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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Writ of Certiorari to Horry County
Honorable H. Steven DeBerry, IV, Circuit Court Judge
Appellate Case No. 2023-001577

JUSTIN TYLER YOUNG,

Respondent,

vs.

STATE OF SOUTH CAROLINA,

Petitioner.

APPENDIX

ALAN WILSON
Attorney General

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Appellate Counsel

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ATTORNEY FOR RESPONDENT

ATTORNEYS FOR PETITIONER

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1. SENTENCE TYPE **WITNESSES**

2. REPORT MADE

3. CASE FILED

4. INDEXED

Spartanburg County Sheriff's Dept.

5. CHARGE SIGNATURE

6. PROBATIONARY

7. PROBATIONARY

8. PROBATIONARY

ARREST WARRANT NUMBER

K101265

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 6-22-06

VERDICT

Foreperson of Petit Jury

Date:

06-GS-42-2059

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 26 2006

TERM

THE STATE

vs.

Justin Tyler Young

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

APP'X 1

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

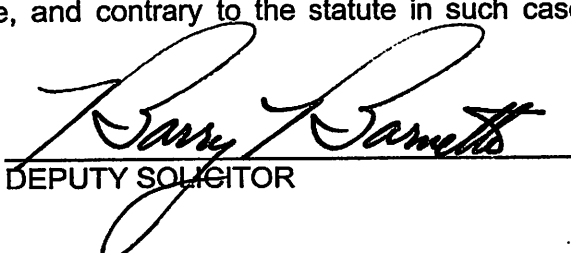
INDICTMENT

At a Court of General Sessions, convened on JUN 22 2006, the Grand
Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Justin Tyler Young, did in Spartanburg County, on or about March 21, 2006, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Debra Johnson, by means of force or intimidation goods or monies of Debra Johnson and/or Dollar General Store at [REDACTED] [REDACTED] [REDACTED] Reidville, South Carolina, described as follows: money, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

APP'X 2

APP'X 3

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

JUN 22 2006

At a Court of General Sessions, convened on _____, the Grand Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Justin Tyler Young, did in Spartanburg County, on or about March 20, 2006, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Frank Thies, by means of force or intimidation goods or monies of Frank Thies, described as follows: sum of cash, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

APP'X 4

WITNESSES

00-68-42-2061

1. RETURNED TO SENDER

2. REPORT MADE

Spartanburg Public Safety Dept.

3. CAPTIONED

4. INDEXED

5. CHECKED FOR DUPLICATES

6. CHECKED FOR REPEATED

7. CHECKED FOR OTHER CASES

8. CHECKED FOR OTHER CASES

9. CHECKED FOR OTHER CASES

Computer

Computer

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 26 2006

TERM

ARREST WARRANT NUMBER

K109346

THE STATE

vs.

ACTION OF GRAND JURY

Justin Tyler Young

Foreperson of Grand Jury

Date: 06-22-06

VERDICT

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

Foreperson of Petit Jury

Date:

APP'X 5

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

JUN 22 2006

At a Court of General Sessions, convened on _____, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

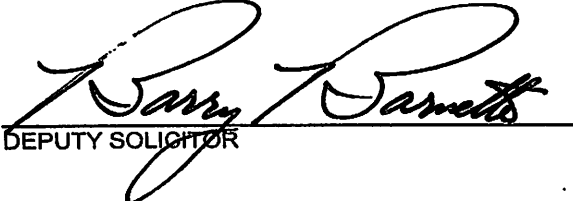
(DWELLING)

That the Defendant, Justin Tyler Young, did in Spartanburg County, on or about March 20, 2006, wilfully and intentionally enter the dwelling belonging to Frank Thies located at [REDACTED], Spartanburg, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant did enter the dwelling either:

- (1) in the nighttime and/or
- (2) armed with a deadly weapon; and/or
- (3) caused physical injury to any person who is not a participant in the crime; and/or
- (4) uses or threatens the use of a dangerous instrument; and/or
- (5) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearms

In violation of Section 16-11-311 and Section 16-1-57, Code of Laws of South Carolina (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

APP'X 6

06-03-42-2062

WITNESSES

1. SEARCHED ☒
2. REPORTED ☒
3. CARD FILED ☒
Spartanburg Public Safety Dept.
4. INDEXED ☒
5. CHECKED WITH FILE ☒
6. CHECKED AGAINST ☒
7. ASSIGNED AND ☒
FILED ☒
8. TYPING PROVISIONS COPY ☒

ARREST WARRANT

K109348

ACTION OF GRAND JURY

Tony S. A. C.

Amy E. Cronin
Foreperson of Grand Jury
Date: *6-22-06*

VERDICT

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 26 2006

TERM

THE STATE

vs.

Justin Tyler Young

Indictment for

GRAND LARCENY

SC Code: 16-13-30(B) (2)

CDR Code: 479

Class FEL-E

APP'X 7

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

JUN 22 2006

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

GRAND LARCENY

That the Defendant, Justin Tyler Young, did in Spartanburg County on or about March 20, 2006 feloniously take and carry away an IMAC computer, silver in color and a 2004 Toyota Camry, blue in color of the value of more than Five Thousand Dollars, belonging to Frank Thies, with the intent to deprive the owner permanently of such property, in violation of §16-13-30 (B) (2), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

APP'X 8

WITNESSES

1. SENTENCE MADE

2. REPORT MADE

3. CASE FILED

4. Spartanburg Public Safety Dept.

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. INCIDENT NOT

8. FIND WHEN FILED

9. TRAFFIC VIOLATIONS COPY

Computer

Computer

ARREST WARRANT NUMBER

K109357

ACTION OF GRAND JURY

Amy E. Aronson
Foreperson of Grand Jury

Date: *06-22-06*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

06-GS-42-2063

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 26 2006

TERM

THE STATE

vs.

Justin Tyler Young

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

APP'X 9

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

JUN 22 2006

At a Court of General Sessions, convened on _____, the Grand Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Justin Tyler Young, did in Spartanburg County, on or about March 21, 2006, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Fast Phils, by means of force or intimidation goods or monies of Fast Phils, described as follows: sum of cash, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

APP'X 10

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURGSTATE VS.
JUSTIN TYLER YOUNGAKA: _____
Race: W Sex: M Age: 21
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____DL# _____ SID# BAD1001FBI#: 127197CC6In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: ARMED ROBBERYin violation of 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ \$17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant Initial)
The plea is: ☒ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Darryl Samuels
SolicitorJustin Tyler Young
DefendantJohn J. Tate
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which
are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/7/07 Plea
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 14 months
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

\$14-1-206 (Assessments 107.5%) \$ _____

\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____

\$35.13 (Public Def/Prob) \$500 \$ _____

\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

\$50-21-114(BUI Breath Test Fee) \$50 \$ _____

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing ☒

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: ATU☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

K.H. McKimney, Jr.
Clerk of Court/ Deputy ClerkCourt Reporter: Sam Samuels

PRESIDING JUDGE

Judge Code: _____

Sentence Date: 5/7/07

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
 STATE VS.
JUSTIN TYLER YOUNG
 AKA: _____
 Race: W Sex: M Age: 21
 DOB: [REDACTED] SS#: [REDACTED]
 Address: _____
 City, State, Zip: _____
 DL# _____ SID# _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 06-GS-42-2060
 A/W#: K109349
 Date of Offense: 3/20/2006
 S.C. Code §: 16-11-330(A)
 CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: ARMED ROBBERYin violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant Initial)
 The plea is ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 8 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/7/07 Pleck☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 14 months☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

\$14-1-206 (Assessments 107.5%) \$ _____

\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____

\$35.13 (Public Def/Prob) \$500 \$ _____

\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

\$50-21-114(BUI Breath Test Fee) \$50 \$ _____

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly _____

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

H. E. McKinney

Clerk of Court/ Deputy Clerk

Court Reporter: Ram Sacchetti

PRESIDING JUDGE

Judge Code: _____

Sentence Date: 5/7/07

Computer

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.
JUSTIN TYLER YOUNG
AKA: _____
Race: W Sex: M Age: 21
DOB: [REDACTED] SS#: [REDACTED]
Address: _____
City, State, Zip: _____
DL# _____ SID# _____

INDICTMENT/CASE#: 06-GS-42-2061
AW#: K109346
Date of Offense: 3/20/2006
S.C. Code §: 16-11-311
CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: BURGLARY FIRST (1ST) DEGREE

in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC) ☐ §17-25-45 w/minor 1st or Lewd Act

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Solicitor

[Signature]
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 years days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of 15 days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/7/07 Plea

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 12 months

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%) _____

§14-1-211(A)(1) (Conv. Surcharge) \$100 100.00

§14-1-211(A)(2) (DUI Surcharge) \$100 _____

§56-5-2995 (DUI Assessment) \$12 _____

§35.13 (Public Def/Prob) \$500 500.00

§73.3, 1B TP (Law Enforce. Funding) \$25 25.00

§33.7, 1B TP (Drug Court Surcharge) \$100 _____

§50-21-114(BUI Breath Test Fee) \$50 _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea _____

3% to County (if paid in installments) _____

TOTAL \$628.75

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other: _____

PRESIDING JUDGE

Judge Code: _____

Sentence Date: 5/7/07

[Signature]

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

Computer

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.
JUSTIN TYLER YOUNG
AKA: _____
Race: W. Sex: M Age: 21
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# _____

INDICTMENT/CASE#: 06-GS-42-2062
AW#: K109348
Date of Offense: 3/20/2006
S.C. Code §: 16-13-30(B)(2)
CDR Code #: 0479

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant, who was ☐ CONVICTED OF or ☒ PLEADS

TO: GRAND LARCENY MORE THAN \$5,000 OR MORE

in violation of 16-13-30(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0479

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC) ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____
Solicitor _____ Defendant _____ Attorney for Defendant _____

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 0 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 6
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which
are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/7/07 Poeca
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 18 months
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
☐ set by SCDPPPS _____

PTUP

_____ days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing ✓
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: ATU

Recipient: _____
*Fine: \$ _____
\$14-1-206 (Assessments 107.5%) \$ _____
\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
\$56-5-2995 (DUI Assessment) \$12 \$ _____
\$35.13 (Public Def/Prob) \$500 \$ _____
\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____
\$50-21-114(BUI Breath Test Fee) \$50 \$ _____
\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
3% to County (if paid in installments) \$ 3.75
TOTAL \$ 128.75

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

K. H. McKinney
Clerk of Court/ Deputy Clerk
Court Reporter: Ram Jacueth

PRESIDING JUDGE R. H. Maddox
Judge Code: 1/3/7/07
Sentence Date: 1/3/7/07

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURGSTATE VS. JUSTIN TYLER YOUNGAKA: _____
Race: W Sex: M Age: 21
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# _____INDICTMENT/CASE#: 06-GS-42-2063
AW#: K109357
Date of Offense: 3/21/2006
S.C. Code §: 16-11-330(A)
CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: ARMED ROBBERYin violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/7/07 Plea☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-73-40 to be calculated and applied by the State Department of Corrections. 14 months☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:	\$	
\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$35.13 (Public Def/Prob)	\$500	\$
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114(BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ <u>3.75</u>
TOTAL	\$	\$ <u>128.75</u>

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: ATU☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: _____

Sentence Date: 5/7/07K.B. McKinney
Clerk of Court/ Deputy ClerkCourt Reporter: Ram Arcutt

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 07/25/22

C0663

YOUNG,JUSTIN TYLER FBI # 127197CC6 SID# SC01485433 SCDC # 00321679

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION ... MCCORMICK CORR INST

DORM.....: B0022A

SECURITY/CUST.: 3 SHORT TERM PROTECTIVE CONRACE.....:W SEX...:M

CURR INCARC SENT...: 15 YRS 0 MOS 0 DYS

PROJ MAXOUT DATE: 03/11/2034

CENTRAL MONITORING.: YES

PROJ PAROLE DATE: 00/00/0000

SOCIAL SECURITY #...: [REDACTED]

EWC JOB...: NO CURRENT JOB

EDUC PGM.: NO CURR EDUC PROGRAM

CURRENT PROGRAM...: NO CURRENT PROGRAM

EWC LEVEL: 0 EEC LEVEL:

AGE...: 36 DATE OF BIRTH...: [REDACTED]

ASSIGNMENT...: LOCKED - UP

PREVIOUS NUMBERS:

** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE YRS MOS DYS	COUNTY	SENTENCE START V/NV	CATEGORY
ARMED ROBBERY	15 0 0	SPARTANBUR	8/ 7/2020 V	4
GRAND LARCENY	10 0 0	SPARTANBUR	8/ 7/2020 N	2
ARMED ROBBERY	15 0 0	SPARTANBUR	8/ 7/2020 V	4
ARMED ROBBERY	15 0 0	SPARTANBUR	8/ 7/2020 V	4

PREVIOUS SCDC OFFENSES (COMPLETE)	SENTENCE YRS MOS DYS	COUNTY	SENTENCE START V/NV	CATEGORY
BURGLARY-1ST DEGREE	15 0 0	SPARTANBUR	3/ 8/20 6 V	4

PRIOR COMMITMENTS OVER 90 DAYS:

NO PRIOR COMMITMENTS OVER 90 DAYS

DETAINERS (HOLD,WANTED,NOTIFY):

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

4/29/22 CRIMNAL SEX CNDCT 2ND DE COURT

ASSAULTIVE DISCIPLINARIES:

11/ 9/18 POSSESSION OF A WEAPON	CONVICTED	MAJOR	
4/ 5/18 STRIKE I/M W/VO WEAPON	DROPPED	MAJOR INMATE	WEAPON
10/ 1/17 STRIKE I/M W/VO WEAPON	CONVICTED	MAJOR INMATE	WEAPON
8/23/17 POSSESSION OF A WEAPON	CONVICTED	MAJOR	
8/20/17 POSSESSION OF A WEAPON	DROPPED	MAJOR	
7/ 2/17 POSSESSION OF A WEAPON	CONVICTED	MAJOR	
9/22/15 POSSESSION OF A WEAPON	CONVICTED	MAJOR	
11/18/11 POSSESSION OF A WEAPON	CONVICTED	MAJOR	

NON-ASSAULTIVE DISCIPLINARIES:

3/17/22 EXHIBITIONISM AND PUBLIC	CONVICTED	MAJOR
3/17/22 USE,POSS NARC,MARIJ,UNAU	CONVICTED	MAJOR
12/20/18 DAMAGE,DESTROY,PROP.VALU	CONVICTED	MAJOR
11/ 9/18 DAMAGE,DESTROY,PROP.VALU	CONVICTED	MAJOR
10/21/18 DAMAGE,DESTROY,PROP.VALU	CONVICTED	MAJOR
7/ 5/18 INCITING/CREATING A DIST	DROPPED	MAJOR
6/ 3/18 THREATENING TO INFLICT H	CONVICTED	MAJOR
6/ 2/18 DAMAGE,DESTROY,PROP.VALU	DROPPED	MAJOR
8/23/17 POS. AND/OR USE OF ANOTH	CONVICTED	MAJOR
8/23/17 POSSESSION OF CONTRABAND	CONVICTED	MAJOR
5/11/17 POSSESSION OF A NEGOTIAB	CONVICTED	MAJOR
5/11/17 USE,POSS NARC,MARIJ,UNAU	CONVICTED	MAJOR
2/ 2/17 DAMAGE,DESTROY PROP. VAL	CONVICTED	ADMIN
2/ 2/17 REFUSING OR FAILING OBEY	CONVICTED	ADMIN
2/ 2/17 MUTILATION	DROPPED	OTHER
12/ 3/16 POSS. OR/ATTEMPT TO POSS	CONVICTED	MAJOR
11/ 1/16 INTERFERING WITH COUNT	NOT GUILTY	OTHER

