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Aug 29 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County

S. B. Doby, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KAHMIL KEVY COOPER,

APPELLANT

APPELLATE CASE NO. 2025-000182

ANDERS BRIEF OF APPELLANT

LARA M. CAUDY
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS..... i

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUE ON APPEAL.....1

STATEMENT OF THE CASE.....2

STANDARD OF REVIEW3

ARGUMENT

The trial court abused its discretion by revoking Appellant’s probation when the state failed to present sufficient evidence Appellant violated the conditions of his probation.4

CONCLUSION.....7

PETITION TO BE RELIEVED AS COUNSEL8

TABLE OF AUTHORITIES

Cases

Fontaine v. Peitz, 291 S.C. 536, 354 S.E.2d 565 (1987) 3

S.E.C. v. TheStreet.Com, 273 F.3d 222 (2d Cir. 2001)..... 3

State v. Allen, 370 S.C. 88, 634 S.E.2d 653 (2006) 3

State v. Hamilton, 333 S.C. 642, 511 S.E.2d 94 (Ct. App. 1999)..... 3, 5

State v. King, 221 S.C. 68, 69 S.E.2d 123 (1952) 3

State v. Miller, 122 S.C. 468, 115 S.E. 742 (1923) 3

State v. Proctor, 345 S.C. 299, 546 S.E.2d 673 (Ct. App. 2001)..... 3

State v. White, 218 S.C. 130, 61 S.E.2d 754 (1950)..... 3, 5

State v. Williamson, 356 S.C. 507, 589 S.E.2d 787 (Ct. App. 2003)..... 5, 6

STATEMENT OF ISSUE ON APPEAL

Did the trial court abuse its discretion by revoking Appellant's probation when the state failed to present sufficient evidence Appellant violated the conditions of his probation?

STATEMENT OF THE CASE

On April 20, 2023, Appellant waived presentment to the Florence County grand jury and pled guilty before the Honorable Michael G. Nettles to stalking. Appellant was sentenced to five years suspended upon the service of eighteen months imprisonment and two years' probation. R. 34-37.

On August 29, 2024, Appellant was charged in Horry County with violating the conditions of his probation. R. 30-32. A probation revocation hearing was held on January 15, 2025, before the Honorable S.B. Doby. R. 1. Clay Pinkerton represented Appellant. Agent Taylor Chandler appeared on behalf of the Department of Probation, Parole, and Pardon services. R. 1. At the conclusion of the hearing, Judge Doby revoked Appellant's probation and ordered Appellant to serve the remainder of his original sentence. R. 33.

This appeal follows.

STANDARD OF REVIEW

“The determination of whether to revoke probation in whole or part rests within the sound discretion of the trial court.” State v. Allen, 370 S.C. 88, 94, 634 S.E.2d 653, 655-56 (2006) (citing State v. Miller, 122 S.C. 468, 474-75, 115 S.E. 742, 745 (1923) and State v. Proctor, 345 S.C. 299, 301, 546 S.E.2d 673, 674 (Ct. App. 2001)). “The trial court must determine whether the State has presented sufficient evidence to establish that a probationer has violated the conditions of his probation.” Id. (citing State v. King, 221 S.C. 68, 73, 69 S.E.2d 123, 125 (1952); State v. White, 218 S.C. 130, 135, 61 S.E.2d 754, 756 (1950); and State v. Hamilton, 333 S.C. 642, 648-49, 511 S.E.2d 94, 97 (Ct. App. 1999)). “An appellate court will not reverse the trial court’s decision unless that court abused its discretion.” Id. at 94, 634 S.E.2d at 656 (citing White, 218 S.C. at 135, 61 S.E.2d at 756 and Hamilton, 333 S.C. at 647, 511 S.E.2d at 96).

“An abuse of discretion occurs when the trial court’s ruling is based upon an error of law, such as application of the wrong legal principle; or, when based upon factual conclusions, the ruling is without evidentiary support; or, when the trial court is vested with discretion, but the ruling reveals no discretion was exercised; or when the ruling does not fall within the range of permissible decisions applicable in a particular case, such that it may be deemed arbitrary and capricious.” Id. (citing Fontaine v. Peitz, 291 S.C. 536, 539, 354 S.E.2d 565, 566 (1987) and S.E.C. v. TheStreet.Com, 273 F.3d 222, 229 n. 6 (2d Cir. 2001)).

ARGUMENT

The trial court abused its discretion by revoking Appellant's probation when the state failed to present sufficient evidence Appellant violated the conditions of his probation.

Relevant Facts

At the beginning of the revocation hearing, Agent Chandler alleged Appellant violated the conditions of his probation by (1) failing to report for a telephone check-in on July 16, 2024; (2) failing to be present for a home visit on August 22, 2024; (3) failing to refrain from drug use where he tested positive for THC on August 29, 2024; (4) failing to maintain employment; (5) failing to notify his agent of his arrest on July 10, 2024, for trafficking fentanyl and other drug related offenses; and (6) failing to notify his agent of his arrest on August 26, 2024, for another drug distribution charge. R. 4, l. 11 – 5, l. 5. The agent also alleged Appellant had contact with the mother of the victim of his stalking conviction after being ordered to have no contact with the victim's family on May 29, 2024. The victim of Appellant's stalking conviction, Deziray Davis, is the mother of his three children. The agent alleged Appellant sent threatening messages to Deziary's mother, the grandmother of his children, on Facebook. R. 5, ll. 8-16; R. 10, l. 16 – 12, l. 4. The victim's mother, Lakeya Davis, signed two affidavits attesting to the alleged contact. See R. 27-28.

