

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

G. Thomas Cooper, Jr., Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT/APPELLANT,

v.

ANTHONY K. BLAKNEY,

APPELLANT/RESPONDENT

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)	GENERAL SESSIONS
)	
County of Richland)	2008-GS-40-02974
)	
THE STATE,)	
)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
ANTHONY BLAKNEY,)	
)	
DEFENDANT,)	

December 9, 2011
Columbia, South Carolina

BEFORE:

THE HONORABLE G. THOMAS COOPER, JR., JUDGE.

APPEARANCES:

BENJAMIN APLIN, PROBATION
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CONSTANTINE POURNARAS, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 ANTHONY BLAKNEY, after being duly sworn,
2 testified as follows:

3 THE COURT: There is no violation report?

4 PROBATION AGENT: I'm sorry, Your Honor.

5 (Pause).

6 May it please the Court, Your Honor, basically, we're
7 just here, Mr. Aplin is here.

8 Mr. Pournaras had some concerns with the time of the
9 revocation, so we're basically here for that purpose.

10 MR. POURNARAS: We had a matter of law, but depending
11 on your ruling, we will go forward with the violation,
12 Your Honor.

13 THE COURT: All right, sir.

14 Mr. Pournaras, tell me what the issue is. I'm
15 briefly reading. He was convicted on a burglary first
16 charge April 30th of last year?

17 MR. POURNARAS: That's correct, Your Honor.

18 No, no, no. That was when his -- oh, of 2010. I
19 believe that's when he began supervision.

20 THE COURT: Well, then what's his sentencing sheet
21 date?

22 MR. POURNARAS: The sentencing sheet date is...

23 THE COURT: It's down at the bottom.

24 MR. POURNARAS: There we go, November 6th, 2008. I
25 have a copy of that if you'd like.

1 THE COURT: Let me see it.

2 MR. POURNARAS: Yes, Your Honor.

3 THE COURT: Well, all right. So we're 13 years from
4 that date, right?

5 MR. POURNARAS: Our contention is that if the
6 sentence was 15 years on the service of 30, because that
7 was Judge Childs' ruling, she did not --

8 THE COURT: Thirty months.

9 MR. POURNARAS: Thirty months, correct, 30 months.

10 THE COURT: Judge Childs didn't do it in 2008.

11 MR. POURNARAS: Yes, Your Honor.

12 THE COURT: I'm sorry. She did.

13 Wait a minute.

14 (Pause).

15 MR. POURNARAS: With the State's recommendation of a
16 cap of five. The sentence was 30 months -- 15 years
17 suspended upon 30 months active. Judge Childs did not
18 include a probationary period to follow.

19 Probation's position is that the Pickelsimer ruling
20 applies in that he can be revoked for a maximum of the
21 original sentence, which is the balance of the 30 and the
22 15.

23 Our contention is this is a novel issue; that the
24 court when they decided Pickelsimer was considering split
25 sentences with probation to follow on no-parole offenses.

1 Our position is that Mr. Blakney had 15 years
2 suspended simply upon 30 months active. He did serve
3 85 percent of that at the Department of Corrections. He
4 was released --

5 THE COURT: This is a no-parole offense.

6 MR. POURNARAS: Correct. It is a no-parole offense,
7 so statutorily, he was put on community supervision, but
8 our contention is that he has exceeded that 30 months that
9 was ordered by Judge Childs.

10 Again, probation is applying Pickelsimer, but we
11 believe that the court in that case did not consider
12 sentences suspended upon lesser sentences, which I believe
13 is quite common.

14 I'm arguing that the judge charge did not intend a
15 supervisory period past that active sentence.

16 THE COURT: Well, she must have known that because it
17 was a no-parole offense, that it would include community
18 supervision.

19 MR. POURNARAS: Correct, Your Honor.

20 THE COURT: She must have anticipated that.

21 MR. POURNARAS: But the court did not clarify this
22 particular issue about reaching to the original sentence
23 until Pickelsimer, and I still contend that the
24 Pickelsimer court did not consider sentences like these.

25 I believe that 15 years suspended upon --

1 THE COURT: Well, are you saying that in a sentence
2 like this --

3 MR. POURNARAS: Yes, Your Honor.

4 THE COURT: -- community -- community supervision
5 should not apply?

6 MR. POURNARAS: Absolutely it should apply, but the
7 maximum incarceration, I believe in a sentence like this,
8 would be the active sentence that the judge --

9 THE COURT: He has already done the active sentence.

10 MR. POURNARAS: Correct. It's probation's
11 contention --

12 THE COURT: So what -- what is the sanction for a
13 violation of community supervision if he can't be
14 sentenced to anything?

15 MR. POURNARAS: I believe he has. The violation
16 would be that he finish out the active portion of that
17 sentence.

18 THE COURT: Well, he certainly ought to be able to
19 finish out, at a minimum, the balance of the community
20 supervision.

21 MR. POURNARAS: Which he has.

22 THE COURT: The two years?

23 MR. POURNARAS: Yeah, the 30 months. He has finished
24 that. He has been incarcerated in that case.

25 THE COURT: That's not what I meant. You're saying

1 the Department is applying the 30 months to the active
2 sentence?

3 MR. POURNARAS: Well, the Department's position is
4 that -- being that he's on community supervision, the only
5 way he can be off community supervision is either by
6 completing two successful years of supervision --

7 THE COURT: Right.

8 MR. POURNARAS: -- which would then discharge any
9 further obligation or that he have spent a total
10 incarceration of 15 years in order to be relieved from
11 community supervision.