APP'X 16

YOUNG,JUSTIN TYLER FBI # 127197CC6 SID# SC01485433 SCDC # 00321679 (CONTINUE

10/14/15	POSSESSION OF A NEGOTIAB	DROPPED	MAJOR
9/13/15	POSSESSION OF CONTRABAND		OTHER
7/ 1/15	I/M UNDER INFLUENCE/POSS	DROPPED	MAJOR
2/ 3/14	USE,POSS NARC,MARIJ,UNAU	CONVICTED	MAJOR
2/ 3/14	POSS. OR/ATTEMPT TO POSS	CONVICTED	MAJOR
1/ 7/14	POSSESSION OF CONTRABAND	CONVICTED	ADMIN
7/ 7/13	POSSESSION OF CONTRABAND	CONVICTED	ADMIN
3/11/13	POSSESSION OF CONTRABAND	CONVICTED	ADMIN
3/10/13	POSS. OR/ATTEMPT TO POSS	DROPPED	MAJOR
11/ 2/12	USE,POSS NARC,MARIJ,UNAU	CONVICTED	MAJOR
10/ 5/12	I/M UNDER INFLUENCE/POSS	CONVICTED	ADMIN
8/31/12	POSSESSION OF CONTRABAND	CONVICTED	ADMIN
8/17/12	POSSESSION OF CONTRABAND	CONVICTED	ADMIN
6/22/12	FIGHTING WITHOUT A WEAPO	NOT GUILTY	MAJOR
4/ 3/12	POSSESSION OF CONTRABAND	CONVICTED	ADMIN
3/30/12	POSSESSION OF CONTRABAND	CONVICTED	ADMIN
11/ 1/11	I/M UNDER INFLUENCE/POSS	CONVICTED	ADMIN
10/ 8/11	I/M UNDER INFLUENCE/POSS	CONVICTED	ADMIN
7/26/11	POSSESSION OF CONTRABAND	CONVICTED	MAJOR
6/19/11	I/M UNDER INFLUENCE/POSS	CONVICTED	ADMIN
6/ 5/11	REFUSING OR FAILING OBEY	CONVICTED	ADMIN
5/17/11	STEALING	DROPPED	CHARG
3/15/11	OUT OF PLACE	CONVICTED	ADMIN
2/25/11	REFUSING OR FAILING OBEY	CONVICTED	ADMIN
2/ 6/11	I/M UNDER INFLUENCE/POSS	CONVICTED	ADMIN
10/ 1/10	I/M UNDER INFLUENCE/POSS	CONVICTED	ADMIN
12/15/ 9	POSSESSION OF CONTRABAND	CONVICTED	ADMIN
1/14/ 9	I/M UNDER INFLUENCE/POSS	CONVICTED	MAJOR
12/ 3/ 8	DISRESPECT	CONVICTED	ADMIN
10/26/ 8	USE OBSCENE,VULGAR,PROFA	CONVICTED	ADMIN
6/19/ 8	I/M UNDER INFLUENCE/POSS	CONVICTED	ADMIN
6/ 4/ 8	INTERFERING WITH COUNT		OTHER
4/30/ 8	I/M UNDER INFLUENCE/POSS	DROPPED	MAJOR
4/30/ 8	POSSESSION OF CONTRABAND	DROPPED	CHARG
4/19/ 8	SOLICIT EMPLOYEE,I/M,VIO		OTHER

HISTORY OF MOVEMENTS:

3/ 2/22	MCCORMICK	INCARCERATED	ADMINISTRATIVE
10/21/21	KIRKLAND	INCARCERATED	NEW ADMISSION
10/18/21	UNK	RELEASE	PROB/CS/EPA COMPLETE
5/31/19	SPARTANBURG CO	COMMUNITY SUPERVISIO	COMMUNITY SUPERVISION
10/ 1/18	KERSHAW	INCARCERATED	ADMINISTRATIVE
10/ 1/18	KIRKLAND	INCARCERATED	MEDICAL
8/ 2/18	KERSHAW	INCARCERATED	ADMINISTRATIVE
7/31/18	BROAD RIVER	INCARCERATED	MEDICAL
3/27/18	KERSHAW	INCARCERATED	ADMINISTRATIVE
3/27/18	KIRKLAND	INCARCERATED	MEDICAL
1/17/18	KERSHAW	INCARCERATED	ADMINISTRATIVE
1/17/18	LEE	INCARCERATED	ADMINISTRATIVE
1/17/18	KERSHAW	INCARCERATED	ADMINISTRATIVE
11/17/17	LEE	INCARCERATED	ADMINISTRATIVE
3/ 1/17	EVANS	INCARCERATED	ADMINISTRATIVE
2/24/17	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
1/24/17	RIDGELAND	INCARCERATED	ADMINISTRATIVE
1/24/17	COASTAL CAROLIN	AUTH ABSENCE (AWL)	MEDICAL
10/15/12	RIDGELAND	INCARCERATED	ADMINISTRATIVE
10/15/12	KIRKLAND	INCARCERATED	MEDICAL
10/10/12	RIDGELAND	INCARCERATED	ADMINISTRATIVE
10/10/12	KIRKLAND	INCARCERATED	MEDICAL

7/27/10
8/20/ 9

RIDGELAND
LIEBER

INCARCERATED
INCARCERATED

ADMINISTRATIVE
ADMINISTRATIVE

YOUNG,JUSTIN TYLER	FBI # 127197CC6	SID# SC01485433	SCDC # 00321679 (CONTINUE
8/19/ 9	KIRKLAND	INCARCERATED	MEDICAL
7/29/ 9	LIEBER	INCARCERATED	ADMINISTRATIVE
7/28/ 9	KIRKLAND	INCARCERATED	RETURN FROM COURT
7/27/ 9	SPARTANBURG CO	AUTH ABSENCE (AWL)	TO COURT
6/ 1/ 9	LIEBER	INCARCERATED	ADMINISTRATIVE
6/ 1/ 9	KIRKLAND	INCARCERATED	MEDICAL
2/ 4/ 9	LIEBER	INCARCERATED	ADMINISTRATIVE
12/15/ 8	PERRY	INCARCERATED	ADMINISTRATIVE
12/15/ 8	KIRKLAND	INCARCERATED	MEDICAL
9/25/ 8	PERRY	INCARCERATED	ADMINISTRATIVE
9/25/ 8	KIRKLAND	INCARCERATED	MEDICAL
8/12/ 8	PERRY	INCARCERATED	ADMINISTRATIVE
8/ 7/ 8	LEE	INCARCERATED	ADMINISTRATIVE
8/ 7/ 8	SUMTER CO	AUTH ABSENCE (AWL)	MEDICAL
6/27/ 8	LEE	INCARCERATED	ADMINISTRATIVE
6/27/ 8	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
7/11/ 7	LEE	INCARCERATED	ADMINISTRATIVE
7/11/ 7	KIRKLAND	INCARCERATED	MEDICAL
7/ 9/ 7	LEE	INCARCERATED	ADMINISTRATIVE
7/ 9/ 7	KIRKLAND	INCARCERATED	MEDICAL
6/12/ 7	LEE	INCARCERATED	ADMINISTRATIVE
5/ 9/ 7	KIRKLAND	INCARCERATED	R&E PROCESSING
5/ 9/ 7	PERRY	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
GENERAL WORKER	05/13/22	5/23/22	PLACED IN ST/SP CUSTODY	3F5
FURNITURE ASSEMBLER	03/29/22	5/12/22	LATERAL TRANSFER	2F5
WARDKEEPER ASSISTANT	12/24/21	3/ 2/22	INSTIT TRANSFER	2F5
WARDKEEPER	03/21/19	4/22/19	PLACED IN ST/SP CUSTODY	5F5
GENERAL WORKER	04/11/18	10/12/18	PLACED IN ST/SP CUSTODY	5F5
WARDKEEPER	01/23/18	4/ 6/18	PLACED IN ST/SP CUSTODY	5F5
GENERAL WORKER	11/30/17	1/17/18	INSTIT TRANSFER	5F5
CUSTODIAL WORKER	03/15/17	10/ 6/17	PLACED IN ST/SP CUSTODY	5F5
WARDKEEPER	01/03/17	2/24/17	INSTIT TRANSFER	5F5
WARDKEEPER	06/21/16	1/ 2/17	CUSTODY REVIEW	3F5
WARDKEEPER	09/10/15	5/16/16	PLACED IN ST/SP CUSTODY	3F5
SENIOR GROUNDSKEEPER	05/26/15	9/ 9/15	INMATE REQUEST	3F5
WARDKEEPER	12/01/14	5/25/15	INMATE REQUEST	3F5
WARDKEEPER	08/13/13	11/ 4/14	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	07/23/12	9/18/12	INMATE REQUEST	3F5
WARDKEEPER	05/08/12	6/27/12	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	08/05/11	12/ 8/11	DISCIPLINARY/LOCK-UP	3F5
WARDKEEPER	03/03/11	8/ 4/11	ASLT/DRUG/MAJOR DISC	2F5
PLUMBER HELPER	12/10/10	3/ 2/11	INMATE REQUEST	2F5
PLUMBER HELPER	11/18/10	12/ 9/10	MI ELIGIBLE FOR LEVEL 2	3F5
WARDKEEPER	07/29/10	11/17/10	INMATE REQUEST	3F5
FOOD SERVICE AIDE	07/06/10	7/27/10	INSTIT TRANSFER	3F7
FOOD SERVICE AIDE	06/16/10	7/ 5/10	PROMOTION	3F5
PLUMBER	08/12/09	3/30/10	REDUCTION IN FORCE	3F5
CONSTRUCTION TRAINEE	07/30/09	8/11/ 9	INMATE REQUEST	3F5
CONSTRUCTION TRAINEE	05/15/09	7/29/ 9	INSTIT TRANSFER	3F5
WARDKEEPER ASSISTANT	02/16/09	5/14/ 9	LATERAL TRANSFER	3F5
GENERAL WORKER	07/31/08	8/12/ 8	INSTIT TRANSFER	3F5
CARPENTER HELPER	06/17/08	7/30/ 8	COMPLETED EDUC PROGRAM	3F5
CARPENTER HELPER	09/04/07	6/ 5/ 8	PLACED IN ST/SP CUSTODY	3F5
FOOD SERVICE AIDE	07/26/07	9/ 3/ 7	INMATE REQUEST	3F5
GENERAL WORKER	06/26/07	7/25/ 7	LATERAL TRANSFER	3F5

HISTORY OF EARNED EDUCATION CREDITS:
EEC

START

END

TERMINATION

YOUNG,JUSTIN TYLER FBI # 127197CC6 SID# SC01485433 SCDC # 00321679 (CONTINUE
DESCRIPTION DATE DATE REASON
BONUS 15 OR MORE 08/12/09 11/18/ 9 POOR ATTENDANCE
***** END OF REPORT *****

RETURN

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

Justin Tyler Young

on the 7 day of October 2021

Constable or Law Enforcement Officer

This Warrant is certified for service in (County of warrant Certification) County. The accused is to be arrested and brought before me to deal with according to law.

Signature of Judge

STATE OF SOUTH CAROLINA
COUNTY OF

HORRY

THE STATE
against

JUSTIN TYLER YOUNG

ARREST WARRANT

Offense: Violation of Conditions of Community
Supervision Supervision

Offense Section: 24-21-560

Date: 2/19/2021

Officer and Agency: SC Department of Probation,
Parole and Pardon Services

Anthony Maurice Smith

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name JUSTIN TYLER YOUNG

Address

Phone

Sex Male Race White Height 510

Weight 170 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

on

with

Attorney for the Defendant.

Decision

BAIL

Date Set

Magistrate

Amount

Surety

APP'X 22

Community Supervision
ARREST WARRANT

Indictment Number: 06-GS-42-02081

Warrant Number: W-26-21-0035

State Identification No. (SID) 01485433

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

FILED
HORRY COUNTY
2021 OCT 22 A 10:20
RENEE N. EDWARDS
CLERK OF COURT
HORRY COUNTY, SC

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF HORRY, AND ANY COMMISSIONER OF THE MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that JUSTIN TYLER YOUNG, did on the 19 day of February, 2021 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

The offender has knowingly and willfully violated conditions 1, 2, 6, 10 as proscribed by the Department. Due to the violation of said conditions the offender is subject to the issuance of an arrest warrant or citation pursuant to Section 24-21-560 of the South Carolina Code of Laws.

Now, therefore, you are empowered and directed to arrest the said defendant and bring JUSTIN TYLER YOUNG before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Done at HORRY, S. C. this 19 day of February, 2021.

 (L.S.)
Signature of Probation and Parole Agent

County of HORRY

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Anthony Maurice Smith, who, first being duly sworn, deposes and says that JUSTIN TYLER YOUNG did within this County and State on the 19 day of February, 2021, violate the criminal laws of the State of South Carolina in the following particulars:

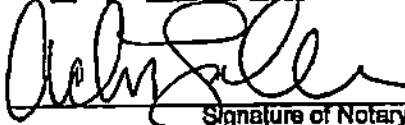
DESCRIPTION OF OFFENSE:

The offender has knowingly and willfully violated conditions 1, 2, 6, 10 as proscribed by the Department. Due to the violation of said conditions the offender is subject to the issuance of an arrest warrant or citation pursuant to Section 24-21-560 of the South Carolina Code of Laws.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

The offender was duly convicted by the Indian River Circuit Court on 11/18/2020 for Possession of Drug Paraphernalia (Time served 18 days) and Trespass structure/Conveyance (Time served 13 days). The offender was released from the Indian River County Detention Center on 12/07/2020. The offender has failed to report to the office as instructed by the agent. The offender was released from J Reuben Long Detention on 06/09/2020 and he failed to report to the Horry County Probation Office. The offender failed to notify the agent of the recent arrest in Vero Beach Florida. The offender was arrested by the Indian River Sheriff on 11/17/2020 for Possession of Drug Paraphernalia and Trespass/Conveyance. The offender failed to follow the advice and instructions of the agent as evidenced by the above stated violations. Such actions constitute violation of conditions 1, 2, 6, 10.

Sworn to and Subscribed before me
this 19 day of February, 2021.


Signature of Notary Public

(L.S.)

Address: P.O. BOX 1736
CONWAY, SC 29528

(843) 381-0373

My Commission Expires

RETURN

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

Justin Tyler Young

on the 7 day of October 2021

Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

Signature of Judge

STATE OF SOUTH CAROLINA
COUNTY OF

HORRY

THE STATE
against

JUSTIN TYLER YOUNG

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 2/19/2021

Officer and Agency: SC Department of Probation,
Parole and Pardon Services

Anthony Maurice Smith

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name JUSTIN TYLER YOUNG

Address

Phone

Sex Male Race White Height 510

Weight 170 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

on

with

Attorney for the Defendant.

