

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM OCONEE COUNTY
Court of General Sessions
The Honorable R. Lawton McIntosh, Circuit Court Judge
Appellate Case No. 2018-000564
Case Nos. 2012-GS-23-07504,07507

Appellate Case No. 2021-000873

THE STATE, RESPONDENT

v.

GEORGE CLEVELAND, III, PETITIONER

RETURN TO MOTION TO STAY PROBATION

Respondent comes before this Court in response to Petitioner’s motion to stay probation filed August 9, 2022. In his motion, Petitioner requests a stay of his probationary sentence while this court entertains his petition for writ of certiorari from the Court of Appeals opinion that was issued July 14, 2021 after denying Petitioner’s motion for rehearing. *The State v. George Cleveland, III*, 2021-UP-121 (July 14, 2021). This appeal arises from a revocation of Petitioner’s probation due to failure to pay restitution. The issues before the court are whether the court of general sessions had jurisdiction to hear the probation violation and impose a revocation of

ninety days, and whether the court of general sessions abused its discretion when it imposed a revocation for willful failure to pay.

In his motion, Petitioner argues primarily that his probation should be stayed during consideration of this matter, in large part because he cannot afford to pay his monthly restitution. He argues that this motion is governed by Rule 246, SCACR, but admits he cannot find South Carolina case law on point. This relief cannot be granted due to the structure of Petitioner's probationary sentences on multiple convictions.

Initially, Petitioner is correct in his statement that he should no longer be serving probation on the Greenville County sentences he listed in the caption and on which he was revoked (indictments 12-GS-23-07504 and -07507). His supervision on these matters has ended after five years and the monies he owes have been converted to administrative monitoring¹ – a description within the agency to designate cases where active supervision has ended but the finances have not been paid. However, Petitioner has three convictions from Oconee County that the Honorable Roger Couch ordered to run consecutively to the probation terms of the Greenville County convictions (indictments 12-GS-37-00814, -00815, -00802). These probationary terms began April 27, 2022 when probation for his Greenville County charges ended.

There is no basis for these probationary terms to be stayed as they are not the subject of the instant action. Petitioner must continue to pay \$140.00 per month as part of his administrative monitoring on the instant convictions. He must also pay \$75.00 per month toward restitution on his Oconee County convictions in order to remain compliant with that probation. Further, the trial courts retain jurisdiction over court-ordered payments including, but not limited

¹ S.C. Code § 24-21-5(1) provides the statutory definition of “administrative monitoring,” and S.C. Code § 24-21-100 further describes the processes involved in administrative monitoring.

to, restitution payments made while a defendant is on probation or parole. S.C. Code § 17-25-323. This includes the ability to modify the payment structure, enforce such payments, and convert restitution to civil judgments. Therefore, this Court should conclude that it cannot address the matter of Petitioner's current ability to make his restitution payments.

For these reasons, Respondent is informed and believes that this Court cannot grant the relief requested and, therefore, Petitioner's motion must be denied.

Respectfully submitted,



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