS. JANICE ROGERS: Well, I ask you to excuse my
4 paperwork that I sent you before. You can see how
5 disorientated I was, as far as stressed out. I was so
6 stressed out with my own personal illness and trying to get
7 my cards together and everything to professionally write to
8 you. But I did get it together. Did you receive the copy
9 of the letter that I wrote to Vice President Camellia [sic]
10 Harris?

11 THE COURT: I did.

12 MS. JANICE ROGERS: Those are -- those are the
13 sentiments that I also want to relay to you.

14 THE COURT: Okay. Dated January 20th, 2021.

15 MS. JANICE ROGERS: Yeah.

16 THE COURT: Yes, ma'am. You were pretty stressed out
17 on the day of this -- of that trial and -- and the day she
18 was sentenced as well.

19 MS. JANICE ROGERS: I sure was. You know what, God
20 took care of me. Because He made me so sleepy that some
21 things he didn't want me to hear. Some things he didn't
22 want me to go through.

23 THE COURT: Well ---

24 MS. JANICE ROGERS: So I -- I -- I was stressed out.
25 I don't know. God's in control of my life. And I hope

1 that He's going to show up today.

2 THE COURT: Yes, ma'am. He -- He -- He's here. He's
3 always here.

4 MS. JANICE ROGERS: Yah. Yah. So you see what
5 happened to my grandbaby. And then, COVID's out here.
6 You've seen my little message about COVID.

7 THE COURT: Yes, ma'am.

8 MS. JANICE ROGERS: And it -- I'm asking the mercy of
9 the Court. Is there some way that she can get closer? If
10 she can wear a ankle bracelet? Is anything possible?

11 Vice -- Vice President Harris, I'm still waiting on
12 her response. I'm sure she's busy. But I took it to the
13 top. And now it's back to you, who is also the top.

14 So I think I working out. Progress is -- is -- is --
15 is showing itself.

16 THE COURT: Yes, ma'am.

17 MS. JANICE ROGERS: Right?

18 THE COURT: Yes, ma'am. Well, there's some other
19 folks want -- would like to speak as well. Are you ready
20 to pass ---

21 MS. JANICE ROGERS: Oh.

22 THE COURT: --- pass it on ---

23 MS. JANICE ROGERS: I am.

24 THE COURT: --- to them?

25 MS. JANICE ROGERS: I am. Thank you for listening.

1 THE COURT: Yes, ma'am.

2 MS. JANICE ROGERS: And ---

3 THE COURT: Thank ---

4 MS. JANICE ROGERS: --- I'm over and out.

5 THE COURT: Okay. Thank you.

6 MS. JANICE ROGERS: Okay. Bye.

7 THE COURT: Bye.

8 (Off the record briefly.)

9 THE COURT: All right. Any other person on would like
10 to speak who are able to speak at this time?

11 (Off the record briefly.)

12 THE COURT: We have Ms. Ebony here?

13 (Off the record briefly.)

14 THE COURT: All right. We have to promote some more
15 folks here.

16 (Off the record briefly.)

17 MS. SALAAM: Hello?

18 THE COURT: Yes.

19 MS. SALAAM: Praise the Lord. How y'all doing? I
20 want to get it right. Are you Judge Cliff -- Clifton --
21 Cliffman?

22 THE COURT: Clifton Newman.

23 MS. SALAAM: Clifton Newman.

24 THE COURT: Yes ---

25 MS. SALAAM: How you doing?

1 THE COURT: I'm fine.

2 MS. SALAAM: I'm on camera only. I can't see. I
3 don't even know if I'm up here. Hold on. Let me get this
4 together. Okay. I'm right here. All right.

5 Yep. I just wanted to -- I am a cousin of Cieara,
6 just here on her behalf. Just like my Aunt Janice was
7 saying, we just expect for the -- you know, the greater
8 good. We looking on the bright side of things. And, you
9 know, we thank God for, you know, what you have to do and
10 what's taken place. But we thank God for, you know, grace
11 and mercy also and, you know, the giving of chances.

12 And I just say, from a cousin standpoint, I -- I love
13 her. She's a awesome person overall. And we just need
14 her, you know, to be able to be here also with us with the
15 family and, you know, her children that she has. It's
16 important that he has his mother.

17 So I just -- like I said, I -- I thank God. I trust
18 in God that, you know, we'll have a good outcome as well.
19 And I appreciate y'all letting me take the time out to
20 joint y'all today.

21 THE COURT: Okay. Thank you.

22 Mr. Johnson, who else do you have?

23 MR. JOHNSON: Your Honor, we have Dr. James --
24 Bernique James, if she is on. We have a Sherry Williams.
25 I don't know if she's on. Ms. Spain, Adrienne Spain. We

1 have Pamela Chappelle. Donald Steiger, Jeffrey Sharp, as
2 well as the letters that I e-mailed with Jermaine Crandell
3 and Ms. Salaam. I don't know if they're on, Judge.

4 THE COURT: All right. Ms. Sharpe? Ms. Sharpe?
5 (Off the record briefly.)

6 MR. SHARPE: Yes. Can you hear me now?

7 THE COURT: Yes.

8 MR. SHARPE: Yes. Thank you. Good morning, Your
9 Honor.

10 THE COURT: Mr. Sharpe, yes.

11 MR. SHARPE: Yes. Judge Newman, Attorney Johnson,
12 thank you for inviting me -- (audio distortion) -- and
13 thank God for meeting such a beautiful person as Cieara.
14 I've known her for many years now. And I'm inspired by her
15 motivation to change and go in the right direction.

