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Jan 18 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Honorable Edgar W. Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTHONY T. MCKENNIE,

APPELLANT

APPELLATE CASE NO. 2021-000382

RECORD ON APPEAL

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P R O C E E D I N G S

SOLICITOR SCOTT: May it please the Court?

THE COURT: Yes, sir.

SOLICITOR SCOTT: State calls Anthony McKennie.

Your Honor, standing before you is Anthony McKennie. He is here today with his lawyer, Mr. Breen Stevens.

Mr. McKennie, Your Honor, he was on the trial docket for next week. He's been indicted, true billed, for one count of murder. This is 2016-GS-38-1090.

The State also added a charge of possession of a weapon by a person convicted of a crime of violence. That's a 2019-GS-38-214. They both arise from the same incident.

The State is allowing the Defendant, Your Honor, to plead guilty to voluntarily manslaughter, which as Your Honor knows, carries up to 30 years. The possession of a weapon carries up to five years.

We are asking that Your Honor accept the plea today but withhold sentencing until we can have more family members present. This was a -- not something that we thought was gonna happen today. I'm not wearing a suit. I am, as you can tell, Mr. Giese doesn't even have a tie on, but -- so I -- this is not something that we thought was gonna happen today, Your Honor.

THE COURT: And I'll also note for the record that

1 Mr. Stevens is not wearing dress shoes. So, so we can get
2 through everything that y'all want to talk about, right?

3 (WHEREUPON, the Defendant was placed under oath at this
4 time.)

5 THE CLERK: Thank you.

6 THE COURT: All right. You -- you're Anthony McKennie?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Hey, Mr. McKennie.

9 THE DEFENDANT: How you doing?

10 THE COURT: Mr. McKennie, I'm told that you're pleading
11 guilty to some charges that arose out of an event that
12 happened on March 4th, 2016.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Is that correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. And, Mr. McKennie, the solicitor
17 tells me that this case was going to be tried beginning
18 Monday.

19 Is that your understanding?

20 THE DEFENDANT: Yes, sir.

21 SOLICITOR SCOTT: Actually, Judge, I apologize. I
22 believe it's Tuesday because---

23 THE COURT: Oh, Tuesday.

24 SOLICITOR SCOTT: ---of the holiday Monday.

25 THE COURT: Okay. I, I mean it will be tried next

1 week. Tuesday would be the day.

2 Is that, that---

3 THE DEFENDANT: Yes, sir.

4 THE COURT: ---your understanding?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. And I'm told that you're gonna plead
7 guilty today on a voluntary manslaughter charge and a
8 possession of a weapon by a person convicted of a crime of
9 violence.

10 Is that your understanding?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. Now, I'm also told that I'm not
13 gonna, I'm not gonna sentence you until some -- some time
14 when we come back for sentencing.

15 Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. Do you understand that the voluntary
18 manslaughter charge is a violent and a most serious offense
19 and counts as a strike?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. Did Mr. Stevens go over strikes with
22 you?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And explained how that could affect you in
25 the future?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. Now, Mr. McKennie, I need to get a
3 little bit of background information about you.

4 How old are you?

5 THE DEFENDANT: 33.

6 THE COURT: 33.

7 And, Mr. McKennie, before you got arrested, were you
8 working somewhere?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Where were you working?

11 THE DEFENDANT: I was working at North American.

12 THE COURT: Okay. And how long had you been working at
13 North American?

14 THE DEFENDANT: Probably three, four months.

15 THE COURT: Okay. Before you -- before your job at
16 North American, where had you been working?

17 THE DEFENDANT: I was working construction back home in
18 Philadelphia.

19 THE COURT: In Philadelphia?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. So -- okay. So you -- you're from
22 Philadelphia?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. And your construction job skills,
25 what are they?

1 THE DEFENDANT: I'm, I'm skilled in drywall finishing
2 and paint. So, I was kind in the midst of both demolition
3 and also (indiscernible).

4 THE COURT: Okay. How far did you go in school?

5 THE DEFENDANT: I got my business administration --
6 well, I got my Associates in Business Administration. So, I
7 went to college.

8 THE COURT: From where?

9 THE DEFENDANT: A college in Philadelphia.

10 THE COURT: Okay. what -- was the name of the college
11 Philadelphia college?

12 THE DEFENDANT: Community College of Philadelphia.

13 THE COURT: Okay. Okay. And what high school did you
14 graduate from?

15 THE DEFENDANT: William Penn High School.

16 THE COURT: Okay. William Penn---

17 THE DEFENDANT: Yes, sir.

18 THE COURT: ---High school?

19 THE DEFENDANT: Yeah.

20 THE COURT: Okay. And since I'm not familiar with that
21 lot -- that school at all, what was y'all's mascot?

22 THE DEFENDANT: I don't even remember.

23 THE COURT: Okay.

24 THE DEFENDANT: I don't think they even had a mascot to
25 be honest with you, sir.

1 THE COURT: Okay. All right. Have you ever been
2 treated for any mental health issues?

3 THE DEFENDANT: No, sir.

4 THE COURT: Have you ever been treated for any drug or
5 alcohol abuse or dependency?

6 THE DEFENDANT: No, sir.

7 THE COURT: Are you taking any kind of prescription
8 medication?

9 THE DEFENDANT: No, sir.

10 THE COURT: Okay. Today are you under the influence of
11 any alcohol or illegal drugs?

12 THE DEFENDANT: No, sir.

13 THE COURT: Are you thinking clearly today?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you understand why you're here?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Did Mr. Stevens go over and review the
18 evidence from these two charges with you?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Did he explain to you the law that applies
21 in this situation?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Did he explain to you that you're facing up
24 to 30 years on the voluntary manslaughter and up to five
25 years on the possession charge?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. Did he explain your constitutional
3 rights to you?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Did he answer all of your questions?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Did you understand everything he told you?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you have -- do you need to talk to him
10 anymore?

11 THE DEFENDANT: No.

12 THE COURT: Okay. All right. Are you satisfied with
13 his services as your attorney?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. Now, do you want a jury trial on
16 these charges?

17 THE DEFENDANT: No, sir.

18 THE COURT: You understand, Mr. McKennie, if you plead
19 guilty to these charges, you're giving up your right to
20 remain silent?

21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand you're also giving up
24 your right to require that the State prove you guilty beyond
25 a reasonable doubt in a trial?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You're giving up your right to
3 cross-examine any of the State's witnesses and contest any
4 of the evidence they may have.

5 Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You are not required to testify yourself.
8 But you can present evidence on your own behalf if you wish
9 to.

10 Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you wish to give up those rights?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Okay. You are pleading guilty to these two
15 charges, voluntary manslaughter and possession of a weapon,
16 because you are, in fact, guilty of those charges?

17 THE DEFENDANT: No, I'm pleading to them, Your Honor,
18 because I didn't want to go up for a jury trial---

19 MR. STEVENS: I believe that---

20 THE DEFENDANT: ---cause I do believe---

21 THE COURT: You're, you're pleading under North
22 Carolina verse Alford?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. And what you're telling me, by
25 pleading under North Carolina versus Alford is this because

1 you've already told me Mr. Stevens has explained the law to
2 you?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And he is gone over the evidence with you?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. And so what you're doing is you
7 realize that if you went to trial on this -- on these
8 charges, there's a substantial likelihood you'd be convicted
9 of them.

10 Is that correct?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: So, what you're trying -- what you want to
13 do is to take advantage of this plea opportunity.

14 Is that correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And you believe that's in your best
17 interest?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay. All right. I think that's all the
20 questions I got to ask him.

21 Mr. Scott.

22 SOLICITOR SCOTT: As far as the factual basis, Your
23 Honor, I can go ahead and do that today. I don't mind
24 putting up the factual base -- I'd probably like to go over
25 the facts again at the time of sentencing.

1 THE COURT: Okay.

2 SOLICITOR SCOTT: But --.

3 THE COURT: All right.

4 SOLICITOR SCOTT: If you want to do the facts now, I'm,
5 I'm more than happy to.

6 This, this incident took place on March the 4th of
7 2016. It happened at 1374 Saint Ann Street, which is here
8 in Orangeburg. The victim in this case, Your Honor,
9 Theodio, he went by Theo Glenn, G-L-E-N-N, he was
10 approximately 27 years of age at the time of this incident.
11 The Defendant, Your Honor, I believe he was either 30 or 31
12 years of age at the time of the incident.

13 witnesses would say, Your Honor, that the Defendant,
14 Mr. McKennie, came by 1374 Saint Ann Street about an hour or
15 two before this incident happened. These witnesses would
16 say that there was no, no animosity between the victim and
17 the Defendant, and that the Defendant eventually left. He
18 was traveling in a green Honda Accord and I believe with an
19 individual by the name of Zawadi Felder.

20 About an hour later the Defendant came back to 1374 at
21 Saint Ann Street. This time he was on foot. He approached
22 some of the people who were in the street still, Alexander
23 Clark, David Bennett, and he asked where the victim was, and
24 they motioned to the house. They said basically that Theo
25 was inside the house, and Theo was, in fact, inside the

1 house. There was two young females and a small child, like
2 a three year old child. They were all in the bedroom.

3 One of the young females, Shytashia Golson, was in the
4 process of braiding Theo's hair. Theo was siting on the
5 floor. He had his back up against a sofa, and Shytashia
6 Golson, the female was sitting on the sofa, sofa braiding
7 his hair.

8 Shytashia Golson, Your Honor, she would, she would
9 testify that Mr. McKennie came into the house. At one
10 point, and please forgive the language, Your Honor, but at
11 one point Mr. McKennie stepped into the doorway of the
12 bedroom and he told Mr. -- he told Theo, he said you are a
13 pussy. And, at that point, Theo said, according to Ms.
14 Golson, who's a pussy, we can take this outside.

15 And, in the process of doing that, Ms. Golson says that
16 Theo had a gun between his legs, and he was reaching for the
17 clip that was in the possession of the three year old who
18 was standing near Theo. It was at that point that Mr.
19 McKennie pulled out a pistol and shot Theo multiple times.

