

IN THE SUPERIOR COURT OF ATHENS-CLARKE COUNTY

STATE OF GEORGIA

STATE OF GEORGIA)
)
vs.) CASE NO.: SU-23-CR-0477-S
)
LUKE HARRISON WALDROP,)
)
Defendant.)
_____)

TRANSCRIPT OF GUILTY PLEA

Heard before the Honorable Lawton E. Stephens, Judge of the Superior Courts of the Western Judicial Circuit, in the Athens-Clarke County Courthouse, 325 East Washington Street, Athens, Georgia, on September 21, 2023.

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

For the State: DEBORAH GONZALEZ, ESQ.
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1 THE COURT: Are we ready on Luke Harrison Waldrop?
2 Is there anybody here on that? Mr. Ballard?

3 MS. GONZALEZ: Yes, Your Honor. We just brought up
4 the accusation.

5 MR. BALLARD: Robbie Ballard for Mr. Waldrop, Your
6 Honor.

7 THE COURT: Come on up.

8 MR. BALLARD: Good morning, Your Honor.

9 THE COURT: Good morning. We don't have any
10 paperwork on it. Is there a plea bargain?

11 MS. GONZALEZ: Yes, there is, Your Honor, here. It
12 just got finalized.

13 MR. BALLARD: It is a negotiated plea, Your Honor.

14 THE COURT: All right. Count 1, homicide by vehicle;
15 Count 2, DUI alcohol; Count 3, homicide by vehicle in the
16 first degree; Count 4, reckless driving.

17 CLERK: Judge, there's been a new accusation filed.
18 I just have not had a chance to file it in yet.

19 THE COURT: Oh, okay. Let me know when you're ready.

20 CLERK: There's a copy.

21 THE COURT: All right. All right. I'll hear from
22 the State. Go ahead.

23 MR. NEAL: Thank you, Your Honor. I'll again say
24 this is State of Georgia versus Luke Harrison Waldrop. I
25 don't have the case number of the new accusation.

1 THE COURT: It's SU23CR0477.

2 MR. NEAL: Thank you, Your Honor. We're here today
3 to enter into a negotiated plea agreement on Counts 1 and
4 4; Count 1 being homicide by vehicle in the second degree
5 and Count 4 being --

6 THE COURT: There's only two counts to this
7 accusation, Mr. Neal.

8 MR. NEAL: My apologies. Then Count 2 being improper
9 passing of a bicycle. That was from the --

10 THE COURT: Count 1 is homicide by vehicle in the
11 second degree and Count 2 is passing -- safe passing
12 distance when overtaking a bicyclist is what I'm showing.

13 MR. NEAL: Yes, Your Honor. Sorry.

14 THE COURT: Have you got a copy of it?

15 MR. NEAL: I --

16 THE COURT: For some reason, the four counts of the
17 new accusation are still on the back of the -- I mean,
18 from the old accusation are still on the back of the new
19 accusation. That needs to be deleted.

20 MR. NEAL: Yes, Your Honor. I will continue. Sorry.
21 Again, those -- with those charges -- the terms of that
22 negotiated plea agreement are on Count 1, homicide by
23 vehicle in the second degree, that is 12 months probation
24 with a \$1,000 fine, 40 hours of community service, with
25 the completion of a Georgia DDS approved defensive driving

1 course. And for Count 4 of improper passing a bicycle, 12
2 months probation consecutive to Count 1 with a \$500 fine.
3 And those are the terms of the agreement.

4 Mr. Waldrop, would you please raise your right hand?
5 [Defendant is sworn by Mr. Neal.]

6 MR. NEAL: Could you please state your true, correct
7 and legal name?

8 DEFENDANT WALDROP: Luke Harrison Waldrop.

9 MR. NEAL: Could you spell your first and last?

10 DEFENDANT WALDROP: L-U-K-E, W-A-L-D-R-O-P.

11 MR. NEAL: And are you the person charged in the
12 above case?

13 DEFENDANT WALDROP: Yes sir.

14 MR. NEAL: Are you able to hear me and understand my
15 questions and statements?

16 DEFENDANT WALDROP: Yes sir.

17 MR. NEAL: Are you under the influence of any
18 alcohol, drugs or medication?

19 DEFENDANT WALDROP: No sir.

20 MR. NEAL: Has your lawyer explained your charges
21 against you?

22 DEFENDANT WALDROP: Yes sir.

23 MR. NEAL: Do you understand that you have a right to
24 a jury trial?

25 DEFENDANT WALDROP: Yes sir.

1 MR. NEAL: Do you understand that you could have a
2 jury trial by pleading not guilty or by remaining silent
3 and not entering a guilty plea?

4 DEFENDANT WALDROP: Yes sir.

5 MR. NEAL: Do you understand that by pleading guilty,
6 you are waiving all defenses?

7 DEFENDANT WALDROP: Yes sir.

8 MR. NEAL: Do you understand that you are entitled to
9 the presumption of innocence?

10 DEFENDANT WALDROP: Yes sir.

11 MR. NEAL: Do you understand that you have the right
12 to assistance of counsel during trial?

13 DEFENDANT WALDROP: Yes sir.

14 MR. NEAL: Do you understand that you have the right
15 to not incriminate yourself?

16 DEFENDANT WALDROP: Yes sir.

17 MR. NEAL: Do you understand that at a jury trial
18 that you would have -- that at a jury trial you'd have the
19 right to question witnesses against you, the right to
20 subpoena witnesses on your own behalf, and the right to
21 testify yourself and offer other evidence?

22 DEFENDANT WALDROP: Yes sir.

23 MR. NEAL: Do you understand that by pleading guilty
24 you're giving up all these rights?

25 DEFENDANT WALDROP: Yes sir.

1 MR. NEAL: Are you an American citizen?

2 DEFENDANT WALDROP: Yes sir.

3 MR. NEAL: Have you had the chance to discuss your
4 case with your attorney?

5 DEFENDANT WALDROP: I have.

6 MR. NEAL: And are you satisfied with the services of
7 your attorney?

8 DEFENDANT WALDROP: I am.

9 MR. NEAL: I'm sorry, sir, I don't know your name,
10 but have you explained these rights and charges to your
11 client and do you believe he understands?

12 MR. BALLARD: My name is Robbie Ballard and I have.

13 MR. NEAL: Thank you, sir. Do you understand, Mr.
14 Waldrop, that this is a negotiated plea?

15 DEFENDANT WALDROP: Yes sir.

16 MR. NEAL: Do you understand that the Court is not
17 bound by any promises or recommendations and that the
18 Court can impose up to the maximum sentence in this --

19 MR. BALLARD: Pardon me? I'm sorry. I thought you
20 had said something.

21 MR. NEAL: Oh, I apologize. Sorry.

22 MR. BALLARD: Forgive me. I'm sorry.

23 MR. NEAL: I'll repeat that.

24 DEFENDANT WALDROP: Okay. Thank you.

25 MR. NEAL: Do you understand that the Court is not

1 bound by any promises or recommendations and that the
2 Court can impose up to the maximum sentence in this case?

3 DEFENDANT WALDROP: Yes sir.

4 MR. NEAL: Do you understand that if the judge
5 imposes a sentence greater than the negotiated plea that
6 you'd have the right to withdraw your plea at the time of
7 sentencing?

8 DEFENDANT WALDROP: Yes sir.

9 MR. NEAL: Do you understand that this plea may be
10 used to enhance sentencing on other convictions in this
11 jurisdiction and other jurisdictions, including federal
12 court?

13 DEFENDANT WALDROP: Yes sir.

14 MR. NEAL: Has anyone made any threats or promises to
15 influence you to plead guilty in this matter?

16 DEFENDANT WALDROP: No.

17 MR. NEAL: Do you and your attorney stipulate to a
18 factual basis for the entry of your plea?

19 DEFENDANT WALDROP: We do.

20 MR. BALLARD: We do.

21 MR. NEAL: Thank you. And how do you plead?

22 DEFENDANT WALDROP: Guilty.

23 MR. NEAL: And did you in fact commit that offense?

24 DEFENDANT WALDROP: Yes.

25 MR. NEAL: There are three ways to challenge this

1 guilty plea. The first way being that you can directly
2 appeal your plea of guilty by filing a notice of appeal
3 within 30 days of today. Second, you may file what's
4 called a habeas corpus petition. And your lawyer can
5 explain to you better what that is, but the important
6 thing I must advise you is that you have four days -- or
7 four years -- excuse me -- from today for a felony charge
8 or 12 months for a misdemeanor charge to file that
9 petition. Do you understand those filing -- that filing
10 deadline?

11 DEFENDANT WALDROP: Four years. And what was the
12 second one?

13 MR. NEAL: And 12 -- 12 months for misdemeanor
14 charges.

15 DEFENDANT WALDROP: Okay. Yes.

16 MR. NEAL: Sorry. Thank you. And the third way you
17 could challenge this plea is by filing a withdrawal of the
18 guilty plea before this term of court expires.

19 DEFENDANT WALDROP: Okay.

20 MR. NEAL: Have you understood all the questions I've
21 asked you today?

22 DEFENDANT WALDROP: I have.

23 MR. NEAL: And have you given truthful answers?

24 DEFENDANT WALDROP: Yes sir.

25 MR. NEAL: Your Honor, I believe the plea is freely

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and voluntarily entered.

THE COURT: So your accusation says he violated 40-6-393(a), which is homicide by vehicle in the first degree. So it's a defective accusation if he's pleading to homicide by vehicle in the second degree, if I'm reading it right.

MR. NEAL: I see that.

THE COURT: Because it's -- homicide by vehicle in the second degree is subsection (c) of that code section.

MR. NEAL: Yes, Your Honor.

THE COURT: I'm not seeing -- because it's any person who causes the death of another person without an intention to do so by violating any provision of this title --

MR. NEAL: Yes, Your Honor. I believe it's correct up in --

THE COURT: 40-6-56(a)(2) is a provision of that title.

MR. NEAL: Yes, Your Honor. I believe that is an error in the -- in the wording of the --

THE COURT: In violation of 40-6-393(a), which is homicide by vehicle in the first degree. So --

MR. NEAL: I believe on the charges on the top right, Your Honor, it is correct in that 393(c). I believe it's incorrect in the wording of the accusation.

1 THE COURT: Do you want to make -- do you want to
2 make a correction on the original accusation?
3 MS. GONZALEZ: We can, Your Honor, with an initial.
4 THE COURT: Go ahead. Make -- make the correction on
5 the original accusation.
6 MR. NEAL: We did make an initial, Your Honor, for
7 the record.
8 MR. BALLARD: Your Honor, do we also want to amend
9 the back of this accusation to remove --
10 THE COURT: I think you just need to just cross it
11 out because it's totally -- it just repeated what was on
12 the original indictment. So you might as well just line
13 it out.
14 MR. BALLARD: So, Your Honor, we've lined it out and
15 I've initialed it.
16 THE COURT: All right.
17 MR. BALLARD: And the assistant district attorney has
18 initialed as well.
19 THE COURT: Has the family of the deceased been
20 consulted?
21 MS. GONZALEZ: Yes, Your Honor.
22 THE COURT: So can you maybe elaborate on that? Who
23 was contacted and what was their response to this -- to
24 this plea bargain?
25 MR. NEAL: Your Honor, I believe our victim's

1 advocate has left the room for just a moment. If we could
2 get her back here, we could get that information to you.