12 My position is that the maximum incarceration for him
13 would be the 30 months because --

14 THE COURT: He's already done it.

15 MR. POURNARAS: -- he has already done it, and I
16 don't believe that Pickelsimer applies --

17 THE COURT: So there is no, no sanction for violation
18 of community supervision.

19 MR. POURNARAS: That's my position.

20 THE COURT: All right. Mr. Aplin?

21 MR. APLIN: Thank you, Your Honor. I'm just going to
22 hand you a copy of Pickelsimer if you'd like to have that
23 just for reference.

24 Not to speak for Mr. Pournaras, but to try to I think
25 clarify my understanding of the distinction he's making,

1 take hypothetically if Judge Childs had given him 15 years
2 suspended to 30 months and five years' probation. Then
3 you would agree Pickelsimer applies. He could be revoked
4 up to the full 15 years.

5 MR. POURNARAS: Absolutely.

6 MR. APLIN: You know, give him credit for the 30
7 months time he had been serving, but because Judge Childs
8 just said, "15 years suspended to 30 months" without
9 anything, any probation to follow --

10 THE COURT: There's nothing.

11 MR. APLIN: -- that it's somehow different.

12 THE COURT: Nothing hanging over his head.

13 MR. APLIN: Right. Whereas, and that's -- their
14 position is that because it was just a suspended sentence,
15 a sentence suspended to a shorter period of incarceration,
16 no probation to follow, that Pickelsimer really doesn't
17 apply to the facts of the case.

18 The Department's position is that Pickelsimer says
19 the original sentence is what matters, and it's the
20 suspended and the unsuspended portion is your starting
21 point, and then you go on the community supervision.

22 Whether there was probation to follow or not, you're
23 still at that same starting point and that you could be
24 revoked up to a total of service time of 15 years, which
25 is the original sentence.

1 THE COURT: Is this his first violation of community
2 service?

3 MR. APLIN: It is not. He actually -- I was looking
4 at the paperwork correctly, and I apologize. I kind of
5 came into this at the last minute.

6 He was revoked in February of this year. He got a
7 six-month revocation. It was in front of you actually, I
8 believe.

9 THE CLERK: No, the other.

10 MR. APLIN: I'm sorry. It's the other.

11 THE CLERK: Other Judge Cooper.

12 MR. APLIN: It's the other Judge Cooper, my
13 apologies.

14 THE COURT: So he's back at his --

15 MR. APLIN: And he came back out again on community
16 supervision after he --

17 THE COURT: He's back to two years?

18 MR. POURNARAS: Back to --

19 MR. APLIN: Another two-year program, right, started
20 over, and that started in April of this year, I believe.

21 So, again, our position is he has now done, I think,
22 over the 30 months that was originally given, but he still
23 has the remainder of that.

24 THE COURT: But he couldn't -- according to
25 Mr. Pournaras, he couldn't have been revoked on community

1 supervision the last time.

2 MR. APLIN: No. I think he agrees he could have been
3 revoked the first time --

4 MR. POURNARAS: Right.

5 MR. APLIN: -- because he did 85 percent of the 30
6 months --

7 THE COURT: All right. Okay.

8 MR. APLIN: Then he came out --

9 THE COURT: And he had 15 percent --

10 MR. APLIN: -- and he had 15 percent left. I believe
11 he agrees that that amount would always be available for
12 revocation.

13 THE COURT: I understand. I understand.

14 MR. POURNARAS: And Mr. Aplin's distinction between
15 our two positions is correct. I just believe that the
16 court, in ruling on Pickelsimer, did not consider these
17 types of sentencing that judges commonly hand down where
18 there is a sentence --

19 THE COURT: No.

20 MR. APLIN: -- arbitrarily suspended on a lesser.

21 THE COURT: Let me correct you. They don't commonly
22 hand down that type of a sentence.

23 MR. POURNARAS: And I apologize if I stand corrected,
24 but in this case, I -- I don't want to speak for Judge
25 Childs, but I believe that 15 for a burglary first is the

1 mandatory minimum, which prior to a recent ruling, judges
2 did suspend that upon a lesser active sentence, sometimes
3 to include supervision, sometimes not.

4 My position is if probation's interpretation is
5 correct, if there is no distinction in a ruling by a
6 judge, if a judge orders probation to follow a no parole
7 or if he does not order probation to follow a no-parole
8 sentence, so long as there is any suspension, probation
9 will treat them as the same.

10 So a ten-year sentence suspended upon two years will
11 be treated exactly the same as a ten-year suspended upon
12 two-year sentence with five probation. They will
13 interpret that in the exact same manner, and that's why I
14 contended judges do rule differently, because they have
15 different intentions.

16 Probation's position, which I believe has not been
17 considered by a higher court yet, would eradicate any
18 distinction between those two sentences.

19 MR. APLIN: And, Your Honor, if I could, just to
20 follow up, and I agree, that is what we're saying. It
21 wouldn't make any difference, but if you take the flip
22 side of the argument, what Mr. Pournaras is arguing is
23 that a sentence of 15 years suspended to 30 months would
24 be treated exactly the same as a straight 30-month
25 sentence.

1 The 15 year -- the suspended portion is to have no
2 effect. He can only do the 30 month active portion, and
3 that would be it.

4 So I think either way you look at it, this is kind of
5 an odd sentence for how are you going to interpret it, but
6 I think that Pickelsimer, when you take the opinion that
7 we do have, would seem to leave the result that you treat
8 them the way the Department is trying to treat these
9 sentences.

10 THE COURT: All right. Interesting question.

11 (Pause).

12 Let me check my calendar. What I'm going to do is
13 take it under advisement. He's in?

14 (There was no response).

15 What is his bond? Does he have a bond?

16 MR. POURNARAS: He has been incarcerated since...

17 THE COURT: May 13th.

18 MR. POURNARAS: Yes, Your Honor. I believe the bond
19 is set at 25,000, I believe.

20 THE COURT: How much? Now, wait a minute. I thought
21 Mr. Aplin told me he was -- he was revoked on these two.
22 Is that when he got his community supervision violation?