20 After the shooting, the state would allege that Mr.
21 McKennie fled on foot. The police began looking for them,
22 looking for him that day. They were able to identify him
23 through the witnesses and photo lineups within an hour or
24 two after the shooting.

25 Mr. McKennie, Your Honor, he fled from the State. He

1 went to Philadelphia. He was located about two weeks later
2 by the U.S. Marshals. He was brought back to Orangeburg and
3 has been in jail since that time.

4 His prior record, Your Honor, he's got a 2009
5 conviction for burglary that he received a Y.O.A. sentence
6 for, and that would -- it was not a violent crime, but it
7 was a crime of violence. That was the basis for that
8 indictment, Your Honor.

9 THE COURT: Okay.

10 SOLICITOR SCOTT: I did notify the Orangeburg County
11 Sheriff's Office, specifically Investigator John Stokes.
12 He's the chief investigator on this case. I called him this
13 morning. I told him there's a possibility of a guilty plea
14 this afternoon. He was 100 percent in favor of this guilty
15 plea.

16 I think a plea to voluntary manslaughter is
17 appropriate. They're obviously -- there's no doubt in the
18 world that the victim also had a gun.

19 THE COURT: Uh-huh. (Affirmative).

20 SOLICITOR SCOTT: And I, I think voluntary
21 manslaughter, if we had tried this case, it was probably
22 where we would, would of ended up next week anyway.

23 THE COURT: Uh-huh. (Affirmative).

24 SOLICITOR SCOTT: You know, there's a chance the State
25 could of convicted Mr. McKennie of murder, and there's a

1 chance, you know, Mr. McKennie could of presented some sort
2 of self-defense argument. I'm not sure.

3 THE COURT: Uh-huh. (Affirmative).

4 SOLICITOR SCOTT: But I believe this plea is
5 appropriate.

6 THE COURT: Okay.

7 SOLICITOR SCOTT: And so did, so did the Sheriff's
8 office.

9 THE COURT: All right. Mr. McKennie, you heard kind of
10 a -- the general outline of the State's case against you.
11 Is that correct?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Okay. All right. The -- you were
14 originally indicted for murder. The State's allowing you to
15 plead to voluntary manslaughter, and it's my understanding
16 that you are pleading guilty to the voluntary manslaughter
17 charge under North Carolina versus Alford.

18 Is that correct?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Okay. And you are pleading guilty under
21 North Carolina versus Alford because you realize that, if
22 you went to trial, there's a substantial likelihood you'd
23 get convicted of this charge.

24 Is that correct?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You're also pleading guilty because you
2 wish to take advantage of the plea offer.

3 Is that correct?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. As to the charge of possession of a
6 weapon by a person convicted of a crime of violence, you're
7 pleading guilty to this under North Carolina versus Alford
8 too or straight up?

9 THE DEFENDANT: Under, under the same. Alford, Your
10 Honor.

11 THE COURT: Or no -- okay. So, it's my understanding
12 you're pleading guilty to possession of a weapon by a person
13 convicted of a violent -- of a crime of violence under North
14 Carolina versus Alford as well?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You're pleading guilty to this charge
17 because you believe that, had you gone to trial, there's a
18 substantial likelihood you'd be convicted of this charge.

19 Is that correct?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And you're also pleading guilty to it to
22 take advantage of this plea offer?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. Now, Mr. McKennie, you understand,
25 if I accept your guilty pleas to these two charges under

1 North Carolina versus Alford, they will still be convictions
2 on your record?

3 You understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. Do you want me to accept your guilty
6 pleas under North Carolina versus Alford to these two
7 charges?

8 THE DEFENDANT: Yes, Your Honor. I do.

9 THE COURT: Okay. Mr. McKennie, I find your decision
10 to plead guilty to these two charges under North Carolina
11 versus Alford freely, voluntarily, and intelligently made.
12 I find you've had the advice and counsel of a competent
13 lawyer. I find you're satisfied with the services of your
14 lawyer. I find there's a factual basis on which to base
15 your pleas under North Carolina versus Alford.

16 I also find that, based on information that's been
17 provided to this Court, that had you gone to trial, there is
18 a substantial likelihood you would of been found guilty. I
19 also find that, based on the information that's been
20 provided to this Court, it is reasonable that you would want
21 to take advantage of the plea offer, and I am going to
22 accept your guilty plea -- pleas to these two charges under
23 North Carolina versus Alford.

24 It's also my understanding that we are -- we're -- I've
25 accepted his plea and then we'll come back at a later date

1 for sentencing.

2 SOLICITOR SCOTT: Yeah, if you, if you would check your
3 calendar I'd appreciate it. I don't -- I believe our next
4 court term with Your Honor is in -- well, maybe it's in
5 March.

6 THE COURT: well, usually I can, I can work people in
7 on Thursdays and Fridays.

8 SOLICITOR SCOTT: If you find a day in the next couple
9 weeks or three weeks that works for you, if you'd please let
10 us know. We'd appreciate it.

11 THE COURT: well, I'll get together with you and Mr.
12 Stevens and make sure.

13 MR. STEVENS: Thank you, Judge.

14 THE COURT: All right.

15 SOLICITOR SCOTT: Thank you, Your Honor.

16 MR. STEVENS: And if, if I may?

17 THE COURT: Yes, sir.

18 MR. STEVENS: Just for posterity, he has been under
19 arrest since March 22nd, 2016. He's not going anywhere
20 quite obviously.

21 THE COURT: March 22nd?

22 MR. STEVENS: Yes, sir, March 22nd, 2016, and I
23 understand he's not yet been sentenced. However, my
24 understanding is that he still will be housed here at the
25 Orangeburg Detention Center until sentencing occurs.

1 Is that accurate, Judge?

2 THE COURT: That is.

3 MR. STEVENS: That is my understanding. Thank you,
4 Judge. I appreciate it.

5 THE COURT: Okay. But I will -- I'll be glad to get
6 with you and Mr. Scott and look at my schedule to see when
7 we can, we can get back.

8 MR. STEVENS: Yes, Your Honor.

9 SOLICITOR SCOTT: Thank you, Your Honor.

10 MR. STEVENS: Thank you, Your Honor.

11 THE COURT: Okay. Thank you.

12

13 (WHEREUPON, this case was in recess at this time.)

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1 January 25th, 2019

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3 (WHEREUPON, two documents were marked as Defendant's
4 Exhibit Nos. 1 and 2 for identification purposes only at
5 this time.)

6 SOLICITOR SCOTT: May it please the Court?

7 THE COURT: Yes, sir.

8 SOLICITOR SCOTT: State calls Anthony McKennie.

9 Your Honor, standing before you is Anthony McKennie.
10 Mr. McKennie pled guilty in front of Your Honor last week to
11 voluntary manslaughter, which is 2016-GS-38-1090. He's also
12 pled guilty to possession of a weapon by a person convicted
13 of a crime of violence, 2019-GS-38-0214. We are here today,
14 Your Honor, for purposes of sentencing.

15 Your Honor, I know I've, I've placed a, a factual basis
16 on the record last week. But I would like to go through the
17 facts again if that suits Your Honor.

18 THE COURT: That's fine with me.

19 SOLICITOR SCOTT: Your Honor, the, the victim in this
20 case was Theodio Glenn. He went by the nickname Theo. He
21 was about 27 years of age at the time of this incident. The
22 Defendant, Your Honor, I believe he was approximately 30
23 years of age at the time of the incident.

24 Your Honor, a, a female I believe by the name of
25 Jaquella Adams appeared to be the reason for some animosity

1 between the Defendant and the victim.

2 At the time of this incident, which was March the 4th
3 of 2016, the victim in this case, Theo Glenn, he was living
4 at 1374 Saint Ann Street here in Orangeburg. He was staying
5 there with some friends. I believe the main renter was a, a
6 gentleman by the name of Leeanduwin Thomas.

7 Your Honor, on the incident date, the, the victim and
8 several people were standing outside of the house right
9 there at 1374 Saint Ann Street. At some point the Defendant
10 came by -- came down the street. He was riding in a
11 vehicle, a green Honda Accord, I believe with an individual
12 by the name of Zawadi Felder.

13 There was some conversations. I don't think there was
14 any animosity at, at that time, but there were conversations
15 between the two groups. I believe the Defendant and the
16 victim even, even spoke at some point according to a, a
17 witness by the name of Alexander Clark. Mr. Clark said he
18 didn't see any arguing though.

19 At some point, Your Honor, Mr. McKennie and Mr. Felder
20 drove off. Mr. -- the victim, Theo, he went inside of his
21 residence. He had a female from across the street named
22 Shytashia Golson come over to braid his hair. Ms. Golson
23 came over with a friend of hers by the name of Madija Gantt
24 as well as a three year old child that Ms. Golson was
25 baby-sitting.

1 They all went into a bedroom that I believe was Theo's
2 bedroom. Mr. Glenn was sitting on the floor. Shytashia was
3 sitting on a sofa directly behind the victim so that she
4 could braid his hair. Madija Gantt would of been standing
5 at the foot of the bed, and the small child was, was also
6 there in the room.

7 According to Ms. Golson, Your Honor, who would of been
8 the State's best witness, I mean she was right there when
9 the shooting happened, according to Ms. Golson the victim in
10 this case, Theo Glenn, he had a, a firearm in his lap. He
11 had placed it between his legs. He had taken the magazine
12 out of the firearm and the, the three year old child was
13 actually playing with the magazine.

14 According to Ms. Golson, Your Honor, the Defendant,
15 after having left the house residence earlier, the Defendant
16 came back to the residence. This time he came on foot. He
17 walked into the house. At some point he entered the
18 doorway, the threshold to the bedroom, where Ms. Golson, Ms.
19 Gantt, the child, and Theo were in the, the room that they
20 were in. And, at one point, the Defendant, pardon the
21 language, but he, he looked at Theo and he said you're a
22 pussy.