16 And I just know that her heart is in the right place.
17 She's doing the best she can and that she will do the right
18 thing, if given another chance. And I stand with her to
19 support her in any way that I possibly can.

20 THE COURT: All right. Well, thank you for checking
21 in and sharing your kind words concerning her.

22 (Off the record briefly.)

23 THE COURT: And we have another call-in user. First
24 few numbers are 706. Could you tell us who you are and
25 what you would like to say?

1 MR. MCCARLEY: Your Honor, that may be the mother of
2 my client, who is up next for a bond hearing. This is Nick
3 McCarley, by the way. That may be a Ms. Booker. But I do
4 know, sir.

5 MS. BOOKER: Yes.

6 THE COURT: Okay.

7 MS. BOOKER: I'm here.

8 THE COURT: All right, Ms. Booker. We'll get to you a
9 little later this morning.

10 (Off the record briefly.)

11 THE COURT: Okay. Anyone else here concerning Ms.
12 Rogers?

13 (No audible response.)

14 THE COURT: Okay, Ms. Rogers, Ms. Cieara?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. What would you like to tell
17 me?

18 THE DEFENDANT: I would really like for the
19 consideration and the reduction of the one year to take
20 place. A lot of people here felt as though one year is
21 nothing and why am I trying to move forward with this
22 motion. But in all actuality, one year is a whole lot of
23 time. That's more time, if -- if I get the reduction, that
24 I can spend with my son.

25 Seven years was the original plea that it started off

1 at. And then, they offered me ten. And as you know, it
2 was negotiated to the eight. Had I had known that the
3 seven years was, like, the only option that I could have
4 had, maybe I would've took it. But I still probably
5 wouldn't have agreed to suppress -- or not to suppress,
6 rather.

7 So here we are today. And I just feel like being in
8 prison has been a life-altering experience. If I get the
9 reduction, I'll have two years and nine months. If I
10 don't, I'll have three years and nine months. And like I
11 say, even though it seems like a year is not going to make
12 a difference, I really feel like it will.

13 THE COURT: All right. Well, anything else on your
14 mind this morning?

15 THE DEFENDANT: Me? Of course. There's always things
16 on my mind. Whether or not I want to share them, no. But
17 here in the prison -- well, Leath Correctional really
18 doesn't have a whole of programs to offer, as far as
19 rehabilitation. But me, just through my own life
20 experiences, I have the ability to adapt and cope and just
21 move forward with whatever situation I'm thrown into.

22 Here at the prison, I have decided to get more -- I
23 don't want to say religious, but I just decided to just
24 look more to God, because I felt like it was a reason
25 behind everything. And I -- I was content when I took the

1 plea. I felt like this was something that paused me and
2 just stopped me in my tracks to realign me and reassure me
3 and just let me know that whatever path I was headed down
4 was not the right one.

5 I think that with the remaining time that I have, I
6 don't expect to do marvelous and great things here.

7 Because like I said, there's not a whole lot that's
8 offered. But I do feel like I am a leader, natural-born.

9 And the women here, they respect me. They look up to
10 me. And I feel like I could continue to motivate and
11 encourage the women that's here. And I hope to be able to
12 do the same with my son whenever I am reunited with him.
13 That's it.

14 THE COURT: Well, it's -- as your mother cited in her
15 letter, you were born on [REDACTED], which is a famous
16 birthday. And I -- and everyone I know from that date of
17 birth is -- they are all natural-born leaders.

18 Unfortunately, I know one who was born on that day
19 committed a double murder in Columbia and is on death row.
20 And so from time to time, I have to -- I'm ashamed of -- to
21 -- to identify with that date with -- with people. But I
22 don't put you in that category at all.

23 THE DEFENDANT: Thank you.

24 THE COURT: So -- yeah. Your -- your case is -- is --
25 is quite an unusual and shocking case. I guess shocking

1 for -- seemingly shocking for all of the people who wrote
2 these letters ---

3 THE DEFENDANT: Yeah.

4 THE COURT: --- even though they -- they all say what
5 a wonderful person you are. They say that in one breath.
6 And then, in the next breath, most of them say that you --
7 you were going down the wrong road, heading in the wrong
8 direction, being used and abused by the wrong people, and
9 many other things similar to that. So, you know, it's --
10 it's -- I guess that's life. Life is full of ups and
11 downs.

12 The thing about this case, your case, and at the time
13 that you pled guilty, had I granted that motion to suppress
14 -- I'm -- I'm sorry. Had I denied the motion to suppress
15 and we had a jury trial, you would've been sent to a
16 mandatory 25 years in prison. And ---

17 THE DEFENDANT: Yes. But ---

18 THE COURT: --- and many people have made the choice
19 to have a trial, lose motions, and they get the consequence
20 of -- of having not plead guilty, some have gotten life in
21 prison.

22 You know, someone is accused of a murder and they can
23 plead guilty to a -- a -- a manslaughter or -- or the
24 solicitor offers a sentence of 10 years/15 years and -- and
25 they -- no, no -- and they get convicted and get 30 years

1 or life. And in many of the drug cases, especially with
2 repeat offenders, quite often they reject the opportunity
3 to plead guilty and, you know, sometimes it's the right
4 decision and sometimes it's the wrong decision.