Appellant denied violating any conditions of his probation. He admitted to having contact with Deziray Davis, the original victim of his stalking conviction, as they coparented their children. However, the state did not charge Appellant with having contact with Deziray as a part of the current "citation and violation report." R. 9, l. 22 – 12, l. 23.

Lakeya Davis told the court that Appellant allegedly sent her a "slew" of messages on Facebook threatening and harassing her after he was ordered to have no contact with her. R. 15,

l. 2 – 16, l. 22. Deziray Davis, Lakeya’s daughter and the mother of Appellant’s children, spoke on Appellant’s behalf and told the court that she did not think Appellant should go to jail and that they “take care of [their] kids” together. R. 17, l. 11 – 18, l. 14.

Defense counsel emphasized that Appellant’s new charges were still pending and there was no evidence verifying that Appellant was the person who sent the Facebook messages to Lakeya. He requested the court not to revoke Appellant’s probation. R. 20, ll. 4-15.

The trial court found the “allegations” that Appellant violated the conditions of his probation were “proven true.” The court concluded Appellant substantially and willfully violated his probation. Consequently, the court revoked Appellant’s probation and ordered him to serve the remainder of his original sentence, which was three and a half years. R. 24, ll. 4-18.

Discussion

The trial court abused its discretion by revoking Appellant’s probation when the state failed to present sufficient evidence Appellant violated the conditions of his probation.

“Probation is a matter of grace; revocation is the means to enforce the conditions of probation.” State v. Williamson, 356 S.C. 507, 510, 589 S.E.2d 787, 788 (Ct. App. 2003) (quoting State v. Hamilton, 33 S.C. 642, 648, 511 S.E.2d 94, 97 (Ct. App. 1999)) (internal quotation marks omitted). “However, the authority of the court to revoke probation may not be capriciously or arbitrarily exercised, but should always be predicated upon an evidentiary showing of fact tending to establish violation of the conditions.” Id. (citing State v. White, 218 S.C. 130, 135, 61 S.E.2d 754, 756 (1950)). “Before revoking probation, the circuit judge must determine if there is sufficient evidence to establish that the probationer has violated his probation conditions.” Id. (quoting Hamilton, 333 S.C. at 648–49, 511 S.E.2d at 97) (internal quotation marks omitted).

In Williamson, the defendant was arrested for criminal domestic violence of a high and aggravated nature. As a result of his arrest, he was charged with violating the conditions of his probation. The trial court, relying largely on the complainant's affidavit and photographs of her injuries, found Williamson had violated his probation and revoked a portion of his suspended sentence. Id. at 509, 589 S.E.2d at 788. Williamson argued on appeal that there was an insufficient evidentiary basis to establish that he had violated the conditions of his probation because he had not been convicted of the criminal domestic violence charge. Id. at 509-10, 589 S.E.2d at 788. This Court disagreed.

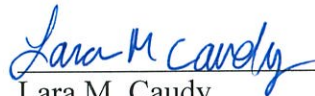
The Court held the trial court did not abuse its discretion when it revoked Williamson's probation because there was a sufficient evidentiary basis to support the finding that Williamson committed an act of violence against his mother. In support of its holding, this Court emphasized that during the revocation rehearing, the state introduced the mother's affidavit, her voluntary statement, and photographs of her injuries. In the documents, the mother stated Williamson had cut her on the arm with a knife. Id. at 510-11, 589 S.E.2d at 788-89.

In this case, the state presented no credible evidence that Appellant violated the conditions of his probation. As defense counsel asserted, there was no evidence that Appellant sent the Facebook messages to Lakeya. Moreover, his new charges were still pending at the time of the revocation hearing and no evidence was presented to support Appellant's guilt. Consequently, the trial court abused its discretion by revoking Appellant's probation and ordering Appellant to serve the remainder of his original sentence.

CONCLUSION

Based on the foregoing argument, this Court should hold the trial court abused its discretion by finding Appellant violated the conditions of his probation and by ordering Appellant to serve the remainder of his original sentence.

Respectfully submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 29th day of August, 2025.

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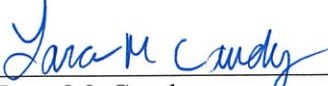
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Kahmil Cooper states:

1. She is an 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 probation revocation hearing, which was held on January 15, 2025, before the Honorable S. B. Doby, 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 (1967), briefed an arguable legal issue which arose during the course of the hearing.

WHEREFORE, she asks the Court to relieve her as counsel for Kahmil Cooper.

Respectfully Submitted,



Lara M. Caudy

Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 29th day of August, 2025.

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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) Complete Probation Revocation Hearing Transcript dated January 15, 2025;
- (2) Court's Exhibit No. 1 (Affidavits);
- (3) Probation Citation;
- (4) Probation Revocation Order;
- (5) Indictment;
- (6) Sentence Sheet.

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



Lara M. Caudy

Senior Appellate Defender

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ATTORNEY FOR APPELLANT

This 29th day of August, 2025.

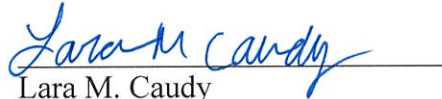
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CERTIFICATE OF COUNSEL

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."



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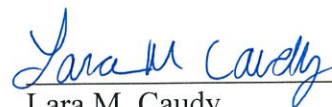
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CERTIFICATE OF SERVICE

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 have been served upon Matthew C. Buchanan, Esquire, at his primary email address listed in the Attorney Information System (AIS); and on Kahmil Cooper, #364568, at Trenton Correctional Institution, 84 Greenhouse Road, Trenton, SC 29847, this 29th day of August, 2025.



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT