

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Aug 15 2022

S.C. SUPREME COURT

APPEAL FROM OCONEE COUNTY
COURT OF GENERAL SESSIONS

The Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2021-000873

Case No. 2021-GS-23-07504-07507

THE STATE.....RESPONDENT

v.

GEORGE CLEVELAND III.....PETITIONER

PETITIONER'S REPLY TO RETURN TO STAY PROBATION MOTION

George Cleveland III, *Pro se*

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Cases

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Petitioner's Reply to Return to Stay Probation Motion

Pursuant to Rule 240 (f) SCACR, Petitioner Cleveland respectfully submits this instant Reply to South Carolina Department of Parole, Probation, and Pardon Services ("SCDPPPS") Return to my Motion to Stay Probation pending Certiorari consideration.

SCDPPPS asserts that my requested relief to Stay Probation pending consideration by this court cannot be granted because the structure of my probationary sentence is due to multiple convictions.

SCDPPPS assertion is misleading because the Greenville County, S.C. probation sentence and Oconee County, S.C. probation sentence were connected to the same criminal investigation, and thus a five year probation sentence for Greenville County, and a separate five year prison sentence for Oconee County is barred under S.C. Code Ann. §24-21-440 (1991) ("The period or suspension of sentence shall not exceed a period of five years...") and under S.C. Code Ann. §17-25-50 (2012) ("In determining the number of offenses for the purpose of imposition of sentence, the court shall treat as one offense any number of offenses which have been committed at times so closely connected in point of time that they may be considered as one offense.").

The Greenville County five-year probation sentence was due to the Greenville County, S.C. Sheriff's Office Detectives arrested me for possession of a stolen vehicle at Carmax of Greenville, S.C., I lived in Seneca, S.C. at that time, so the Greenville County Sheriff's office contacted Detectives from the Oconee County, S.C. Sheriff's office to search my property. During the search, three more vehicles were found, and I was subsequently charged with possession of those vehicles as well. One of the vehicles at my Seneca, S.C. property was stolen from a Ford dealership in Georgia, and another vehicle I had sold Carmax of Greenville, S.C. was stolen from Georgia at the same Ford dealership. Because the Greenville possession of stolen vehicle investigation is directly connected to Oconee County possession of stolen vehicles

investigation where my property was at that time, §24-21-440 does not distinguish the Greenville County, S.C. five-year probation sentence from the Oconee County, S.C. five-year probation sentence.

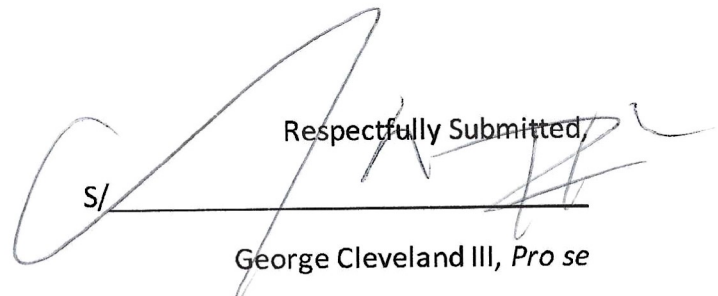
In addition, SCDPPPS is wrong that South Carolina allows that agency to keep me on probation for a total of 10 years (five years of probation for Greenville, and five years of probation for Oconee), but §17-25-50 does not allow any probation sentence over five years. The error was with the Honorable Roger Couch, but SCDPPPS could have notified that court that §17-25-50 bars a consecutive probation sentence for offenses closely connected, but that agency did not do so. That error grants me the right to file an application for Post-Conviction Relief under S.C. Code Ann. §17-27-10 et seq., but I submit to this court that this case is ripe for this court to decide to Stay my probation pending Certiorari consideration in the interest of Judicial economy. These possession of stolen vehicle convictions were imposed in 2012, and 2013, therefore, requesting relief in this court, instead of requesting a payment modification in the circuit court will further delay a final resolution in this case, and because this case is close to ten years old. "Judicial economy is not served when a case, ripe for decision, is decided on a procedural technicality..." *Pertuis v. Front Roe Restaurants, Inc.* 423 S.C. 640, 648 (2018), footnote 3.

Based on the foregoing, I pray that this court **GRANT** my instant Motion to Stay Probation pending Certiorari consideration by this court.

ORDER additional Briefing in regard to whether S.C. Code Ann. §17-25-50 allow or do not allow separate probation sentence of five-year consecutive for convictions in separate South Carolina counties for closely connected offenses.

ORDER additional Briefing in regards to whether S.C. Code Ann. §24-21-440 allow or do not allow a probation sentence that exceed five years for convictions in separate South Carolina counties that are part of the same criminal enterprise.

ORDER any additional relief this court deems just, proper, and/or impartial.

S/ 

Respectfully Submitted,

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Dated: August 15, 2022