5 So you are in a -- in -- in quite difficult situation
6 on that day -- you and Mr. McCarley in representing you --
7 and had some choices to make. You -- you might recall the
8 officer who was adamant initially about you receiving ten
9 or twelve years or something was overcome by compassion
10 when he saw your child. And -- and though arrows that were
11 being slung at him, it seems as if he felt the urge to turn
12 the other cheek and -- and say because of what he had heard
13 and because of what he had experienced, he -- he was asking
14 the state to reduce it from ten or -- ten years/twelve
15 years/fifteen years, whatever it was, down to eight years.

16 Because typically, when a person is made -- offered --
17 given a plea deal or made an -- given an opportunity to
18 plead, they -- they have a deadline: "Well, you have to
19 accept this offer by noon on Wednesday. And -- and if you
20 don't, then we go to trial and you have to face the
21 consequences."

22 And somehow or another, miraculously in your case,
23 your deadline came and went. And then -- then they gave
24 you another deadline. It came and went and another
25 deadline that came and went. And -- and through your

1 perseverance, in -- in the end, they reduced the amount,
2 ultimately, to eight -- eight years.

3 And in addition to that, I probably put on the record
4 -- I don't recall that -- in the event of this substantial
5 cooperation under the statute that the solicitor just
6 mentioned, 17-25-65, that the state had the authority --
7 and -- and this has been a hotly debated ---

8 What's the year of that statute, 2010?

9 (Off the record briefly.)

10 THE COURT: Yeah. The -- the -- the statute was
11 adopted in South Carolina in June 2nd, 2010. Before that
12 time the state or judge or no one else could change a
13 sentence after it had been put in effect, except a judge
14 has the authority, if a motion is timely filed, to
15 reconsider a sentence.

16 So this is not a motion by the state, where the state
17 is seeking to have -- have the sentence changed. And of
18 course -- and the state did not file anything within the
19 year of the statute that Mr. Johnson just read.
20 Fortunately, Mr. McCarley filed a motion within -- or
21 immediately filed this, meaning it was filed within a year.

22 So I have jurisdiction to hear this case. The whole
23 question is that you entered into a negotiation regarding
24 your sentence. And now you're asking me to change what you
25 were -- you negotiated to?

1 I'm -- I'm trying to get a -- I posed that question to
2 Mr. Johnson right off the bat. If the state, the
3 defendant, and defense lawyer negotiated a sentence of
4 eight years, which is what you -- you received, and -- and
5 you file a motion to consideration, what is my -- for
6 reconsideration, what is my authority after the fact?

7 Because where there is a negotiated sentence, either I
8 will accept the negotiated sentence and give you exactly
9 what you, your lawyer, and the solicitor have negligence --
10 and I tell every defendant this -- I said: If -- my
11 options are to accept the negotiated sentence and give you
12 exactly the sentence that you, the state, and the lawyer
13 have negotiated; or I will not accept the guilty plea and
14 we'll have a trial.

15 And that -- that was the same choice that I had on
16 that day: either to accept the negotiated sentence or not
17 accept the negotiated sentence and proceed with the trial
18 -- or in that particular instance, proceed with ruling on
19 -- on -- on the motion to suppress, because I delayed
20 ruling on the motion. Because had I ruled on the motion
21 and denied your motion, then there would've been no
22 incentive for the state to reconsider at all these
23 deadlines that they gave you.

24 They gave you a deadline. It says: If you don't take
25 that, we'll -- we're going to trial. And -- and if you get

1 -- you lose, you get 25 years.

2 And that happens many, many, many times. Because
3 sometimes it's too late to -- to change your mind. Many
4 people change their mind after the jury says "guilty"; that
5 they're ready to change their mind about what they would've
6 done or should've done and file the PCR that says: "The
7 lawyer didn't tell me what my consequences could possibly
8 have been."

9 So we -- I'm sitting right here right now in the same
10 seat, look out exactly where you were standing on that day.
11 So it -- it plays vividly in my mind. Vividly in my mind
12 because it was shocking that you would appear before me on
13 that day, charged with the crime that you were charged
14 with; also, shocking that you had just gotten off the boat
15 or sea from sea and -- I may have some of the facts mixed
16 up -- but gotten off and -- in Norfolk or someplace up
17 there and rented a car and -- and drove down and -- to
18 Atlanta, arriving late at night, and said you were going to
19 see your mother or somebody.

20 And then, after staying about five or six hours,
21 you're back on the road, heading back in the other
22 direction and caught the attention of a -- of a officer
23 when you were driving in the passing lane less than the
24 normal speed, holding up -- you can say holding up traffic.
25 But there is a state statute here, where, when you're

1 driving left of center and you're not passing anyone, that
2 you could be given a ticket for driving in the -- we call
3 it the "slow lane."

4 You're on an interstate. And rather than driving in
5 the right lane like a lot of women do, they get in the left
6 lane and impede the traffic. So many times, people are not
7 stopped and charged with that. I'm sure men do it as well,
8 but I see more women do it.