Decision

BAIL

Date Set

Magistrate

Amount

Surety

Probation

ARREST WARRANT

Indictment Number: 08-GS-42-02083, 08-GS-42-02059, 08-GS-42-02060,
08-GS-42-02062

Warrant Number: W-26-21-0038

State Identification No. (SID) 01485433

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF HORRY, AND ANY CONSTABLE OF THIS
MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that JUSTIN TYLER YOUNG, did on the 19 day of February, 2021 violate the
criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

The offender has violated conditions 1, 2, 6, 10 of the standard Department conditions associated with Section
24-21-430. The offender has also violated special conditions imposed by the General Sessions Court per order
dated May 07, 2007. This warrant or citation is issued pursuant to section 24-21-450 or 300.

Now, therefore, you are empowered and directed to arrest the said defendant and bring JUSTIN TYLER YOUNG before me forthwith to be dealt with according to
law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Done at HORRY, S.C. this
19 day of February, 2021.

 (L.S.)
Signature of Probation and Parole Agent

County of HORRY

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Anthony Maurice Smith, who, first being duly sworn, deposes and says that JUSTIN TYLER YOUNG did within this County and
State on the 19 day of February, 2021, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

The offender has violated conditions 1, 2, 6, 10 of the standard Department conditions associated with Section
24-21-430. The offender has also violated special conditions imposed by the General Sessions Court per order
dated May 07, 2007. This warrant or citation is issued pursuant to section 24-21-450 or 300.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable
cause is based on the following facts:

The offender was duly convicted by the Indian River Circuit Court on 11/19/2020 for Possession of Drug
Paraphernalia (Time served 18 days) and Trespass structure/Conveyance (Time served 13 days). The offender was
released from the Indian River County Detention Center on 12/07/2020. The offender has failed to report to the
office as instructed by the agent. The offender was released from J Reuben Long Detention on 06/09/2020 and he
failed to report to the Horry County Probation Office. The offender failed to notify the agent of the recent
arrest in Vero Beach Florida. The offender was arrested by the Indian River Sheriff on 01/17/2021 for Possession
of Drug Paraphernalia and Trespass/Conveyance. The offender failed to follow the advice and instructions of the
agent as evidenced by the above stated violations. Such actions constitute violation of conditions 1, 2, 6, 10.

FILED
Horry County
JAN 14 A 9:02
JENNIFER M. ELVIS
CLERK OF COURT
Horry County, SC

Sworn to and Subscribed before me
this 19 day of February, 2021.


Signature of Notary Public

W/29/2028
My Commission Expires


Affiant

Address: P.O. BOX 1738
CONWAY, SC 29528

(843) 381-0373

RETURN

Constable of Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

Justin Young

on the 9 day of June 2020

Maurice Smith
Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

Signature of Judge

STATE OF SOUTH CAROLINA
COUNTY OF

HORRY

THE STATE
against

JUSTIN TYLER YOUNG

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 5/13/2020

Officer and Agency: SC Department of Probation,
Parole and Pardon Services

Anthony Maurice Smith

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name JUSTIN TYLER YOUNG

Address

Phone

Sex Male Race White Height 510

Weight 170 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

on

with

Attorney for the Defendant

Decision

BAIL

Date Set

Magistrate

Amount

Surety

APP'X 26

Probation

ARREST WARRANT

Indictment Number: 09-GS-42-02083, 09-GS-42-02059, 09-GS-42-02080,
09-GS-42-02082

Warrant Number: W-28-20-0090

State Identification No. (SID) 01485433

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF HORRY, AND ANY CONSTABLE OF THIS
MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that JUSTIN TYLER YOUNG, did on the 13 day of May, 2020 violate the
criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

The offender has violated conditions 1, 2, 5, 7, 9, 10 of the standard Department conditions associated with
Section 24-21-439. The offender has also violated special conditions imposed by the General Sessions Court per
order dated May 07, 2007. This warrant or citation is issued pursuant to section 24-21-450 or 389.

Now, therefore, you are empowered and directed to arrest the said defendant and bring JUSTIN TYLER YOUNG before me forthwith to be dealt with according to
law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Done at HORRY, S. C. this
13 day of May, 2020.

County of HORRY

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Anthony Maurice Smith, who, first being duly sworn, deposes and says that JUSTIN TYLER YOUNG did within this County and
State on the 13 day of May, 2020, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

The offender has violated conditions 1, 2, 5, 7, 9, 10 of the standard Department conditions associated with
Section 24-21-439. The offender has also violated special conditions imposed by the General Sessions Court per
order dated May 07, 2007. This warrant or citation is issued pursuant to section 24-21-450 or 389.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable
cause is based on the following facts:

The offender failed to report to the office on a monthly basis as instructed by the agent. The offender last
reported to the office on 08/14/2019. The offender's whereabouts are unknown at this time. The offender failed
to follow the advice and instructions of the agent as evidenced by the above stated violations. The offender
failed to pay the court fine account and is in arrears \$ 515.00 with the balance being \$ 515.00. The offender
failed to pay the supervision fee account and is in arrears \$ 350.00 with the balance being \$ 2,600.00. The
offender failed to work diligently at a lawful occupation. The offender failed to notify the agent of the
address change. The agent conducted a home visit on 01/28/2020 and discovered that the offender was not living
at the address.

Such actions constitute violation of conditions 1, 2, 5, 7, 9, 10.

Sworn to and Subscribed before me
this 13 day of May, 2020.


Signature of Notary Public

11/29/2028
My Commission Expires

(L.S.)

Address: P.O. BOX 1736
CONWAY, SC 29528

(843) 381-0373

FILED
2020 JUN 16 PM 3:20
JENNIFER BLANKS
CLERK OF COURT
HORRY COUNTY, SC

RETURN

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

Justin Young

on the 9 day of June, 2020

Melanie Smith
Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

Signature of Judge

STATE OF SOUTH CAROLINA
COUNTY OF

HORRY

THE STATE
against

JUSTIN TYLER YOUNG

ARREST WARRANT

Offense: Violation of Conditions of Community
Supervision Supervision

Offense Section: 24-21-560

Date: 5/13/2020

Officer and Agency: SC Department of Probation,
Parole and Pardon Services

Anthony Maurice Smith

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name JUSTIN TYLER YOUNG

Address

Phone

Sex Male Race White Height 510

Weight 170 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

on

with

Attorney for the Defendant

Decision

BAIL

Date Set

Magistrate

Amount

Surety

Community Supervisor

ARREST WARRANT

Indictment Number 08-GS-42-02081

Warrant Number: W-28-20-0091

State Identification No. (SID) 01485433

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF HORRY, AND ANY CONSTABLE OF THIS
MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that JUSTIN TYLER YOUNG, did on the 13 day of May, 2020 violate the
criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

The offender has knowingly and willfully violated conditions 1, 2, 5, 7, 9, 10 as proscribed by the Department.
Due to the violation of said conditions the offender is subject to the issuance of an arrest warrant or citation
pursuant to Section 24-21-568 of the South Carolina Code of Laws.

Now, therefore, you are empowered and directed to arrest the said defendant and bring JUSTIN TYLER YOUNG before me forthwith to be dealt with according to
law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Done at HORRY, S.C. this
13 day of May, 2020.

Anthony Maurice Smith (L.S.)
Signature of Probation and Parole Agent

County of HORRY

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Anthony Maurice Smith, who, first being duly sworn, deposes and says that JUSTIN TYLER YOUNG did within this County and
State on the 13 day of May, 2020, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

The offender has knowingly and willfully violated conditions 1, 2, 5, 7, 9, 10 as proscribed by the Department.
Due to the violation of said conditions the offender is subject to the issuance of an arrest warrant or citation
pursuant to Section 24-21-568 of the South Carolina Code of Laws.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable
cause is based on the following facts:

The offender failed to report to the office on a monthly basis as instructed by the agent. The offender last
reported to the office on 08/14/2019. The offender's whereabouts are unknown at this time. The offender failed
to follow the advice and instructions of the agent as evidenced by the above stated violations. The offender
failed to pay the court fine account and is in arrears \$ 515.00 with the balance being \$ 515.00. The offender
failed to pay the supervision fee account and is in arrears \$ 350.00 with the balance being \$ 2,800.00. The
offender failed to work diligently at a lawful occupation. The offender failed to notify the agent of the
address change. The agent conducted a home visit on 01/28/2020 and discovered that the offender was not living
at the address.

Such actions constitute violation of conditions 1, 2, 5, 7, 9, 10.

Sworn to and Subscribed before me
this 13 day of May, 2020.

Anthony Maurice Smith (L.S.)
Signature of Notary Public

11/29/2028
My Commission Expires

Address: P.O. BOX 1736
CONWAY, SC 29528

(843) 351-0373

FILED
JUN 16 PM 3:21
CLERK OF COURT
HORRY COUNTY, S.C.

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY)

STATE OF SOUTH CAROLINA,)

Plaintiff,)

Transcript of Record

vs.)

October 18, 2021

JUSTIN TYLER YOUNG,)

Defendant.)

B E F O R E:

Honorable Steven H. John
Horry County Courthouse
Conway, South Carolina

A P P E A R A N C E S:

Scott A. Graustein, Esquire
Attorney for Defendant

Kay H. Richardson
Circuit Court Reporter

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I N D E X

OCTOBER 18, 2021

Pg.

By the Court.....	3
Certificate of Court Reporter	6

E X H I B I T S

No.

ID

EV

(No exhibits were marked or admitted.)

1 THE COURT: All right, Agent, let me hear from you,
2 please, sir.

3 AGENT: All right, sir. May it please the Court, today
4 we have before you Mr. Justin Young. Mr. Young has a CSP case
5 and he has a pending probation case, as well. CSP was -- he
6 was indicted in Spartanburg County for burglary first and it
7 looks like 20 years but provided service upon 15 years of
8 service and suspended to five years' probation. On that same
9 day as well, he was given -- he was indicted on four different
10 charges, and he was given 15 years suspended to five years'
11 probation once he was released. And the reason why you have
12 two separate violations, of course, because I had to issue two
13 separate warrants at one time because he failed to appear in
14 our office.

15 THE COURT: All right, sir.

16 All right. And so, we also have that he was arrested by
17 the Indian River Sheriff's Department in Vero Beach, Florida
18 on 11/17/20 possession of drug paraphernalia and trespass,
19 given a time-served sentence of 13 days, so he has that
20 conviction. All right. And then he was arrested by the
21 Brookhaven Police Department in Atlanta, Georgia on March 11,
22 2021 for possession of marijuana less than one ounce;
23 possession methamphetamine; possession of drug-related
24 objects; loitering or prowling; giving false name, address, or
25 birthdate to law enforcement; possession of methamphetamine;

1 and trafficking in illegal drugs. Y'all secured him from that
2 police department based upon your warrants; is that correct?

3 AGENT: That's correct, sir.

4 THE COURT: All right. Very good.

5 All right. Any objection to the written report of the
6 Probation, Parole, Pardon Service made a part of the record?

7 MR. GRAUSTEIN: No, Your Honor.

8 THE COURT: Be glad to hear from you, sir.

9 MR. GRAUSTEIN: Yes, Your Honor. Speaking with my client
10 this morning, he admits to the report with regard to his
11 conviction in Florida and his arrest in Georgia. He admits to
12 violating the terms of his probation. Your Honor, in speaking
13 with him and looking at the charges that he has picked up here
14 in the last year or so, these are drug offenses, he has asked
15 that -- he has served approximately 13 years of that initial
16 sentence.

17 And, Your Honor, he has asked that I request that his --
18 the Court consider continuing him on probation with a special
19 condition of -- for drug and alcohol treatment. And more, and
20 if the Court deems it necessary to violate him for a shorter,
21 less than full revocation, I would ask that his probation be
22 continued to -- in order for him to get the treatment he
23 obviously needs.

24 THE COURT: All right. Very good.

25 What -- obviously, this gentleman is not a good candidate

1 for probation. What we're gonna do is revoke the rest of the
2 sentence, terminate the case, turn any amounts owed to a civil
3 judgment and recommend ATU.

4 All right. Thank you very much.

5 MR. GRAUSTEIN: Thank you, Your Honor.

6 AGENT: Thank you, Your Honor.

7 **ADJOURNED @ 10:29 A.M.**

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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State v. Justin Tyler Young, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on October 18, 2021.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

Kay H. Richardson
Official Court Reporter

September 5, 2022.

STATE OF SOUTH CAROLINA

County of Horry

STATE

VS.

AKA: Justin Tyler YoungRace: NSex: MDOB: [REDACTED]SSN: [REDACTED]SID# 014 85433

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

2006

- GS -

422059

Probation C/W#s:

W-26-21-0036 - W-26-20-0090Name of Original Offense: Armed RobberyOriginal A/W#: K10 1265Date of Original Offense: 3-21-2006Conviction S.C. Code §: 16-11-330 (A)Conviction CDR Code #: D / 1 / 3 / 9Original Sentence: 15 years & 5 years Probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 5 / 7 / 2007 in the Court of General Sessions of Spaulding County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 5-13-20, 2-19-21, as set forth in the attached warrant(s) or other(s) dated 5-13-20, 2-19-21. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)

1, 2, 5, 6, 7, 9, and 10

Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 15 months/years, the remainder of the original sentence, and/or pay \$ _____
- ☐ the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☐ the above named defendant is placed on electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first or third degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- ☒ Financial Obligations: Order satisfies: ☒ Department fees (arrearage) Civil judgment: ☐ Department fees
☐ Fines and other fees (arrearage / balance) ☒ Fines and other fees
☐ Restitution (and 20%) (arrearage / balance) ☐ Restitution (and 20%)

☒ Additional Conditions ordered by the Court:

1) No A/M 4) Recommend A/TU Program
3) Concurrent with VOP's 2006-BS-42-2060, 2062, And 2063.

- ☒ The defendant is given credit for pre-arrest hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- ☒ The defendant is to be given credit for pretrial detention time served (N/A if defendant has served prior SCDC time).
- ☐ The defendant has served _____ days/months/years of prior revocations and/or initial SCDC time.
- ☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 18 day of October, 2021Chief Administrative Presiding Judge

Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

Signed this _____ day of _____

Day

Month

Year

at

City

STATE OF SOUTH CAROLINA

County of Harley

STATE VS.

AKA: Justin Tyler Young

Race: W Sex: M

DOB: [REDACTED]

SSN: [REDACTED]

SID# 01485433

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

2006 - GS - 42 - 2060

Probation C/W#s:

W-26-21-0036 - W-26-20-0090

Name of Original Offense: Armed Robbery

Original A/W#: K109349

Date of Original Offense: 3-20-2006

Conviction S.C. Code §: 16-11-330(A)

Conviction CDR Code #: 0 / 1 / 3 / 9

Original Sentence: 15 years but 5 years Probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 5 / 7 / 2007 in the Court of General Sessions of Spartanburg County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 5/30/2021, as set forth in the attached warrant(s) or ~~order(s)~~ dated 5/30/2021. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)

1, 2, 5, 6, 7, 9, and 10

Therefore, IT IS ORDERED that:

☒ the suspended sentence be revoked and the above named defendant be required to serve 15 months/years (the remainder) of the original sentence, and/or pay \$.

