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May 23 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Cherokee County

Honorable J. Mark Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES ERIC SPENCER,

APPELLANT

APPELLATE CASE NO. 2021-001314

ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in accepting appellant's guilty plea because his mental health issues rendered him incapable of pleading guilty voluntarily.

STATEMENT OF THE CASE

Appellant James Eric Spencer pled guilty to murder during the October 2021 term of the Cherokee County General Sessions Court before Judge J. Mark Hayes, II, and was sentenced to life imprisonment. Attorney N. Douglas Brannon represented appellant at trial, and Assistant Solicitor Kimberly L. Leskanic appeared on behalf of the state. Appellate appealed. This brief follows.

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only. State v. Nesbitt, 411 S.C. 194, 768 S.E.2d 67(2015) (quoting State v. Jacobs, 393 S.C. 584, 713 S.E.2d 621 (2011)).

ARGUMENT

The trial judge erred in accepting appellant's guilty plea because his mental health issues rendered him incapable of pleading guilty voluntarily.

There are several constitutional rights waived when a defendant enters a guilty plea: 1.) the privilege against self-incrimination,¹ 2.) the right to a trial by jury,² and 3.) the right to confront one's accusers.³ Boykin v. Alabama, 395 U.S. 238 (1969). Additionally, it is the state's burden to prove every element of the offense charged against the defendant beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307 (1979).

Appellant was accused of strangling Monica Shakelford to death by using two bungee cords. R. 11, 1.4 – p. 16, l. 7. Appellant's mental health history was revealed at the plea proceeding. Apparently, appellant was diagnosed with bipolar disorder as an adolescent during 2012, and had been hospitalized for mental illness episodes at least twenty times during his adult life. Appellant was hospitalized at Mary Black Hospital on November 19, 2019, for a mental relapse, which was only 5 months before the incident in question occurred on April 20, 2020. Also, appellant was diagnosed with schizophrenia, compulsive disorder, and bipolar manic depression. At the time of the event that led to Shakelford's death, appellant had not been taking his medications because he lacked the money to purchase his prescriptions.

Moreover, appellant was a patient at Three River Behavioral Center on multiple occasions, and had been sent to Morris Village on four occasions and to Faith Home on two occasions. Appellant's mother stated that appellant would cut holes in her walls at their home looking for microphones, and that he would take cameras out of his cell phones and hang them

¹ Malloy v. Hogan, 378 U.S. 1 (1964) (5th and 14th Amendments).

² Duncan v. Louisiana, 391 U.S. 145 (1968) (6th and 14th Amendments).

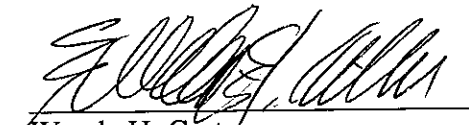
³ Pointer v. Texas, 380 U.S. 400 (1965) (6th and 14th Amendments).

on her bushes outside because he was afraid of people coming into their house. R. 23, 1.2-p. 28, 1.20.

Clearly, appellant's mental health issues were chronic, which meant that at the time of his plea proceeding he was not capable of entering a voluntary guilty plea within the meaning of and per the constitutional standards and prerequisites required under Boykin. Due process prohibits the conviction of a person who is mentally incompetent and there is no waiver of the same during a guilty plea. Jeter v. State, 308 S.C. 230, 417 S.E. 2d 594 (1992). Appellant was not competent to plead guilty as charged in this case. The test of competency to enter a plea is whether the accused had sufficient capability to consult with counsel and a reasonable degree of a rational understanding and a factual understanding of the proceedings against him. Jeter v. State, supra. The lower court erred in accepting appellant's guilty plea in the case.

CONCLUSION

Based on the foregoing argument, counsel for appellant would request that the guilty plea and sentence be vacated in this case.


Wanda H. Carter
Deputy Chief Appellate Defender
ATTORNEY FOR APPELLANT

This 23rd day of May, 2022.

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CASE NO. 2021-001314

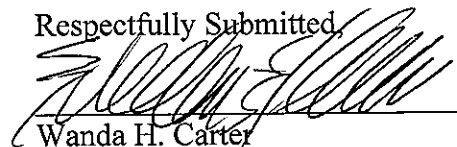
PETITION TO BE RELIEVED AS COUNSEL

Counsel for James Eric Spencer states:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge J. Mark Hayes, which was held on October 29, 2021, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for James Eric Spencer.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

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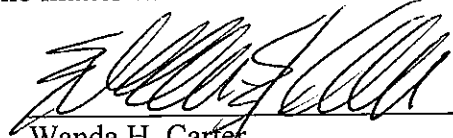
APPELLATE CASE NO. 2021-001314

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

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

- (1) Guilty Plea Transcript dated October 29, 2021
- (2) True-billed indictment

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



Wanda H. Carter
Deputy Chief Appellate Defender

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Division of Appellate Defense
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ATTORNEY FOR APPELLANT

This 23rd day of May, 2022.

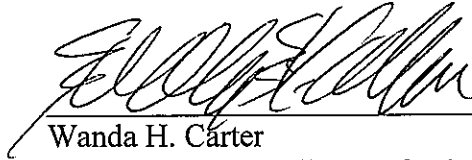
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CERTIFICATE OF COUNSEL

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



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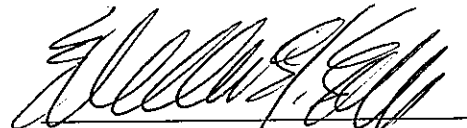
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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on James Eric Spencer, #268111, at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 23rd day of May, 2022.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

From: [Leverett, Scott](#)
To: [SC - BROWN MELODY](#)
Cc: [Angela Brown](#); [Carter, Wanda](#)
Subject: James Eric Spencer - Anders Brief of Appellant - Appellate Case No. 2021-001314
Date: Monday, May 23, 2022 2:01:00 PM
Attachments: [James Eric Spencer - Anders Brief of Appellant - Appellate Case No. 2021-001314.pdf](#)
[James Eric Spencer - Record on Appeal - Appellate Case No. 2021-001314.pdf](#)
[AG coverletter.pdf](#)

Dear Ms. Brown,

Attached please find a copy of the Anders Brief of Appellant and accompanying Record on Appeal that is being filed today, May 23, 2022, with the Court of Appeals.

-Scott Leverett
Admin. Asst. for Wanda Carter
Appellate Defense