9 And many people who travel -- traveling interstate, I
10 guess they get in that left lane because they don't want to
11 keep changing lane as people are passing. But it -- it
12 impedes traffic for people who are driving faster. So the
13 officer decides to stop you. And that was the probable
14 cause to stop you.

15 Then after he stopped you, then there are other
16 questions that came to his mind, you know. Obviously, he
17 was a narcotics officer who -- who makes a living
18 patrolling the interstate and dealing with cars and people.
19 And he stopped you and seemed like he was smell -- smelled
20 that you're -- might've been smoking some marijuana or he
21 might've smelled some marijuana.

22 So that would really -- first, driving in that lane;
23 then secondly, smoking marijuana; then, you know, all kinds
24 of things trigger in his mind. So he's ready to call out
25 the dogs. I don't know if he had the dogs in the back of

1 his truck or -- or had to call for a K-9 unit.

2 They've had many cases on that, by the way, up in the
3 State of Maryland. You know, they pulled some folks over
4 and -- and -- on the side of the road, and they detained
5 them there for about an hour, waiting for dogs and other
6 things. And -- and the -- that conviction -- they were
7 found guilty, and their conviction was reversed because
8 they were illegally detained on the side of the road for
9 too long without sufficient basis to be detained on the
10 road that long. And that was a part of a racial-profiling
11 case as well.

12 So that was a situation in Maryland. And they have
13 cases that are -- that deal with that issue. I mention
14 that because someone in of the letters sort of insinuated
15 something to that effect here. But the officer has
16 probable cause to stop you. And there are many other
17 cases, some of the basis which you said that was on his
18 mind, may not have been valid in an of itself, but taking
19 both -- that fact and all the other facts.

20 You know, I -- I was strongly leaning toward denying
21 your motion to suppress. So therefore, you would've been
22 faced with 25 years. And I delayed ruling, so we'll wait
23 till tomorrow for me to decide.

24 THE DEFENDANT: Yeah. I ---

25 THE COURT: Then came back the next day and bought you

1 some more time. And then the mother appeared. And -- was
2 that your father or stepfather?

3 THE DEFENDANT: No. That was ---

4 THE COURT: The man who came, who took the baby?

5 THE DEFENDANT: That was her friend, my mom's friend.

6 THE COURT: Oh, her friend. Yeah. So I -- because
7 she was -- she was -- she couldn't handle it. She was --
8 they had to give the baby to a friend because she couldn't
9 handle it. But he made it seem like he knew you and knew
10 the baby pretty well.

11 So you were ---

12 THE DEFENDANT: (Audio loss) ---

13 THE COURT: --- you were faced with a very tough
14 situation. It was very unfortunate. But the drug-
15 trafficking laws are very, very severe, very stringent,
16 with mandatory prison sentences.

17 And then, you gave a, you know, explanation like some
18 of your people who are writing, saying what a great promise
19 you have, businesswoman, and you said that, well, you were
20 -- you were out to make some money to plant the seed for
21 your investment into a smoothie -- smoothie -- smoothie
22 company, smoothie franchise. So you had a lot of money,
23 but maybe you didn't have enough for that franchise fee.
24 So you're going to -- this one big hit to put you over the
25 top.

1 And unfortunately for you, it -- it didn't work out,
2 because you were caught in the act of that. And you were
3 between a -- between what we call that rock and a hard
4 place. And you had to make a choice.

5 As you sit there today, you don't seem to be
6 questioning your choice at all. Because your alternatives
7 were not that great. You -- you had -- your alternatives
8 could've led to a devastating result that -- I certainly
9 didn't want to see that happen to you because, you know, my
10 heart was bleeding along -- all the way that, while this
11 young lady, who was living -- living a relatively clean
12 life, all of a sudden finds herself in a foreign place,
13 facing 25 years in prison. You know, my heart bled for
14 days for you.

15 And -- but here we are. All those -- now, that was
16 March the 6th of 2019. Well, goodness. We are almost at
17 your two-year anniversary. Now we're at March the 5th of
18 2021, almost two years later.

19 You might've felt at the time that you couldn't make
20 it a day. But wow, you've made it two years. And you seem
21 to, you know, have that recognition that, you know, you
22 have to make the best of what you have at this point in
23 time. Everything else is -- is a longshot. And that's why
24 I started out drilling Mr. Johnson, your lawyer, like --
25 like, you know, "What are you basing this on? What --

1 what's your law? What's your -- what do you want me to
2 base any decision on?"

3 You know, your mother wrote to the Vice President.
4 And I guess she contacted me immediately after the
5 election, when hope was raging high, that maybe -- maybe
6 President Trump wouldn't hear her -- her cry, but Kamala
7 Harris would. And maybe she will. I mean, that's -- you
8 know, as you know, the -- President Trump pardoned -- how
9 many people? -- hundreds, thousands -- yeah -- countless,
10 which you were not in that number, even though -- what's
11 the guy's name? -- Little [sic] Wayne or -- I don't want to
12 call -- whatever the rapper -- whoever ---

