

The South Carolina Court of Appeals

The State, Respondent,

v.

Patrick Lee Booker, Appellant.

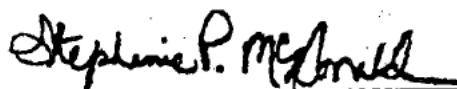
Appellate Case No. 2022-000641

ORDER

On April 19, 2023, Appellant filed a motion to appoint counsel. Appellant is entitled to counsel on appeal because he is challenging a finding that he violated the terms of the community supervision program administered by the South Carolina Department of Probation, Parole, and Pardon Services (SCDPPPS). *See* S.C. Code Ann. § 24-21-560(C) (2007) (explaining that the SCDPPPS must initiate a proceeding in general sessions court if the department determines a person violated the terms of the community supervision program); Rule 602(a), SCACR (providing that "every person charged with the violation of a probationary sentence shall be taken as soon as practicable before the Clerk of Court of General Sessions . . . for the purpose of securing to the accused the right to counsel"); *Barlet v. State*, 288 S.C. 481, 483, 343 S.C.2d 620, 621 (1986) (holding that all persons charged with probation violations have a right to counsel). Accordingly, we hold this appeal in abeyance for thirty days to allow the Office of Appellate Defense to screen this case. *See* S.C. Code Ann. § 17-3-360(C)(1) (2014) (providing Appellate Defense "shall represent a person who the office determines, subject to court review, falls within the guidelines promulgated pursuant to Section 17-3-310(G)(2) who files Notice of Intention to Appeal or desires to appeal a conviction in a trial court"). We will act on Appellant's motion to appoint counsel upon receipt of a response from the Office of Appellate Defense.

On February 24, 2023, Respondent filed a motion to strike portions of Appellant's designation of matter. On April 19, 2023, Appellant filed his return. Specifically, Respondent moved to strike Appellant's designated items 1, 2, 3, 5, and 9 because the items "were neither referenced in the order from nor made exhibits at either

hearing in this matter." Appellant asserted that designated items 1, 2, 3, 5, and 9 were presented to the circuit court. In light of these items having been presented to the circuit court, we deny Respondent's motion to strike items 1, 2, 3, 5, and 9 from Appellant's designation of matter. *See* Rule 210(c), SCACR (explaining the record shall not include "matter which was not presented to the lower court"). Next, Respondent moved to strike any portion of transcripts that are less than the entirety. We deny this request. *See* Rule 209(b), SCACR (stating the designation "may only propose to include portions of the transcript[,] . . . which may be properly included in the Record on Appeal"). Finally, Respondent moved to strike item 12, a recording of the hearing in the circuit court, which was made by Appellant during the hearing. Appellant reported the recording was an "exact replica" of the transcribed proceeding. We grant this motion and strike item 12 from Appellant's designation of matter.



FOR THE COURT

Columbia, South Carolina

cc:

Patrick L. Booker

Alan McCrory Wilson, Esquire

Matthew C. Buchanan, Esquire

Jessica Elizabeth Kinard, Esquire

Robert M. Dudek, Esquire

FILED
May 08 2023
