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**Mar 19 2026**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Chesterfield County

Honorable Brian M. Gibbons, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

MICHAEL STOGNER,

APPELLANT

APPELLATE CASE NO. 2025-002202

---

ANDERS BRIEF OF APPELLANT

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WANDA H. CARTER  
Chief Appellate Defender

South Carolina Commission on Indigent Defense  
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ATTORNEY FOR APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

The circuit court judge erred in accepting appellant's guilty plea and revoking his probation sentence in full.

## **STATEMENT OF THE CASE**

Appellant Michael Maurice Stogner pled guilty to violation of a permanent domestic violence restraining order during the October 2025 term of the Chesterfield County General Sessions Court before Judge Brian M. Gibbons. Also, at the proceeding appellant's prior probation revocation sentence was revoked in full. Assistant Solicitor Mary T. Johnson-Lee prosecuted the case, and Attorney Richard Logan Wallace appeared on behalf of appellant.

Appellant appealed. This brief follows.

### **STANDARD OF REVIEW**

In criminal cases, the appellate court sits to review errors of law only. State v. Nesbitt, 411 S.C. 194, 768 S.E.2d 67 (2015) quoting State v. Jacob, 393 S.C. 584, 713 S.E.2d 621 (2011).

The appellate court's authority to review a decision revoking probation is confined to correcting errors of law unless the lack of a legal or evidentiary basis indicates that the circuit court judge's decision was arbitrary and capricious. State v. Hamilton, 333 S.C. 642, 511 S.E.2d 94 (S.C. Ct. App. (1999)).

## ARGUMENT

The circuit court judge erred in accepting appellant's guilty plea and revoking his probation sentence in full.

At the plea proceeding, the trial judge informed appellant of only one of three constitutional safeguards he would waive upon pleading guilty in the case. Appellant was informed that he would only waive his right to a jury trial if he pled guilty as charged. The colloquy regarding this matter follows:

The Court: Do you understand you're giving up all your jury trial rights?

Appellant: Yes, sir.

The Court: Is this what you want to do?

Appellant: Yes, sir.

R. 5 lines 2-6

Appellant was not advised that he would waive his privilege against self-incrimination and the right to confront his accusers if he pled guilty to the state's charge for which he was indicted. A defendant who pleads guilty simultaneously waives the following constitutional safeguards: 1.) the privilege against self-incrimination, 2.) the right to a jury trial, and 3.) the right to confront his accusers. Stave v. Patterson, 278 S.C. 319, 295 S.C.2d 264 (1982), citing to Boykin v. Alabama, 395 U.S. 238 (1969). In Boykin v. Alabama, 395 U.S. 238 (1969), the Court summarized the waivers connected to any guilty plea as follows:

Several federal constitutional rights are involved in a waiver that takes place when plea of guilty is entered in state criminal trial: first is privilege granted against compulsory self-incrimination guaranteed by the Fifth Amendment and applicable to states by reason of Fourteenth, second is right to trial by jury, and third is right to confront one's accusers. U.S.C.A. Const. Amends. 5, 6, 14.

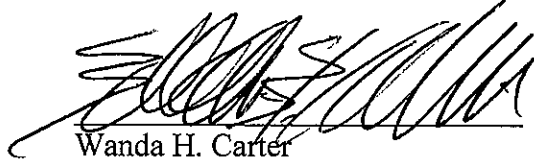
In the case at bar, the record established that appellant's plea was given involuntarily because he was unaware of all rights he waived upon entering his guilty plea in the case.

Additionally in the case at bar, appellant's admission of guilt on the state's charge was also a simultaneous admission that he violated his probation as well, all of which occurred prior to the state's presentation of its evidence in support of the allegations that he violated conditions of his probation. R. 3, 1.2-4, 1.20

Although probation violation proceedings are not criminal trials; nonetheless, such proceedings must provide limited liberty interests and some minimum due process protections at the very least. State v. Hill, 368 S.C. 649, 630 S.E.2d 274 (2006), citing to Gagnon v. Scarpelli, 411 U.S. 778 (1973) and Morrissey v. Brewer, 408 U.S. 471 (1972). Therefore, in the same manner that a judge cannot accept a plea of guilty unless there is a factual basis for the plea (see LoPiano v. State, 270 S.C. 563, 243 S.E.2e 448 (1978)), a probationer's probation should not be revoked without an initial showing first of sufficient evidence to establish proof from the state on the alleged probation violation allegations. The trial court must determine whether the state has presented sufficient evidence to establish that a probationer has violated the conditions of his probation. State v. Hamilton, 333 S.C. 642, 511 S.E.2d 94 (Ct. App. 1999). The reverse scenario occurred in the case at bar. As a result, the circuit court judge erred in allowing appellant to admit to the probation allegations before the state first submitted its case with respect to evidence regarding whether appellant violated the conditions of his probation.

**CONCLUSION**

Based on the foregoing argument, the undersigned counsel would request a new lower court proceeding on the criminal indictment and the probation violation allegations issued in the case.

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', written over a horizontal line.

Wanda H. Carter  
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 19th day of March, 2026.

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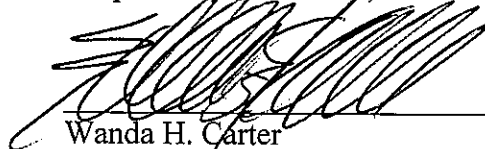
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Michael Stogner states:

1. She is 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 Brian M. Gibbons, which was held on Oct. 22, 2025, 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 Michael Stogner.

Respectfully Submitted,



Wanda H. Carter  
Chief Appellate Defender

This 19th day of March, 2026.

ATTORNEY FOR APPELLANT

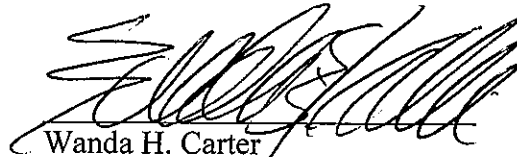
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**CERTIFICATE OF COUNSEL**

**SC Court of Appeals**

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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This 19th day of March, 2026.