13 THE DEFENDANT: Meek Mills?

14 THE COURT: --- it was -- who was he?

15 THE DEFENDANT: Meek Mills?

16 THE COURT: No. He didn't do Meek Mills. He did --
17 where are some of you young people?

18 LAW CLERK: Lil Wayne -- oh, Kodak Black.

19 THE COURT: Who?

20 LAW CLERK: Lil Wayne ---

21 THE COURT: And ---

22 LAW CLERK: --- and Kodak Black.

23 THE COURT: Yeah. Little -- Little Wayne and my law
24 clerk's favorite, Kodak Black ---

25 LAW CLERK: Yeah, right.

1 THE COURT: --- even though he still is facing some
2 state charges here in South Carolina. So we're ---

3 LAW CLERK: Unh-unh. Kodak is in Florida.

4 THE COURT: We have state charges in ---

5 LAW CLERK: Yeah.

6 THE COURT: --- South Carolina. Those are the ones
7 that were pardoned.

8 LAW CLERK: Well, the state charge is in Florida.

9 THE COURT: State charge ---

10 LAW CLERK: I looked ---

11 THE COURT: --- is in Florida.

12 LAW CLERK: --- I looked mine ---

13 THE COURT: All right. Anyway, but you weren't in his
14 number. Of course, he pardoned former mayor of Detroit who
15 got many years, twenty-something years, 25 years: Kwame
16 Kilpatrick. He had been in a -- in a about five or six
17 years of a 25-year sentence.

18 President Trump granted him clemency. And so he went
19 -- he fell mightily from being a mayor of Detroit to being
20 locked up with a 25-year prison sentence. But President
21 Trump let him out. So, you know, things happen. But those
22 are rare occasions when they do.

23 President Obama granted clemency to a lot of people
24 charged with the crimes that you are charged -- that -- or
25 reduced -- reduced the sentences of many of the people

1 charged with crimes that -- like you're charged with. But
2 the presidential authority only relates to federal --
3 federal cases, not state cases. So Vice President Harris
4 has no authority or President Obama -- I mean, Biden has no
5 authority to change a state sentence. Only the governor of
6 the state can do that -- or the state pardon and parole
7 board.

8 (Off the record briefly.)

9 THE COURT: So -- so here you are. I mean, you've --
10 it appears that you initiated efforts to assist the state.
11 Solicitor says you've given reliable, promising
12 information. But you have a negotiated sentence, which is
13 a three-party agreement: you, your lawyer, and the
14 solicitor.

15 So if the Solicitor says, "I've been moved and touched
16 by this young lady and -- and -- and, you know, her -- I
17 hear her cry; I agree to change the -- the negotiated
18 sentence from eight years to seven years," it'd be
19 perfectly fine with me.

20 If -- had the amount of the drugs you had was much
21 lower, you would've gone down from what it is to three to
22 ten years and you'd have been home by now. But that's
23 where you stand. And I can tell you're a brilliant young
24 lady, the way you're concentrating as I'm talking.

25 What else is on your mind?

1 THE DEFENDANT: I'm not sure I really understand. Are
2 you saying that it's up to the solicitor to decide, or are
3 you saying that I will not get the reduction because I
4 already had a negotiated plea?

5 THE COURT: Well, it's a -- it's a negotiated
6 sentence. And my -- if I were to reconsider your sentence,
7 we'd be back to square one, perhaps. I mean, I can allow
8 you to -- it can -- my choice is I can allow you to
9 withdraw your guilty plea, as -- as I explained on that
10 day. I mean, I -- I can consider it. I don't generally
11 agree years later to let somebody come and change their
12 mind.

13 But a negotiated sentence is an agreement between you,
14 the solicitor, and your lawyer, Nick McCarley. If you have
15 an agreement, then, as a judge, I cannot change your
16 agreement. You can change your agreement, if the other
17 parties to the agreement likewise agree for it to be
18 changed.

19 And the solicitor, of course, felt that they were
20 doing mighty well. Because they -- they had you at a point
21 where you -- where they could've come to court probably and
22 locked you in for 25 years. So they didn't want to go down
23 to the minimum. They went almost to the minimum.

24 And, Mr. McCarley, you've popped on my screen. I
25 don't know if it's because you're shuffling papers or

1 trying to get a few words in.

2 MR. MCCARLEY: No, sir. I -- you had just -- well,
3 you had said I was her attorney of record. I was -- and I
4 was. And I was a party to that negotiation. And for
5 whatever it's worth to the Court, you just having brought
6 it up, as a party to that negotiation, I would respectfully
7 request that Your Honor reconsider the sentence and reduce
8 it by one year to the seven years.

9 I also, at some point, wanted to pop on and just tell
10 Ms. Rogers hello; that I have gotten your letters. I have
11 not responded because -- but I've talked to Mr. Johnson
12 about it. And we appreciate your letters and the pictures.

13 THE DEFENDANT: Okay.

14 THE COURT: All right.

15 MS. HALL: And, Your Honor, as to the negotiations, to
16 be fair to everyone, I believe -- again, this wasn't my
17 case primarily. But my understanding, in talking with Jack
18 Furse prior to this hearing, was that it was contemplated
19 at the time of negotiating this sentence, that she would
20 try to provide information and, if she did so, that they
21 could come back before the Court and ask for a reduction in
22 sentence, based on the information she gave.

23 She did provide information. It was corroborated and
24 accurate. To no fault of her own, they have not been able
25 to follow up on that. So she would not fall under the

1 category of -- of substantial assistance in actually
2 investigating or prosecuting another case because it hasn't
3 actually been done. But it -- it -- I guess this case is
4 unique in the sense that as part of that negotiated
5 sentence, what was taken into consideration was the fact
6 that she would provide information after sentencing and, if
7 she did that, her sentence could be reconsidered.

8 THE COURT: So as a result of Mr. McCarley's stroke of
9 brilliance in filing a motion for reconsideration and --
10 and not waiting to find out if the state would file the
11 motion for reduction and causing me to have jurisdiction to
12 hear this matter at -- at this time, do you believe that
13 the level of cooperation that she has provided, that this
14 statute can be used as a -- a -- a substitute and -- and
15 have the sentence reduced by one year?

16 MS. HALL: I believe the -- what's been filed by the
17 defense was what was contemplated at the time of her plea.
18 And it -- because of COVID, it changed everything. But
19 that is kind of my understanding, talking with the task-
20 force officer, is that basically, she provided good
21 information; they just weren't able to follow up on it.
22 And he could not give me a time line of when they could.

23 Whether or not they'll be able to use it in the future
24 is still up in the air, which is unfortunate. But she did
25 make the effort to do what was asked of her.

1 THE COURT: So the -- this section (B) of this
2 statute, it says (as read): "Upon the state's motion made
3 more than one year after the sentence, the Court may reduce
4 it if the information is not known until after a year;
5 information by the defendant to the state was provided
6 within one year, but did not become useful until more than
7 one year; information cannot reasonably have been
8 anticipated until more than a year; or it otherwise assists
9 the Department of Corrections."

10 So actually, based on -- based on that statute, the --
11 the time has not -- hasn't run. The state could still file
12 a motion under this section, under Section (B), which says
13 information was provided within one year but which did not
14 become useful until more than one year after sentencing.

15 MS. HALL: And, Your Honor, I think it -- it's a
16 little -- based on talking with Task Force Officer Jackson,
17 this information was information that they wanted. Prior
18 to her ever being caught, they approached her and asked her
19 to cooperate and she didn't want to at that time. I
20 believe she was asked to cooperate while the charges were
21 pending. It wasn't until after sentencing that she
22 provided information that she had all along, which, I
23 think, makes this a little different.

24 THE COURT: Yes, ma'am.

25 MS. HALL: Because it was -- it was useful well before

1 she provided it.

2 THE COURT: All right. Well, with regard to the Court
3 reducing the sentence by one year, what's the state's
4 position?

5 MS. HALL: Your Honor, the state wouldn't oppose it,
6 based on her efforts. Unfortunately, the -- my
7 understanding is that the task-force officer was just not
8 able to act on it, based off of the hurdle we were facing
9 with COVID and other investigations that they had to pursue
10 first. They are still interested in talking with her in
11 the future, if -- you know, when they are able to open an
12 investigation on these targets.

13 She did what she was supposed to do. And they simply
14 have not been able to open an investigation into people
15 that -- they do agree, all of this information lines up and
16 agree that it corroborates the information they had
17 already.

18 THE COURT: Uh-huh. All right. So based on my
19 explanation as to my position regarding negotiated
20 sentences that the parties have to agree to alter the
21 negotiations, then the state has no objection to my
22 changing the sentence from eight years to seven years; is
23 that correct?

24 MS. HALL: Correct. That is my understanding of what
25 Mr. Furse and Mr. McCarley discussed at the time of the

1 plea.

2 THE COURT: All right. Well, last heard of Mr. Furse,
3 he was running for state representative down in -- in
4 Manning and came up a little short. But I've -- I've seen
5 him since he left here and went back home.

6 All right. Well, thank you, Ms. Hall.

7 Mr. Johnson, we'll shift back over to you.

8 MR. JOHNSON: Well, Your Honor, I just -- I -- I think
9 you heard from everyone. I -- I saw Mr. Sharpe on there
10 and Ms. Salaam. I -- I can't remember if you -- you heard
11 from them or not. I saw them on the computer.

12 THE COURT: And who?

13 LAW CLERK: Jermaine Crandell.

14 THE COURT: We have a Jermaine Crandell as well.

15 MR. JOHNSON: Okay.

16 THE COURT: But you might need to stop while you're
17 ahead. But we're -- I don't mind hearing from Mr.
18 Crandell. Hopefully, he won't blow it.

19 Mr. Crandell?

20 MR. JOHNSON: Yes, sir.

21 MR. CRANDELL: Yes, sir. How you doing today, sir?

22 THE COURT: I'm doing good. How are you?

23 MR. CRANDELL: Oh, I'm doing -- doing pretty well
24 myself, sir. Thanks for asking.

25 THE COURT: Yes, sir. What do you want to say to me

1 and to your friend, Ms. Cieara? Is she your cousin or
2 girlfriend ---

3 MR. CRANDELL: Yes, sir.

4 THE COURT: --- or ---

5 MR. CRANDELL: Yes, sir. She's ---

6 THE COURT: Oh, first ---

7 MR. CRANDELL: --- she's my ---

8 THE COURT: --- cousins.

9 MR. CRANDELL: --- cousin.

10 THE COURT: It did say that.

11 MR. CRANDELL: First cousin.

12 THE COURT: I see your letter. Yeah. All right. So
13 what's on your mind this morning?

14 MR. CRANDELL: Well, sir, I just wanted to say, you
15 know, with -- with this whole situation, it's very
16 unfortunate. But, you know, I just believe Cieara -- you
17 know, she just ended up in a situation that she could've
18 avoided. But I just -- I don't know, Your Honor.

