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HOMEPAGE

## Ex-cop Slager's defense attorney may testify about getting 20-year sentence wrong

BY JOHN MONK

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Michael Slager testifies in his December 2016 trial on state murder charges in the shooting death of Walter Scott. GRACE BEAHM AP



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*CHARLESTON, SC*

A rare dispute between a prominent S.C. lawyer and an equally prominent federal judge in a high profile case involving the fatal shooting of an African American man by a white policeman will air publicly Monday in a Charleston County federal court.

At issue is [whether a new judge will overturn](#) the 20-year prison sentence that U.S. Judge David Norton gave former North Charleston police officer Michael Slager in 2017 for shooting Walter Scott in the back and killing him as the unarmed Scott was running away.

Many people think 20 years was a fair sentencing, considering that Slager shot Scott in the back while Scott was fleeing.

“Judge Norton got the sentence just right,” said Bakari Sellers, a Columbia attorney and former state lawmaker who appears regularly on CNN commenting on civil rights, politics and the law.

“Anything less than that would have sent a signal that Walter Scott’s life didn’t matter,” Sellers said.

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Monday's proceeding is part of what is called a post-conviction relief effort by Slager to overturn Judge [Norton's 20-year sentence](#) and get a new judge, Richard Gergel, to issue a shorter one.

Slager's key argument is that he had "ineffective assistance of counsel" — meaning that his defense attorney, Andy Savage of Charleston, had blundered so badly that it caused an unjust sentence.

Slager's main evidence about Savage's purported incompetence is Savage himself.

In a court document that is part of Slager's case, Savage admits he blundered when he heard Judge Norton say in a January 2017 meeting that the Slager case was "clearly was not a murder case."

Savage wrote, "I accepted (Norton's) words as his thoughtful conclusion as I knew from other statements the Court made that he was thoroughly familiar with the facts and circumstances of the case. (Norton's) statement was not a casual or off-hand comment ... I proceeded with the firm impression that this was the settled position of (Norton). I accepted his words as a given."

Eleven months later, in December 2017, after a four-day hearing before Norton to determine Slager's sentence, Savage said he was astonished to hear Norton describe the case as a "murder" case and give Slager 20 years in federal prison. Savage had hoped for a sentence of between five and 10 years.

For months during 2017, Savage said in his affidavit, he had been telling Slager to reject plea bargain offers from federal prosecutors of far less than 20 years because Norton was bound to give an even lower sentence.

### **JUDGE RECALLS SLAGER CONVERSATION**

In a March 29 court filing, Norton has given his side of the story.

The judge admits that in the January 2017 meeting, he did say that the Slager shooting was “not a murder case” — but asserted he was referring only to Slager’s just-finished state trial on murder and manslaughter charges.

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The month before, in December 2016, a state jury had just decided that Slager was not guilty of murder in Scott’s death and was debating manslaughter charges when the judge declared a hung jury.

In any case, Judge Norton said in a filing that in early 2017, while meeting with Savage, he did opine that this is “not a murder case”; however, the judge said, he was not in a position to give a formal opinion on the federal case because he did not have access to any substantial information about the evidence federal prosecutors were putting together.

Norton also asserted that at that January 2017 meeting, he “did not make any promises to the defense team about how he would rule on any substantive issues during a trial or at sentencing” in the then-upcoming federal case.

### **FEDS: ATTORNEY DID NOT ERR**

In their own filings opposing Slager’s bid to get out of his 20-year prison sentence, federal prosecutors scoff that the idea that Savage made a mistake.

For one thing, federal prosecutors say, Savage is “one of South Carolina’s most skilled and experienced criminal defense attorneys.”

Savage has numerous awards and “is one of only 16 lawyers, since 1965, to have been awarded the Griffin Bell Award, the highest individual honor awarded by the American College of Trial Lawyers.”

That's why, federal prosecutors said, in Slager's state trial, "Savage and his team came close to securing an acquittal on all charges. According to Savage, the jury voted unanimously to acquit on murder and only deadlocked on manslaughter, and nearly all thought a five-year sentence would be excessive."

The experience of almost winning in state court "formed the foundation of (Slager's) defense strategy as his team shifted focus from the state trial to the federal proceedings," the federal filing said. "Savage set his sights on securing for (Slager) a plea agreement that would allow for a sentence between five to 10 years."