3 THE COURT: So you don't know that of your own
4 accord?

5 MR. NEAL: Excuse me, sir?

6 THE COURT: Y'all don't -- you can't tell me right
7 now whether or not the victim of the deceased --

8 MS. GONZALEZ: We know that --

9 THE COURT: -- the family members of the guy that
10 this guy killed --

11 MR. NEAL: Yes -- yes sir.

12 THE COURT: -- whether or not they've been consulted
13 on this plea bargain?

14 MR. NEAL: I do know they have been consulted, sir.

15 MS. GONZALEZ: Yes.

16 MR. NEAL: I just don't know what was said.

17 THE COURT: Mr. Waldrop, have you had enough time to
18 talk to your lawyer about this case?

19 DEFENDANT WALDROP: Yes, Your Honor.

20 THE COURT: Do you understand all the rights that you
21 would be giving up if you decide to enter a plea today?

22 DEFENDANT WALDROP: Yes, Your Honor.

23 THE COURT: Do you understand the plea bargain is not
24 binding on the Court, but if I decide to accept -- if I
25 decide not to accept it, then I'll tell you and you can go

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to trial in this case?

DEFENDANT WALDROP: Yes, Your Honor.

THE COURT: Do you understand you have the right to a jury trial?

DEFENDANT WALDROP: Yes, Your Honor.

THE COURT: Do you understand if you had a jury trial -- and you're number one on the trial calendar for next week for Monday -- that if you had a jury trial then you would -- the State would have to prove these allegations against you beyond a reasonable doubt?

DEFENDANT WALDROP: Yes, Your Honor.

THE COURT: Do you understand if you had a jury trial then you'd be able to confront the witnesses the State would call to testify against you, you could never be required to testify unless you wanted to, and you could never be required to incriminate yourself?

DEFENDANT WALDROP: Yes, Your Honor.

THE COURT: Do you want a jury trial?

DEFENDANT WALDROP: [No verbal response.]

THE COURT: Do you want a jury trial?

DEFENDANT WALDROP: Well, I'm -- will that happen if this isn't accepted? No. Yeah, no, I don't. Sorry. No, Your Honor.

THE COURT: All right. Do you have any questions you want to ask your lawyer, the district attorney, or the

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Court?

DEFENDANT WALDROP: No, Your Honor.

THE COURT: And have you been able to understand every question that's been asked of you here today?

DEFENDANT WALDROP: I have been, Your Honor. Thank you.

THE COURT: All right. I find the requirements of voluntariness have been met. You may enter your plea if that's what you want to do.

DEFENDANT WALDROP: Yes sir. Yes, Your Honor.

THE COURT: All right. Mr. Ballard, I'm going to have -- you're going to have to convince me why I should take this plea bargain. I'll hear from you.

MR. BALLARD: Your Honor, on the night of these events, Mr. Waldrop was driving home from downtown and did not provide enough clearance to a bicycle that he was approaching on north Tallassee Road. The area where this occurred, it's dark. There are no lights. My review of the evidence disclosed that the -- the clothing worn by the decedent were not reflective in nature and that there might have been a taillight on the bike that might've been dimly working. But from my review of the videos, I couldn't tell.

At the time that Mr. Waldrop was driving home, he was making the very bad decision of eating a Subway sandwich

1 and trying to change the station on the radio all at the
2 same time. And I think it was the culmination of eating
3 and trying to drive a car and manipulate a radio and the
4 attendant circumstances of Tallassee Road as we all know
5 it before construction began, when it was dark, there are
6 no lights, and a person on a bicycle that he couldn't see.
7 Not to mention that it appears from a review of the
8 evidence and of the videos from the case that the decedent
9 was wearing sunglasses. That neither one of them saw each
10 other and it just happened.

11 I can tell you that Mr. Waldrop has spent the past 18
12 months -- he's a South Carolina resident, a graduate of
13 Clemson University. He had just moved to Athens to kind
14 of start his life after college. And the past 18 months,
15 he's spent pretty much sitting at his parents' home in
16 South Carolina thinking every day about what's happened.
17 He has had -- been receiving psychological treatment as a
18 result of this. He is struggling to get past it. But he
19 stands here before the Court to accept responsibility for
20 what he did.