19 I just -- I -- I really don't have much to say. You
20 know, I'm kind of lost for words. And I really don't want
21 to mess things up.

22 You know, my letter pretty much states everything. I
23 just -- you know, Cieara, she's -- she -- she -- she's --
24 she's a law-abiding citizen. You know, she ---

25 THE COURT: You said ---

1 MR. CRANDELL: --- she was ---

2 THE COURT: --- she was -- said she was funny, smart,
3 loving, always excelled, honor-roll student, student of the
4 week; her mother kept her focused on school; got a
5 bachelor's degree from ODU, Old Dominion; always challenge
6 herself; she chose to go to sea a living. That Merchant
7 Marines? And then she ran into a bad stroke with
8 relationships and gave birth to the baby right before going
9 to jail.

10 You know, when -- when she came and she was getting
11 ready to go off to jail, she had to pass her baby to the
12 public defender, Ms. Steiner. Yeah. And -- and Ms.
13 Steiner held the baby while her mother had to leave and
14 mother's friend came in.

15 And the baby didn't -- didn't cry; didn't -- she's
16 just as sweet as she could be. So it -- it was quite a --
17 a moving situation that I think everyone who was here that
18 day won't forget.

19 But I thank you, Mr. Crandell. We're going to --
20 oddly enough, this is only one of many cases we've got to
21 do today. We probably should've put it at the end of the
22 list, rather than the beginning of the list.

23 But I'm going to go to Ms. Cieara Rogers; give her a
24 little more camera time to say hi to everybody and all
25 that. Then we're going to move on.

1 THE DEFENDANT: Hey ---

2 THE COURT: Ms. -- Ms. Rogers?

3 THE DEFENDANT: Hey, everybody. Thank you so much for
4 showing up and speaking on my behalf. I know a lot of
5 y'all were surprised and disappointed and just felt some
6 type of way about these charges. I'm sorry.

7 I'm okay, though. Everything is okay. As far as I
8 know, my son is alive.

9 And this rehabilitation is for my better good. The
10 choices and decisions that I made were my own. I was not
11 forced to do anything.

12 Don't hold it against my heart, because I love you
13 guys. And I appreciate all of you guys showing up -- not
14 just today, but throughout this whole bit. I -- I really
15 regret the -- the disappointment that I have caused.

16 But there is always another chance for me. I have a
17 release date. Regardless of what Judge Newman decides
18 today, I will not be in SCDC forever. So I plan to show
19 all of you the -- the greatness that I can achieve,
20 becoming a law-abiding citizen once again.

21 I -- I will be okay either way. So y'all, I don't
22 want to say keep your fingers crossed, because, I mean,
23 it's -- it's -- it's -- it's okay either way.

24 THE COURT: Okay.

25 THE DEFENDANT: All right. Thank you.

1 THE COURT: Well, you know, you can achieve greatness
2 wherever you are. And -- and hopefully, you will -- now
3 that you've adjusted, will become a more -- a -- more of a
4 model prisoner and -- and avoid the -- any write-ups and
5 those things that might affect your -- well, I don't know
6 -- good time/early release. I'm sure you know all the
7 intricate things about what people might qualify for.

8 But you're -- they're -- your sentences is a not -- a
9 no-parole sentence. So you have to do the time, obviously.
10 But, you know, Paul was in the -- in prison and wrote
11 almost a third of the bible. I know you heard that story
12 before.

13 THE DEFENDANT: Yeah.

14 THE COURT: Nelson Mandela was in prison for 27 years
15 and came out and became the president of South Africa, one
16 of the greatest leaders of his time -- and of all time.
17 And he spent 17 years of that in a small cell without a bed
18 or plumbing. Can you imagine that?

19 THE DEFENDANT: No.

20 THE COURT: And -- and forced to do hard labor for --
21 how many years, 17?

22 LAW CLERK: 18.

23 THE COURT: --- 18 years of his 27 years. So -- and -
24 - and you've made a good plea this morning. You
25 represented yourself well. And you, along with my help and

1 everyone else's help, we're going to modify the sentence
2 and reduce it by one year to ---

3 THE DEFENDANT: Yay. Thank you. Thank you. Thank
4 you, Your Honor.

5 THE COURT: Yeah.

6 THE DEFENDANT: Thank you. Thank you.

7 THE COURT: All right. So we'll -- we'll take care of
8 that and send that -- send this paperwork on in and hope
9 you have a great day and -- and ---

10 THE DEFENDANT: Thank you.

11 THE COURT: --- and don't -- and don't cry too much
12 tomorrow of your two-years anniversary of ---

13 THE DEFENDANT: I won't.

14 THE COURT: --- sentence. All right. Well, good ---

15 THE DEFENDANT: Thank you.

16 THE COURT: --- luck to you.

17 THE DEFENDANT: Thank you.

18 THE COURT: Just a moment. Solicitor -- Ms. Hall, Mr.
19 Johnson, who's going do an order?

20 MR. JOHNSON: I can try -- I'll type one up and get it
21 to you, Judge.

22 THE COURT: If you get it to Ms. Hall for any
23 modifications or alterations.

24 MR. JOHNSON: Yes, sir.

25 THE COURT: And, Ms. Hall, any other thoughts on that?

1 MS. HALL: I think that covers it, Your Honor.

2 THE COURT: All right. Well, thanks to all of you.

3 MR. JOHNSON: Thank you, Judge.

4 MS. HALL: Thank you.

5 THE COURT: All right.

6 (Whereupon, the proceeding adjourned at 11:38 a.m.)