☐ the suspended sentence be revoked and the above named defendant be required to serve months/years of the original sentence and/or pay \$; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.

☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.

☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.

☐ the above named defendant is placed on electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first or third degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).

☒ Financial Obligations: Order satisfies: ☒ Department fees (arrearage) Civil judgment: ☐ Department fees
☐ Fines and other fees (arrearage / balance) ☒ Fines and other fees
☐ Restitution (and 20%) (arrearage / balance) ☐ Restitution (and 20%)

☒ Additional Conditions ordered by the Court:

1) NO A/M 2) Recommend #TU Program
3) Concurrent With VOP's 2006-GS-42-2059, 2062, And 2063

☒ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☒ The defendant is to be given credit for pretrial detention time served (N/A if defendant has served prior SCDC time).

☐ The defendant has served days/months/years of prior revocations and/or initial SCDC time.

☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 18 day of October, 2021

Conley, SC Chief Administrative Presiding Judge

Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

Signed this day of at

Day Month Year

at

City

APPX 37

STATE OF SOUTH CAROLINA

County of Wayne

STATE

VS.

AKA:

Race:

DOB:

SSN:

SID#

Justin Tyler YoungWSex: M01485433

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

2006

- GS -

422062

Probation C/W#s:

W-26-21-0036 - W-26-20-0090Name of Original Offense: Grand Larceny 7500.00Original A/W#: K109348Date of Original Offense: 3-20-2006Conviction S.C. Code §: 16-13-30(B)(2)Conviction CDR Code #: 0 / 4 / 7 / 9Original Sentence: 10 years sus 5 years Probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 5 / 7 2001 in the Court of General Sessions of Spartanburg County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 5-13-20, 2-19-21, as set forth in the attached warrant(s) or ~~orders~~ dated 5-13-20, 2-19-21. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)

1, 2, 5, 6, 7, 9, and 10

Therefore, IT IS ORDERED that:

☒ the suspended sentence be revoked and the above named defendant be required to serve 10 ~~months~~ years, the remainder of the original sentence, and/or pay \$ _____.

☐ the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.

☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.

☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.

☐ the above named defendant is placed on electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first or third degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).

☒ Financial Obligations:

Order satisfies:

☒ Department fees (arrearage)

Civil judgment:

☒ Department fees☐ Fines and other fees (arrearage / balance)☒ Fines and other fees☐ Restitution (and 20%) (arrearage / balance)☐ Restitution (and 20%)☒ Additional Conditions ordered by the Court:

1) No A/M 2) Recommended AFU Program

3) Concurrent with VOP's 2006-GS-42-2059, 2060, and 2063

☒ The defendant is given credit for pre-arrest detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☒ The defendant is to be given credit for pretrial detention time served (N/A if defendant has served prior SCDC time).

☐ The defendant has served _____ days/months/years of prior revocations and/or initial SCDC time.

☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 18 day of October, 2021, SC Chief Administrative Presiding Judge

Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

Signed this

day of

Day

Month

Year

at

City

APP'X 38

STATE OF SOUTH CAROLINA

County of Horry

STATE

VS.

AKA: Justin Tyler YoungRace: WSex: MDOB: [REDACTED]SSN: [REDACTED]SID# 014 83 433

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

2006

- GS -

422063

Probation C/W#s:

W-26-21-0036 - W-26-20-0090

Name of Original Offense:

Armed Robbery

Original A/W#:

K 109357

Date of Original Offense:

3-21-2006

Conviction S.C. Code §:

16-11-336(A)

Conviction CDR Code #:

0 / 1 / 3 / 9

Original Sentence:

15 years and 5 years Probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 5 / 7 / 2007 in the Court of General Sessions of Spartanburg County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 5-13-20, 8-19-21, as set forth in the attached warrant(s) or ~~order(s)~~ dated 5-13-20, 8-19-21. After hearing the evidence and being duly advised, in the (presence/~~absence~~) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)

1, 2, 5, 6, 7, 9, and 10

Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 15 months/years, the remainder of the original sentence, and/or pay \$ _____.
- ☐ the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☐ the above named defendant is placed on electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first or third degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- ☒ Financial Obligations: Order satisfies: ☒ Department fees (arrearage) Civil judgment: ☐ Department fees
☐ Fines and other fees (arrearage / balance) ☐ Fines and other fees
☐ Restitution (and 20%) (arrearage / balance) ☐ Restitution (and 20%)

☒ Additional Conditions ordered by the Court:

1) No A/M 2) Recommend ATU Program
3) Concurrent with Vol's 2006-GS-42-2059, 2060, And 2062

☒ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☒ The defendant is to be given credit for pretrial detention time served (N/A if defendant has served prior SCDC time).

☐ The defendant has served _____ days/months/years of prior revocations and/or initial SCDC time.

☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 18 day of October, 2021
Conway, SC Chief Administrative Presiding Judge

Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

Signed this _____ day of _____
 Day Month Year

at

City

APPX 39

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

STATE
-vs-

JUSTIN TYLER YOUNG

Defendant

01485433

SID #

321679

SCDC # or DOB

IN THE COURT OF GENERAL SESSIONS

No. 06-GS-42-02061

1

Count

Community Supervision
CONTINUATION ORDER

This matter was brought before me on the 18th day of October, 2021, pursuant to a [warrant or citation] charging the Defendant with violating the Defendant's Community Supervision Program and asking the Court to revoke the Defendant's community supervision. I find:

1. The terms of the Community Supervision Program are fair and reasonable;
2. The Defendant has not complied with all terms of the Community Supervision Program;
3. The Defendant has willfully violated terms of the Community Supervision Program;
4. The Defendant should be continued in the Community Supervision Program under its current terms or under other terms and conditions;

The Defendant is ordered continued on Community Supervision subject to all conditions not inconsistent with this order.
The Court orders the following additional Conditions:

W-24-20-0091 & W-24-21-0035

This 18 day of October, 2021

[Signature]
Chief Administrative Presiding Judge

CONWAY

S.C.

15th

Judicial Circuit

This is to certify that I have read or have had read to me the Continuation Order and the Conditions set out therein. I agree to comply with such conditions and the conditions of my supervision order not inconsistent with this order during the period of my supervision. I have received a copy of this court order.

Offender's Signature

Witnessed by

Signed this

18th

day of

October, 2021

at

CONWAY

, SC

Form 1151 (Template)

Page 1 of 1

APP'X 40

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

JUSTIN TYLER YOUNG #321679
Full name and prison number (if any) of Applicant.

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2022 CP 36 4334

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
HORRY COUNTY
CLERK OF COURT
N. ELVIS
2022 JUL - P 3:49
HORRY COUNTY, SC

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCORMICK CORRECTIONAL INSTITUTION
2. Name and location of Court which imposed sentence HORRY COUNTY/MAGISTRATE
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) VIOLATION OF PROBATION (#?)
 - (b) VIOLATION OF COMMUNITY SUPERVISION PROGRAM (#?)
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 10/18/21, PROBATION REVOKED, ATU
 - (b) _____

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere N/A PROBATION HEARING
7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) I DIDNT THINK YOU COULD APPEAL A PROBATION
HEARING
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

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RENEE N. ELVIS
CLERK OF COURT
HOLLY COUNTY, MO

- (a) THE JUDGE SENTENCED ME TO ATTU, BUT I'M SERVING
~~15~~ 15 YEARS
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) THE JUDGE SENTENCED ME TO ATTU, BUT SCAC WAS
~~ME~~ ME DOING 15 YEARS AND THEY SAY THE COURT IS TO BLAME.
- (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____

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 HOREY COUNTY
 2022 JUL -8 P 3:19
 RINE M. LEVINS
 CLERK OF COURT
 HOFERY COUNTY, SC.

- iv. _____
- (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) AS FAR AS I KNOW, THIS IS MY FIRST STEP TO RELIEF

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

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 HORN COUNTY
 2022 JUL -8 P 3:49
 CLERK OF COURT
 HORN COUNTY, NC

- (a) your arraignment and plea? No
- (b) your trial, if any? No
- (c) your sentencing? ~~NO~~ YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:

i. Horry County Public Defender

ii. _____

iii. _____

- (b) the proceedings at which each such attorney represented you:

i. PROBATION VIOLATION HEARING

ii. _____

iii. _____

19. State clearly the relief you seek in filing this application:

FOR MY SENTENCE TO BE CORRECTED AND APPLIED

20. Are you now under sentence from any other court that you have not challenged?

No

RENEE N. ELVIS
CLERK OF COURT
Horry County, SC

2022 JUL -8 P 3:49

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HORRY COUNTY

Revised 3/2003

STATE OF SOUTH CAROLINA)

VERIFICATION

County of _____)

I, Justin Young, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Justin Young

SWORN to and subscribed before me this 2nd
day of July, 2022.

D. O. Roberts (L.S.)
Notary Public

My Commission Expires: 11/07/2023

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

2022 JUL - 8 P 3:49

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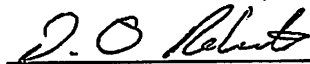
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Justin Young, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this
2nd day of July, 2022.


Notary Public

My Commission Expires: 4/07/2023

RENEE N. ELVIS
CLERK OF COURT
Horry County, SC

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Horry County
2022 JUL -8 P 3:49

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Justin Young, #321679,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Case No. 2022-CP-26-04334

RETURN

FILED
HORRY COUNTY
2022 OCT 14 P 3:42
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

NOW COMES Respondent, making its return to the post-conviction relief (hereafter “PCR”) application filed on July 8, 2022, by Justin Young (hereafter “Applicant”). Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its June 2006 term, the Spartanburg County Grand Jury indicted Applicant for three counts of armed robbery (2006-GS-42-02059, -02060, and -02063), first degree burglary (2006-GS-42-02061), and grand larceny (2006-GS-42-0262). Applicant was represented by James Hatcher, Esquire. On May 7, 2007, Applicant appeared before the Honorable J. Cordell Maddox, circuit court judge, and pled guilty. Judge Maddox sentenced Applicant to fifteen years’ imprisonment followed by five years’ probation for armed robbery and first degree burglary and ten years’ imprisonment followed by five years’ probation on grand larceny, to be served concurrent. Applicant did not pursue a direct appeal.

On October 18, 2021, Applicant proceeded to a probation revocation hearing before the Honorable Steven H. John, circuit court judge. He was represented by Scott A. Graustein,

Esquire, where he admitted to the violations. Judge John revoked probation in full, terminated the probation case, ordered him to turn amounts owed over to a civil judgement, and recommended the ATU program.

II. Current Action before the Court

In his *pro se* PCR application, Applicant alleges he is detained unlawfully for the following reasons (excerpts verbatim):

1. "The Judge sentenced me to ATU, but I'm serving 15 years."
 - a. "The Judge sentenced me to ATU, but SCDC has me doing 15 years and they say the Court is to blame."

Attached to and incorporated herein are Applicant's Spartanburg County Clerk of Court Records, Applicant's Horry County probation records, Applicant's South Carolina Department of Corrections Records, the probation revocation transcript, and the current PCR application. Respondent reserves the right to amend this return upon receipt of additional relevant information.

III. Argument

Applicant's allegations of ineffective assistance of probation revocation counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

¹ Respondent construes this as an ineffective assistance of probation counsel claim.

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2022 OCT 14 @ 3:42
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CLERK OF COURT
HORRY COUNTY, SC

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel's performance was deficient. *Strickland*, 466 U.S. at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to probation revocation counsel, though an Applicant has no Sixth Amendment right to counsel in a probation revocation proceeding, the same analysis for ineffectiveness that applies in other PCR proceedings involving claims against counsel apply in PCR proceedings against probation revocation counsel. *Turner v. State*, 384 S.C. 451, 455-56, 682 S.E.2d 792, 794 (2009).

Respondent contends that Applicant's allegations likely lack merit, but request an evidentiary hearing to fully resolve the matter.

IV. Other Allegations Denied

Each and every other allegation in Applicant's PCR application not explicitly admitted, qualified, or explained in this return is hereby denied by Respondent.

V. Assertion of Rights to Notice of Amendments, Experts

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, Applicant's court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRCP and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) (Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.").

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) ("In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases."); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) ("When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record."); *see also* Rules 15(a)-(b), SCRCP (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain

discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

VI. Conclusion

WHEREFORE, Respondent requests that the Court hold an evidentiary hearing regarding Applicant's allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

CHELSEY F. MARTO
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-0386

October 12, 2022

FILED
HIGGINS COUNTY
2022 OCT 14 P 3:42
JENNIFER N. ELVIS
CLERK OF COURT
HIGGINS COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Justin Young, #321679

vs

State of South Carolina,

Respondent,

)
) IN THE COURT OF COMMON
) PLEAS

)
)
) 2022-CP-26-04334
)
)

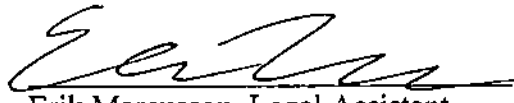
) AFFIDAVIT OF SERVICE BY
) MAIL
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HORRY COUNTY
2022 OCT 14 P 3:42
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Steven W. Fowler
730 Main Street Unit # 237
North Myrtle Beach, SC 29582

DATED this the 12th day of October, 2022.


Erik Marcusson, Legal Assistant
for Respondent

1 STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**
2 COUNTY OF HORRY Case No. 2022-CP-26-04334

3 **ORIGINAL - PCR**

4 -----
5 November 28, 2022

6 **BEFORE:** The Honorable Steven DeBerry

7 -----
8 JUSTIN TYLER YOUNG,

9 Applicant,

10 vs.

11 THE STATE OF SOUTH CAROLINA,

12 Respondent.
13 -----

14
15 APPEARANCES:

16
17 Steven Fowler, Esq.
18 Appearing for the Applicant.

19 Chelsey Marto, Esq.
20 Appearing for the Respondent.

21 Official Court Reporter
22 Natalie Dahl, RPR
23
24
25

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SCOTT GRAUSTEIN

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NOTE: Pursuant to Rule 607 (h)(1)(B), SCACR
"A COURT REPORTER SHALL RECEIVE THE FEE OF \$1.00
PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY
PREPARED TRANSCRIPT." All requests for a copy of
the enclosed transcript shall be sent to: Natalie
Dahl, RPR, P.O. Box 762, Conway, SC 29526

P-R-O-C-E-E-D-I-N-G-S

MS. MARTO: We are here today on Justin Young
versus State of South Carolina, 2022-CP-26-4334.
He is presently confined in the South Carolina
Department of Corrections.

In June 2006, he was indicted by the
Spartanburg County Grand Jury for three counts of
armed robbery, first degree burglary, and grand
larceny. He was represented by James Hatcher, and
pled guilty before Judge Maddox on May 7, 2007. He
was sentenced to 15 years imprisonment followed by
five years probation for armed robbery, first
degree burglary, and ten years imprisonment
followed by five years probation grand larceny,
running concurrently.

He did not receive a direct appeal. On
October 18, 2021, he proceeded to a probation
violation hearing before Judge John. He was
represented by Mr. Scott Graustein where he
admitted to all of the violations, and probation
was revoked in full.

1 The probation case terminated, was ordered
2 that amounts were to be turned over to a civil
3 judgment, and was recommended the ATU program.