23 And according to Ms. Golson, at that point Theo said
24 who are you calling a pussy, we can take this outside, and
25 picked up his firearm from between his legs, and took the

1 magazine from the child. And it was at that point that Ms.
2 Golson says that the Defendant pulled out a firearm that he
3 had in his pocket and shot the victim multiple times.

4 After the shooting, Your Honor, Mr. McKennie, he fled
5 the house on foot and, in fact, he fled all the way to
6 Philadelphia. He was caught a couple of weeks later by the
7 U.S. Marshals service in Philadelphia.

8 The Defendant, Your Honor, he was charged with murder.
9 This case was scheduled for trial this week.

10 Your Honor, I believe that the Defendant, he would of
11 presented some sort of argument that he shot the victim in
12 self-defense. But I believe the State would have been able
13 to, to disprove any self-defense argument.

14 I believe the Defendant, he came to the house looking
15 for the victim. I believe he was unlawfully armed at the
16 time of this incident, and clearly he did not have clean
17 hands during this incident.

18 So, I, I don't think the jury would of believed any
19 sort of self-defense argument. However, on the other hand,
20 as I said, according to the State's best interest, Shytashia
21 Golson, the evidence would of been that the victim reached
22 for a handgun first, and that he basically engaged the
23 Defendant to step outside, which, you know, could of been
24 viewed as mutual combat.

25 I think, at the very least, that would of been deemed

1 sufficient legal provocation, heat of passion, and probably
2 resulted in the Defendant being convicted of voluntary
3 manslaughter, which is -- we'd probably be in the same -- if
4 we tried this case this week, we'd be in the same place that
5 we are now, a guilty plea to voluntary manslaughter, or a
6 conviction to voluntary manslaughter. So, so that was the
7 basis for the guilty plea.

8 You know, with that being said, you know, the State
9 feels that this was a, a senseless killing. It could of
10 easily been avoided.

11 As I said, Mr. McKennie did not have clean hands in
12 this incident. We would request that Your Honor, you know,
13 consider the upper end of the sentencing range.

14 I do want to thank the Orangeburg County Sheriff's
15 office for their investigation. Specifically this was
16 Investigator Stokes's case. I spoke to him before we did
17 this guilty plea the middle of last week, and he was a
18 hundred percent in agreement with a plea to voluntary
19 manslaughter.

20 He can not be here today. He is suffering from strep
21 throat. But Investigator Kerrig is here representing the
22 Sheriff's Office.

23 Your Honor, there are several family members here, and
24 I believe at least two of them would like to address Your
25 Honor. There's a Mrs. Davis and a Mrs. Summers. I'm not

1 sure who's gonna speak first.

2 THE COURT: And this -- oh, come -- yeah.

3 Yes, ma'am, your name please, ma'am.

4 MRS. DAVIS: Retha Davis.

5 THE COURT: And, Mrs. Davis, tell me how you're related
6 to the victim.

7 MRS. DAVIS: I'm his mother.

8 THE COURT: Okay. Mrs. Davis, I am really, really
9 sorry that you're having to go through this cause a mom
10 should never have to do what you're going through -- deal
11 with what you're going through right now.

12 MRS. DAVIS: Yes, sir.

13 THE COURT: So I really am sorry.

14 what do you do for a living, ma'am?

15 MRS. DAVIS: I'm a home healthcare nurse.

16 THE COURT: Where at?

17 MRS. DAVIS: Yeah, for the VA.

18 THE COURT: For the VA?

19 MRS. DAVIS: Yes.

20 THE COURT: Okay. How long you been doing that?

21 MRS. DAVIS: Four years now.

22 THE COURT: Okay. Okay. Mrs. Davis, I -- I'll be glad
23 to hear from you please, ma'am.

24 MRS. DAVIS: Yeah.

25 THE COURT: (Indiscernible).

1 MRS. DAVIS: I don't really know what happened. But
2 the way it sounds, like he came and they had words. He
3 left. He had time to think about it and he came back.

4 So, I ask that he get the max. Even though he plead to
5 voluntarily manslaughter, I know, in my heart, it was
6 murder, you know. So, I ask that he get the max.

7 THE COURT: Yes, ma'am.

8 MRS. DAVIS: That's -- but that's all I have to say.

9 THE COURT: Okay. And, Mrs. Davis, I, I certainly
10 understand. But I, I, I think -- I've just got to tell you.
11 The solicitor has indicated, and, and I believe the
12 solicitor, solicitor's indicated properly that there would
13 be problems with this case going to trial on murder.

14 You understand that?

15 MRS. DAVIS: Yes, sir. Yes, sir.

16 THE COURT: Okay. I'm not meaning to minimize it or
17 anything like that. I understand exactly what you're
18 saying, and I'd feel that way in your position as well.

19 MRS. DAVIS: Yes, sir.

20 THE COURT: Okay. But thank you for coming and talking
21 to me.

22 MRS. DAVIS: Okay.

23 THE COURT: Okay. Thank you, ma'am.

24 MRS. DAVIS: All right.

25 THE COURT: Yes, ma'am, your name?

1 MRS. SUMMERS: My name is Demicotia Summers.

2 THE COURT: And, Mrs. Summers, your relationship?

3 MRS. SUMMERS: That's my brother.

4 THE COURT: Okay. And I'm sorry -- just like I told
5 Mrs. Davis, I'm really sorry that you're having to be here
6 and talk to me about that.

7 what would you like to tell me please, ma'am?

8 MRS. SUMMERS: Okay. After this case -- in the process
9 of this case, what the reason why he was going to get his
10 hair done was he was getting ready to get a second job to
11 get custody of his daughter out of foster care who I now
12 have custody of. So, she will never -- I sit there for like
13 45 minutes and watched him laugh, and this little girl will
14 never get to see her father.

15 She will never get to know him, never get to see him,
16 and I have to one day explain to her why. And it was
17 senseless that he would -- he was killed when they could of
18 just walked away from the situation.

19 THE COURT: Yes, ma'am.

20 MRS. SUMMERS: So, I ask that he has the -- he gets the
21 maximum time also.

22 THE COURT: Yes, ma'am. I appreciate it. Thank you,
23 ma'am.

24 Anything else from the State?

25 SOLICITOR SCOTT: No, Your Honor.

1 THE COURT: All right. Mr. Stevens.

2 MR. STEVENS: Thank you, Judge.

3 May it please the Court?

4 THE COURT: Yes, sir.

5 MR. STEVENS: Anthony does stand before you, Judge.
6 He's already taken responsibility for his conduct. It was
7 under Alford for some exceptionally unique circumstances,
8 some of which you heard from the government's presentation,
9 and some of which we'd like to present to the Court in
10 today's hearing, Your Honor.

11 Again, so the Court's aware, he has been held in
12 government custody since March 22nd, 2016, which by my
13 count---

14 THE COURT: 2016?

15 MR. STEVENS: 2016. By my count, he has had 1,040 days
16 time served as of today.

17 THE COURT: Okay.

18 MR. STEVENS: And we've gone over matters. We've gone
19 over the evidence. We've gone over the risks, and I still
20 believe, and so does Anthony, that this is the proper
21 resolution. Not just for him, but for everybody involved.

22 When we look at his background, obviously, Judge, he's
23 33 years of age at this time. He does have two children of
24 his own. His daughters---

25 THE COURT: I'm sorry. What?

1 MR. STEVENS: He has two children of his own as well.
2 His daughter's 13 and three that live with his mother. They
3 live in Philadelphia.

4 He's been with her -- basically they've been together
5 since high school, Judge. He's been in constant contact
6 with her whenever he can given the constraints there at the
7 jail with all the many lockdowns that they've had recently.

8 He's educated, Judge. He's got a high school diploma
9 from William Penn in Philadelphia. He has his
10 administrative degree from a community college in
11 Philadelphia as well in business administrative. He even
12 has some experience in trade school, Judge.

13 Previously he's not -- he wasn't scared to work either.
14 He did work in this community before, not just here in
15 Orangeburg at North American, but also previously in
16 Philadelphia he was working in the construction industry
17 too, Judge.

18 I've had opportunity to get to know him over our entire
19 course of this case. He's a good person. He does have a
20 good heart. He does have a head on his shoulders.

21 He was simply a man in a bad place and had to respond
22 to something, in his view and under the circumstances we'd
23 like to cover, he's not right in putting himself in that bad
24 place. We acknowledge that. Specifically we acknowledge
25 that we would of had a very challenging time in front of the

1 jury with arguing self-defense for different factors I'll
2 shortly cover.

3 Specifically, when we've talked about the location of
4 where the incident occurred, it's not like it was just some
5 small house where only one or two people stayed. Our
6 understanding, after speaking with many witnesses including
7 Ms. Golson, is that many people frequented that location.

8 When we looked at the incident reports, in talking with
9 others, it indicated that Mr. Glenn's official address was
10 not even at that address. He may have been living there
11 after -- in speaking with Ms. Golson and others later on,
12 but nonetheless, it wasn't a permanent thing in our mind of
13 what we're looking at.

14 There's no arguing on the incident from the day earlier
15 between Anthony and Mr. Glenn. Again, we agree with the
16 government when it comes to that. However, where we did
17 disagree was the actual incident itself.

18 When we look at what was occurring there, yes, there
19 were people outside and, yes, they were going to say that
20 Anthony did ask for Mr. Glenn when he arrived that second
21 time on that day. Again, that would of been a challenge for
22 us to try and overcome in front of the jury with
23 self-defense.

24 Nonetheless, it was Anthony's contention that he did
25 ask to go inside. He was allowed to go inside, use the

1 restroom, and had conversation with the folks that were in
2 that bedroom on his way out, and rather testily a little bit
3 anyway with Mr. Glenn when he was walking back out toward
4 the bedroom, or I'm sorry, out through the kitchen toward
5 the exit.

6 But before we even get into that, I would like to point
7 out what Ms. Golson did reveal to us when we had opportunity
8 to meet with her. Again, this is even in the prosecutor's
9 own office.

10 Yes, marijuana was being smoked in that room with the
11 child present by Mr. Glenn. Mr. Glenn was being gracious, I
12 guess one might perversely say, by allowing the child to
13 play with things. Unfortunately, it was a magazine loaded
14 with 9mm ammunition. And if it's any like -- it's like even
15 like the toddlers I've raised, kids put lots of different
16 things in their mouth when they're at that age and teething.
17 I think it's a highly dangerous situation and highly toxic
18 situation.

19 It's also one word. That room is very small and
20 everybody in that room likely would be under at least some
21 effect of the marijuana being smoked prior to Anthony even
22 being there.

23 Furthermore, Judge, based on the information produced
24 by the government as well as its expert witnesses, the
25 toxicology reports supports exactly that scenario as well.

1 when Mr. Glenn's blood was drawn, and fluids were drawn, the
2 threshold for THC metabolite was 2.0. His metabolite was
3 34, sixteen times what the threshold is.

4 And if I may, Judge, I've labeled this as Defendant's
5 1. We'd ask the Court to examine this as a Defense Exhibit.
6 If I may?

7 THE COURT: Okay.

8 MR. STEVENS: Thank you, sir.

9 THE COURT: Is it already been marked?

10 MR. STEVENS: Yes, sir, it's premarked. I've had
11 opportunity---

12 THE COURT: Okay.

13 MR. STEVENS: ---to show the prosecutor beforehand.

14 THE COURT: Okay. Yes, sir.

15 MR. STEVENS: Thank you, Judge.

16 Further, when Anthony was walking out, he heard his
17 name called by Mr. Glenn to come on back. He acknowledges
18 he should of just kept on walking and that would of been
19 that. He didn't. He walked back to the door. That's where
20 more words were had. And, again, this is where testimony
21 from those inside varies with what Anthony would of said as
22 well, and, again, why we're here under an Alford plea
23 regarding the matter.

24 Through our conversation with Ms. Golson, it was our
25 understanding that she would have testified that Mr. Glenn

1 did reach for a magazine right toward the end or leaning
2 forward reaching for it for the magazine saying he'd handle
3 this outside. She did not say anything, to my recollection
4 of our conversation with her, that he pulled his gun from
5 his lap before that.

6 when we look at that and compare it with what Anthony
7 indicated that he had the gun on him and leaned forward with
8 the gun pointed at him, and then we compare that with the
9 photographic evidence, Judge, which we have marked as
10 Defendant's Exhibit 2, which are photographs consisting --
11 multiple photographs on several pieces -- sheets of paper,
12 we just condense it under four papers -- four photographs
13 per, the aspect show -- these photographs show how small
14 that room was, number one.

15 Number two, it shows where that gun was located. It
16 was not located in his lap. It was not located on a pillow
17 by his bottom. It was up in very close proximity to his
18 hand laying on the floor. His hand is hit. And other
19 photographs actually show where the magazine was. It was
20 not anywhere away from him. It was literally in the crick
21 of his elbow, very close proximity, almost was touching his
22 body. In fact, in one place it looks like it does.

23 And if I may, Judge, I'd like to approach the --.

24 THE COURT: Marked for ID Defendant's 2?

25 MR. STEVENS: Yes, sir, Judge.

1 (Pause.)

2 THE COURT: Yes, sir.

3 MR. STEVENS: Thank you, Judge.

4 Again, we're not disputing the incident occurred. He
5 has waived. He has pled. He has acknowledged his conduct.
6 And if there is to be a conviction, which obviously there
7 is, our position is that yes, voluntary manslaughter is what
8 is appropriate, Judge.

9 And given the factual circumstances as we believe from
10 the prospective of someone who was in a room filled with
11 marijuana for, for at least some time or at least one of the
12 individuals had 16 times the threshold in their system, our
13 position is that her prospective may have been at least a
14 little skewed, and when he did lean forward, it was for the
15 gun rather than reaching for a magazine. Based on these
16 unique circumstances, Judge, again, as we recognize, we may
17 of had a hard time especially with a jury regarding
18 self-defense.

19 with that said, Judge, when we look at voluntary
20 manslaughter, the General Assembly of South Carolina has set
21 a range for that sentence starting at two years and going up
22 to 30 years. That range -- the purpose of the range is to
23 acknowledge fully that not all cases are created equal.
24 Varying circumstances demand different degrees of
25 sentencing.

1 There's a far cry difference from someone who has a
2 homicidal past or lots of gun play in their past, and they
3 show up after being extremely violent in their past, and
4 then they continue forward with their violence in a manner
5 like this. Even if they do get a voluntary manslaughter at
6 the end, that is someone likely to expect the higher end of
7 that range.

8 Someone with unique circumstances such as Anthony's
9 does not. Anthony's unique circumstances in this case
10 readily indicate he went in there, there were words, and the
11 factual circumstances from the government's own photographs,
12 from the government's own toxicology reports does support at
13 least part of what Anthony's been saying all along, that he
14 was responding to a very dangerous situation.

15 Should he have shot six times?

16 No.

17 Should he have just walked away?

18 Likely so.

19 Nonetheless, Judge, given the exceptionally unique
20 circumstances presented to you today, we respectfully
21 request the Court to consider a sentence at the low end of
22 the voluntary manslaughter range. We ask the Court to
23 consider a sentence of two years or, if the Court prefers, a
24 sentence of five years suspended to two years followed by
25 probation. We believe that, like I said, given the unique

1 circumstances of this very unique case, it is the
2 appropriate sentence given everything we're looking at.

3 Thank you, Judge.

4 THE COURT: Thank you, Mr. Stevens.

5 MR. STEVENS: And, Judge, simply for the record, we
6 respectfully request to have those defense exhibits moved
7 into the record as well.

8 THE COURT: Okay.

9 MR. STEVENS: Thank you, Your Honor.

10 THE COURT: All right. Any objection?

11 SOLICITOR SCOTT: No, Your Honor.

12 THE COURT: Okay.

13 (WHEREUPON, Defendant's Exhibit Nos. 1 and 2 were
14 received into evidence at this time.)

15 MR. STEVENS: One last thing I would like to point out,
16 Judge, cause necessarily or otherwise we leave you to, to
17 your discretion obviously.

18 Anthony does acknowledge he should not be carrying a
19 firearm that day especially given his background.
20 Nonetheless, looking at the background of Mr. Glenn, he
21 should not be carrying a firearm either. It's a situation
22 which is not entirely on Anthony's shoulders, and that's
23 something we want the Court to consider as well.

24 THE COURT: Okay.

25 MR. STEVENS: Thank you, Your Honor.

1 THE COURT: And, Mr. Scott, just so I -- Mr. McKennie's
2 prior record was, was '09 burglary where he got a Y.O.A.
3 sentence?

4 SOLICITOR SCOTT: That's correct.

5 THE COURT: Anything else?

6 SOLICITOR SCOTT: At, at the same time he pled to I
7 think possession of a stolen motor vehicle.

8 THE COURT: Okay. All right. Ladies and gentlemen, I
9 need to remind everybody there can be no outbursts while
10 doing sentencing and like that. I know this case has been
11 dragging, well not dragging on, but it has been in the
12 forefront of everybody's mind since 2016, and now, almost
13 three years down the road, it's getting some final
14 resolution.

15 Mr. McKennie, I believe, under the circumstances that
16 have been outlined to me, I believe the State has properly
17 allowed you to plead to voluntary manslaughter.

18 Okay. Now, now my duty to sentence you to that charge,
19 and as to the charge of voluntary manslaughter, the Sentence
20 of this Court is you're committed to the State Department of
21 Corrections for a period of 19 years.

22 As to the charge of possession of a weapon by a person
23 convicted by a crime of violence, Sentence of this Court is
24 you're committed to the State Department of Corrections for
25 a period of five years. I'm giving you credit for the time

1 you served since March 22nd, 2016, and the sentences are
2 concurrent.

3 Thank you, sir.

4 MR. STEVENS: Thank you, Your Honor.

5 THE COURT: Thank you.

6

7

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

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Orangeburg County, South Carolina, on the 17th and 25th days of January, 2019.

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

July 15th, 2021

PAMELA E. GREEN, Court Reporter

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Coroner Samuetta Jackson
Orangeburg County Coroner's Office
Post Office Drawer 9000
Orangeburg, SC 29116

TOXICOLOGY DEPARTMENT
August 16, 2016
SLED No: L16-03074
Your Case No: 2016001590
Incident Date: 03/04/2016

[V-Deceased] Theodio Isiah Glenn
[S] Anthony Mckennie

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE

Item: 13.1 **Sample Type: Blood (Toxicology) - Iliac Blood labeled "GLENN, THEODIO FA16-183"**

Analysis by Headspace Gas Chromatography (GC) and/or Headspace Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
Ethanol	Negative	% (g/dL)	0.010
Methanol	Negative	% (g/dL)	0.010
Acetone	Negative	% (g/dL)	0.010
Isopropanol	Negative	% (g/dL)	0.010

ATTEST: TRUE COPY
Winnifred B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC



AN ASCLD/LAB-International ACCREDITED TESTING LABORATORY SINCE 09/19 2014
P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351



SLED No :L16-03074

Page 2 of 3

8/16/16

Screen by Enzyme Linked Immunosorbant Assay (ELISA)

Analyte	Result	Units	Threshold
Amphetamine	Negative	mg/L	0.100
Benzodiazepines	Negative	mg/L	0.050
Buprenorphine	Negative	µg/L	1.000
Carisoprodol	Negative	mg/L	0.500
Cocaine Metabolite	Negative	mg/L	0.200
Methadone	Negative	mg/L	0.050
Methamphetamine	Negative	mg/L	0.100
Opiates	Negative	mg/L	0.075
Oxycodone	Negative	mg/L	0.075
Tramadol	Negative	mg/L	0.050
Zolpidem	Negative	mg/L	0.020

Analysis by Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
11-carboxy-Tetrahydrocannabinol Synonyms: THC metabolite	34	µg/L	2.000

Item: 13.2 **Sample Type: Blood (Toxicology)** - Left Chest Blood labeled "GLENN, THEODIO FA16-183"

No Analysis Performed

Item: 14 **Sample Type: Urine** - labeled "GLENN, THEODIO FA16-183"

No Analysis Performed

ATTEST: TRUE COPY
Winnifred B. Clark
 CLERK OF COURT
 ORANGEBURG COUNTY, SC

CALEA



ALI-359-T

AN ASCLD LAB-International ACCREDITED TESTING LABORATORY SINCE 09/19 2014
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SLED No :L16-03074

Page 3 of 3

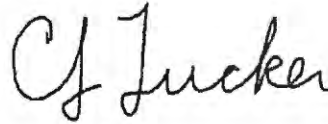
8/16/16

Item: 15 **Sample Type: Ocular fluid - labeled "GLENN, THEODIO FA16-183"****Analysis by Headspace Gas Chromatography (GC) and/or Headspace Gas Chromatography/Mass Spectrometry (GC/MS)**

Analyte	Result	Units	Threshold
Ethanol	Negative	% (g/dL)	0.010
Methanol	Negative	% (g/dL)	0.010
Acetone	Negative	% (g/dL)	0.010
Isopropanol	Negative	% (g/dL)	0.010

Item: 16 **Sample Type: Gastric - labeled "GLENN, THEODIO FA16-183"****No Analysis Performed**

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.



