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JUL 22 2013

S.C. SUPREME COURT

Gary L. Hayes
114 Pinecreek Court Ext.
Greenville, S.C. 29605

Honorable Daniel Shearouse
Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, S.C. 29211

Dear Mr. Shearouse,

Please find enclosed with this letter a copy of my brief for filing with your office. I am also including an extra copy of the cover sheet will you please clock stamp it and return it to me in the enclosed self addressed envelope I am also sending?

PLEASE NOTE THE CHANGE IN MY ADDRESS.

Thank you,

Gary L. Hayes

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

GEORGETOWN COUNTY

CASE NO. 2012-CP-1167

Gary Leroy Hayes,.....Petitioner, pro se,

v.

State of South Carolina,.....Respondent.

PETITIONER'S INITIAL BRIEF ON APPEAL

State's Attorney:

Tyson A. Johnson, Sr.
Assistant Attorney General
P.O. Box 11549

Petitioner, pro se:

Gary L. Hayes
114 Pinecreek Court Ext.
Greenville, S.C. 29609

Petitioner (Hayes) makes his INITIAL BRIEF ON APPEAL IN CASE No: 2012-CP-22-1167.

HISTORY OF CASE

Hayes was arrested in January 1998, and remained in jail until his trial in January 2000, where he was found guilty of voluntary manslaughter and sentenced to fifteen (15) years.

Hayes was released on the Community Supervision Program (CSP) October 1, 2010. On August 31, 2012, Hayes was sentenced to one (1) year in the Department of Corrections for a community supervision violation. See attached community supervision revocation order.

On October 26, 2012, Hayes filed an Application for Post Conviction Relief (PCR) alleging the one year sentence for the community supervision violation extends his incarceration beyond the fifteen years he was originally sentenced by the Circuit Court.

On June 13, 2013, Hayes was served with a final order of dismissal in his PCR denying relief.

QUESTION FOR THE COURT

Did the lower court err in denying Hayes relief in his PCR?

ALLEGATION

Hayes alleges the one year sentence for community supervision violation extends his sentence beyond the fifteen years he was originally sentenced in violation of S.C. Code 24-21-560, State v. McGrier, 378 S.C. 320, 663 S.E.2d 15(2008) and State v. Picklesimer, 388 S.C. 264, 695 S.E.2d 845(2010).

STATE OF SOUTH CAROLINA

COUNTY OF Georgetown

STATE _____

VS.

Gary Leroy Hayes

AKA: _____

Race: W

Sex: M

DOB: 02-13-55

Age: _____

SSN: 441-58-7999

DL#: _____

SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: _____

26391

98-GS-22-839

A/W#: F757213

Date of Offense: 1-12-98

S.C. Code § : _____

CDR Code #: 011116

SENTENCE

PLEA

TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO:

Voluntary manslaughter

in violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 012-1117

NON-VIOLENT

VIOLENT

SERIOUS

MOST SERIOUS

17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

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 _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The Defendant is to be given credit for _____ days/months/jail time from 23, 1992

CONCURRENT or CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered

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

Payment Terms: _____

set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 - Assessments 100%..... \$ _____

§ 14-1-211 - Surcharge..... \$ 100.00

(Exceptions: See § 14-1-211)

§ 56-5-2995 (DUI)..... \$ _____

County (3%)..... \$ 3.00

TOTAL..... \$ 103.00

Clerk of Court/Deputy Clerk Bonnie Goudie

Court Reporter: Grace Hurdley

PTUP _____
_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc Rehab. or Job Corps _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 30 days after

\$ _____ paid to Public Defender Fund. Release

Other: _____

PRESIDING JUDGE Howard P King

Judge Code: 11017

Sentence Date: Jan 27, 2000

State of South Carolina

County of Georgetown

IN THE COURT OF GENERAL SESSIONS

No. 89-GS-22-839 1/cc

State

Community Supervision

-vs-

REVOCATION ORDER

Defendant Gary Leroy Hayes

SID# 01300776

SCDC# or DOB 263985

This matter was brought before me on the 30th day of August, 2012, pursuant to warrant/citation (strike one) 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 not be continued in the Community Supervision Program under its current terms or under other terms and conditions.

IT IS ORDERED that the Defendant be in the custody of the South Carolina Department of Corrections for a term of _____ days _____ months One (1) year (total may not exceed one (1) year).

This 30th day of August, 2012
Georgetown SC

[Signature] 2012
Presiding Judge
15th Judicial Cir

I have received a copy of this order.

Offender's Signature

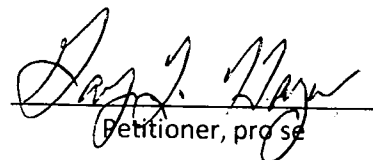
Offender's Date

CERTIFICATE OF SERVICE

I, Gary L. Hayes, do hereby certify that on this date I served a true and correct copy of the foregoing document(s) on the below listed individual(s) by placing the same in the U.S. mail, postage prepaid and sent to their last known address as follows:

Daniel E. Shearouse
Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, S.C. 29211

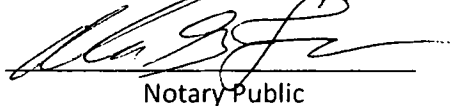
Tyson A. Johnson, Sr.
Assistant Attorney General
P.O. Box 11549
Columbia, S.C. 29211


Petitioner, pro se

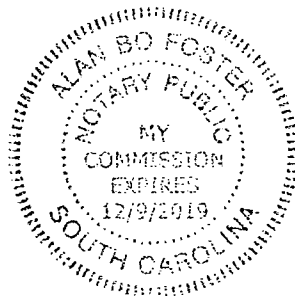
Gary L. Hayes
114 Pinecreek Court ext.
Greenville, S.C. 29605

SWORN to and subscribed before me

This 13 day of July, 2013

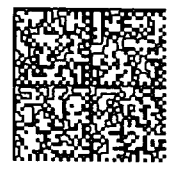

Notary Public

My commission expires: 12/9/19



STANLEY L. HAYES
1111 RIVERCHASE COURT EXT.
GREENVILLE S.C. 29603

HON. DANIEL E. SHEPHERD
CLERK OF COURT
S.C. SUPREME COURT
P.O. BOX 11330
COLUMBIA, S.C. 29211



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