4 We're here today on the probation violation
5 hearing and whether or not counsel at that hearing
6 was ineffective.

7 Again, I believe everyone was informed of
8 this, but if relief were to be granted, he would
9 just be entitled to another probation violation
10 hearing.

11 This application was filed July 8, 2022. The
12 State's return was made October 12, 2022.

13 With that, I'll turn it over to Mr. Fowler.

14 THE COURT: Mr. Fowler.

15 MR. FOWLER: Your Honor, I would like to call
16 Mr. Justin Young to the stand, please.

17 (JUSTIN YOUNG, having been duly sworn,
18 testified as follows:)

19 THE WITNESS: Justin Young, Y-O-U-N-G.

20 **DIRECT EXAMINATION**

21 **BY MR. FOWLER:**

22 **Q** Mr. Young, you and I spoke before you got to
23 court today about this matter?

24 **A** Yes, sir.

25 **Q** And I've also sent you memorandums on

1 standard operating procedure on PCRs, correct?

2 A Yes, sir.

3 Q And you heard counsel just say -- opposing
4 counsel say that the relief, if you win this PCR,
5 she indicated that you would get a probation --
6 another probation violation hearing. Did you hear
7 that?

8 A Yes, sir.

9 Q And that is what you want to go forward with
10 today?

11 A Yes, sir.

12 Q And you are acceptable with that?

13 A Yes, sir.

14 Q So you do wish to go forward?

15 A Yes, sir.

16 Q Mr. Young, you have an application here --
17 MR. FOWLER: If I may approach, Your Honor?
18 THE COURT: Yes, sir.

19 Q (MR. FOWLER) Is this your application for
20 post-conviction relief?

21 A It is.

22 Q And you verified this at the very back,
23 didn't you? That is your verification, correct?

24 A Yes, sir.

25 Q You've indicated in this post-conviction

1 relief application that you felt there was some
2 issues with your probation hearing; is that
3 correct?

4 **A** Well, yes, sir.

5 **Q** And you indicated in No. 9, "I didn't think
6 you could appeal a probation hearing." What do you
7 mean by that?

8 **A** Okay. Well, the thing is I'm aware of the
9 Strickland test, and I understand that in order to
10 use the PCR, you have to have pled guilty. But at
11 a probation hearing, it is just like you go in
12 there and they do what they do, and you don't say
13 nothing, and that's it. So I wasn't aware that a
14 PCR was applicable or available to me, but as I
15 progressed, you know, asking questions here and
16 there and different people became aware, that was
17 probably the most -- the best opportunity I had to
18 get my issues out and heard.

19 **Q** So even though you -- this is usually related
20 to more evidentiary hearing matters --

21 **A** Something. I mean, I didn't feel like it
22 might not -- I felt that it didn't really apply to
23 me being as I didn't really have an opportunity to
24 speak at all. I wasn't -- I didn't plea, you know.

25 Then there was no interaction between me and

1 my public defender. Matter of fact, I was on the
2 phone with my public defender whenever the judge
3 called me to the hearing, you know. Like, we are
4 in the same courtroom.

5 So, I mean, it is not like I really had any
6 interaction with my public defender. I didn't,
7 like, plea, you know. It is like -- that is, like,
8 the whole issue for going back on a PCR, according
9 to the Strickland test, you know. It just didn't
10 seem applicable to me.

11 Q But you do feel now that the PCR opportunity
12 is applicable to you?

13 A Yes, sir.

14 Q And you did not have a lot of time to speak
15 with your attorney that day, did you?

16 A Not at all.

17 Q You indicated -- is there anything else about
18 that in No. 9 that you wish to bring to the Court's
19 attention? You didn't think you could appeal a
20 probation hearing, but you found out now you could?

21 A Can you repeat the question?

22 Q Yeah.

23 A Question No. 9?

24 Q Let me approach. Is there anything else
25 about this No. 9 you wish to bring to the Court's

1 attention?

2 **A** No. I will say that it says, "If you answer
3 no to seven, state your reason for not appealing."
4 When I go back to seven it says, "Do you appeal the
5 judgment," and the judgment wasn't really the
6 problem.

7 **Q** It was the hearing?

8 **A** It was the hearing itself.

9 **Q** So we're here about the probation hearing?

10 **A** Yes.

11 **Q** And you wish to proceed with the PCR?

12 **A** Yes, sir.

13 **Q** And you feel that this is an adequate place
14 to have your concerns heard, correct?

15 **A** I hope so.

16 **Q** Was that a yes?

17 **A** Yes.

18 **Q** You said in No. 10 that the judge sentenced
19 me to ATU, but I'm serving 15 years. What does ATU
20 mean?

21 **A** I believe it is Advanced Treatment Unit,
22 maybe.

23 **Q** Let's be clear on it.

24 **A** Uh-huh.

25 **Q** It says, "The judge sentenced me to ATU, but

1 I'm serving 15 years." What do you mean by that?

2 **A** Well, while I was on the phone with my public
3 defender, when the judge called me, he was telling
4 me that because I had -- my original sentence was
5 20/85, suspended to 15, with five probation for
6 first degree burglary. I had three armed
7 robberies, which I got 15 apiece for each one. All
8 of them ran concurrent. That is the only probation
9 I had.

10 So while I was in -- before I was in prison,
11 while I was in prison, and immediately after I got
12 out of prison, I had a drug habit. I'm not a
13 criminal. I have a level head, but I had substance
14 issues. So my public defender was telling me on
15 the phone that, you know, you could be facing the
16 remainder of the 20-year sentence, which he said
17 was seven years. I remember specifically he said
18 seven, when actually it should have been 85 percent
19 of five years, because I served 85 percent of 15.
20 So the remainder of the sentence would have been
21 five years, 85 percent.

22 So he was telling me -- he said the judge
23 can't give you no more than seven years at
24 85 percent. I said the issue is I'm not a
25 criminal. I don't need prison. I need help with

1 this addiction I have. Then the phone call
2 interaction was cut short. So when he gave me the
3 ATU program, I was like -- I didn't want to go to
4 prison again and have to do that, but, you know, in
5 all actuality, that is what I needed. That is
6 understandable, okay.

7 But when I got to Kirkland at the reception
8 evaluation center, after they classified me, I had
9 15. The max-out date was 2034. All I had was a
10 six-month treatment program. So as it stands
11 today, my max-out date is 2034, May. I had a
12 six-month drug program, and I've been in SCDC 14
13 months. I was in DeKalb County for seven months
14 prior to that. I'm proud to say now that I have
15 over six months clean, and not because someone else
16 wanted me to do it or got me in a facility or drug
17 testing me, but because I wanted to be clean.

18 With that being said, I understand the
19 sentencing they gave me was fair, but the issue was
20 somewhere along the line, me and my lawyer didn't
21 -- excuse me -- we didn't communicate well. When I
22 got to SCDC, my six months went up to 15 years.

23 **Q** You felt that your lawyer should have
24 communicated better with you?

25 **A** Something. Something.

1 **Q** Is there anything else about the No. 9 that
2 you wish to bring to the Court's attention --
3 excuse me, No. 10?

4 **A** It says, "Based on the allegations, you are
5 held in custody unlawfully," but I'm really not
6 sure how to articulate it. I don't want to, you
7 know, talk myself out of -- or not say something
8 that --

9 **Q** Let me stop you right there. Basically, you
10 are saying that there was an incorrect sentence
11 that day at the probation hearing, correct?

12 **A** Something went wrong.

13 **Q** And that you -- perhaps not all of your
14 proper time was credited to you; is that correct?

15 **A** Yeah. On two separate occasions.

16 **Q** What two separate occasions?

17 **A** The one where they didn't give me credit for
18 the seven months I did in DeKalb, and then the
19 15/85 I did in SCDC from March 21, 2006 to May 31,
20 2019, I didn't get credit for.

21 **Q** No. 11: "State concisely the same order of
22 facts which support each of the grounds you set
23 out."

24 It says: "The judge sentenced me to ATU, but
25 SCDC has me down for 15 years, and they say the

1 court is to blame." That's No. 11. What do you
2 mean by that?

3 **A** In the course of -- from when I first
4 discovered that my max-out date was 2034, myself
5 and my family have been trying to figure out what
6 it is that is going on. As best I can tell, at
7 this point I just thought that SCDC -- I didn't
8 know, but I recently discovered on my NCIC report,
9 which I believe -- what is your name, ma'am?

10 **Q** Just focus on me, please.

11 **A** The sentence that she listed, that is not
12 correct.

13 **Q** Let me provide you this document. I provided
14 it to opposing counsel. What is this document?

15 **A** A document -- it is a Form 1911. It is a
16 request form for the Department of Corrections.
17 This one here is usually where the inmate writes
18 requests. It is blank because I had made it my
19 business to go to my caseworker of the unit I was
20 living in at the time, and I spoke to her about,
21 you know, my sentence. She told me to write my
22 name down and put my living and housing unit and
23 SCDC number on there, and she would look into my
24 time and see what was going on with it. That is
25 why it is blank. But the answer --

1 **Q** Let's go over this document. This is a
2 request from you. It is a request to a staff
3 member to the North Carolina -- excuse me, the
4 South Carolina Department of Corrections; is that
5 correct?

6 **A** Yes, sir.

7 **Q** You filled this out, correct? Except for the
8 bottom, correct?

9 **A** No. That is none --

10 **Q** You asked for it to be filled out, correct?

11 **A** I didn't want to -- the reason she filled
12 this out --

13 **Q** Let me ask the question real quick. Your
14 name is under "inmate name"?

15 **A** Yes.

16 **Q** How did your name get there? You wanted some
17 clarification on your sentencing, correct?

18 **A** Yes, sir.

19 **Q** And this is something that, basically, spells
20 out what SCDC's position is on this matter; is that
21 correct?

22 **A** Yes, sir.

23 **Q** And it says you were at McCormick?

24 **A** Yes, sir.

25 **Q** And gives your SCDC number as 321679; is that

1 correct?

2 **A** Yes, sir.

3 **Q** In response to this, it says, "Mr. Young,
4 your sentencing sheet matches the system. Your
5 15-year suspended sentence is active due to your
6 probation revocation. Anything further, seek legal
7 representation." It is signed -- well, it is
8 3/14/22. Who is that?

9 **A** Ms. Cullars.

10 **Q** Who is that?

11 **A** My caseworker.

12 **Q** So this is something you kept in your
13 records?

14 **A** Yes, sir.

15 **Q** And this is something that you feel like is
16 important to your case?

17 **A** Yes, sir.

18 MR. FOWLER: Your Honor, I would like to
19 enter this into evidence.

20 MS. MARTO: No objection.

21 (Applicant's Exhibit 1 marked and admitted.)

22 **Q** **(MR. FOWLER)** We discussed this case fairly
23 thoroughly, haven't we?

24 **A** I believe so, yes.

25 **Q** You provided me a couple of documents, and I

1 want to kind of go over these real quick. Let's
2 turn to the second page. I'm going on Pages 2 and
3 3. These are two documents you provided to me
4 earlier today, correct?

5 **A** Yes, sir.

6 **Q** And we discussed them, correct?

7 **A** Yes, sir.

8 **Q** One is labeled 19 of 24, dated 10/8/2020.
9 The other is 19 of 24, dated 10/8/2020; is that
10 correct?

11 **A** Yes, sir.

12 **Q** And the documentation on the first one says
13 -- well, I might as well read it. It says
14 ICHROO3FFCC44 from SCCH, October 6, 2020 at
15 16:15:44, correct?

16 **A** That is 19 of 24, correct?

17 **Q** Right here. This (indicates). That is what
18 that says?

19 **A** Yes, sir.

20 **Q** Are these two documents part of the same --
21 these two are the most relevant you feel here?

22 **A** Yes, sir.

23 **Q** What are these two documents?

24 **A** I believe it is my NCIC report.

25 **Q** Can you confirm that? I mean, is this

1 something you requested?

2 **A** It is. It is.

3 **Q** You requested it, and what do you feel it is?
4 Your NCIC report?

5 **A** I'm not exactly sure where it came from, but
6 it is something like that. It is a list of my
7 extensive record.

8 **Q** You think it is accurate?

9 **A** As far as the charges and the dates? Almost.
10 I see one inaccuracy with the dates. I see a
11 couple -- a few inaccuracies as far as the
12 convictions and the sentencing.

13 **Q** First of all, what do you feel like those
14 inaccuracies are?

15 **A** If you will look on the first page, you see
16 the line that says 5/9/2007, the dotted line?

17 **Q** Point that out to me.

18 So under the dotted line about three-fourths
19 of the way down?

20 **A** See, the date here, 5/7/07 was a conviction
21 date for this charge, which is -- this sentence is
22 not what I got. But I got convicted of this charge
23 (indicates), and this charge (indicates) on the
24 same day, but this date and this date -- this is
25 5/7/07, and this is 5/9 of '07. I pled guilty to

1 all of these the same day. So the day is
2 incorrect.

3 The sentence is incorrect. It said I
4 received 15 years for armed robbery, suspended to
5 five years probation, which is -- first of all, it
6 is an illegal sentencing because armed robbery has
7 a mandatory minimum of ten years, which is not
8 suspendible. Not only that, but this is not what
9 they gave me. I had three armed robberies and I
10 got 15 for each one of them. None was suspended.
11 For the first degree burglary, I had 20/85,
12 suspended to 15 with 5 probation, which is said
13 correct down here, but the date of the conviction
14 is -- or of the plea is wrong.

15 Q But you feel like this document is inaccurate
16 in terms of what you --

17 A Everything except for the list of the charges
18 themselves. There is a lot of inconsistencies.

19 Q And you said there was another inconsistency?

20 A No, just the fact that --

21 Q The 15?

22 A 15 suspended to five years probation, that is
23 incorrect. The 20 suspended to 15, that is another
24 one. Then, on Page 19 of 24, it says under, I
25 guess, the charge of first degree burglary, it say

1 that same charge that we just got 20 suspended to
2 15 here for, on this here it says 15 years and five
3 years probation, so.

4 Q So somewhere there is an error in your
5 report?

6 A Yeah. There is a few of them.

7 Q And it is documented by this document?

8 A Yes, sir.

9 Q Where did you receive this document?

10 A Through the mail. I had -- I actually have a
11 misdemeanor pending, and I asked for Rule 5 --

12 Q Let me ask you a question. What agency
13 provided this document to you?

14 A I got it from a Rule 5 from my lawyer in
15 Spartanburg.

16 Q It's been in your possession?

17 A Yes, sir.

18 MR. FOWLER: Your Honor, at this time I would
19 introduce these two pages into evidence.

20 MS. MARTO: No objection.

21 (Applicant's Exhibit 2 marked and admitted.)

22 Q (MR. FOWLER) Is there anything else about
23 your application that you feel like the Court needs
24 to know about today? And I'm not through
25 questioning you, but as to the four corners of this

1 document, is there anything else you feel like the
2 Court should know about? Basically, we've gone
3 over 9, 10, and 11. Is there anything else within
4 the four corners of this document that you would
5 like to bring to the Court's attention?

6 **A** No, sir.

7 **Q** You and I spoke earlier this morning,
8 correct?

9 **A** Yes, sir.

10 **Q** And then you were called to the courtroom?

11 **A** Yes, sir.

12 **Q** And then you and I spoke again?

13 **A** Yes, sir.