Carmen J. Tucker
Forensic Toxicologist

CC: Melody Reid Martin - Newberry Pathology

For any additional interpretation of results please contact the Toxicologist above at the SLED Toxicology Department , (803) 896-7385.

ATTEST: TRUE COPY
Winnifred B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC



ALI-359-T

THE STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

THE STATE)

Indictment No's.: 2016-GS-38-1090, and 2019-GS-38-0214.

v.)

MOTION TO RECONSIDER SENTENCE

ANTHONY MCKENNIE)

Defendant.)

FILED FOR RECORD
2019 FEB -4 PM 1:49
Clerk of Court
Su

Defendant Anthony McKennie respectfully requests this Honorable Court to reconsider and lower his sentence in the above captioned case. Specifically, McKennie asserts the Court may have overlooked or should reconsider certain factual circumstances present to his case as mitigation. Accordingly, the Defendant respectfully submits this motion for the Court's consideration pursuant to Rule 29(a) of the South Carolina Rules of Criminal Procedure, the 6th and 14th Amendments, as well as the Fundamental and Due Process Clause of the United States Constitution, and the following arguments.

FACTS

On January 17, 2019, McKennie pled pursuant to North Carolina v. Alford,¹ to the offenses of voluntary manslaughter, and possession of a weapon by a person convicted of a violent crime. On January 25, 2019, this Court held Defendant's sentencing hearing. During the hearing, Defendant explained several unique facts in the case, including: (1) the toxicology report showing the decedent had many times more than the threshold amount of THC metabolite in his system, which was consistent with an eyewitness indicating the decedent was smoking marijuana prior to the incident (see Attachment A, toxicology report); (2) the State's eyewitness

¹ 400 U.S. 25, 91 S.Ct. 160 (1970).

also indicated a toddler was present in the small room when the decedent was smoking marijuana, and the decedent allowed the toddler to play with the a magazine loaded with 9mm ammunition; (3) photographic evidence that the decedent was armed with a 9mm pistol next to his hand and away from the pillow where he was seated, as well as a loaded magazine next to his arm (see Attachment B, photographs); and (4) Counsel indicated to the Court that the decedent was not allowed to possess a firearm at the time of the incident either. At the end of the hearing, this Court imposed concurrent sentences of nineteen (19) years for murder, and five (5) years for the gun charge. Credit was given for time served.

The Defendant now respectfully submits documentation supporting the reality that the decedent was not allowed to lawfully possess any firearm at the time of the incident. Specifically, the decedent's criminal record indicates he was convicted of the felony offense of manufacturing/distributing cocaine base, 1st offense, in 2013. (See Attachment C, criminal record). Furthermore, the Orangeburg County Public Index readily indicates the decedent was arrested on January 3, 2016, for the offense of the "Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawful; stolen pistol." (See Attachment D, Public Index State v. Theodio Isiah Glenn). Moreover, his bond was posted February 1, 2016. That case was ultimately dismissed as *nolle prosequi* on May 27, 2016—eighty-four (84) days after he was in possession of another firearm and ammunition and shot in the present case on March 4, 2016. (See Id.).

LAW / ANALYSIS

The Defendant respectfully submits that the unique circumstances surrounding the present case merit a sentence lower than that originally imposed. As stated above, the decedent was an armed felon. It is uncontroverted that he was convicted in 2013 of a felony carrying up to

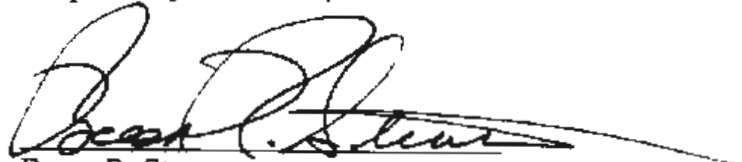
fifteen (15) years. (See Attachment D). It is likewise uncontroverted that such a conviction automatically disqualifies him from owning or possessing either a handgun or ammunition after that point. See, e.g., 18 USCA §922(g). Regardless of this well-known prohibition, the decedent illegally armed himself again—he was arrested on January 3, 2016 for unlawfully possessing a handgun/stolen pistol. (See Attachment E). As if that was not enough, the decedent once again chose to illegally possess yet another pistol (and ammunition) while he was on bond for illegally possessing a gun both eyewitness testimony and photographic evidence corroborate that the decedent was in possession of the gun and ammunition at the time of the present incident. Defendant respectfully submits that by possessing and smoking marijuana in the same room as a toddler while on bond, and by obtaining both a handgun and ammunition while on bond for unlawfully possessing a firearm (with a felony conviction already on his record), shows the decedent not only was once again in violation of federal law, but also that he was in violation of bond conditions in South Carolina requiring the bailee to be in good behavior while on bond. See, e.g., § 17-15-20(A) S.C. Code Ann.

Finally, as indicated at the sentencing hearing, although the Defendant was in a situation he should not have been, he simply reacted to what he perceived before him: namely, an armed criminal who was under the influence of illegal drugs and pointing a gun at him or in his direction while they were having words. Under the totality of all the unique circumstances presented both at the sentencing hearing and in the present motion, the Defendant respectfully submits these facts should serve to provide a more complete picture for the court, and further mitigate the Defendant's sentence.

CONCLUSION

Accordingly, the Defendant Anthony McKennie respectfully requests that this Honorable Court reconsider his sentence, and impose one that is lower given the unique mitigating circumstance present in the case.

Respectfully Submitted,



Breen R. Stevens
Assistant Public Defender
372 St. Paul Street
Covington Bldg., Rooms 8-10
Orangeburg, SC 29116
Telephone (803) 531-7090

ATTORNEY FOR THE DEFENDANT

February 4, 2019
Orangeburg, South Carolina

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG

2016-GS-38-01090

2019-GS-38-00214

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-)

) March 4, 2021

Anthony McKennie)

) Orangeburg, South Carolina

) (Via Virtual Courtroom)

B E F O R E:

The Honorable Edgar W. Dickson, Judge

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

Tommy Scott, Esquire
Attorney for the StateBreen Stevens, Esquire
Attorney for the Defendant

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
First Judicial Circuit

1 MR. SCOTT: Your Honor, this is State v.
2 Anthony McKennie. We are here today on the Defendant's
3 motion to reconsider his sentences. Mr. McKennie,
4 Your Honor, he is appearing via WebEx from Lieber
5 Correctional Institute, I believe. Mr. McKennie,
6 Your Honor, he is represented by Mr. Breen Stevens,
7 who also is appearing via WebEx.

8 The indictment numbers are as follows:
9 2016-GS-38-1090, that is an original charge of murder.
10 He pled involuntary manslaughter on that indictment.
11 Also 2019-GS-38-0214, that was for possession of
12 a weapon by a person convicted of a crime of violence.

13 Your Honor, Mr. McKennie pled guilty
14 before Your Honor on January 17th of 2019. Your Honor
15 sentenced Mr. McKennie on January 25th of 2019.
16 You sentenced him to concurrent sentences of 19 years
17 and five years on the manslaughter charge and the
18 weapons charge, respectively.

19 On February 4th of 2019 -- so my math
20 isn't very good -- about eight days after he pled
21 guilty, the Defendant, Your Honor, he filed a motion
22 to reconsider this sentence, and we are here today
23 on this motion to reconsider the sentence.

24 THE COURT: Okay.

25 MR. SCOTT: Your Honor, this case is based

1 on an event that took place exactly five years ago.
2 I am happy to refresh Your Honor's memory with some
3 of the facts, or if you or Mr. Stevens prefers,
4 Mr. Stevens is welcome to proceed with his argument.

5 THE COURT: If you don't mind, give me just
6 a basic summary, because I'm probably going to have to
7 pull my notes before I do anything, if you don't mind,
8 Mr. Scott.

9 MR. SCOTT: Certainly, Your Honor.
10 Your Honor, this incident took place, as I said,
11 on March the 4th of 2016. It happened on Saint Ann
12 Street here in Orangeburg. The victim in this case,
13 Your Honor, was Theodio Glenn. He was approximately
14 27 years of age at the time of this incident.

15 The State would allege that Mr. Glenn
16 and the Defendant had some sort of verbal altercation,
17 possibly earlier in the day, but no more than a day
18 or two before this incident. It was only a verbal
19 altercation; it never turned physical.

20 However, on the date of March the 4th,
21 2016, shortly before 2:00 p.m., Mr. Glenn, Your Honor,
22 he was at a residence on Saint Ann Street. He was
23 in a bedroom along with two females and a small child.
24 I believe the child, Your Honor, was approximately three
25 years of age. If I remember correctly, that child

1 was being babysat, if that's the appropriate word,
2 was being babysat by one of the two females.