23 MR. POURNARAS: This is when he was violated most
24 recently.

25 MR. APLIN: And, Your Honor, he was revoked in

1 February, satisfied that time, got back out in April on
2 the new community supervision program and was arrested in
3 May --

4 THE COURT: Okay.

5 MR. APLIN: -- and has been in jail since May 13th.

6 THE COURT: Okay.

7 MR. POURNARAS: This has been heard once before with
8 Judge Barber, but he wanted to give Mr. Aplin a chance to
9 be here to argue the matter of law.

10 THE COURT: All right. Well, about this point in
11 time, I'm going to revoke his bond, and I'm going to
12 basically continue it for a period of -- until January.

13 MR. POURNARAS: Your Honor, would you -- would you
14 consider him being on supervised release considering that
15 he has already served seven months of what would be
16 essentially a one-year maximum revocation?

17 THE COURT: He had -- well, he had seven months to
18 post his bond, too.

19 MR. POURNARAS: Correct, but he was unable to do
20 that.

21 THE COURT: Well, that's not...

22 I'll set it the 13th.

23 MR. APLIN: January 13th?

24 THE COURT: Yes. The...

25 MR. APLIN: As far as I know, that should be fine,

1 Your Honor.

2 THE COURT: All right. Reset it. I'm going to
3 revoke his bond, continue it until January 13th. It will
4 give me a chance to take a look at it. If you wish to
5 submit any argument, brief, on this matter, please do so.

6 MR. POURNARAS: Thank you, Your Honor.

7 MR. APLIN: Thank you, Your Honor.

8 THE COURT: If you're going to submit any written
9 brief, do it by -- let's say by the 3rd of January.

10 MR. POURNARAS: Thank you, Your Honor.

11 MR. APLIN: Thank you.

12 (Whereupon, the proceedings were concluded.)

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STATE OF SOUTH CAROLINA)	GENERAL SESSIONS
)	
County of Richland)	2008-GS-40-02974
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THE STATE,)	
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vs.)	TRANSCRIPT OF RECORD
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ANTHONY BLAKNEY,)	
)	
DEFENDANT,)	

January 19, 2012
Columbia, South Carolina

BEFORE:

THE HONORABLE G. THOMAS COOPER, JR., JUDGE.

APPEARANCES:

BENJAMIN APLIN, ESQ.
Attorney for the Department of Probation

CONSTANTINE POURNARIS, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T SINDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 THE COURT: In December, did I determine that he is
2 in violation, a willful violation, of his community
3 service supervision? Is that the termination that has
4 been made?

5 MR. POURNARAS: No, Your Honor. I believe you heard
6 just the matter of law, and you took it under advisement.
7 We were going to move to the revocation phase based on how
8 you decide on that.

9 THE COURT: All right. Well, let me -- if that's the
10 way you want to do it, that's fine.

11 Mr. Pournaras, let me let you -- I'm not sure. Did
12 you make your argument on the record?

13 MR. POURNARAS: Yes, Your Honor.

14 THE COURT: Okay. Well, you're going to have to do
15 it again.

16 MR. POURNARAS: Okay. That's not a problem.

17 Procedurally, Mr. Blankney was sentenced on
18 March 23rd, 2008 to a burglary in the first degree. Judge
19 Childs, her sentence at that time was a 15-year sentence
20 provided upon the service of 30 months.

21 THE COURT: What? That's what it is.

22 MR. POURNARAS: Right. The issue --

23 THE COURT: That's a --

24 MR. POURNARAS: The issue we have today is that --

25 THE COURT: That's a terrible sentence.

1 MR. POURNARAS: Pardon me?

2 THE COURT: That's a terrible sentence. So we're
3 dealing with something that is an anomaly?

4 MR. POURNARAS: Yes, sir.

5 THE COURT: You agree with that?

6 MR. POURNARAS: It is an anomaly, but I believe that
7 there are other similar situations to Mr. Blankney.

8 There is an issue now because probation's
9 interpretation is that his community supervision can
10 continuously be revoked until he either completes two
11 years of supervision or he has been incarcerated for the
12 full term of 15 years. We would disagree with that
13 position.

14 Basically, Picklesimer involves split sentences with
15 probation to follow. That doesn't exist in this case.
16 Our understanding was Picklesimer did two things: It
17 defined what the original sentence is, which we don't
18 disagree that the original sentence is the whole 15 years,
19 and it also held that he cannot be incarcerated for a term
20 to exceed 15 years.

21 We don't disagree with that either, but our
22 contention is that the balance -- 15 years minus 30
23 months, we believe that suspended balance was satisfied
24 upon the service of his 30 months, which he completed
25 after his last revocation on community supervision.

1 THE COURT: I saw that.

2 MR. POURNARAS: And our point is based on the fact
3 that if you interpret Picklesimer as probation does, there
4 is no difference between a sentence, 15 provided upon 30
5 months, or 15 provided upon 30 months, balance suspended
6 to probation.

7 They will treat both of those sentences the exact
8 same way despite the fact that the sentencing judge did
9 not include a probationary period to follow that original
10 unsuspended portion.

11 THE COURT: Well, a probationary sentence is not
12 necessary for the invocation of community service.

13 MR. POURNARAS: That is correct, but our position is
14 that the balance is suspended solely upon the service of
15 the 30 months.

16 Now, he could not have served the 30 months in his
17 first-term incarceration because community supervision
18 released him by statute after 85 percent.