At the end of the December 2017 hearing, Norton characterized Scott's shooting as "murder" and said he was giving Slager a 20-year sentence because evidence presented at the hearing clearly showed Slager had fired eight shots at the unarmed Scott as Scott was running away. Five bullets struck Scott in the back and killed him. Other evidence cited by Norton was that Slager had lied to investigators, telling them a false story about the shooting.

The clearest evidence of all before Norton was a video of the shooting taken by a bystander on his cell phone that showed Slager assuming a shooter's stance and firing at Scott when Scott was at least 10 yards away and fleeing. That video was played numerous times during Norton's hearing.

In his filing, Savage also acknowledged that he developed an unusual relationship with Slager during the case.

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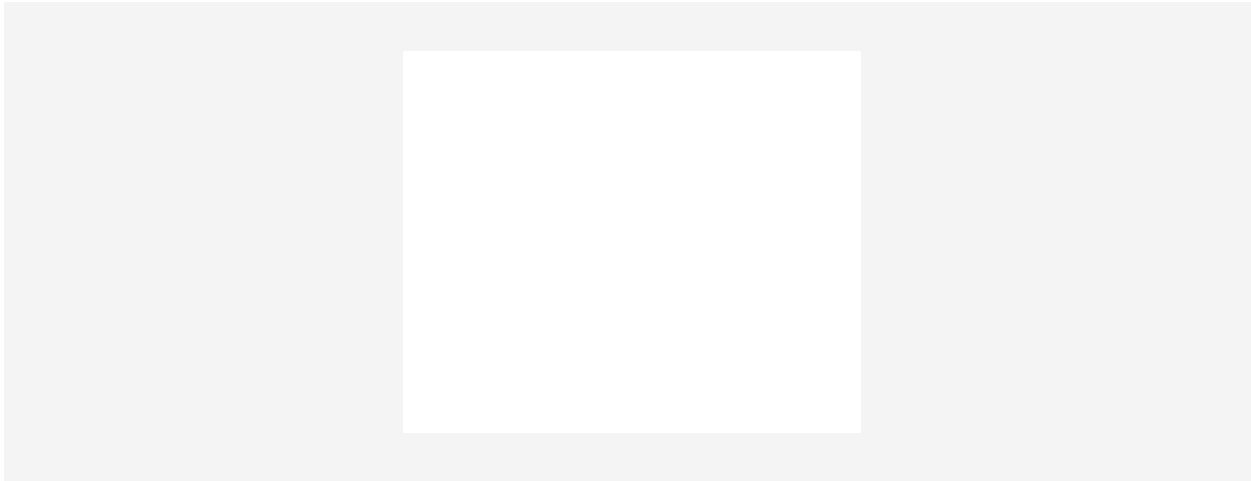
"Starting in April of 2015, and through the course of my representation of Slager, my relationship with Slager and his family developed into a close connection," Savage wrote.

"Slager and his family lived with us at our home when his house was fire bombed (on January 8, 2016) and when he and his family were threatened. I enjoyed both a legal and paternal relationship with Slager, and I believe he trusted me implicitly.

"Every time he asked about the risk he was taking by not accepting the Government's offer to plead with a guaranteed voluntary manslaughter finding as to the underlying offense, I assured Slager that he was not facing a more punitive sentence," wrote Savage.

Scott family attorney Rep. Justin Bamberg, D-Bamberg, said in a text message to The State newspaper, "Slager won't get a lighter sentence, and we have no worries about it happening. He could very well be risking an ever-larger sentence if he were to get a do-over."

Bamberg continued, "We have seen a lot of minds opened up in South Carolina through Walter's death, and others, like George Floyd (an African American man who died after a white police officer in Minneapolis knelt on his neck for several minutes).



Assistant U.S. attorneys on the case include Brook Andrews, Ben Garner and Nathan Williams. Slager's attorney is Christopher Geel.

Slager's lawyer said in court filings he may introduce seven witnesses, including Savage, Slager, Savage's wife, Cheryl, and Slager's wife, Jamie.

The government has just one witness: Miller Shealy, a former state and federal prosecutor who is a professor at the Charleston School of Law.

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John Monk has covered courts, crime, politics, public corruption, the environment and other issues in the Carolinas for more than 40 years. A U.S. Army veteran who covered the 1989 American invasion of Panama, Monk is a former Washington correspondent for The Charlotte Observer. He has covered numerous death penalty trials, including those of the Charleston church killer, Dylann Roof, serial killer Pee Wee Gaskins and child killer Tim Jones. Monk's hobbies include hiking, books, languages, music and a lot of other things.

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