14 **Q** And you and I went over some new information
15 that I provided to you; is that correct?

16 **A** Yes, sir.

17 **Q** This is the first time I brought it to your
18 attention?

19 **A** First time I ever heard it.

20 **Q** Fantastic. But we -- now, let me be clear on
21 something. This probation -- this is a -- this
22 October 18, 2021 matter, how does this relate to
23 anything in Spartanburg?

24 **A** I was sentenced in Spartanburg. After I
25 completed my 15 years in SCDC, I didn't want to

1 really go home and be under mama's roof. I wanted
2 to throw myself in the water and sink and swim; you
3 know what I mean? So the Friday I came home, I saw
4 my probation officer, took the drug screen --

5 Q The basic question here is how this relates
6 to Spartanburg? So you are in Horry County in
7 court here, but you came here from Spartanburg?

8 A I had my probation transferred from
9 Spartanburg to Horry County upon release.

10 Q Okay. Go ahead.

11 A That is pretty much it.

12 Q So you had the Spartanburg matter related --
13 transferred to here?

14 A The only tie is the probation that was
15 supposed to be in Spartanburg, but I didn't want to
16 be in Spartanburg around old haunts and whatnot.

17 Q Right. Okay. So we discussed that.

18 There appears to be a failure to mitigate
19 your Spartanburg sentence?

20 A Yeah, definitely that.

21 Q And that you didn't receive -- I think you
22 indicated there was no credit for your prior
23 Spartanburg service?

24 A You know....

25 Q Is that correct?

1 **A** It is correct, but, yeah. Yes, leave it at
2 that.

3 **Q** Okay. Fantastic.

4 Do you feel that the judge was fully aware of
5 your Spartanburg probation and the credit issues we
6 talked out through here today?

7 **A** Honestly, I don't know. I don't know how
8 something that big got missed. It could have been
9 -- I don't know.

10 **Q** Do you feel like your attorney at your
11 probation summary hearing -- it was not brought up
12 that your credits were wrong, was it?

13 **A** No, it wasn't. Like I said, it was kind of
14 jammed in there. He didn't have time to do
15 anything. I didn't have time to do anything, and
16 that was the outcome.

17 **Q** Okay. And when you say the judge didn't
18 know, his actions indicated that he perhaps did not
19 know; is that correct?

20 **A** Maybe. Correct.

21 **Q** Now, you know a PCR is not a re-litigation.
22 Usually, it is about a lawyer's performance; is
23 that correct?

24 **A** That's correct.

25 **Q** In terms of summarizing why you are here

1 today, do you feel like your attorney failed to
2 mitigate some of the issues between your
3 probationary issues from Spartanburg to here?

4 **A** Definitely.

5 **Q** Do you feel like he communicated with you
6 about that?

7 **A** No, sir.

8 **Q** Do you feel like because of his actions, you
9 are -- you are in the current situation you are in
10 legally; is that correct?

11 **A** Yes.

12 **Q** Is there anything else you would like to
13 bring to the Court's attention about this case?

14 **A** The fact that I did do seven months in DeKalb
15 County, which is right outside of Atlanta. They
16 picked me up on violation of probation. I sat in
17 jail for seven months. I bonded out. We waited on
18 Horry County to come pick me up. I was out for two
19 days and walking down the street one day. They
20 pulled me over and said Horry County wants you
21 back. So I never was arrested, never read my
22 rights.

23 After I paid the \$1,200 bond and was out two
24 days, they picked me up, but never arrested me,
25 detained me for four days, Horry County came and

1 got me, and those two days that I was nullified
2 them seven months I just did in DeKalb.

3 Q So you feel like there is time -- is that
4 DeKalb County, Georgia?

5 A Yes, sir.

6 Q So we have issues with the Spartanburg
7 transfer that we're here on, basically, today?

8 A Yes, sir.

9 Q And then you say there is some issues about
10 DeKalb County?

11 A In the event that for some odd reason I go
12 back and they try to give me the remainder of my
13 20-year sentence, I would like the record to show
14 that I almost served three years -- well, March
15 will be three years. So I wasn't -- I think I'm
16 due credit for all of the time I served.

17 Q So, basically, you are saying -- just to
18 repeat what you just said -- you want a true credit
19 for all of the time that you have served and that
20 you are entitled to?

21 A Yes, sir.

22 Q You feel like your attorney did not do an
23 adequate job that day expressing that to the Court;
24 is that correct?

25 A Yes, sir.

1 MR. FOWLER: Nothing further.

2 CROSS-EXAMINATION

3 BY MS. MARTO:

4 Q I'm looking at your probation violation
5 transcript, and it looks like you were sentenced to
6 20 years provided upon service of 15, and that is
7 suspended to five years probation, and then once
8 you were released, you were to start serving that
9 15, suspended to five years probation, correct?

10 A No, that is not correct.

11 Q Is that what --

12 A The sentence was --

13 Q That is what is reflected at the probation
14 violation hearing, correct?

15 MR. FOWLER: Objection. He doesn't have a
16 copy of the transcript, and I think he was trying
17 to explain what he meant by that.

18 A I don't -- I believe there is something --

19 THE COURT: Do you want me --

20 MR. FOWLER: I just like for an objection to
21 be made that he was answering her question, and she
22 interrupted him with another question.

23 THE COURT: All right. Ms. Marto, let's give
24 Mr. Young an opportunity to answer.

25 A Can you repeat the question in its entirety?

1 I didn't mean to cut you off, if I did.

2 Q The question is: Was your 15-year sentence
3 supposed to start running once you served the
4 15-year sentence associated with the 20 years?

5 A Can I give you -- verbalize my original
6 sentencing for you, because I'm not understanding.
7 I don't want to stick my foot in my mouth, because
8 these things are tricky for me.

9 My original sentence for the first degree
10 burglary I had 20/85 suspended to 15 with five
11 probation.

12 For each one of my armed robberies, I got 15
13 years, no probation.

14 For grand larceny, I got five years.

15 So I had one set of probation, and that was
16 on the back-end of the 20 after service of 15. So
17 after serving 15 years in prison, my remainder of
18 the 20-year sentence would be five years probation.

19 So did any 15 years -- or a 15 suspended to
20 five -- first, you cannot suspend an armed robbery
21 to anything less than ten years. My NCIC report,
22 or whatever it is, indicates that, and that is
23 incorrect. Not only is it not what I was sentenced
24 to, but you are not supposed to be allowed to do
25 that, and I was not sentenced to that.

1 So the answer to your question, I believe, is
2 no. At the completion of my 15-year-85 sentence,
3 which I did complete, I should be serving five
4 years probation, and that is it, running concurrent
5 with the supervised release that is automatic, and
6 that is it.

7 **Q** Do you recall the probation agent saying that
8 you were given 15 years suspended to five years
9 probation once you were released? Do you recall
10 that being stated at the probation hearing?

11 **A** No, I don't.

12 **Q** Did you bring that to counsel's attention?

13 **A** That is what I'm saying. Sometimes -- this
14 is kind of, you know -- you get frazzled if you are
15 not used to this situation. So I might have said
16 something incorrectly or missed something, but it
17 is not -- that doesn't make it true and correct.
18 It means that I might have misspoken.

19 So if I misspoke -- I don't have a copy of
20 the transcript, but that is a possibility, but that
21 doesn't make it, you know, true and correct or what
22 I was sentenced to.

23 **Q** So you are saying the agent misspoke?

24 **A** I'm not saying that. I'm saying whoever said
25 that, it is not correct. Whoever said it, was not

1 correct.

2 Q The NCIC document you just entered, it says
3 you were sentenced to 15 suspended to five years
4 probation, correct?

5 A For armed robbery.

6 Q You were picked up on probation violations
7 because of failure to report to the probation
8 office, correct, in part?

9 A No. My violation was due to a -- two charges
10 that I pled guilty to in Vera Beach, Florida,
11 drug-related charges I might add, drug
12 paraphernalia and being in the wrong place at the
13 wrong time. That is what my violation was.

14 Q You had drug charges in Florida?

15 A Drug-related charges, yes.

16 Q And the judge just revoked in full, correct?

17 A This is what he said on the record, probation
18 revoked, ATU. It was my understanding that upon
19 completion -- I looked up the word "revoked"
20 because no one could give me what I was looking
21 for, and revoked basically means to do away with or
22 take the power from, take it off the table. So
23 upon completion of ATU, my understanding is, I
24 would have no more probation.

25 Q Do you recall the judge saying, quote --

1 starting with Page 5, Line 1: "What we're going to
2 do is revoke the rest of the sentence, terminate
3 the case, turn any amounts owed to a civil
4 judgment, and recommend ATU, end quote?

5 **A** No. I remember him saying specifically what
6 I'm going to do -- he didn't even say that. He
7 used three words: Probation, revoked, ATU.

8 **Q** So probation revoked means you need to serve
9 out the rest of your sentence?

10 **A** No. No. No. Probation revoked is what he
11 said, and ATU is what he said.

12 Now, what he meant by that, we can infer all
13 day, but revoked, in definition, does not mean to
14 serve out the rest of the sentence. It means to
15 take the power from. That is how it is defined.
16 Trust me, I looked it up.

17 **Q** And you want the Court to find that counsel
18 was ineffective for failure to mitigate that
19 sentence?

20 **A** Yes, sir.

21 **Q** And you understand that credit issues are
22 administratively dealt and not in the form of a
23 PCR?

24 **A** No, I wasn't aware of that. If we need to
25 keep tap dancing to handle something, I don't see a

1 point of doing that, but I'm not the one that makes
2 the rules.

3 MS. MARTO: Yes, sir. Nothing further.

4 THE COURT: Anything further?

5 **REDIRECT-EXAMINATION**

6 **BY MR. FOWLER:**

7 **Q** You are saying, basically, that you were not
8 credited correctly, regardless of the wording of
9 this transcript?

10 **A** Definitively.

11 **Q** You feel like your sentences were not
12 mitigated correctly; is that correct?

13 **A** Definitely.

14 **Q** And, also, regardless of -- and as was
15 mentioned earlier, the relief here is to get a new
16 -- another probation violation here; is that
17 correct?

18 **A** That would be -- yes, sir.

19 **Q** And that is what you are asking this Court to
20 provide?

21 **A** Yes, sir. Yes, sir.

22 MR. FOWLER: Nothing further.

23 MS. MARTO: No further questions, Your Honor.

24 THE COURT: Mr. Young, you can step down.

25 Thank you.

1 (A brief pause in the proceedings.)

2 MR. FOWLER: After consulting with my client,
3 I have no further witnesses.

4 THE COURT: All right.

5 MS. MARTO: Yes, Your Honor. We call
6 Mr. Scott Graustein to the stand.

7 THE COURT: Mr. Graustein, if you will, place
8 your left hand on the Bible.

9 (SCOTT GRAUSTEIN, having been duly sworn,
10 testified as follows:)

11 **DIRECT EXAMINATION**

12 **BY MS. MARTO:**

13 **Q** Good afternoon, sir. When did you begin
14 representing Mr. Young?

15 **A** The day of his probation hearing.

16 **Q** Did you talk to him before the probation
17 hearing?

18 **A** Briefly. His rendition of our conversation
19 is pretty accurate. Back then, we would get
20 probation hearings -- we would get those in the
21 morning and then assigned to us, so we would find
22 out about the case the morning of the hearing.

23 **Q** What is your understanding of what the
24 sentence was?

25 **A** My understanding at the time -- because all I

1 was provided at the time was the probation
2 violation report, and I discussed this with
3 Mr. Young, that he had received a 20-year sentence,
4 suspended to 15 years, and then five years
5 probation on a burglary charge. We discussed that.
6 I believed at the time that the 15-year sentences
7 all ran concurrent, so at the time I was thinking
8 that the 15 years he did would apply to all of the
9 sentences.

10 Following the VOP, his family raised concerns
11 after he realized -- I think he received 15 years.
12 I went back and looked at the report, and it
13 appears from the report -- I understand he was
14 sentenced in Spartanburg, so my information was
15 fairly limited, but for the armed robbery it says
16 the sentence is 15 years, suspended to five years
17 probation. At that point, I became concerned that
18 he didn't get any credit for the 15 years suspended
19 to probation for the 15 years he already served.
20 So he had, essentially, 15 years hanging over his
21 head. I did not notice that prior to the hearing,
22 and I did not bring it to the judge's attention.

23 **Q** But based upon your current understanding of
24 the sentence, is that appropriate, I guess?

25 **A** From the way I read it, if he was revoked in

1 full, he would have to serve a 15-year sentence. I
2 was not able to get any additional clarification
3 from Spartanburg about what exactly the sentence
4 was supposed to be or if that was accurate.

5 Q So you informed Mr. Young he was looking at
6 three more years of service?

7 A I was thinking that he would -- if he got
8 violated in full, the judge would activate the five
9 years that had been suspended, and that he would
10 still have a couple years that he had not served on
11 the 15, so that he would have to serve that, and
12 all the offenses were violent, so he would have to
13 do 85 percent of that.

14 Q Regardless of your reading of the sentence at
15 the time, Mr. Young was still going to have to
16 proceed to a probation violation hearing?

17 A Yes. Absolutely. There was going to be a
18 probation violation regardless of any of my reading
19 on it. In my discussions with him, he is going to
20 have to admit to violating his probation.

21 Q You didn't see any defense?

22 A No. And he didn't bring any up to me either.

23 Q And the judge, after learning of the
24 violations, he said he didn't think Mr. Young was a
25 good candidate for probation; is that correct?

1 **A** I don't know exactly what the judge said, but
2 in my notes I put that he -- the judge violated him
3 on the probation, revoked -- my notes say the
4 remainder of his sentence, and then terminate his
5 probation.

6 **Q** From your understanding, this is a
7 credit-related issue, correct? Just because it was
8 revoked in full, now he has to serve 15 years?

9 **A** Yes. As far as what credits he should
10 receive, I never looked into any of that. Quite
11 frankly, there wasn't time, so I didn't bring any
12 of that up on how much he would get credit for.

13 **Q** You asked the Court to consider something
14 less than a full revocation?

15 **A** I asked for whatever mercy the Court could
16 give him. Again, under what I believe now is an
17 improper assumption is that he was looking at about
18 seven years maximum revocation.

19 **Q** Do you recall the probation agent stating at
20 the hearing that the 15 years suspended to five
21 years probation was to start running once he was
22 released?

23 **A** I don't remember him saying that, but he
24 possibly could have. If he did, it didn't register
25 with me.

1 MS. MARTO: No further questions.

2 MR. FOWLER: Can I have a moment?

3 THE COURT: Yes, sir.

4 (A brief pause in the proceedings.)

5 **CROSS-EXAMINATION**

6 **BY MR. FOWLER:**

7 **Q** Basically, you got this the morning of the
8 hearing?

9 **A** Yes.

10 **Q** And I think you said you didn't have any time
11 to talk with him much; is that correct?

12 **A** No. At that time he was at the J. Reuben
13 Long Detention Center. I was here at the
14 courthouse, and we spoke by phone.

15 **Q** In terms of looking at what credits he had,
16 do you recall earlier when we went over his
17 documentation showing that it was perhaps
18 incorrect?

19 **A** Yes.

20 **Q** Just to reiterate, you feel like there was
21 something about failure to mitigate that you feel
22 like you may have missed?