19 THE COURT: Eight-five percent, right.

20 MR. POURNARAS: Correct.

21 THE COURT: So he has now maxed out the remaining
22 15 percent.

23 MR. POURNARAS: Yes, Your Honor, and I'm not
24 disagreeing with probation's understanding of Picklesimer.
25 I just don't feel that it applies in this case because in

1 Picklesimer, they held that he could reach the entire
2 original sentence because they affirmed a previous holding
3 in Dawkins which stated that probationary sentences and
4 community supervision on an overall offense run
5 simultaneously and currently so that they did not foresee
6 a possibility of satisfying the suspended portion without
7 satisfying the community supervision because it was
8 suspended to probation.

9 In this case, we argue that he did satisfy the
10 condition of that suspended portion. It may seem
11 arbitrary that it was suspended upon active service, but
12 that is the only condition upon which it was suspended,
13 the service of 30 months, which he did meet.

14 And I don't believe that --

15 THE COURT: It would have been a lot easier to have
16 given him -- even though it was contrary to the statute --

17 MR. POURNARAS: Correct.

18 THE COURT: -- a 30-month sentence.

19 MR. POURNARAS: Correct.

20 THE COURT: Just a straight 30-month sentence.

21 MR. POURNARAS: I agree with you.

22 THE COURT: We probably wouldn't be here.

23 All right. Mr. Aplin, what's the Department's
24 position?

25 MR. APLIN: Your Honor, and I apologize. I don't

1 have another copy of Picklesimer. I think I handed one up
2 on December 9th when we were here, but essentially --

3 THE COURT: Would you like it?

4 MR. APLIN: You've got it, okay.

5 THE COURT: Would you like it?

6 MR. APLIN: Oh, no. I just wanted to make sure you
7 had a copy of it.

8 Essentially, we're just relying on what appears to be
9 the correct interpretation under Picklesimer as to how you
10 handle this type of sentence.

11 When I say this type of sentence, I understand what
12 Mr. Pournaras is saying. This isn't exactly the same as
13 the sentence in Picklesimer because here --

14 THE COURT: There is nothing.

15 MR. APLIN: There is nothing.

16 THE COURT: Nothing.

17 MR. APLIN: No probation attached. It was just 15
18 years suspended to 30 months. I don't think that is the
19 dispositive issue, though.

20 The point being is under Picklesimer, the original
21 sentence is the 15-year sentence, and that's what's
22 controlling over how much time could be served through
23 successive revocations that there still are the
24 requirements under Dawkins and under Picklesimer and under
25 the statutes that the person has to either successfully

1 complete the community supervision program or they face
2 revocation time up to the original sentence.

3 In this case, the original sentence was 15 years. I
4 don't think there is any dispute that to this point he has
5 not completed successfully a community supervision
6 program. If he did, he would be done. We would have no
7 argument.

8 THE COURT: All right.

9 MR. APLIN: And I understand also what Mr. Pournaras
10 is saying is that this is no different. We're treating it
11 no different than if the original sentencing judge had
12 said 15 suspended to 30 months and five years' probation
13 or four years' probation or one year or no probation.

14 It's all going to be treated the same way, but on the
15 flip side of that, I think the argument that he is making
16 is that you would treat the sentence of 15 years suspended
17 to 30 months exactly the same as a straight 30-month
18 sentence.

19 THE COURT: Is that --

20 MR. APLIN: And I think that makes less sense than
21 following what Picklesimer lays out in actually treating
22 the 15 years as the incarcerated time that could be
23 imposed for successive revocations.

24 THE COURT: So 15 years appears to just have been an
25 attempt to comply with the statute?

1 MR. APLIN: That's exactly right.

2 THE COURT: The sentencing statute.

3 MR. APLIN: Right.

4 THE COURT: Of -- I don't -- I don't see why -- I
5 mean, isn't the CSP -- doesn't the CSP statute provide for
6 the mandatory service following a violent offense of
7 eighty--- a no-parole offense?

8 MR. APLIN: It does. It requires service in that
9 program of some period of time, yes.

10 THE COURT: Well, then how -- does Picklesimer or
11 Grier or -- indicate that -- it seemed -- it always seemed
12 to me that the original sentence was the maximum that
13 individual could serve for failure to comply with a
14 community provision.

15 There is no penalty. If I take Mr. Pournaras'
16 argument, there is no penalty for failure to comply with
17 community supervision.

18 MR. APLIN: Well, under his argument, I think the
19 penalty has already been imposed, was the remaining
20 15 percent of the --

21 THE COURT: Not on this case.

22 MR. APLIN: But even on this case --

23 THE COURT: Even on the last case.

24 MR. APLIN: Well, the 30 months -- on his last case,
25 the last time he was revoked, which has already been pled.

1 At this point, his argument is that he is done. There is
2 no time left. He shouldn't have been --

3 THE COURT: He couldn't even be on community
4 supervision now.

5 MR. APLIN: Exactly. That's my understanding is the
6 argument, right. And our position is that as long as
7 there is time left on the 15 years, he continues to come
8 out on community supervision and either successfully
9 completes the program or is back in front of the court for
10 violations.

11 MR. POURNARAS: If I may briefly reply to that, Your
12 Honor.

13 THE COURT: Absolutely.

14 MR. POURNARAS: "One of the final portions of
15 Picklesimer, it seems as if the court was asked to address
16 that particular scenario where somebody could max out the
17 revocable time prior to service of the entire original
18 sentence.

19 They declined to answer that because in the case of
20 Picklesimer, they felt that that was not a possibility
21 based upon the fact that probation cannot be satisfied
22 independently of community supervision, because they did
23 not see it possible to satisfy the conditions of the
24 suspension on probation without simultaneously satisfying
25 the conditions of community supervision.

1 But I argue that, you know, probation's position
2 ignores the possibility of satisfying the conditions of
3 the suspension independently of its community supervision,
4 and I understand that this is an odd sentence.

