STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA

vs.

STEPHEN MICHAEL RIVERS,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

STATE'S RESPONSE TO DEFENDANT'S MOTION TO RECONSIDER SENTENCE

Indictment #2020GS0801764

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BERKELEY COUNTY

For its reply, the State asserts that the guilty plea entered in the above-mentioned case was proper. The test established by *Boykin v. Alabama,* 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969) is whether the record establishes that a guilty plea was voluntarily and understandingly made. In order for a defendant to knowingly and voluntarily plead guilty, he must have a full understanding of the consequences of his plea. *State v. Hazel,* 275 S.C. 392, 271 S.E.2d 602 (1980). He must also have an understanding of the charges against him. *State v. Lambert,* 266 S.C. 574, 225 S.E.2d 340 (1976).

The State asserts that the guilty plea entered in the above-mentioned case was voluntary, the Defendant expressed to the court that he understood the nature of the charges and the punishment that could be imposed, and a factual basis was established for the plea.

The Defendant entered his plea on September 25, 2023 to Voluntary Manslaughter, without negotiations or recommendations. The defendant had ample time to consider his guilty plea; he was originally extended the offer to which he plead on March 1, 2021. The Defendant has been represented by counsel during the entirety of his pending charges and has had exhaustive opportunities to discuss the evidence and facts. The Court heard a Stand Your Ground Hearing on May 9, 2023, and the Order denying immunity was issued by the Court on

. June 1, 2023. Defendant pled guilty to the reduced charge of Voluntary Manslaughter, having been indicted for Murder and Possession of a Weapon During the Commission of a Violent Crime on October 7, 2020. Part of his plea was the State dismissing the weapons charge and allowing a plea to the lesser included charge of Manslaughter. The plea was straight up, allowing each side to advocate for a sentence of their own choosing. The State requested 20 years of incarceration. The Defense asked for a 3-year sentence and also to receive credit for 1,192 days spent mostly on GPS and house arrest with exceptions to his movements. If the Court would have granted the Defense's request it would have in effect given this Defendant a "time served" sentence. The Court heard extensive testimony from both the Defendant and the State during the Plea. The Court heard victim impact statements given by the Victim's sisters and the Victim's father, and heard from the Defendant himself.

ISSUES

The Court heard and considered the previous violation by the Defendant while on bond before it made its ruling as to credit for time served. The Defense asserts that he Court "erred in denying credit for time served on GPS monitoring and house arrest under 24-13-40." The State disagrees. The statue provides that while pretrial detention credit must be given for time served by a prisoner (while in a jail facility), credit ***may be given*** for any time spent under monitored house arrest (emphasis added). This is clear that it is discretionary whether credit for monitored house arrest shall be given and could be denied in its entirety. The State objected to any credit being given, considering the prior violation by this Defendant while on bond. The State filed a bond revocation which was heard and denied, but the Court found that GPS should be reimposed in lieu of revocation. The State also objected to credit for time on GPS, as the conditions of the Defendant's release were not analogous to a detention facility. He was allowed to have a curfew,

go to work, visit his mother at her home on the water, go to the store, and have freedom of access that prisoners would never be afforded. The Court found in its sound judgement a compromise and gave half credit: 596 days.

The Defense requests that the sentence imposed, 25 years suspended to 11 years incarceration, be reconsidered. The Defense asserts that the sentence imposed is "excessive and disproportionate when compared to sentences imposed in similar cases. A Defendant similarly situated, but with a harsher degree of culpability and violence, with a less compelling argument for mitigation, was given a more lenient sentence during the same Court term immediately after this defendant's plea." The State disagrees. The case to which Defense alludes is the State v. Jaylin Smalls. The undersigned Assistant Solicitor has the benefit of not only being the assigned prosecutor in Mr. Rivers' case, but also assisting the State in Mr. Smalls' Stand Your Ground hearing, which was also before this Court. Defense's assertion that these two cases are somehow similarly situated is incorrect. The similarities end at the charge to which they plead. To say that Mr. Smalls had a harsher degree of culpability and violence and with a less compelling argument for mitigation would be inaccurate. Defense counsel in this case was not privy to the evidence and Stand Your Ground hearing and is mislead about the less compelling argument for mitigation. It is impossible to compare cases and facts to try to elicit some formula or matrix by which the Court should be led. The Court rightly considers all of the facts, hears all of the evidence, and makes a decision. In the case of State v. Rivers, the Court fully heard from all parties and gave a fair and just sentence; much less than the State requested and more than the time served request of the Defense.

CONCLUSION

For the foregoing reasons, the State contends that the request for reconsideration is without merit. Wherefore the State respectfully requests the Court deny the Defendant's motion for reconsideration, without scheduling a hearing.

Respectfully Submitted,

Julie Rochester
Assistant Solicitor
Ninth Judicial Circuit

Moncks Corner, South Carolina
September 28, 2023