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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Petition for Writ of Certiorari to the Court of Appeals
Appeal from Lancaster County Circuit Court
The Honorable Brian M. Gibbons
Appellate Case 2026-00900

Opinion No. 2026-UP-068
Lower Appellate Case No. 2023-000897

STATE OF SOUTH CAROLINARESPONDENT

v.

JARIUS SANDERS.....PETITIONER

RETURN TO PETITION FOR WRIT OF CERTIORARI

MATTHEW BUCHANAN
General Counsel

South Carolina Department of Probation,
Parole and Pardon Services
Post Office Box 207
Columbia, South Carolina 29202
(803) 734-9220

ATTORNEY FOR RESPONDENT

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STATEMENT OF ISSUE ON CERTIORARI

1. Whether the Court of Appeals correctly determined that a partial revocation of probation does not create a new sentence because South Carolina law specifically states that the remainder of the sentence remains in full force and effect.

STATEMENT OF THE CASE

On July 6, 2015, Petitioner fired several shots into an occupied vehicle. He was initially charged with attempted murder, but on February 23, 2016, he pled guilty before the Honorable Brian M. Gibbons to assault and battery of a high and aggravated nature. Judge Gibbons sentenced him to ten years suspended to three years probation.

Petitioner subsequently violated his probation and was brought before the Honorable Perry H. Gravely on September 19, 2016, for a hearing. Judge Gravely partially revoked eight years of Petitioner's suspended sentence and thereafter terminated probation.

Upon his release from incarceration, Petitioner began a period of community supervision pursuant to S.C. Code 24-21-560. On March 20, agents issued and served an arrest warrant for violation of community supervision, alleging that Petitioner possessed firearms and ammunition, possessed illegal drugs, and was also arrested for those offenses. Petitioner appeared before Judge Gibbons on May 24, 2023, who revoked him one year. Petitioner through his counsel filed a notice of appeal that same day.

On February 18, 2026, the South Carolina Court of Appeals affirmed Judge Gibbons' order. On March 5, 2026, counsel for Petitioner served a Petition for Rehearing. On March 10, 2026, the South Carolina Court of Appeals denied the petition. Petitioner filed a petition for a writ of certiorari, to which Respondent now responds.

Argument

The Court of Appeals did not err when it determined that the Petitioner's one-year revocation for a violation of his community supervision did not exceed his total sentence because the remainder of a sentence after a probation revocation remains in full force and effect.

Petitioner argues that the Court of Appeals erred in affirming the trial court's one-year revocation of his community supervision program (CSP), arguing that it exceeded his prior eight-year revocation of his probation. This belies a misunderstanding of probation revocations on Petitioner's part and is not grounds for this Court to grant certiorari.

Petitioner pled guilty to assault and battery of a high and aggravated nature, a Class-C felony as defined by S.C. Code § 16-1-90(C) and received a sentence of ten years suspended to probation. Upon the violation of his probation, Judge Gravely revoked eight years of that suspended sentence. Under the provisions of S.C. Code §§ 24-13-100, 24-13-150(A), and 24-21-560(A), defendants serving sentences for Class A, B, and C felonies are ineligible for parole, must serve at least eighty-five percent of their incarceration, and be released to a community supervision program (CSP) operated by the Department of Probation, Parole and Pardon Services (the Department). Violations of CSP are punishable by a revocation of up to one year. § 24-21-560(C).

Petitioner was released from incarceration after serving eighty-five percent of his eight-year revocation and began his term of CSP. After violating the conditions of CSP, he was again brought before the circuit court but this time under the constraints of § 24-21-560(C).

Petitioner argues that the eight-year revocation of probation became a new eight-year sentence that controls the amount of time that can be served on community supervision. This is incorrect. The sentence of ten years, as ordered by the sentencing court, remains the total sentence despite the probation revocation court only revoking a portion of it.

A partial revocation of a suspended sentence for a violation of probation does not affect the original sentence. “[T]he circuit court judge before whom such defendant may be so brought shall have the right, in his discretion, to require the defendant to serve all or a portion only of the sentence imposed. Should only a portion of the sentence imposed be put into effect, *the remainder of such sentence shall remain in full force and effect* and the defendant may again, from time to time, be brought before the circuit court so long as all of his sentence has not been served and the period of probation has not expired.” S.C. Code 24-21-460 (emphasis added). Consequently, a circuit court judge presiding over a probation violation who revokes only a portion of a suspended sentence has not re-sentenced the defendant.

In this case, when eight years of the suspended sentence became active as a result of the probation revocation, the status of Petitioner’s conviction as a no-parole offense triggered. When he was brought before the circuit court for a violation of CSP, the court not only could consider the remaining fifteen percent of the active eight years, but also the two remaining years of the suspended sentence that had not been revoked.

Petitioner cites to *State v. Picklesimer*, 388 S.C. 264, 695 S.E.2d 845 (2010), in his argument that the circuit court should have been limited to only the remaining fifteen percent of his eight-year revocation. However, *Picklesimer* also holds that the service and revocations of CSP incorporate both the active *and* suspended portions of the original sentence. “We now definitively state that the ‘original sentence,’ as referenced in section 24-21-560(D), includes both the suspended and unsuspended portions of a circuit court's sentence; it is, in fact, the total sentence handed down by the court.” *Id.* at 268, 848. A revocation of either CSP or probation cannot extend a defendant’s incarceration longer than the “original sentence,” but that has not been done in Petitioner’s case. Petitioner estimated that he had 166 days left of his sentence by only factoring

the remaining fifteen percent of eight years. However, the Department's calculation of 894 days was the correct total because it incorporated the two suspended years remaining "in full force and effect" as required by § 24-21-460.

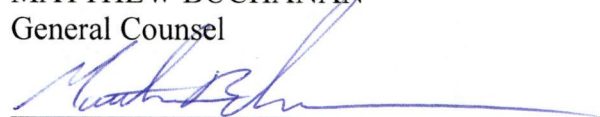
CONCLUSION

Petitioner's assertion that his partial revocation of eight years became the "operative sentence" and any remainder is not enforceable is contrary to law and precedent. The Court of Appeals did not err by dismissing his appeal; therefore, Respondent respectfully requests this Petition for Writ of Certiorari be denied.

Respectfully submitted,

MATTHEW BUCHANAN
General Counsel

BY:


Matthew Buchanan
General Counsel
S.C. Bar No. 73740
S. C. Department of Probation,
Parole and Pardon Services
Post Office Box 207
Columbia, South Carolina 29202
(803) 734-9220

Columbia, South Carolina
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