5 It does appear to be rather arbitrary to suspend a
6 sentence to nothing more than a lesser sentence, but I
7 still contend that he did satisfy that sole condition so
8 that suspended portion has actually been satisfied.

9 And having been satisfied, I contend that he has been
10 discharged of that suspended portion leaving the only
11 remaining portion to be revoked the 15 percent that he did
12 not at the time serve but has at this point now served.

13 So it's our position that by being incarcerated for
14 30 months, he satisfied the condition of the suspension,
15 discharging that, and has also at the same time exceeded
16 the maximum remaining revocable period on community
17 supervision.

18 THE COURT: All right.

19 MR. POURNARAS: And I don't believe that the court
20 even contemplated such a sentence in their holding.

21 THE COURT: Certainly they did not. It's the most
22 bizarre sentence I may have ever seen.

23 This is Pauling's, Hans Pauling's case?

24 MR. POURNARAS: He was the defense attorney in this
25 case. Ms. Weiss was the prosecutor.

1 THE COURT: Yeah, I saw that. And even on the
2 sentencing sheet, it looks like there was a recommendation
3 of a cap of five years, which is still contrary to the
4 statute, but there was some -- there was some case law at
5 the time which indicated that unless the mandatory
6 language was in the statute, that the court could go
7 beyond the minimum sentence, and that was apparently what
8 happened.

9 Mr. Pournaras, I think you're going to have to take
10 it up. I mean, it's an interesting question. I don't
11 think that I'm in the position to just eliminate the
12 requirement for community supervision.

13 It's a very interesting question, and it's an
14 interesting argument. But in my opinion, I'm going to
15 agree with the Department, and I'm going to continue to
16 impose the community supervision until your client
17 complies with it. If he doesn't comply with it, then has
18 got a long row to hoe ahead of him.

19 MR. POURNARAS: I understand that.

20 THE COURT: All right.

21 MR. POURNARAS: As far as the revocation period,
22 being that he has been incarcerated for approximately
23 seven months, eight months, Your Honor, I believe since
24 May 13th, I would ask that you revoke him time served
25 rather than the full year and allow him to continue on

1 supervision.

2 THE COURT: What's his violation? Let me go back to
3 that.

4 PROBATION AGENT: May it please the court.

5 THE COURT: Well, he's got -- okay. Go ahead. Is it
6 financial, primarily?

7 PROBATION AGENT: No. No, sir. He failed to report
8 on April 21st, 2011 or any time thereafter, having last
9 reported on April 14th, 2011; failed to pay his electronic
10 monitoring fee by being in arrears, failed to pay his drug
11 testing fee by being in arrears, failed to comply with
12 electronic monitoring, having left the residence on April
13 18th, 2011 at 2:11 p.m. and never returning.

14 A home visit was conducted on April 25th, 2011
15 with --

16 THE COURT: Okay. I'm reading it.

17 PROBATION AGENT: Okay. So basically, he absconded.

18 THE COURT: Basically absconded, and he was on
19 electronic monitoring?

20 PROBATION AGENT: Correct. He absconded from the
21 electronic monitoring.

22 THE COURT: All right. I find he willfully violated
23 his community supervision. I'll revoke -- how many days?
24 Since May 13th?

25 MR. POURNARAS: Since May 13th, Your Honor.

1 THE COURT: How ever many days that is.

2 All right.

3 MR. POURNARAS: Thank you, Your Honor.

4 THE COURT: Yes, sir.

5 MR. APLIN: Thank you, Your Honor.

6 (Pause).

7 MR. POURNARAS: Your Honor, is he to remain on the
8 electronic monitoring upon the release today?

9 THE COURT: Well, I don't know why he was on it to
10 start with.

11 MR. APLIN: Your Honor, it's a Department policy.
12 The -- everybody on community supervision, their first --
13 I think it's at least 90 days; they're on electronic
14 monitoring. That's just what the Department does. We set
15 the conditions of the program by statute.

16 Now, of course, if he --

17 THE COURT: I don't know if he is not to.

18 MR. APLIN: If you made the recommendation not to put
19 him on, we would certainly consider that.

20 THE COURT: Why should I do that? I mean, I don't
21 know anything about this gentleman.

22 MR. POURNARAS: We just ask in light of this may be
23 appealed, Your Honor, to get some finality on this odd
24 situation; that he just be required to report regularly
25 rather than be on electronic monitoring.

1 THE COURT: Where does he live? What does he do?
2 You know, I -- I don't know anything about this gentleman.
3 He may be on his way to Timbuktu. He may be --

4 MR. APLIN: And honestly, Your Honor --

5 THE COURT: -- a danger to the community, I don't
6 know.

7 MR. APLIN: The Department, I mean, would prefer just
8 to be able to treat it the same as we treat everyone else.
9 It's just easier to administer the things and treat it
10 that way.

11 THE COURT: I understand.

12 MR. APLIN: But as I was saying, if you order it that
13 way, we will, of course.

14 THE COURT: I understand. Have you got family?
15 Somebody to pay for it?

16 MR. POURNARAS: Yes, Your Honor. He lives with his
17 family here in Columbia.

18 THE COURT: All right. You just told me something I
19 didn't know. How about it?

20 PROBATION AGENT: He needs to be on electronic
21 monitoring, Your Honor.

22 THE COURT: I knew what she was going to say.

23 Well, his -- let me look. He was not living with his
24 family when this violation occurred.

25 MR. POURNARAS: I don't believe so, but the last time

1 we were here, I did meet with his mother and his sister,
2 and I think that's where he was -- were you not living
3 with her? He tells me that that's where he was living.

4 THE COURT: Well --

5 MR. POURNARAS: I have been in contact with them.
6 They tell me that --

7 THE COURT: All right. It says he was required to be
8 intensively supervised. However, he ceased all contact
9 with the Department. The offender allowed the electricity
10 in his home to be turned off and was evicted. Now, that
11 doesn't sound like living with mama.