3 Mr. Glenn, the victim, Your Honor,
4 he was having his hair braided by one of these
5 two females. Mr. Glenn, he was sitting on the floor
6 on a throw pillow, with his back up against the couch.
7 The female who was braiding his hair was sitting
8 on the couch, so Mr. Glenn, basically, would have
9 been sort of seated between her legs while she braided
10 his hair.

11 Mr. Glenn, Your Honor, he did have a weapon
12 on him. My understanding is, from speaking with the
13 witnesses, he had taken the magazine out of that weapon.
14 It was a handgun, and he had allowed the three-year-old
15 child that was in the room to sort of play with the
16 magazine while he was getting his hair braided.

17 At some point, Your Honor, shortly before
18 2:00 p.m., the Defendant came onto Saint Ann Street.
19 He asked a couple of witnesses who were outside
20 of the residence where the victim was. These witnesses,
21 Your Honor, they pointed the Defendant to the residence
22 where the victim was having his hair braided.
23 The witnesses state at that point, the Defendant walked
24 towards the residence with his hands in his pockets
25 and entered the residence.

1 The State would allege, Your Honor,
2 that the Defendant, he walked into the house
3 unannounced, uninvited. He appeared in the doorway
4 of the bedroom where the victim was having his hair
5 braided. Your Honor, the victim, he would have been
6 seated on the floor right in front of the doorway where
7 the Defendant appeared.

8 According to the witnesses, Your Honor,
9 the Defendant called the victim a vulgar word,
10 that word beginning with a P and ending with a Y.
11 The victim, Your Honor, who was still seated on the
12 floor, said something to the effect of who are you
13 calling that word? The victim, according to some
14 of the witnesses, also said we can take this outside.

15 The victim's unloaded gun, Your Honor,
16 was lying next to him. According to the witnesses,
17 the victim began reaching for the magazine that
18 he had given to the child and started to, you know,
19 pick up his gun and try to retrieve his magazine.

20 At that point, Your Honor, the Defendant
21 fired multiple times at Mr. Glenn. Mr. Glenn suffered
22 six gunshot wounds; twice in the head, twice to the
23 neck, once in the left shoulder, once in the left chest.
24 Five of these six wounds, Your Honor, was classified
25 as fatal or potentially fatal by the pathologist.

1 The Defendant, Your Honor, he fled from
2 the residence after he fired these shots. Witnesses,
3 Your Honor, saw him running from the residence after
4 hearing the shots. And the Defendant, Your Honor,
5 he ultimately fled to Philadelphia, where he was
6 eventually located by U.S. Marshals on March 22nd,
7 2016.

8 So that is sort of a -- what the State
9 would allege the facts are. I will let Mr. Stevens
10 proceed with his argument, and then I'm sure I would
11 like to respond at the appropriate time.

12 THE COURT: All right. And, Mr. Stevens,
13 let me hear from you please, sir. All right,
14 Mr. Stevens, you're un-muted.

15 MR. STEVENS: Good morning, Judge.
16 May it please the Court.

17 THE COURT: Yes, sir.

18 MR. STEVENS: What we're talking about
19 today, and why we're here is about shared culpability
20 and the sentence that reflects it, Judge, that's
21 what this is about. We're not asking the Court to say
22 that Mr. McKennie was innocent. He already acknowledged
23 the evidence of his conduct. We're not asking the Court
24 to have Mr. McKennie go free today. He knows he is
25 to be punished under the law.

1 However, Judge, we are asking for his
2 sentence to account for the reality. Anthony McKennie
3 was not solely responsible for why the incident itself
4 happened as tragically as it did that faithful day.
5 So what are those circumstances we want the Court
6 to make sure it does to consider and account for
7 and weigh in his sentencing?

8 Well, we know that the decedent, Mr. Glenn,
9 was armed with a handgun and bullets. We also know that
10 he wasn't really supposed to have a handgun or bullets.
11 How do we know this? Well, we know that Mr. Glenn
12 was previously convicted of a felony, the felony
13 of manufacturing and distributing crack cocaine
14 for his defense back in 2013.

15 Mr. Glenn was never supposed to have
16 a handgun again, or any gun for that matter,
17 or ammunition. And yet, there he was with another gun,
18 and as you heard the government acknowledge, allowing
19 a kid to play with a loaded magazine, 5-mm ammunition.

20 What do we also know? We also know
21 that Mr. Glenn was actually out on bond at the time
22 of the incident. For what offense? Well, the offense
23 was for illegally possessing a handgun by a person
24 who's not allowed to. He was arrested on January
25 3rd, 2016. And yet, while on bond, bond that was posted

1 at the beginning of February, he had again possessed
2 illegally yet another handgun and more ammunition.

3 We also know that Mr. Glenn was in
4 a room where drugs were being consumed and smoked.
5 Now, I know the government is likely to point out
6 the lab results from Mr. Glenn showing that there's
7 only THC metabolite in his system. And by doing
8 so, they want to say Mr. Glenn wasn't high that day
9 on March 4th, 2016.

10 However, even if taken as true, Judge,
11 what does it show? It again shows that at least
12 within 30 days of his autopsy, Mr. Glenn indeed
13 did smoke drugs. That would also show that, you know,
14 he smoked drugs while he was out on bond since February
15 1st, 2016, again flouting the absolute law, doing it
16 his way, the way he wants to do it, and doing what
17 he chooses to do. Whether he's selling them or just
18 smoking them, I don't know. That's for the Court
19 to consider.

20 It also shows though that his conduct
21 on the day of March 4, 2016 were done sober, knowing
22 and willfully. He knowingly and willfully argued
23 with Mr. McKennie, which included threats back toward
24 Mr. McKennie. He knowingly and willfully pulled his
25 own gun and reached for a loaded magazine, which by

1 the government's own account, as you just heard,
2 occurred even before Mr. McKennie pulled his gun.
3 And he knowingly and willfully tried to engage in
4 a shootout there.

5 Nobody is happy with these results, Judge.
6 Nobody is happy with this tragedy that occurred.
7 If anybody can take it back, I'm sure every single
8 person involved could. But the reality is that had
9 the decedent not been illegally armed with an illegal
10 handgun and illegal ammunition, the entire incident
11 would likely have resulted in an argument or maybe
12 a fistfight. Instead, because of Mr. Glenn's own
13 shared culpable conduct, one man is tragically gone,
14 and another one sits in prison.

15 Judge, as you are more than aware,
16 the law in South Carolina provided by the general
17 assembly gives the range for sentencing on voluntary
18 manslaughter. The range goes as low as two years,
19 and goes all the way up to 30. The range is very
20 broad for good reason. It allows the Court to consider
21 all the facts and circumstances in each individual case.

22 Every case is unique. We all know this.
23 And that includes considering facts showing that
24 the Defendant, yes, while guilty, was not solely
25 responsible for a given incident, Judge.

1 And in the present case, we ask the Court
2 to consider and weigh all of the unique factors
3 and circumstances that we just discussed and is also
4 contained in our motion to support.

5 And in so doing, Your Honor, we ask the
6 Court to reduce Mr. McKennie's sentence. And if even
7 both Mr. Glenn and McKennie are likewise culpable in
8 the ultimate tragic outcome, then the sentence should
9 be -- half of 15 years.

10 However, Judge, given the facts and
11 circumstances that are unique to this very case,
12 we believe that ten would be most appropriate to
13 the given case. Your Honor, respectfully, we so move.

14 THE COURT: All right. And, Mr. Stevens,
15 you said you filed a memorandum to go along with this?

16 MR. STEVENS: Judge, the motion we filed --
17 the motion itself contained a fact pattern as well
18 as the law analysis and application of conclusion.
19 So, the motion itself does contain the argument
20 as well as several attachments.

21 THE COURT: All right. And, Mr. Stevens,
22 just to make sure I understand, when you were originally
23 appointed to represent Mr. McKennie, he was charged
24 with murder; is that correct?

25 MR. STEVENS: That is correct, Judge.

1 THE COURT: Okay. All right. Thank you,
2 sir. And you and he and the solicitor, based on
3 your representation, were adding a plea to voluntary
4 manslaughter; is that also correct?

5 MR. STEVENS: That was the arrangement
6 we came to, yes, sir, Judge.

7 THE COURT: Okay. Anything else,
8 Mr. Stevens?

9 MR. STEVENS: Not at this time, Your Honor.

10 THE COURT: Okay. Great. All right.
11 Mr. Scott -- and, Mr. Stevens, you didn't have anybody
12 from Mr. McKennie's family that wanted to speak,
13 did you?

14 MR. STEVENS: We do have family members
15 here for Mr. McKennie. I don't believe ---

16 THE COURT: They just wanted to listen
17 like everybody else, right?

18 MR. STEVENS: Yes, sir, that's correct.

19 THE COURT: Okay. Good. All right,
20 Mr. Scott, let me hear from you, please, sir.

21 MR. SCOTT: Thank you, Your Honor.
22 Before I forget, Mr. Stevens and I talked about this.
23 The memorandum that Mr. Stevens filed in this case,
24 I know it's been filed for two years now, but we would
25 ask if it's possible to have that sealed. There are

1 some photographs attached to that memorandum, and I do
2 think it would be proper to have that memorandum sealed,
3 or at least the exhibits.

4 THE COURT: Okay. Mr. Stevens,
5 any objection to that?

6 MR. STEVENS: Not from the defense, sir.

7 THE COURT: Okay. All right. Then if
8 somebody would do an order, I'll seal the exhibits,
9 okay, or the entire thing, if you want me to, whichever
10 y'all decide.

11 MR. STEVENS: Thank you, Judge.

12 MR. SCOTT: Thank you, Your Honor.

13 THE COURT: Okay.

14 MR. SCOTT: Your Honor, the first point
15 I kind of want to address is the issue of marijuana,
16 and Mr. Stevens and I spoke about this yesterday,
17 and I think he's changed his argument a little bit
18 based on some of the information I provided him
19 yesterday. But because it's still in his brief,
20 I did sort of want to respond to it.

21 The State would submit that the victim
22 was not under the influence of marijuana at the time
23 of this incident. If you look at the toxicology report,
24 which is attached to Mr. Stevens' motion to reconsider,
25 if you look at that toxicology report, the victim does

1 have THC metabolite in his system. And I actually spoke
2 with the forensic toxicologist who did this analysis
3 yesterday -- it was either yesterday or the day before,
4 Carmen Tucker. And that metabolite, Your Honor, shows
5 a history of marijuana use.

6 There is no THC in his system, according
7 to this toxicology report. So he was not under the
8 influence of THC, but, you know, there is a history
9 of -- there's clearly a history of him having used
10 marijuana in the past, for whatever that is worth,
11 however much of a factor Your Honor even -- how much
12 weight you even want to give that.

13 I would also dispute that any marijuana
14 was found in the room. SLED conducted this crime
15 scene investigation; it was not the Orangeburg County
16 Sheriff's Office. I remember seeing some photos of
17 an overturned ashtray, and you can see some cigarette
18 butts. But I have never seen anything that looked
19 like marijuana to me. There is no marijuana documented
20 in the crime scene investigation, and they took way
21 more pictures than I typically get in a crime scene
22 investigation.

23 So, I don't believe the victim was under
24 the influence of marijuana on that day, and I don't
25 believe there was any marijuana being smoked in the

1 presence of that three year old.

2 Your Honor, I can see that under federal
3 law the victim should not have been in possession
4 of a weapon that day. I would point out that the
5 Defendant -- the Defendant, both by federal and state
6 law, should not have been in possession of a weapon
7 either.

8 None of this, whether it's the marijuana
9 use or this weapon that the victim had, none of this
10 is new evidence. I believe Your Honor considered all
11 of that at the time of sentencing and imposed a proper
12 sentence at the sentencing hearing.

13 Your Honor, some of the facts I would like
14 to point out, it is very clear from the evidence that
15 this Defendant came to the incident location looking
16 for the victim. It is clear that the Defendant was
17 armed with a handgun. According to at least one of
18 the witnesses who was outside, he specifically said
19 in his statement, shots were fired only about one
20 minute after the Defendant entered the residence.
21 I would submit all that shows the Defendant went over
22 there with a motive, with an intention to do harm.

23 You can see from those photos, Your Honor,
24 just how off guard the victim would have been caught
25 when the Defendant entered that house unannounced,

1 uninvented, and just appears in that doorway. I mean,
2 you can see the end of the door because the door
3 is open, you know. It's 90 degrees open and pointed
4 straight at the victim.

5 I mean, he is basically at the end of that
6 doorway. I mean, the standard door is, I don't know,
7 three feet wide. When the Defendant appears in that
8 doorway unannounced, he was standing over the victim,
9 three feet away from him, on top of the victim,
10 and that's all reflected in the gunshot wounds.
11 They're all from left to right and going downward
12 for the most part.

13 I would ask Your Honor to consider the
14 fact that there were three innocent people in that
15 room; one's a three year old, one is a female, a young
16 female, who's basically seated right next to Mr. Glenn.
17 One of the bullets, Your Honor, actually ends up on
18 the mattress. There's a bed in there with a mattress.
19 I don't believe there is any linens on the bed.
20 There's a fired projectile that, you know, must have
21 ricocheted through the room and ended up on the
22 mattress.

23 So, you know, just based on the other people
24 that were in the room, I just think this was a conscious
25 disregard for the safety of others. Your Honor --

1 I think Your Honor imposed an appropriate sentence
2 on the sentencing date. I would ask that you leave
3 the sentence as it is.

4 We do have a number of the victim's family
5 members on with us, and I believe they have asked that
6 Ms. Demicotius Summers, who is the sister of Mr. Glenn,
7 be allowed to speak. I have her first name as being
8 spelled D-E-M-I-C-O-T-I-U-S. I am not sure if I
9 pronounced it right, but I believe -- you can see it
10 on the screen too, so I do believe I spelled it right.

11 THE COURT: Okay. Ms. Summers, okay.
12 Anything else before she speaks?

13 MR. SCOTT: No, Your Honor.

14 THE COURT: Okay. Ms. Summers, were you --
15 can you ---

16 MS. SUMMERS: Hi. How are you?

17 THE COURT: Oh, there you are. Okay.
18 Ms. Summers, I'm sorry. Ms. Summers, what would
19 you like to tell me, please, ma'am?

20 MS. SUMMERS: Okay. So, I was overwhelmed
21 with emotion today, so I kind of wrote this down to get
22 everything I needed to get off my chest.

23 THE COURT: Yes, ma'am.

24 MS. SUMMERS: "To the Honorable Judge
25 Dickson, I come before you as humbly as possible

1 on behalf of the Davis, Glenn family on this day,
2 March 4, 2021, the exact same date five short years
3 ago that Theodio Davis Glenn was murdered by multiple
4 gunshots from a gun held and trigger pulled by
5 Mr. McKennie. As we come together in an unsurmountable
6 wave of grief, frustration and despair, I would like
7 to further highlight why Mr. McKennie should be made
8 to serve the rest of his sentence without reduction
9 in time. For three years, my family was suspended
10 in limbo, with no answers and no closure. Then, in
11 January 2019, my mother and several other family members
12 sat in a courtroom to make the decision to graciously
13 have Anthony McKennie charged with voluntary
14 manslaughter, even after hearing that, from our
15 understanding, that Mr. McKennie left the scene after
16 an argument with Theo, retrieved a gun, returned to
17 the scene, and proceeded to shoot Theo several times.
18 To see my mother make a decision so generous with tears
19 in her eyes and grief on her heart, knowing that her
20 son's murderer stood the chance of walking free, showed
21 great restraint, growth, and most importantly mercy.
22 Death itself is so final. Over a disagreement that
23 Mr. McKennie had the choice, and I reiterate choice,
24 to walk away from. My brother is no longer alive.
25 My mother knew she would never see or hear her son's

1 voice again. And instead of hate, she chose justice
2 and closure. I have watched my family struggle to cope
3 with the loss of a son, a brother, an uncle, a nephew,
4 significant other, and father, and to just have joined
5 us together today on a day that should be a date --
6 on a day that should be one of solace and remembrance
7 essentially feels as if a wound in our souls have been
8 ripped apart and salt poured in. As we all sit before
9 you today, struggled by our pain and will to persevere,
10 we kindly ask that Mr. McKennie be made to serve his
11 entire sentence without reduction. Thank you for your
12 time."

13 THE COURT: Thank you, Ms. Summers.
14 I appreciate it. Well written. Thank you. All right.
15 Mr. Stevens, since this was your motion, you get
16 the last word in, if you have anything else you want
17 to say.

18 MR. STEVENS: Thank you, Judge,
19 just briefly. I want to make a couple of points.
20 First of all, again, by the State's own facts to
21 the Court, is Mr. Glenn actually reached for a gun
22 and ammunition, illegally possessed, I might add.

23 Number two, there were no other adults
24 in the room that were not innocent. I do dispute
25 that. By the words of one of the two women that

1 were in that room that day, when we met with her
2 in the prosecutor's own office the week before trial
3 was set to kick off, she admitted to smoking marijuana
4 that morning in that bedroom right there.

5 So just because SLED didn't find any
6 afterward, when SLED finally arrived to actually
7 process the scene, is not surprising. It doesn't
8 change the reality that marijuana was being smoked
9 that morning in that room in the presence of a child.
10 The only person who's innocent in the room was that
11 child.

12 And, frankly, to allow a child to handle
13 a loaded magazine is in it of itself child neglect,
14 and that's in addition to the other admission of
15 marijuana use in that room in front of the child.
16 Nobody in that room was innocent, not the ladies.
17 Mr. McKennie is not claiming innocence on it,
18 and most certainly neither is Mr. Glenn.

19 Judge, the offer to voluntary manslaughter
20 was wise given the facts of the case and a hard choice
21 that had to be made by both the State and the Defendant.
22 We would ask the Court again to reconsider his sentence
23 given all the factors we discussed here today in our
24 request for reduction.

25 THE COURT: All right. Thank you.

1 Thank you, everybody. What I'm going to do is I'm going
2 to pull my notes, go back and see what I thought about
3 the situation, and I'll get back to y'all with my
4 decision, okay? Thanks, y'all. Thanks, y'all ---

5 MR. STEVENS: Thank you, Judge.

6 THE COURT: --- for taking part in this,
7 okay? Appreciate it.

8 (End of Transcript of Record)

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CERTIFICATE OF REPORTER

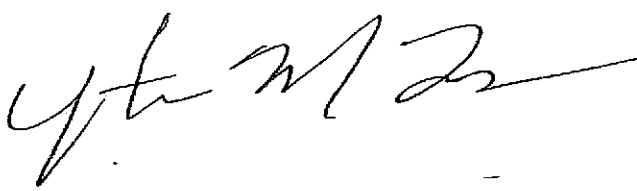
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State of South Carolina)
County of Orangeburg)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the First 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 case, relative to appeal, in the Circuit Court for Orangeburg County, South Carolina, on the 4th of March, 2021.

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

July 1, 2021



Yvestre Torres
Circuit Court Reporter

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APR 13 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF GENERAL SESSIONS
Warrant Numbers: 2016A3810700147

The State of South Carolina,)

vs.)

Anthony McKennie,)

Defendant.)

ORDER DENYING MOTION FOR
RECONSIDERATION OF
SENTENCE

CLERK OF COURT
ORANGEBURG, SC

2021 MAR 29 PM 4:28

FILED FOR RECORD
WINNIFRA B. CLARK

This matter came before the Court on March 4, 2021, as a result of Defendant's Motion to Reconsider Sentence pursuant to Rule 29(a) of the South Carolina Rules of Criminal Procedure, the Sixth Amendment, and the Due Process Clause of the Fourteenth Amendment of the United States Constitution. Attorney Breen Stevens, Esq. was present on behalf of the Defendant and Deputy Solicitor Thomas Scott, Esq. was present on behalf of the State.

On January 17, 2019, Mr. Anthony McKennie pled guilty pursuant to *North Carolina v. Alford*¹ to the offenses of voluntary manslaughter and possession of a weapon by a person convicted of a violent crime. The Defendant was originally charged with Murder. On January 25, 2019, this Court imposed on the Defendant a concurrent sentence of nineteen years for voluntary manslaughter and five years for the weapon charge.

During the sentencing, the State argued that on March 4, 2016, the Defendant walked into the Victim's home unannounced and uninvited after having a verbal altercation the day prior. The Victim was seated on the floor having his hair braided with two females and a small child present. The Defendant then shot the Victim six times, five of which were fatal. After the incident, the Defendant fled to Philadelphia and was detained by The United States Marshalls.

Defendant now argues that Defendant's sentence should be reduced because the Victim was not allowed to lawfully possess a firearm at the time of the incident since he was previously convicted of and charged with felony offenses. Defendant argues this creates shared culpability since the Victim was armed at the time of his death. Additionally, the Defendant argues that: (1) the toxicology report revealed the victim had many times more than the threshold amount of THC metabolite in his system, indicating the victim was smoking marijuana prior to the incident;

¹ 400 U.S. 25, 91 S.Ct. 160 (1970).

ATTEST: TRUE COPY

Winnifra B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

(2) the Victim allowed a toddler to play with a magazine loaded with 9mm ammunition; and (3) the photographic evidence indicated the Victim was armed with a 9mm pistol near where he was seated as well as a loaded magazine next to his arm.

The State submits that the Court considered these facts at the time of sentencing and should not reduce the sentence originally imposed. The State further argues that the Court should leave the sentence as ordered. This Court agrees.

This Court finds that the arguments presented by the Defendant were all considered by the Court at the time of the plea and sentencing. Further, this Court notes that the Defendants' arguments for reconsideration were the basis upon which the State justified its decision to reduce the original murder charge to voluntary manslaughter. This Court considered the same assertions in sentencing the Defendant to a term of 19 years, which is near the mid-point of the statutory range for a charge for voluntary manslaughter. As a result, this Court respectfully denies the motion to reduce the Defendant's sentence.

IT IS THEREFORE ORDERED that the Defendant's Motion for Reconsideration is DENIED and the sentence shall remain as originally ordered.

AND IT IS SO ORDERED!



Judge Edgar Dickson
First Judicial Circuit

Orangeburg, South Carolina

This 25th day of March, 2021

2/2 

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APR 13 2021

SC Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

Edgar W. Dickson, Circuit Court Judge

Case No. 2016-GS-38-1090, and 2019-GS-38-0214

The State,

Respondent,

v.

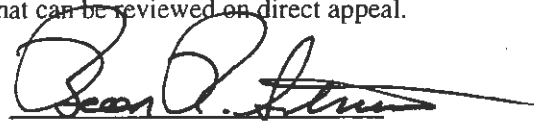
Anthony T. McKennie,

Appellant.

STATEMENT PURSUANT TO RULE 203(d)(1)(B)(iv)

Anthony McKennie appeals his conviction and sentence in this case. On January 17, 2019, McKennie pled guilty to Voluntary Manslaughter and Possession of a Weapon by a Person Convicted of a Crime of Violence before the Honorable Edgar W. Dickson. On January 25, 2019, Judge Dickson sentenced McKennie to nineteen (19) years for Voluntary Manslaughter, to be served concurrently with a sentence of five (5) years for Possession of a Weapon by a Person Convicted of a Crime of Violence. A Motion to Reconsider Sentence was filed and served February 4, 2019. On March 4, 2021, Judge Dickson held a hearing on the matter. On March 29, 2021, Judge Dickson filed his Order Denying Motion for Reconsideration of Sentence, a copy of which was received and scanned by Counsel for McKennie on March 30, 2021. Undersigned counsel is filing this appeal at the request of Appellant, and pursuant to State v. Thrift, 378 S.C. 70, 661 S.E.2d 373 (2008), Weathers v. White, 319 S.C. 59, 459 S.E.2d 838 (1995), and In re Anonymous Member of the Bar, 303 S.C. 306, 400 S.E.2d 483 (1991). In addition to the Motion to Reconsider Sentence, Counsel knows of no other issue that can be reviewed on direct appeal.

March 31, 2021



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Other Counsel of Record:
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(803) 533-6252
Attorney for Respondent

WITNESSES

John C Stokes

Orangeburg County Sheriff

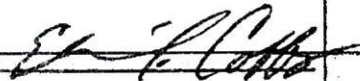
2016-1590

ARREST WARRANT NUMBER

2016A3810700147

Arrested: May 26, 2016

**ACTION OF GRAND JURY
TRUE BILL**



JUN 07 2017

Foreperson of Grand Jury

Date: June 7, 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS38-1090

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

June 12, 2017 TERM

**THE STATE
vs.**

Anthony Tyrone McKennie

Indictment for

MURDER

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

hereby appear in my own proper person and plead guilty to the within indictment

RECEIVED

APR 13 2021

SC Court of Appeals

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
WINNIE A. B. CLARK
CLERK OF COURT
GRAND JURY

2017 JUN - 7 AM 9: 19

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2016GS38-1090

At a Court of General Sessions, convened on June 7, 2017 the Grand Jurors of Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about March 4, 2016, with malice aforethought, the defendant, Anthony Tyrone Mckennie did kill one Theodio Glenn by means of shooting the victim with a gun and the victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

10/12/17
10/12/17
10/12/17

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

Th B. Scott III

Thomas B Scott, III, Solicitor

WITNESSES

John D Stokes

Orangeburg County Sheriff

ARREST WARRANT NUMBER
2019ORB5

Arrested: May 26, 2016

ACTING GRAND JURY
TRUE BILL
[Signature]
Date JAN 16 2019

Foreperson of Grand Jury
Date: January 16, 2019

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2019GS38-0214

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS
January 22, 2019 TERM

THE STATE
vs.

Anthony Tyrone McKennie
AKA Anthony Newman

Indictment for
**POSSESSION OF WEAPON BY
PERSON CONVICTED OF A CRIME OF
VIOLENCE**

SC Code: 16-23-30

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND

ATTEST: TRUE COPY
Winnapa B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

FILED FOR RECORD
WINNAPA B. CLARK
2019 JAN 16 AM 10:53
CLERK OF COURT
ORANGEBURG, SC

RECEIVED
APR 13 2021
SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2019GS38-0214

At a Court of General Sessions, convened on January 16, 2019 the Grand Jurors of Orangeburg County present upon their oath:

POSSESSION OF WEAPON BY PERSON CONVICTED OF A CRIME OF VIOLENCE

That in Orangeburg County, South Carolina, on or about March 4, 2016, the Defendant, Anthony Tyrone McKennie (AKA Anthony Newman), did have in his possession a handgun, after having been convicted of a crime of violence, to wit: Burglary, this offense being in violation of Section 16-23-30, of the South Carolina Code of Laws, as amended.

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

Th. B. Scott, III

Thomas B Scott, III, Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Orangeburg
STATE VS.

INDICTMENT/CASE#: 2016GS38-1090
A/W#: 2016A3810700147
Date of Offense: 3/4/2016
S.C. Code § : 16-3-10
CDR Code #: 0116

Anthony Tyrone Mckennie

AKA:

Race: BLACK Sex: M Age: 33

DOB: SS#

Address:

City, State, Zip:

DL#: SID#

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Voluntary Manslaughter

SENTENCE SHEET

CONVICTED OF or PLEADS NC v. Alford

in violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0217
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: Thos. Roy III 15881 Defendant Ashley M. Boardman 79788 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 19 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: 1/25/19

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.
3/22/16

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

Recipient:

Table with 3 columns: Description, Amount, Total. 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) \$3.75.

TOTAL \$108.75

Clerk of Court/ Deputy Clerk V. Glenn

Court Reporter: Hilda Jordan

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.

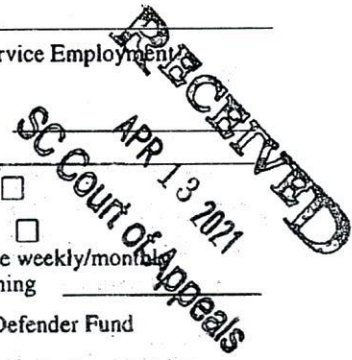
Presiding Judge

Judge Code: 2153

Sentence Date: 1/17/19

Sentence Date 1/25/19

CLERK OF COURT
ORANGEBURG COUNTY, SC



STATE OF SOUTH CAROLINA)
 COUNTY OF Orangeburg)
 STATE VS.)
Anthony Tyrone McKennie)
 AKA: _____)
 Race: BLACK Sex: M Age: 33)
 DOB: [REDACTED] SS#: _____)
 Address: _____)
 City, State, Zip: _____)
 DL#: _____ SID#: _____)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS38-0214
 A/W#: 2019ORB5
 Date of Offense: 3/4/2016
 S.C. Code § : 16-23-30
 CDR Code #: 2364

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
 TO: Possession of a Weapon by Person Convicted of a Crime of Violence

CONVICTED OF or PLEADS

NCv. Alford

in violation of § 16-23-30 of the S.C. Code of Laws, bearing CDR Code # 2364
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Th. 3. Set III 15881 [Signature] [Signature] 79788
 Solicitor 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 5 days/months/years 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: 1/25/19
 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: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ \$ _____ Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) \$ _____ Random Drug/Alcohol testing

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ beginning _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ paid to Public Defender Fund

§ 56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk V. Glenn JUDGE: TRUE COPY Judge Code: 2153

Court Reporter: Indira Jordan Date: 1/17/19

SCCA/217 (04/2018) CLERK OF COURT Date: 1/25/19

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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,



Sarah E. Shipe
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 18th day of January, 2022.