7 **--- END OF TRANSCRIPT OF RECORD ---**

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CERTIFICATE

I, the undersigned Maryann S. Nevers, CVR-M-CM, RVR, RVR-M, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Aiken County, South Carolina, on the 5th day of March, 2021.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.



Maryann S. Nevers, CVR-M-CM, RVR, RVR-M
Official Court Reporter

West Columbia, South Carolina
June 30, 2021

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

RECEIVED

COUNTY OF Aiken VS. STATE

INDICTMENT/CASE#: 2017GS0202526 A/W#: 2016A0210201413 Date of Offense: 9/20/2016

APR 15 2021

AKA: Cleara Laree Rogers Race: Black Sex: F Age: 35 DOB: SS# Address: City, State, Zip: DL#: SID#: SC02263330

S.C. Code §: 44-53-0370(e)(2)(c) CDR Code #: 0281 SC Court of Appeals

SENTENCE SHEET 7-25 yrs + \$50,000

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Drugs/Trafficking in cocaine, 28 g or more, but less than 100 g - 1st offense

In violation of § 44-53-0370(e)(2)(b)1 of the S.C. Code of Laws, bearing CDR Code # 2339 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State

ATTEST: Solicitor 102713 SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 8 days/months/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 the 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: \$ Payment Terms: Set by: SCDPPPS

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 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, § 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) \$8.25

TOTAL \$ 283.25

Clerk of Court/Deputy Clerk: Tabiya Frasier-Hynes Court Reporter: Brenda Sigwald SCCA/217(04/2018)

days/hours: Public Service Employment 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: Judge Code: 2129 Sentence Date: March 6, 2019

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) SECOND JUDICIAL CIRCUIT
 COUNTY OF AIKEN)
)
) ORDER REDUCING SENTENCE
)
 VS.)
)
 CIEARA LAREE ROGERS) Indictment: 2017-GS-02-02526
)
DEFENDANT)

This matter comes before me upon the motion of the Defendant for Reconsideration of her sentence. Cassie Hall appeared on behalf of the State with Ola Johnson appearing on behalf of the Defendant. The Defendant appeared via videoconferencing. The Defendant was sentenced to eight (8) years incarceration following a guilty plea on March 6, 2019 to the charge of Trafficking in Cocaine, 28 g or more, but less than 100 g - 1st offense.

Based on the representations made, and with the consent of the State, I find that the Defendant is entitled to have her sentence reconsidered and reduced by one (1) year.

It is therefore ordered that the sentence of Cieara Laree Rogers on the above indictment be reduced to seven (7) years with credit for time served.

AND IT IS SO ORDERED THIS 6th DAY OF APRIL 2021.

Clifton Newman
 Clifton Newman
 Presiding Judge
 2nd Judicial Circuit

RECEIVED
 APR 15 2021
 SC Court of Appeals

A TRUE AND CORRECT COPY
Robert J. White
 LFH
 By *Robert J. White* Date April 7, 2021
 Deputy Clerk

E-Mail
 Copy FILED April 7 20 21
Robert J. White
 C.C.P. & G.S. LFH
Robert J. White
 Deputy Clerk

WITNESSES

Aiken County Sheriff

T Blackwelder

Law Enforcement Case #: 16-052908

BAY

ARREST WARRANT NUMBER

2016A0210201413

FILED: Nov 30 2017

Robert J. White
C.C.P. & G.S.
Sherry J. Langley
Deputy Clerk

ACTION OF GRAND JURY

True bill

Kevin H. Ogleby

Foreperson of Grand Jury
Date: November 30, 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS0202526

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

DECEMBER TERM 2017

THE STATE

vs.

GIEARA LAREE ROGERS

CDR #: 0281

Indictment for

TRAFFICKING COCAINE

§ 44-53-0370(e)(2)(e)

J. STROM THURMOND, SOLICITOR

RECEIVED

APR 15 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
TRAFFICKING COCAINE
§ 44-53-0370(e)(2)(e)

At a Court of General Sessions, convened on December 4, 2017, the Grand Jurors of Aiken County present upon their oath:

That **CIEARA LAREE ROGERS** did in Aiken County on or about September 20, 2016, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly, actually, or constructively possess or did knowingly attempt to become in actual or constructive possession of 400 grams or more of Cocaine, a controlled substance under provisions of Section 44-53-110, et. seq., Code of Laws of South Carolina (1976), as amended, such possession not having been authorized by law.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

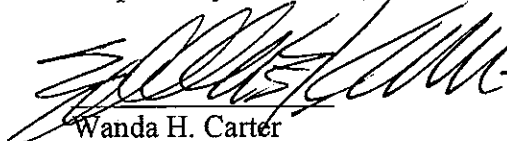
Elizabeth B. Young
J. STROM THURMOND, SOLICITOR

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."

RECEIVED**Jan 18 2022****SC Court of Appeals**

Respectfully Submitted,



Wanda H. Carter

Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of January, 2022.