23 **A** In complete candor with the Court, I didn't
24 see as far as the sentences and that he might have
25 15 years. I did not bring that up to the Court,

1 and if I had noticed that, I most certainly would
2 have mentioned it to the judge in mitigation and as
3 far as any time he did in another jurisdiction
4 incarcerated pending him being brought back to
5 Horry County, I would have brought that up.

6 Q To be clear, and I might ask you to repeat
7 this, but you said that you didn't look at any
8 credits or anything he had in another county?

9 A No, I did not.

10 Q And if you had, you would have brought that
11 up to the Court's attention?

12 A Yes.

13 Q And because of that, he is sitting in SCDC on
14 an incorrect sentence; is that correct?

15 A I don't know if it is an incorrect sentence
16 or not. All I can tell you is I did not raise
17 certain issues to the Court that I wish I had.

18 Q Those issues were failure to mitigate?

19 A With regard to his credits that he received
20 from other jurisdictions, and that the portion of
21 the 15 years he already served would not -- he
22 likely wouldn't get credit for that for violating
23 his probation towards the 15-year suspended to that
24 probation.

25 Q It was Judge John?

1 **A** Correct.

2 **Q** And there is nothing in Judge John's actions
3 that day that indicated that Judge John was aware
4 of it?

5 **A** He did not bring it up, and I don't want to
6 go into what his thinking was, but in my notes, I
7 said that he violated him for the remainder of the
8 sentence.

9 **Q** And that, perhaps, would be different if you
10 had mentioned the proper credits and the 15 years
11 already served, correct?

12 **A** I think I should have brought it up, because
13 I think it would have affected, to some degree,
14 what his violation sentence would have been.

15 **Q** Do you have any objection to him having
16 another probation violation hearing?

17 **A** I don't, so that all of the information that
18 should be presented to the Court, is presented to
19 the Court.

20 MR. FOWLER: After speaking with my client,
21 no further questions.

22 THE COURT: All right.

23 MS. MARTO: Nothing further.

24 **EXAMINATION**

25 **BY THE COURT**

1 **Q** Just for clarification, do you think that the
2 seven years, that is what you took to be maximum
3 exposure?

4 **A** Yes.

5 **Q** And that is because of a 20-year and him
6 doing a 13-year stent?

7 **A** The 20 suspended to 15, and then he served
8 85 percent of the 15 at that point when he came out
9 on probation. So I was thinking it was just that
10 five year suspended, plus whatever he hadn't served
11 already.

12 THE COURT: Thank you, sir.

13 MS. MARTO: No further witnesses.

14 (A brief pause in the proceedings.)

15 MR. FOWLER: No closing statement or argument
16 after speaking with my client.

17 THE COURT: All right.

18 MS. MARTO: Judge, we would reiterate the
19 fact that the scope of this hearing is narrow, and
20 credit issues are not recognizable in PCRs, and any
21 issues with the underlying sentence would be
22 properly dealt with in Spartanburg as they had
23 jurisdiction over the original sentence. So right
24 now we're just talking about the probation
25 violation and whether or not Mr. Graustein's advice

1 or what he said at the hearing would have impacted
2 the judge's decision to revoke in full. It is the
3 State's contention that that burden of proof hasn't
4 been met. For that, we request you to deny relief.

5 THE COURT: I understand. I mean, the
6 court's concern is that it is not clear from the
7 transcript that Judge John actually knew that by
8 revoking in full he was, essentially, giving this
9 defendant an extra 15-year sentence, one of which
10 he just finished serving.

11 You know, it is not proper for this hearing,
12 but I'm not sure that even the sentencing judge
13 would have intended for all of these sentences to
14 run concurrent, but in actuality waiting 20 years
15 for a 15-year sentence to begin. I mean, as they
16 indicated on the sentencing form, they were to run
17 concurrent.

18 So given that situation, I think that justice
19 requires that he be entitled to a new hearing for
20 the probation violation where everyone understands
21 that if SCDC is going to take the position that he
22 has a 15-year sentence hanging over his head, the
23 judge should know that, and it ought to be placed
24 on the record and that be considered.

25 Certainly, if the next judge decides that a

1 15-year revocation is what should happen, then that
2 is up to him or her. All right.

3 MR. FOWLER: Do you wish the State to prepare
4 the order?

5 THE COURT: Probably would be -- we would ask
6 you to do that.

7 MR. FOWLER: I'll prepare a short form order
8 based on what you indicated and get it to the State
9 fairly soon.

10 (Whereupon, the proceedings concluded.)
11
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CERTIFICATE OF REPORTER

State of South Carolina)

County of Horry)

I, Natalie Dahl, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Horry County, South Carolina, on the 28th day of November, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 24, 2023

Natalie Dahl, RPR

Registered Professional Reporter

Natalie Dahl, RPR

Court Reporter

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF HORRY)
)
JUSTIN TYLER YOUNG #321679)
Vs.)
)
STATE OF SOUTH CAROLINA)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
CASE NO. 2022-CP-26-04334

ORDER

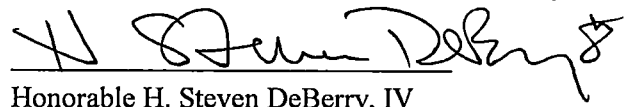
FILED
HORRY COUNTY
2023 JUL 17 P 1:28
RENEE NELLY
CLERK OF COURT
HORRY COUNTY, SC

1. This matter comes before this Honorable Court on Monday, November 28, 2022 before the Honorable H. Steven DeBerry, IV as the presiding judge.
2. Steven W. Fowler, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.
3. In Applicant's application for Post Conviction Relief, filed July 8, 2022, the Applicant stated the following grounds for his allegations that he is being held in custody unlawfully:
 - A. *"The Judge in the original case sentenced me to ATU (Addiction Treatment Unit) but I'm serving 15 years."*
 - B. *"The Judge sentenced me to ATU, but SCDC has me doing 15 years and they say the court is to blame."*
4. The Applicant Justin Tyler Young #321679 and his attorney in the underlying probation hearing, Scott A. Graustein (hereinafter "Graustein"), both provided testimony by direct and cross examination.
5. During the hearing, Graustein was proven ineffective as legal counsel pursuant to Strickland v. Washington, 466 U.S. 668 (1984).
6. In the underlying probation hearing, Graustein failed to make clear to the presiding Judge that the Applicant would receive an active sentence of 15 years in the South Carolina Department of Corrections (hereinafter "SCDC") if Applicant's probation was revoked.
7. This served as prejudicial to the Applicant in that legal representation was ineffective.
8. Applicant has therefore met his requisite burden of proof of establishing ineffective assistance of counsel during this hearing and is entitled to post-conviction relief.

THEREFORE, the following is granted:

1. The Applicant's application for Post Conviction Relief is granted; and
2. This matter is remanded to the Court of General Sessions, State of South Carolina for a probation revocation hearing.

IT IS SO ORDERED


Honorable H. Steven DeBerry, IV
Presiding Judge

This is the 12th day of July, 2023

Florence, South Carolina

APP'X 94

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
	)	
	)	
Justin Tyler Young, #321679,	)	Case # 2022-CP-26-04334
	)	
Applicant,	)	
	)	RESPONDENT'S MOTION TO
v.	)	RECONSIDER, ALTER, OR AMEND
	)	PURSUANT TO RULE 59(e), SCRCF
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

INTRODUCTION

This matter is before the Court by way of an application for post-conviction relief (“PCR”) filed on July 8, 2022, by Justin Tyler Young (“Applicant”). Through that application, Applicant sought relief following the revocation of probationary sentences that stemmed from his May 2007 convictions for multiple distinct Spartanburg County criminal charges.

On October 12, 2022, the State served its return and requested an evidentiary hearing be convened. On November 28, 2022, an evidentiary hearing was conducted on the matter in the Horry County Court of Common Pleas with the Honorable H. Steven DeBerry, IV, circuit court judge, presiding.¹ Applicant was present at the hearing and represented by Steven W. Fowler, Esquire. Assistant Attorney General Chelsey F. Marto from the South Carolina Attorney General’s Office appeared on behalf of the State.

During the course of the hearing, the following individuals presented testimony: (1) Applicant; and (2) Scott A. Graustein, Esquire, who represented Applicant during the probation

¹ To assist with this Court’s consideration of the State’s motion, a copy of the transcript from the PCR evidentiary hearing has been included as Attachment “A.”

revocation proceedings. In addition to testimony from those individuals, the Court was presented with: (1) the transcript from Applicant's October 2021 probation revocation hearing; (2) records from the Horry County Clerk of Court, including the four arrest warrants related to Applicant's probation violations and the four written orders issued by the Honorable Steven H. John, circuit court judge, after he revoked Applicant's probation; (3) records from the Spartanburg County Clerk of Clerk, including Applicant's five indictments along with the five sentencing sheets issued after Applicant pled guilty to his indicted charges in May of 2007; and (4) Applicant's records from the South Carolina Department of Corrections ("SCDC").

At the conclusion of the hearing, this Court expressed an intention to grant relief and asked Applicant's counsel to prepare a proposed order. Thereafter, through an order filed on July 17, 2023, this Court granted Applicant's PCR application and remanded the matter for a new probation revocation hearing. In doing so, this Court found Applicant's counsel at the probation revocation hearing was constitutionally ineffective because he "failed to make clear to the presiding Judge that the Applicant would receive an active sentence of 15 years in the South Carolina Department of Corrections . . . if Applicant's probation was revoked."

Respectfully, the State now moves for this Court to reconsider the matter and alter or amend its judgment pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure. As support for that motion, the State respectfully submits the following:

PROCEDURAL HISTORY

In June of 2006, the Spartanburg County Grand Jury indicted Applicant for one count of first-degree burglary, three counts of armed robbery, and one count of grand larceny in an

amount greater than \$5,000.² (Indictments). On May 7, 2007, Applicant appeared in the Spartanburg County Court of General Sessions and entered guilty pleas to all five indicted offenses. (Sentencing Sheets). The plea judge accepted Appellant's guilty pleas and imposed the following sentences: (1) a twenty-year term of imprisonment suspended to a fifteen-year term of imprisonment to be followed by five years of probation for the first-degree burglary conviction; (2) three concurrent fifteen-year terms of imprisonment that were suspended to five-year terms of probation for the armed robbery convictions; and (3) a concurrent ten-year term of imprisonment that was suspended to a five-year term of probation for grand larceny.^{3 4} (Sentencing Sheets). Based on the sentences imposed, Applicant was committed to SCDC to serve the unsuspended fifteen-year portion of his first-degree burglary sentence, and, pursuant to records that have been obtained from SCDC, Applicant was later released from custody after completing the required portion of that sentence. (SCDC Records).

Following his release from custody, Applicant began serving the terms of probation to which he had been sentenced on all five charges along with the mandatory period of community supervision he was required to serve following his release on the first-degree burglary charge. (Pr. Hrg. Tr. p. 3). Thereafter, two sets of arrest warrants were issued—one set in May of 2020

² For ease of reference, the indictments—which have previously been submitted in this PCR case—have been included with the State's motion as Attachment "B."

³ The sentencing sheets—which, like the indictments, have previously been submitted—have been included with the State's motion as Attachment "C."

⁴ Although there appears to have been some confusion throughout the PCR proceedings concerning the sentences Applicant received on his earlier charges that resulted in him being on probation, the sentencing sheets—which are consistent with the information provided to Judge John at the outset of the probation revocation hearing—unambiguously and accurately reflect the sentences Applicant received for his Spartanburg County offenses, including his suspended sentences for armed robbery and grand larceny. (Pr. Hrg. Tr. p. 3; PCR Tr. p. 3; p. 9; pp. 16-17; pp. 24-25).

and another in February of 2021—for Applicant based on his repeated failure to comply with the conditions of his probation, and those warrants were respectively served upon him in June of 2020 and October of 2021. (Arrest Warrants).

Subsequently, on October 18, 2021, a hearing was conducted before Judge John in the Horry County Court of General Sessions to address Applicant’s multiple violations of the terms of his probation along with his violation of the terms of the community supervision program.⁵ (Pr. Hrg. Tr. p. 1; p. 3). At the outset of that hearing, the probation agent recounted the details of Applicant’s aggregate sentence—including his fifteen-year suspended sentences for the armed robbery convictions—along with the grounds for his probation violations. (Pr. Hrg. Tr. pp. 3-4). Following that, Applicant’s probation counsel spoke on Applicant’s behalf and acknowledged Applicant admitted he had violated the terms of his probation based on his out-of-state arrests and convictions. (Pr. Hrg. Tr. p. 4). Probation counsel further noted Applicant had served approximately thirteen years of his “initial” sentence already. (Pr. Hrg. Tr. p. 4). He then asked Judge John to consider continuing Applicant on probation while ordering him to obtain drug and alcohol treatment as a special condition or, in the alternative, to revoke his probation for a period shorter than the full remaining sentence. (Pr. Hrg. Tr. p. 4). However, based on the violations presented, Judge John indicated he did not believe Applicant was a “good candidate for probation” and ultimately “revoke[d] the rest of [Applicant’s] sentence” with a recommendation for Applicant to be placed in the alcohol treatment unit. (Pr. Hrg. Tr. pp. 4-5). Notably, on the same date, Judge John issued written orders that confirmed his orally-pronounced ruling and expressly indicated he was fully revoking Applicant’s remaining suspended sentence for each

⁵ A copy of the probation revocation hearing transcript has been included with the State’s motion as Attachment “D.”

count of armed robbery in the specific amount of fifteen years and for grand larceny in the specific amount of ten years.⁶ (Probation Orders).

ALLEGATIONS RAISED

In his pro se PCR application, Applicant sought relief solely from the revocation of his probation and alleged he was being held unlawfully based on a single ground. Specifically, Applicant stated: “The judge sentenced me to ATU, but I’m serving 15 years.” As support for that particular allegation, Applicant further averred: “The judge sentenced me to ATU, but SCDC has me doing 15 years and they say the court is to blame.” Meanwhile, Applicant indicated he was seeking the following relief: “For my sentence to be corrected and applied.”

Following the submission of that application, counsel was appointed to Applicant. However, no amendments to the application were subsequently filed, and Applicant proceeded forward without identifying any new grounds aside from the one identified on the application.

SUMMARY OF FACTS ESTABLISHED AT PCR EVIDENTIARY HEARING

During the PCR evidentiary hearing, Applicant testified on his own behalf. (PCR Tr. p. 5). Through his testimony, Applicant expressed a desire for a new probation revocation hearing, and he confirmed his problem was not with the underlying judgment in his case but with the probation revocation hearing itself. (PCR Tr. p. 5; p. 8). Applicant further explained he believed he had only been sentenced to “ATU,” which he interpreted as meaning he merely had to complete a six-month drug treatment program in the “Advanced Treatment Unit,” as a result of

⁶ The written orders detailing Judge John’s ruling—which also have previously been submitted—have been included with the State’s motion as Attachment “E.”

the probation revocation but was now being required to serve a fifteen-year sentence instead, which he suggested was improper because he supposedly had *only* been sentenced to probation for the first-degree burglary conviction alone. (PCR Tr. pp. 8-10). Meanwhile, Applicant repeatedly maintained none of his sentences for the armed robbery convictions had been suspended. (PCR Tr. pp. 16-17; p. 25). Additionally, Applicant stated he “underst[oo]d the sentencing they gave [him] was fair” but asserted his concern was probation counsel did not communicate with him well and should have done “[s]omething” to communicate with him better. (PCR Tr. p. 10). Furthermore, Applicant indicated he believed he was entitled to credit for time he served in Georgia prior to being returned to SCDC custody and for the time he had served in connection to the unsuspended portion of his first-degree burglary conviction. (PCR Tr. pp. 10-11; pp. 20-22). Beyond that, Applicant acknowledged he heard Judge John state he was revoking his probation in full, but Applicant asserted “revoked” in that context did not mean he was required to serve out the rest of his sentence based on his research into the definition of the word. (PCR Tr. pp. 27-28).

