

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals
APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

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SC Court of Appeals

Appellate Case No. 2024-001992

The Honorable Jennifer McCoy, Circuit Court Judge

State of South Carolina.....Respondent,

v.

Casey Lee Combs.....Appellant.

FINAL REPLY BRIEF OF APPELLANT

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 The circuit court abused its discretion when it revoked Appellant’s probation in full
 and without making any material findings of fact or applying any standard of review.
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ARGUMENT

The circuit court abused its discretion when it revoked Appellant’s probation in full and without making any material findings of fact or applying any standard of review.

This case has far-reaching consequences for probationers in this state. Here, without making any findings of fact or applying any stated legal standard, a judge revoked a probation sentence in full, requiring a probationer to spend the next 10 years of his life in prison. It is not too onerous a burden on our court system to require judges to specifically articulate the bases upon which probation is revoked and a particular sentence imposed. The judge here imposed a 10-year sentence based on the mere fact of a re-arrest. While we do not have a state case directly on point, other states, which counsel provides in the initial brief, find a judge abuses its discretion when it revokes probation on just this kind of basis. The State argues that it is not relevant that the basis of the new arrest was “hotly contested” but that is not accurate. It is probative to show that perhaps the judge should not so carelessly rely on the new arrest as a basis to revoke the probation. South Carolina courts recognize that probationers have a liberty interest in being placed on probation and that requires that a revocation not be based on whim or caprice. *State v. Allen*, 370 S.C. 88, 634 S.E.2d 653 (2006); *State v. White*, 218 S.C. 130, 61 S.E.2d 754 (1950). Without any findings of fact or the applicable of any standard of review, it is manifestly impossible for appellate courts to determine where a probationer has been subject to that level of legal error. “While probation is a matter of grace, the probationer is entitled to fair treatment, and is not to be made a victim of whim or caprice.” *Id.* at 218 S.C. 136, 61 S.E.3d 756. Due process requires more than what occurred in this case. The Court should reverse and remand for a new probation violation hearing.

CONCLUSION

This Court should remand for a new probation violation hearing.

Respectfully submitted,

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