12 MR. POURNARAS: I think that's when he moved in with
13 his mother and sister.

14 THE COURT: Well, then he -- he didn't comply --

15 MR. POURNARAS: Of course.

16 THE COURT: -- the last time, and that's why he's
17 here.

18 MR. POURNARAS: Yes, Your Honor.

19 THE COURT: Standard conditions.

20 MR. POURNARAS: Thank you, Your Honor.

21 MR. APLIN: Thank you, Your Honor.

22 PROBATION AGENT: Thank you, Your Honor.

23

24 (Whereupon, the proceedings were concluded.)

25

State of South Carolina

Court of General Sessions

County of Richland

2008-GS-40-02974

The State of South Carolina :

-VS-

:
: TRANSCRIPT OF RECORD
:

Anthony Kinard Blakney :

A/K/A Derrick Jenkins :

August 17, 2012

Columbia, South Carolina

B E F O R E:

The Honorable Brooks P. Goldsmith, Judge.

A P P E A R A N C E S:

J. Benjamin Aplin, Esquire
Attorney for the Department of Probation

Constantine Pournaras, Esquire
Attorney for the Defendant

Daphne D. Helms

Circuit Court Reporter

1 **Probation Agent:** Number one, Anthony Blakney A.K.A.
2 Derrick Jenkins. Agent Wallace. Attorney Pournaras.

3 Anthony Blakney, after being duly sworn, testified
4 as follows:

5 **Probation Agent:** Your Honor, we have attorney Ben
6 Aplin here from probation legals also.

7 **The Court:** Who wants to tell me about the case? Mr.
8 Aplin?

9 **Mr. Aplin:** I can start it out. I'll let Mr. Pournaras
10 fill in the details if I miss something, but basically Mr. --
11 is it Blakney or Blakeney?

12 **Mr. Blakney:** Blakney.

13 **Mr. Aplin:** Mr. Blakney, he was sentenced back in
14 November of 2008. His original sentence was 15 years
15 suspended to 30 months with no probation or anything ordered
16 to follow. He came out on community supervision April 30th
17 of 2010 and was charged with some violations, and he appeared
18 in front of Judge Cooper back December 9th of 2011 for a
19 violation hearing. At that point Mr. Pournaras was
20 representing him, and the argument was raised about whether
21 he should even be on community supervision under the
22 Picklesimer case that came out from the Supreme Court shortly
23 before that time frame.

24 Judge Cooper heard some arguments and then asked for
25 some memorandum from the parties. Mr. Pournaras submitted a

April 17, 2012 hearing

3

1 memo, and we reconvened the hearing January 19th of 2012. At
2 that point Judge Cooper listened to further arguments and
3 agreed with the State's position that he was indeed still
4 supposed to be on community supervision. And this is the
5 part where I don't know if I have the exact detail, but I
6 think he revoked him for time served.

7 **Mr. Pournaras:** Yes.

8 **Mr. Aplin:** Okay. Which meant he---

9 **The Court:** Came back.

10 **Mr. Aplin:** ---came back on community supervision for a
11 new two-year period that started that date and would expire
12 in 2014. He is now before you on additional community
13 supervision violation charges. And because that case was
14 decided and is on appeal now -- Mr. Pournaras timely filed a
15 notice of appeal. It is pending with the Court of Appeals.
16 There are still issues with him getting the transcripts from
17 both of those hearings and Appellate Defense making --
18 writing their brief and arguing it. So it's a pending case.

19 Mr. Pournaras, I think, felt it was necessary to go
20 ahead and to preserve that issue or I guess not waive it for
21 the pending appeal make that argument again before Your Honor
22 about whether he should be on community supervision or not
23 under Picklesimer, and he let me know that was going to
24 happen. So I decided I would participate in the hearing and
25 make the State's argument for the purposes of the record as

1 well.

2 **The Court:** So briefs haven't been filed in the
3 appellate court.

4 **Mr. Pournaras:** No, Your Honor.

5 **Mr. Aplin:** They have not.

6 **Mr. Pournaras:** And speaking to Appellate Defense, they
7 asked me to go forward again. Since this is technically a
8 new issue on a separate violation, they asked me just to go
9 forward again, Your Honor, and if I just could make one
10 correction. Everything Mr. Aplin said is correct. There was
11 one prior revocation to the one that is on appeal that
12 happened in February -- his first revocation hearing was in
13 February of 2011 in front of Judge Cooper again who at the
14 time revoked him three months and 15 days which was 15 days
15 shy of the full 30 months.

16 **The Court:** Okay.

17 **Mr. Pournaras:** Fifteen days. Yeah, that's what it was.
18 So this is his third revocation.

19 **The Court:** So he served more than 30 months.

20 **Mr. Pournaras:** Yes, Your Honor. He served two weeks
21 shy of 30 months at the completion of his first revocation.

22 **The Court:** Right.

23 **Mr. Pournaras:** After his second revocation and this
24 current revocation, he is in excess of 30 months.

25 **The Court:** Do you agree to that, Mr. Aplin?

1 **Mr. Aplin:** I agree to that, Your Honor.

2 **The Court:** And so the State's position is?

3 **Mr. Aplin:** Your Honor, the State's position is that
4 under the Picklesimer case the Supreme Court has clarified
5 some prior case law and said that when a person receives a
6 no-parole sentence that you look at the original sentence
7 which includes both the suspended and unsuspended portions
8 and in this case that would be 15 years and that that sets
9 the maximum amount of time that a person can serve, either
10 incarcerated or supervised under the community supervision
11 program, and so that Mr. Blakney has essentially a 15-year
12 term that he could end up having to do if he never
13 successfully completes the community supervision program and
14 that at this point, yes, he's gone over 30 months, but he's
15 still well under the 15-year original sentence.

16 **Mr. Pournaras:** If I may briefly reply to that. I agree
17 with his interpretation of Picklesimer, but I would like to
18 note that Picklesimer specifically addressed that situation
19 in reference to a no-parole offense that is split, a
20 suspended and unsuspended portion including probation. This
21 case we have here does not have a probationary sentence, and
22 it's an unusual sentence and not a lot of judges suspend
23 actives upon lesser actives. And I'm assuming in this case
24 it was because it was a burglary first which has a mandatory
25 minimum of 15 which at the time judges were routinely

1 suspending, at least in this county, to lesser active
2 offenses.

3 So in Picklesimer they came to that decision saying: In
4 a prior case, State v. Dawkins, they held that community
5 supervision and probationary sentences run simultaneously.
6 So they believe that it's impossible to satisfy the
7 conditions of probation upon which the balance is suspended
8 without also satisfying the conditions of community
9 supervision which is why they held that in Picklesimer when
10 you have an active followed by a probationary sentence for a
11 no-parole offense, you can revoke the full maximum original
12 sentence because probation cannot be satisfied without also
13 satisfying community supervision, and I believe that that's
14 not the case we have here.

15 I think that -- I agree with Mr. Aplin's interpretation
16 of what Picklesimer says, and if this was 15 years suspended
17 to 30 months and probation, then I would definitely agree
18 with his position. But when Judge Childs sentenced Mr.
19 Blakney in 2008, the only condition upon which she suspended
20 the balance, 12 and a half years, was on the service of
21 30 months, and community supervision was triggered by statute
22 once he completed approximately 85 percent of that 30 months.

23 I believe that once he served 30 months on his second
24 revocation, he satisfied the conditions upon which the 12 and
25 a half years was suspended. It was essentially, in my mind,

April 17, 2012 hearing

7

1 an arbitrary suspension. I can't say why judges do that and
2 why they don't just impose 30-month sentences, but I don't
3 believe that any of the parties at the time intended this to
4 be the situation we're in.

5 If you look at the sentencing sheet, Your Honor, there
6 is no probation, and the solicitor's recommendation was a cap
7 of five. I don't believe that Picklesimer is controlling in
8 this case because there is no probation. The Court also
9 mentioned in dicta that they said when the Picklesimer
10 briefs -- one of the parties had made an argument that, you
11 know, you could separately satisfy the conditions of the
12 suspended portion independently of community supervision. I
13 think prior to that some of what was happening was some
14 argued that you must first complete community supervision and
15 you cannot be revoked in excess of the original active
16 portion, and the Court held, no, you can reach into the
17 entire sentence on community supervision revocations because
18 community supervision and normal probation run concurrently.

19 We don't have that case here, and I believe that the
20 suspended portion was satisfied by the service of 30 months.
21 I don't think that Picklesimer is controlling in this
22 particular issue, and the Court believed that what I'm
23 arguing is a moot point because those two, probation and
24 supervision, run simultaneously. And I don't think that they
25 contemplated sentences like these when they made their

1 pronouncement in Picklesimer.

2 **Mr. Aplin:** And, Your Honor, we've discussed this
3 obviously many times and I certainly understand the argument
4 that Mr. Pournaras is making which is one reason it's a good
5 case that's gone up on appeal and perhaps they will resolve
6 the issue. But from the State's perspective, it's simply
7 that -- and I think Mr. Pournaras already pointed this out.
8 If the judge wanted to give a 30-month sentence, it could
9 have just been a straight 30-month sentence and we wouldn't
10 be here arguing. He would have satisfied it by now by doing
11 community supervision and would be finished.

12 But for some reason, the judge imposed a 15-year
13 sentence suspended to 30 months. Like he mentioned, it may
14 be because there was a mandatory minimum of 15 years and so
15 she felt she had to at least impose that, but whatever the
16 case, that is the sentence that was handed down. And it just
17 appears under a straight clear reading of Picklesimer that
18 you would have to go back to that suspended portion of the
19 sentence to determine what is the original sentence in the
20 case, regardless of whether probation was attached or
21 probation wasn't attached as part of that sentence.

22 **Mr. Pournaras:** And just briefly on that, Your Honor --
23 and I understand Mr. Aplin's reading as well, but I still
24 contend that, you know, the way the Court came to their
25 ruling in Picklesimer was through that understanding that

April 17, 2012 hearing

1 probation and C.S.P. run concurrently. That was one of two
2 things that they considered in making their Picklesimer
3 analysis, and that doesn't exist here.

4 And following Mr. Aplin's interpretation, it makes no
5 distinction between sentences -- if the judge were to impose
6 ten years suspended upon five active, that would be treated
7 identically to ten years suspended on five active with
8 probation. There would be no distinction between those
9 sentences, and I believe that there is a difference in the
10 judge's intent when they order probation or when they don't
11 order probation. But in any no-parole offense with any
12 suspension, probation would treat it as if there was a
13 probationary sentence imposed, whether or not the judge
14 actually ordered it.

15 **The Court:** This is going to be interesting, isn't it?
16 All right. I agree with you, but you have to prepare an
17 order.

18 **Mr. Aplin:** Your Honor, would you like to go ahead and
19 put on the record the violations themselves or no need to
20 address those at this point?

21 **The Court:** Well, I don't think there is.

22 **Mr. Aplin:** Okay.

23 **The Court:** Do you -- I mean, do you want to put them on
24 the record?

25 **Mr. Aplin:** I guess if -- I guess if you're ruling that

1 way, there's really no point in doing that at this stage. If
2 it comes back, then we'll address it at that point. It may
3 be a couple of years from now.

4 **The Court:** I guess -- yeah. What I'm saying is there's
5 no need to take it up because he shouldn't be here.

