

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of RICHLAND  
STATE VS

Indictment Number:  
13 - GS - 40 - 05309

DAVID LAMBERT

Probation C/W#s & issuance dates:  
W-40-21-0310 ; 10/27/21

AKA: \_\_\_\_\_

Name of Original Offense: Voluntary Manslaughter

Race: W Sex: M

Original A/W#: 2012A4010200926

DOB: \_\_\_\_\_

Date of Original Offense: 9/20/2012

SSN: \_\_\_\_\_

Conviction S.C. Code §: 16-03-0050

SID#: 00858198

Conviction CDR Code #: 0 1 2 1 1 7

Original Sentence: 12 YRS SS 7 YRS + 5 YRS PROB

OCT 30 2023  
ORDER

SC Court of Appeals

The above named defendant has been charged with violating the conditions of probation ordered on 10 / 1 / 15 in the Court of General Sessions of RICHLAND County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 8/13/21, as set forth in the attached warrant(s) or citation(s). 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, 7, 9, 10 + SC

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve the remainder of the original sentence.
- the suspended sentence be partially revoked and the above named defendant be required to serve \_\_\_\_\_ days/months/years of the original sentence; and
  - Terminate the balance of probation.
  - Continue/reinstate probation, subject to the conditions set forth in the original sentence 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.
- Financial Obligations: Order satisfies:
  - Department fees (arrearage)
  - Fines and other fees (arrearage / balance) (restructure)
  - Restitution (and 20%) (arrearage / balance)
 Civil judgment:
  - Department fees
  - Fines and other fees
  - Restitution (and 20%)
- Additional Conditions ordered by the Court (Jail time credits should not be reported in this section):  
Set DACOR to \$50/per month.

- The defendant is given credit for \_\_\_\_\_ days/months/years of 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 \_\_\_\_\_ days/months/years of Hayes credit (N/A if defendant has served prior SCDC time).
- No pre-revocation hearing detention time to be awarded because a citation was issued.
- The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 22 day of Sept, 23,  
Columbia, SC

Joseph Newman  
Presiding Judge 5TH S/ J. NEWMAN  
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  
David Lambert  
Signed this 22 day of Sept, 23 at \_\_\_\_\_ SC  
Day Month Year City

Witnessed by GPO  
\_\_\_\_\_ SC  
City

13/530

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF GENERAL SESSIONS  
FIFTH JUDICIAL CIRCUIT

State of South Carolina, )

Indictment Number: 2013-GS-40-05309  
Probation Warrant No. W-40-21-0310

v. )

Order Denying the Motion of the Defendant  
to Dismiss the Probation Arrest Warrant

David Lambert, )  
Defendant. )

RECEIVED

OCT 30 2023

SC Court of Appeals

RICHLAND COUNTY  
FILED  
2023 JUN 13 AM 9:54  
JEANETTE W. MERRISE  
C.C.P. O.S. SEC.

This matter is before the Court on the motion of Defendant to dismiss the probation arrest warrant pursuant to S.C. Code Section 24-21-560(E) and *State v. Picklesimer*, 388 S.C. 64, 695 S.E.2d 845 (2010). For the reasons outlined below, the Court dismisses the motion and authorizes the Department of Probation, Parole and Pardon Services (the Department) to proceed with a violation hearing.

Procedural History

Defendant David Lambert pled to the offense of voluntary manslaughter on October 1, 2015, before the Honorable Robert E. Hood. Judge Hood sentenced him to twelve years provided upon the service of seven years, with the balance suspended to five years of probation. As a condition of that sentence, Defendant was required to pay \$9,400.00 in restitution.

Defendant was released from the Department of Corrections on August 1, 2018, and started a term of community supervision program (CSP), pursuant to the mandatory requirements of S.C. Code 24-21-560. Per the authorization of Section 24-21-560(B) and the sentence of Judge Hood, ordering restitution, the Department imposed restitution payments as a condition of CSP.

