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**Jul 18 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Edgefield County

Honorable Debra R. McCaslin, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

RUSSELL LEWIS WALKER,

APPELLANT.

APPELLATE CASE NO. 2024-000643

---

ANDERS BRIEF OF APPELLANT

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WANDA H. CARTER  
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

The plea judge erred in summarily revoking appellant's bond sua sponte and issuing a permanent restraining order against appellant also sua sponte sans the full requisite hearings into both matters.

## STATEMENT OF THE CASE

Appellant Russell L. Walker pled guilty to resisting arrest (S.C. Code Ann. §16-9-320(A)) and second degree assault and battery on April 10, 2024, at the Edgefield County General Sessions Court before Judge Debra R. McCaslin. Appellant was sentenced to imprisonment for a period of three years, suspended upon the service of probation for one year. Also, a pre-trial motion hearing was held on April 9, 2024, before Judge McCaslin. Attorney Derek Chiarenza represented appellant at the hearing and plea proceeding, and Assistant Solicitors Dante Esponzo and Doug Fender prosecuted appellant. Appellant appealed. This brief follows.

## **STANDARD OF REVIEW**

An appellate court reviews the circuit court's ruling on the forfeiture or remission of bail for abuse of discretion. State v. McClinton, 369 S.C. 167, 631 S.E.2d 895 (2006).

## ARGUMENT

The plea judge erred in summarily revoking appellant's bond sua sponte and issuing a permanent restraining order against appellant also sua sponte sans the full requisite hearings into both matters.

Appellant was arrested and charged with assault upon Christina James, which allegedly occurred on July 20, 2021, in Edgefield County, South Carolina. Minutes after the close of the motion hearing held on the day before the plea proceeding, the plea judge called appellant and counsel back into court per a report that appellant had texted James on that same morning in violation of a condition of his bond. Despite counsel's objections to a bond revocation on the ground that no paperwork had been filed (nor the fact that a proper and full hearing had not been scheduled), the plea judge summarily revoked appellant's bond. R. 20, l. 5 – p. 24, l. 23. In addition, the plea judge issued a permanent restraining order against appellant prohibiting any contact with James at the close of the plea proceeding held in the case. R. 31, l. 12 – p. 33, l. 4.

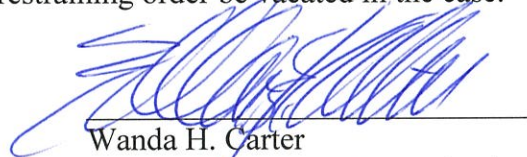
Any person charged with a noncapital offense shall be ordered released pending trial on his own recognizance in an amount specified by the court; and the court may impose certain conditions of bond upon a defendant. See S. C. Code Ann. §17-15-10 (Supp 2012). See also State v. Palicoa, 402 S.C. 547, 741 S.E.2d 774 (2013). If the defendant defaults on the conditions of the bond, then the court shall issue a bench warrant and the state must issue a notice to summons in the matter. See S.C. Code Ann §17-15-170 (Supp 2012). The clear implication is that a hearing is required in order for the defendant to answer in the matter. See S.C. Code. Ann. §17-15-180 (1976). Compare, Ex Parte Polk, 354 S.C. 8, 579 S.E.2d 329 (Ct. App. 2007). Additionally, under S.C. Code Ann. §16-3-1910 (Supp. 2015), there must be a **request** for a

permanent restraining order and a determination as to the time period for which the order would remain in effect along with a rule to show cause hearing as well.

In the case at bar, the plea judge erred in failing to follow the proper procedures regarding hearings, warrants, motions, affidavits, and requests, all of which were necessary steps to undertake before issuing restraining and bond revocation orders. The plea judge erred in summarily issuing the orders at issue sua sponte in the case.

**CONCLUSION**

Based on the foregoing argument, counsel for appellant would request that the bond revocation order be stricken and permanent restraining order be vacated in the case.



---

Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 18th day of July, 2024.

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PETITION TO BE RELIEVED AS COUNSEL


---

Counsel for Russell Lewis Walker states:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Debra R. McCaslin, which was held on April 9-10, 2024, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Russell Lewis Walker.

Respectfully Submitted,



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Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 18th day of July, 2024.

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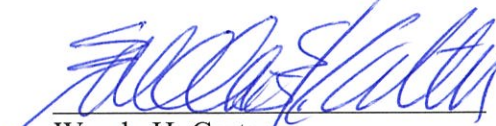
APPELLATE CASE NO. 2024-000643  
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**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**  
\_\_\_\_\_

Appellant proposes the following be included in the Record on Appeal:

- (1) Entire Transcript dated April 9-10, 2024
- (2) Notice of Appeal
- (3) Indictments/Sentencing Sheets.

I certify that this designation contains no matter which is irrelevant to this appeal.

  
\_\_\_\_\_  
Wanda H. Carter  
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

This 18th day of July, 2024.

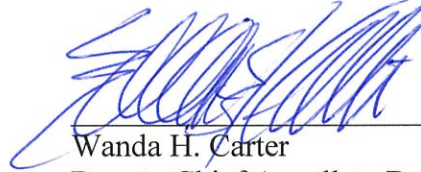
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**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”



Wanda H. Carter  
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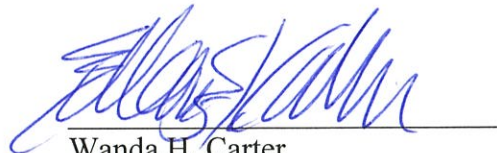
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CERTIFICATE OF SERVICE

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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Russell Lewis Walker at 714 Spearhead Ct., North Augusta, SC 29860, this 18th day of July, 2024.



Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT