

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

State of South Carolina)
)
vs.)
)
Bernard Joseph Jackson,)
)
)
Defendant)
_____)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

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Paul Mckensimer COC GUIL SC

ORDER

Indictment 1998-GS-23-04295
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SC Court of Appeals

This matter was initiated by Petitioner’s Motion to Remove Electronic Monitoring. A hearing was held on that Motion on March 17, 2023. Before the Court filed its written order on the matter, Defendant filed a Motion to Reconsider on March 28. The Court denied Defendant’s original Motion to Reconsider for being premature and untimely, then filed its Order denying Petitioner’s Motion to Remove Electronic Monitoring (“Order”) on April 17, 2023. On May 5, 2023, Defendant filed a second Motion to Reconsider (“Motion”) asking this Court to reconsider its Order. The Defendant also asked for a hearing on his Motion. On May 15, 2023, the State filed a Return to Defendant’s Motion (“Return”) asking the Court to deny the motion and not to hold another hearing.

The Court has reviewed the Motion and the Return. Pursuant to Rule 29(a), SCRCrimP, the Court determines it is not necessary to set a hearing to consider the current pending Motion and the Court rules based on the submissions of the parties.

The Court denies Defendant’s Motion. Defendant had an opportunity at the hearing on March 17, 2023, to present whatever evidence and testimony that he wished to present. As the moving party, Defendant had the burden to prove that he was entitled to the relief sought.

According to S.C. Code § 23-3-540(H), Defendant had to prove, by clear and convincing evidence, that he had complied with the terms of electronic monitoring and that there was no longer a need for electronic monitoring. He had the first argument and did not introduce any evidence or call any witnesses, nor did he notify the Court that he had evidence or testimony he wished to present. As such, he failed to meet his burden.

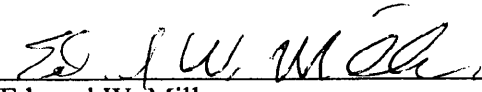
Furthermore, the Court, in issuing its written order, is never limited to its oral ruling at the conclusion of the hearing. No order of a court is final until it is reduced to writing and filed of record. *See Ford v. State Ethics Comm'n*, 344 S.C. 642, 545 S.E.2d 821 (2001). The Order of this Court was based on arguments of counsel and the evidence, or lack thereof, presented at the March 17, 2023, hearing.

Defendant's reliance on *State v. Ross*, 423 S.C. 504, 815 S.E.2d 754 (2018) is misplaced. In that case, the Supreme Court held that a Defendant who was subject to mandatory electronic monitoring for the first time based on a conviction for failure to register as a sex offender was entitled to an individualized inquiry in the reasonableness of monitoring. In this case, Defendant has been on monitoring for over 15 years and was already on community supervision at the time he was ordered into electronic monitoring. The ruling in *Ross* does not apply to the relief requested in the Defendant's petition.

THEREFORE,

IT IS ORDERED that Defendant's Motion for Reconsideration is **denied**.

IT IS SO ORDERED!



Edward W. Miller
Presiding Judge

Greenville, South Carolina

Date 5/26/23