Defendant's CSP ended unsuccessfully on July 31, 2020, due to his failure to pay his restitution amount in full. Consequently, the Department initiated Defendant's term of probation, which began on August 1, 2020.

Prior to the current probation violation warrant, Defendant had previously fallen behind on his financial obligations, resulting in the Department issuing financial citation C-40-21-0041 on March 10, 2021. That matter was addressed by the Honorable Jocelyn Newman on August 13, 2021, wherein probation was continued and his financial obligations were restructured.

The Department subsequently issued the warrant at issue on October 27, 2021, alleging Defendant had absconded supervision, as well as being in arrears on his financial obligations. Agents served the warrant upon Defendant on September 26, 2022, after the Camden Police Department located and arrested him.

On December 5, 2022, the Defendant appeared before the court for the violation hearing represented by Public Defender Makenzie Thomas of the Fifth Circuit Public Defender's Office. The State was represented by Agent George Jimenez and General Counsel Matthew Buchanan. Defendant presented his motion to dismiss along with a memorandum of law at the hearing. The Court at the time took the matter under advisement. The Department provided its memorandum of law the same day of the hearing, and Defendant provided his response on December 8, 2022.

### Analysis

Defendant argued that according to *State v. Picklesimer*, 388 S.C. 64, 695 S.E.2d 845 (2010), and Section 24-21-560(E), his sentence should have been considered satisfied upon completion of his CSP without any violations, and therefore he should not be on probation or any form of supervision. Subsection (E) states, "A prisoner who successfully completes a community

supervision program pursuant to this section has satisfied his sentence and must be discharged from his sentence.”

The Department, in response, argued that because Defendant did not pay his restitution in full at the conclusion of his term of CSP, he did not successfully complete CSP. Therefore, the Department properly instated his probationary term.

Defendant argued that “successful completion” of CSP is defined in *Picklesimer* as “the completion of a maximum of two continuous years of CSP, as mandated by section 24-21-560(B), without any violations or revocations, or a determination by the Department that a defendant has fulfilled his CSP responsibilities prior to two years service in the program.” *Id.* at 264, 695 S.E.2d at 845.

The Department argued the more appropriate case is *State v. Dawkins*, 352 S.C. 162, 573 S.E.2d 783 (2002). In *Dawkins*, a similar set of facts was before our Supreme Court as the present case. Dawkins was released to CSP, completed it, and then began his ordered term of probation. Under the clear terms of Section 24-21-560(E), the Supreme Court held that Dawkins’ sentence, and any residual probation, was satisfied upon the successful completion of CSP.

The Court notes that the question of unpaid restitution is not present in either *Picklesimer* or *Dawkins*. Here, because Defendant failed to pay his ordered restitution in full by the end of his CSP, the Court agrees with Department that he did not successfully complete his supervision.

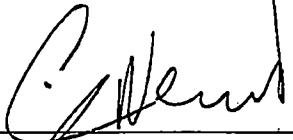
The term “successfully” is not to be ignored. The Supreme Court in *Dawkins* chose to emphasize that word when it said, “Accordingly, Dawkins’ sentence, including probation, is discharged upon *successful* completion of the CSP.” *Id.* at 167, 573 S.E.2d at 785 (emphasis in original).

The Court does not agree with Defendant that he successfully completed CSP. Judge Hood suspended a portion of the original sentence and ordered a five-year term of probation and required that he pay restitution to the family of the victim. Defendant had the opportunity to end his sentence early by successfully completing CSP and paying the restitution amount owed in full. In failing to do so, this Court finds his CSP was not completed successfully, after which his ordered probation was required to begin. Therefore, Defendant was responsible to comply with the terms and conditions of probation, and is subject to violation proceedings upon the allegation of violations by the Department.

Therefore, Defendant's motion to dismiss the probation warrant is DENIED.

IT IS SO ORDERED

Columbia, South Carolina  
June 8, 2023



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Clifton Newman  
Presiding Judge  
Court of General Sessions  
Fifth Judicial Circuit