21 I understand that -- that Mr. Jones is deceased. But
22 Mr. Waldrop will go forward with the rest of his life
23 living with what he did. I can tell you as a defense
24 attorney that these cases seem to be the hardest because
25 there really are two victims. Everybody who has been

1 exposed to this case is sorry for what happened to Mr.
2 Jones. But at the same time, Your Honor --

3 THE COURT: So he wasn't drinking alcohol?

4 MR. BALLARD: He had consumed alcohol earlier in the
5 evening, Your Honor. But the evidence doesn't indicate
6 that alcohol is a contributing factor and certainly
7 doesn't -- isn't -- there isn't enough evidence to
8 establish that his consumption of alcohol is the proximate
9 cause of the accident. And that's how in my negotiations
10 with the State that we arrived at this plea.

11 Going back, you know, Mr. Waldrop is going to live
12 the rest of his life trying to -- trying to cope with what
13 happened to Mr. Jones. And so, you know, given -- given
14 the misfortune that's involved, you know, we -- Your
15 Honor, we ask the Court to accept the plea that we've
16 negotiated with the State.

17 THE COURT: What about restitution, Mr. Neal?

18 MR. NEAL: Your Honor, we have spoken with the family
19 of the victim and they have been notified of any -- of the
20 offer in this case, Your Honor. And they have been
21 notified of the problems that we were receiving with
22 evidence, Your Honor. And they are in formal disagreement
23 with the -- with the plea agreement, Your Honor, and wish
24 for the defendant to serve jail time.

25 MR. BALLARD: Your Honor, if I could comment on

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restitution. The decedent's family in this case were represented by Kenny Kalivoda --

THE COURT: Okay.

MR. BALLARD: -- of Hudson, Montgomery, Kalivoda.

THE COURT: All right.

MR. BALLARD: I have received letters from insurance carriers.

THE COURT: Okay.

MR. BALLARD: The case settled for the policy limits. And so to the extent that it is even financially possible, there has been restitution.

THE COURT: Well, the State is not requesting it. It's not in the bargain. So --

MR. NEAL: That's correct, Your Honor.

THE COURT: All right. So did he -- did he get -- I'm assuming he got locked up the night of the event. Did he serve any time before he bonded out?

MR. BALLARD: Your Honor, he spent one day in jail. Approximately one day.

THE COURT: Yeah.

MR. BALLARD: Your Honor, I might also add that Mr. Waldrop hasn't driven a car since this happened. That -- that's -- I think I've --

THE COURT: Does he have a Georgia driver's license?

DEFENDANT WALDROP: No, Your Honor. South Carolina.

1 MR. BALLARD: Which should be suspended at this
2 point. Your Honor, the reason I bring up that he hasn't
3 driven is this has affected him to that extent that he's
4 afraid to even drive a car.

5 THE COURT: Let me hear from you, Mr. Waldrop.

6 DEFENDANT WALDROP: Yes, Your Honor.

7 THE COURT: Anything you want to say?

8 DEFENDANT WALDROP: Yes. While I'm here and have
9 this mic, I just want to formally say to Mr. Jones'
10 family, friends, co-workers, anybody else that he left
11 behind, just how truly sorry I am for this accident. And
12 I -- I heard a quote the other day that's been ringing
13 true with me. You need to remember people out loud.
14 Because if you don't, they die twice. So I just want it
15 to be known that for the rest of my life, no matter what
16 happens, no matter what's decided, until I die I'm going
17 to be remembering Mr. Jones out loud and I truly am deeply
18 sorry to anybody here who was a part of his life. Thank
19 you, Your Honor.

20 THE COURT: It's a tragedy. All right. I'm going to
21 sentence you in accordance with the plea bargain. On
22 Count 1, homicide by vehicle in the second degree, under
23 17-10-3, which provides for misdemeanor punishment, 12
24 months probation, \$1,000 fine, 40 hours of community
25 service, completion of a Georgia Department of Driver

1 Services approved defensive driving course. Count 2, 12
2 months consecutive probation, \$500 fine plus surcharges.
3 Total of 24 months. And you will have to report in
4 person. You understand?

5 DEFENDANT WALDROP: Yes. Yes, Your Honor.

6 THE COURT: All right. We'll get that sentence
7 printed up and I'll make it the order of the Court after
8 you've gone over it with your lawyer and signed it.

9 MR. BALLARD: Your Honor, that concludes my business
10 with the Court. May I be excused after we sign the plea?

11 THE COURT: Well, after you've gone over it -- the
12 sentence and made sure I did it right, then you're free to
13 go. Thank you.

14 MR. BALLARD: Thank you.

15 THE COURT: Yes sir.

16 DEFENDANT WALDROP: Thank you.

17 [The Court takes up other unrelated matters.]

18 THE COURT: Mr. Ballard?

19 MR. BALLARD: Yes, Your Honor.

20 THE COURT: Can I help you?

21 MR. BALLARD: Your Honor, may I -- if I could address
22 the Court briefly.

23 THE COURT: Yeah.

24 MR. BALLARD: Mr. Waldrop is a resident of South
25 Carolina.

1 THE COURT: Right.

2 MR. BALLARD: He drove here. The general conditions
3 of probation prevent him from leaving the state. And so
4 we just wanted to bring that to the Court's attention.

5 THE COURT: I'm sorry. The general conditions of --

6 MR. BALLARD: Yes, Your Honor.

7 THE COURT: -- prevent him from leaving the state of
8 Georgia?

9 MR. BALLARD: Yes, Your Honor. I think it's about
10 two-thirds of the way through the paragraph there under
11 general conditions.

12 THE COURT: Right. No, I'm not -- I'm not banning
13 him from -- I mean, if he's a non-resident --

14 MR. BALLARD: Yeah, and I'm sure --

15 THE COURT: But since it's a -- it's a misdemeanor.
16 But since it's homicide by vehicle, then I want him to
17 report in person.

18 MR. BALLARD: Yes, Your Honor.

19 THE COURT: Where is it -- where is it?

20 MR. BALLARD: It's about two-thirds of the way
21 through that paragraph, Your Honor.

22 THE COURT: Which paragraph?

23 MR. BALLARD: I think it's -- the one that addresses
24 general conditions.

25 THE COURT: Oh, yeah.

1 MR. BALLARD: I'm sorry, Your Honor.
2 THE COURT: No. I appreciate you looking at it.
3 MR. BALLARD: Discusses him leaving the jurisdiction
4 of the Court as well as the state of Georgia.
5 THE COURT: Where is that, Ms. -- let me see. Ms.
6 Bennett, will you show me where that provision is? I'm
7 sorry.
8 CLERK: It is right here under 6 of the general
9 conditions. Do you maybe just want to mark out --
10 THE COURT: All right. I've taken that out. Is that
11 the only thing?
12 MR. BALLARD: It is, Your Honor.
13 THE COURT: All right. I'll just go ahead and sign
14 this. All right.
15 MR. BALLARD: Your Honor, does Mr. Waldrop need to
16 report to probation downstairs on the first floor?
17 THE COURT: Yes sir.
18 MR. BALLARD: Thank you, Your Honor.
19 THE COURT: Thank you.
20 [Proceeding is concluded.]

CERTIFICATE

STATE OF GEORGIA

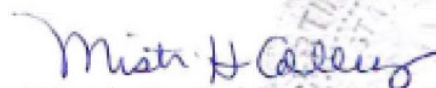
COUNTY OF JACKSON

I, Misti H. Colley, Certified Court Reporter, -2516, hereby certify that the foregoing pages numbered 2 through 20 constitute a true, complete and accurate transcript of guilty plea in the case of State v. Luke Harrison Waldrop, heard before the Honorable Lawton E. Stephens, Judge of the Superior Courts of the Western Judicial Circuit, Athens-Clarke County Case No. SU-23-CR-0477-S, taken down by me and transcribed under my supervision to the best of my ability.

I further certify that I am a disinterested party to this action and that I am neither of kin nor counsel to any of the parties hereto.

This certification is expressly withdrawn and denied upon disassembly, photocopying, or duplication in any manner or upon certification of the foregoing transcript or any part thereof by any person or entity other than by me. This certification is further expressly withdrawn and denied absent my original signature and original seal appearing hereon below.

In witness whereof, I hereby affix my hand on this the 24th day of October, 2023.


Misti H. Colley, CCR-2516