In addition to Applicant’s testimony, the State tendered testimony from Applicant’s probation counsel. (PCR Tr. p. 30). Through his testimony, probation counsel indicated he did not understand at the time of the probation revocation hearing Applicant had “15 years hanging over his head” and, instead, mistakenly assumed Applicant’s maximum exposure was only seven years. (PCR Tr. pp. 31-33; p. 37). However, probation counsel explained his current understanding was a full revocation of Applicant’s probation would mean Applicant had to serve a fifteen-year term of imprisonment. (PCR Tr. pp. 31-32). Furthermore, probation counsel explained there was no question going into the hearing Applicant’s probation was going to be revoked because he had no defenses to the violations being alleged. (PCR Tr. p. 32).

Following the presentation of that testimony, PCR counsel did not make any arguments or closing statements on Applicant's behalf. (PCR Tr. p. 37). Conversely, counsel for the State noted any issue with the sentencing credits Applicant had received was not a cognizable claim in the venue of PCR while any issue with Applicant's sentence was not currently before the Court, which meant the scope of the matter actually before the Court was narrow.⁷ (PCR Tr. p. 37). As to that narrow-in-scope matter, counsel for the State argued Applicant had not met his burden of establishing he was entitled to any relief because he did not establish anything done or not done by probation counsel would have impacted Judge John's decision to revoke Applicant's probation in full. (PCR Tr. pp. 37-38).

BASIS UPON WHICH RELIEF HAS BEEN GRANTED BY THIS COURT

At the conclusion of the PCR evidentiary hearing, this Court expressed concern "it was not clear from *the transcript* that Judge John actually knew that by revoking in full he was, essentially, giving [Applicant] an extra 15-year sentence, one of which he just finished serving." (PCR Tr. p. 38) (emphasis added). Accordingly, this Court found justice required a new probation revocation hearing be granted to ensure the judge presiding over the hearing understood and considered the fact Applicant was potentially facing a sentence of up to fifteen years. (PCR Tr. p. 38). In awarding such relief, this Court specifically noted it would certainly

⁷ In Al-Shabazz v. State, 338 S.C. 354, 367, 527 S.E.2d 742, 749 (2000), our Supreme Court explained "aside from two non-collateral matters specifically listed in the PCR Act, PCR is a proper avenue of relief *only when the applicant mounts a collateral attack challenging the validity of his conviction or sentence* as authorized by Section 17-27-20(a)." Furthermore, the Supreme Court indicated "[a] claim regarding sentence-related credits" did not constitute such an attack. Id.

be a decision for that judge to decide whether a revocation of fifteen years was warranted. (PCR Tr. p. 39).

Subsequently, through the order filed on July 17, 2023, this Court confirmed the ruling orally announced at the end of the evidentiary hearing. (Order). In that order, this Court found probation counsel was “proven ineffective as legal counsel pursuant to” the applicable standard. (Order). More specifically, this Court ruled probation counsel “failed to make clear to the presiding Judge that the Applicant would receive an active sentence of 15 years in the South Carolina Department of Correction . . . if Applicant’s probation was revoked.” (Order). Furthermore, this Court concluded that was prejudicial to Applicant without further explanation. (Order). For those reasons, this Court held Applicant met his burden of establishing probation counsel provided ineffective assistance of counsel, and, therefore, this Court granted Applicant’s PCR application and remanded the matter to the court of general sessions for a new probation revocation hearing. (Order).

STANDARD APPLICABLE TO ALLEGATION RAISED

In every criminal case tried in South Carolina, the defendant has a constitutional right to a fair trial. State v. Woods, 345 S.C. 583, 587, 550 S.E.2d 282, 284 (2001); see State v. Harris, 340 S.C. 59, 63, 530 S.E.2d 626, 627 (2000) (“The Sixth and Fourteenth Amendments of the United States Constitution guarantee a defendant a fair trial by a panel of impartial and indifferent jurors.”). Pursuant to that right, the defendant is entitled to effective assistance of trial counsel. McMann v. Richardson, 397 U.S. 759, 771, n. 14 (1970); see Strickland v. Washington, 466 U.S. 668, 685 (1984) (“An accused is entitled to be assisted by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair.”).

Significantly though, effective assistance of trial counsel does not mean perfect or mistake-free representation. Weaver v. Massachusetts, 582 U.S. 286, 300 (2017) see Burt v. Titlow, 571 U.S. 12, 24 (2013) (“[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]”). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. Strickland, 466 U.S. at 687-688. Meanwhile, trial counsel’s assistance is considered to be constitutionally ineffective only when “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” Id. at 686; see Harrington v. Richter, 562 U.S. 86, 110 (2011) (“Representation is constitutionally ineffective only if it so undermined the proper functioning of the adversarial process that the defendant was denied a fair trial.” (citation and internal quotations omitted)).

When faced with a claim of ineffective assistance of trial counsel, a reviewing court must conduct a two-pronged analysis. Franklin v. Catoe, 346 S.C. 563, 570, 552 S.E.2d 718, 722 (2001). Pursuant to that two-pronged analysis, an applicant raising an ineffective assistance of trial counsel claim must establish: (1) counsel’s representation fell below an objective standard of reasonableness; and (2) there is a reasonable probability the outcome of the proceeding would have been different but for counsel’s deficient performance. Williams v. State, 363 S.C. 341, 343, 611 S.E.2d 232, 233 (2005). Thus, the applicant has the heavy burden of establishing both deficiency and prejudice in order to be entitled to relief. Hughes v. State, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); see Stone v. State, 419 S.C. 370, 380, 798 S.E.2d 561, 566 (2017) (instructing “the law requires [a reviewing court to] presume counsel rendered adequate assistance and exercised reasonable professional judgment” and only find to the contrary when the applicant has overcome that presumption by establishing both deficiency and prejudice); see

also Weaver, 582 U.S. at 303 (explaining “the rules governing ineffective-assistance claims must be applied with scrupulous care” (citation and internal quotations omitted)).

Regarding the deficiency prong of the analysis, the proper measure of performance is whether counsel provided representation within the objectively reasonable range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985); see Richter, 562 U.S. at 110 (instructing the proper analysis “calls for an inquiry into the objective reasonableness of counsel’s performance, not counsel’s subjective state of mind”). When analyzing counsel’s performance, the reviewing court will strongly presume counsel provided adequate assistance, and the applicant is responsible for overcoming that presumption. Butler, 286 S.C. at 442, 334 S.E.2d at 814; see Cullen v. Pinholster, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Furthermore, the reviewing court will scrutinize counsel’s performance in a highly deferential manner, will make every effort “to eliminate the distorting effects of hindsight,” and will “evaluate the conduct from counsel’s perspective at the time” in light of the then-existing circumstances. Strickland, 466 U.S. at 689. In order to establish counsel’s performance was deficient, the applicant must demonstrate “counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.” Id. at 687. Thus, counsel’s performance will be considered to be deficient only when it objectively amounted to incompetence under prevailing professional norms and not when it simply “deviated from best practices or most common custom.” Richter, 562 U.S. at 105.

Beyond satisfying the burden required by the deficiency prong, an applicant also bears the burden of establishing prejudice in order to be entitled to relief as “[a]n error by counsel,

even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment.”⁸ Strickland, 466 U.S. at 691. In order for that burden to be met, counsel’s deficient performance must have prejudiced the applicant to such an extent there is a reasonable probability the result of the proceeding would have been different but for counsel’s unprofessional errors. Cherry v. State, 300 S.C. 115, 117-118, 386 S.E.2d 624, 625 (1989); see Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (“To establish a claim of ineffective assistance of trial counsel, a PCR applicant has the burden of proving counsel’s representation fell below an objective standard of reasonableness and, but for counsel’s errors, there is a reasonable probability the result at trial would have been different.”). Importantly, “[t]he likelihood of a different result must be substantial, not just conceivable.” Richter, 562 U.S. at 112; see Strickland, 466 U.S. at 694 (“A reasonable probability is a probability sufficient to undermine confidence in the outcome.”).

Relatedly, any individual charged with a probation violation in South Carolina has a right to counsel. Turner v. State, 384 S.C. 451, 454, 682 S.E.2d 792, 793 (2009); see Barlet v. State, 288 S.C. 481, 483, 343 S.E.2d 620, 622 (1986) (recognizing the right to counsel in probation revocation hearings in South Carolina). Accordingly, the same analysis for evaluating claims of ineffective assistance of trial counsel is applicable in South Carolina to claims of ineffective assistance of probation counsel. See Turner, 384 S.C. at 455, 682 S.E.2d at 694 (“[B]ecause a probationer has a right to counsel, albeit not a Sixth Amendment right, the same analysis for ineffectiveness that applies in other PCR proceedings involving claims against counsel should,

⁸ Notably, “a court need not determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies.” Strickland, 466 U.S. at 697. In fact, a reviewing court ordinarily should dispose of an ineffective assistance of counsel claim on the grounds of lack of sufficient prejudice “[i]f it is easier” to do so. Id.

by analogy, apply in PCR proceedings involving claims against probation counsel.”). Pursuant to that analysis, the applicant bears the burden of proving both deficiency and prejudice in order to be entitled to a grant of relief. Id. at 453, 682 S.E.2d at 793.

GROUND S WARRANTING RECONSIDERATION OF JUDGMENT RENDERED

In granting relief to Applicant, this Court—while referencing the probation revocation hearing transcript—found probation counsel was proven to have been constitutionally ineffective because he did not make clear to Judge John a fifteen-year sentence would result if Applicant’s probation was revoked and, thus, it was not clear Judge John actually understood and considered that fact when revoking Applicant’s probation in full. Importantly though, even assuming probation counsel could or should have done something more to clarify for Judge John what the impact of a full revocation of Applicant’s probation would be, the record—contrary to this Court’s conclusion—conclusively shows Judge John was indeed fully aware he was imposing an aggregate fifteen-year sentence by revoking Applicant’s probation in full on the grand larceny and armed robbery charges.

Demonstrating that fact, Judge John—after orally revoking Applicant’s probation during the probation revocation hearing—issued on the same day four written orders confirming his announced decision. And, in those written orders, Judge John specifically identified the number of years he intended Applicant to “be required to serve” as fifteen years for each of the armed robbery convictions and ten years for the grand larceny conviction. (Probation Orders). Furthermore, in those same orders, Judge John explicitly did *not* check the box for Applicant to receive any credit for “initial SCDC time” because Applicant had not yet actually served any time on the suspended sentences that he has now been ordered to serve as a result of his

probation violations based on the plain mandates of South Carolina law. See S.C. Code Ann. § 24-13-40 (“The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence. *However*, when (a) a prisoner shall have given notice of intention to appeal, (b) *the commencement of the service of the sentence follows the revocation of probation*, or (c) the court shall have designated a specific time for the commencement of the service of the sentence, the computation of the time served *must be calculated from the date of the commencement of the service of the sentence.*” (emphasis added)); see also Gates v. Wallace, 278 S.C. 214, 216, 294 S.E.2d 41, 42 (1982) (“[W]e hold that the trial court correctly interpreted Section 24-13-40 of the Code by ruling that appellant is not entitled to credit toward computation of parole eligibility for time served prior to the revocation of the suspended sentence.”).

Since Judge John was, in fact, fully aware of the number of years Applicant would be required to serve as a result of his decision to revoke Applicant’s probation in full at the time he issued that decision, Applicant could not have suffered—and could not prove he suffered—any prejudice sufficient to warrant a grant of relief even assuming Applicant’s probation counsel’s performance was somehow constitutionally deficient. Cf. Wolfe v. State, 326 S.C. 158, 164, 485 S.E.2d 367, 370 (1997) (instructing an applicant is not entitled to a grant of PCR based on erroneous advice provided by counsel when any possible misconceptions that occurred as a result of that advice were subsequently corrected and cured by what occurred during the colloquy with the judge); Rayford v. State, 314 S.C. 46, 48, 443 S.E.2d 805, 806 (1994) (reversing a grant of relief where the record “clearly establishes that Rayford could not have had any misconceptions regarding sentencing”). Accordingly, Applicant should not have been granted relief as he did not meet his burden of proof, and this Court should respectfully reconsider its

findings and alter its decision to grant relief in Applicant's case because its findings are contrary to and refuted by the evidence in the record. See Holland v. State, 322 S.C. 111, 113, 470 S.E.2d 378, 379 (1996) (“[T]his Court will not uphold the findings of a PCR court if no probative evidence supports those findings.”); cf. Moorehead v. State, 329 S.C. 329, 333, 496 S.E.2d 415, 417 (1998) (concluding “there is no evidence to support the PCR judge’s finding that respondent received ineffective assistance of counsel” when any possible misconception caused by counsel’s actions was demonstrated to have been cured by the record).

CONCLUSION

For all the foregoing reasons, the State asks this Court to reconsider its prior ruling, alter or amend its judgment pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, find Applicant failed to meet his burden of proving he was entitled to a grant of relief, and deny and dismiss his application.

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Assistant Deputy Attorney General



By: _____
Mark R. Farthing
S.C. Bar Number 76901

July 27, 2023

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	
	)	
	)	2022-CP-26-04334
Justin Tyler Young, #321679	)	
	)	
Applicant,	)	
	)	
vs	)	CERTIFICATE OF SERVICE BY MAIL
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of Respondent's Motion to Reconsider, Alter, or Amend Pursuant to Rule 59(e), SCRCP in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Steven Willard Fowler, Esquire
730 Main Street, Unit #237
North Myrtle Beach, SC 29582

DATED this 27th day of July 2023.



 Dellene Lizama, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Justin Tyler Young,
Applicant,

vs.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS

ORDER

2022-CP-26-04334

REHEE H. ELYS
CLERK OF COURT
HORRY COUNTY, SC

2023 SEP - 5 P 1:56

FILED
HORRY COUNTY

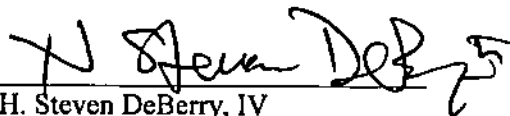
The Respondent, State of South Carolina, requests the Court to reconsider the Order dated and filed on July 17, 2023, in the Horry County Clerk of Court's office.

Having duly considered the motion of the Respondent, this Court has determined that its original ruling of July 17, 2023, is fully supported by the law and the evidence and is hereby ratified and reconfirmed. The motion is therefore DENIED.

AND IT IS SO ORDERED.

Florence, South Carolina

Dated: 8/31/2023


H. Steven DeBerry, IV
Presiding Circuit Court Judge

APP'X 110