6 **Mr. Aplin:** Okay.

7 **The Court:** I guess we'll see.

8 **Mr. Aplin:** I would just ask that he remain in custody
9 until the order is signed and that we've had a chance to
10 review it to make sure we know -- because I assume that Mr.
11 Blakney will then be cut loose.

12 **Mr. Pournaras:** I believe he has additional pending
13 charges.

14 **Mr. Aplin:** Oh, there are pending charges? I'm sorry.

15 **Mr. Pournaras:** He has not made bond on those pending
16 charges, but if you'd like him to remain in custody until --
17 if you would like him to be unable to post that bond until we
18 prepare the order, I'd be fine with that.

19 **Mr. Aplin:** I would, yes.

20 **Mr. Pournaras:** Okay. Thank you.

21 **Mr. Aplin:** Thank you, Your Honor.

22 **The Court:** All right. We'll see, won't we?

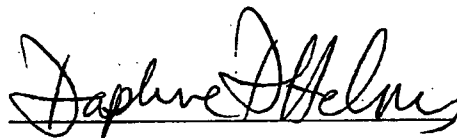
23 **Mr. Pournaras:** Thank you, Your Honor.

24 (Whereupon, the proceedings were concluded. There were
25 no exhibits introduced.)

I, the undersigned Daphne D. Helms, official court reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the circuit court for Richland County, South Carolina, on the 17th of August, 2012.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

September 25, 2012

A handwritten signature in cursive script that reads "Daphne D. Helms". The signature is written in dark ink and is positioned above the typed name.

Daphne D. Helms, court reporter

4558
8/25/12

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND)

INDICTMENT No: 08-GS40-02974

WARRANT No: W-40-120074

State of South Carolina)

v.)

ORDER

Anthony Kinard Blakney)

AKA *Derrick Jenkins*)

Defendant.)

RICHLAND COUNTY
FILED
2012 SEP 13 PM 12:22
JEANETTE W. SCRIBNER
C.C.P. & S.

This matter comes before the court pursuant to a community supervision violation hearing.

IT APPEARS that defendant Blakney was arrested March 23, 2008, and pleaded guilty to Burglary, 1st degree, on November 6, 2008. He was sentenced by Judge Michelle Childs to a term of incarceration of fifteen (15) years, provided upon the service of thirty (30) months active incarceration. He was released from the Department of Corrections and placed on two (2) years of community supervision on April 30, 2010.

Blakney was arrested on November 3, 2010, for violation of community supervision. He appeared in court for a revocation hearing on February 25, 2011. Judge G. Thomas Cooper, Jr. found Blakney in violation and was revoked time served (three (3) months and fifteen (15) days). He was released and placed on two (2) years of community supervision.

Blakney was arrested May 13, 2011 for violation of community supervision. Blakney appeared in court for a revocation hearing on June 25, 2011. On that date, Judge James R. Barber III ordered the hearing be rescheduled to hear the issue of law with counsel for the South Carolina Department of Probation, Parole, and Pardon (the Department) present. The hearing convened on December 9, 2011; at the conclusion of which, Judge G. Thomas Cooper took the issue under advisement and directed the parties to submit memoranda. On January 13, 2012,

SEP 18 2012

Blakney was found in violation of his community supervision, revoked time served, and placed on two (2) years of community supervision.

Blakney was arrested April 27, 2012, for violation of community supervision. The matter was argued before this court on August 17, 2012. Present for the hearing were Mr. Benjamin Aplin on behalf of the SC Department of Probation, Parole, and Pardon Services and Mr. Constantine G. Pournaras on behalf of Blakney.

THIS COURT FINDS that Blakney's case is distinguishable from State v. Picklesimer, 388 S.C. 264 (2010), in that Blakney's original sentence, as ordered by Judge Michelle Childs, did not include a term of probation.


THIS COURT FURTHER FINDS that Blakney satisfied the terms of his original sentence upon the service of thirty (30) months during his second revocation, upon which the suspended portion of his sentence was discharged, leaving no additional revocable time to serve on community supervision violations. Having served the maximum revocable time allowed under his original sentence, Blakney can no longer be supervised by the Department of Probation, Parole and Pardon Services for indictment 2008-GS40-02974. It is therefore unnecessary to address the current violations.

IT IS THEREFORE ORDERED that warrant W-40-120074 be quashed and Blakney's community supervision case associated with indictment 2008-GS40-02974 be closed upon the filing of this order.

IT IS SO ORDERED

Lauca
Columbia, South Carolina

This 7 day of September, 2012.



BROOKS F. GOLDSMITH
Presiding Judge
Court of General Sessions
Fifth Judicial Circuit

46
STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND
STATE VS. Anthony K Blakney

INDICTMENT/CASE#:

2008-GS-40-02974

A/W#: K333118

Date of Offense: 03/13/2008

S.C. Code §: 16-11-0311

CDR Code #: 0079

AKA: _____
Race: B Sex: M Age: 19
DOB: _____ SS#: _____
Address: _____
City, State, Zip: Columbia, SC 29201
DL# _____ SID# _____

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: BURGLARY 1ST DEGREE

in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (defendant initial)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Heather S. Weis Anthony K Blakney Barbara A. Scott
Solicitor Defendant Attorney for Defendant SC Bar# 681002

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of 30 days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. (since 3-23-08)
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

set by SCDPPPS _____

PTUP

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

Recipient: _____	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ _____
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ _____
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ _____
§90.11 TP (SCCJA Surcharge)	\$5 \$ _____
TOTAL	\$ _____

Barbara A. Scott
Clerk of Court/ Deputy Clerk
Court Reporter: E. Harris

PRESIDING JUDGE

Judge Code: 5116176

Sentence Date: 11-6-08

WITNESSES

(s) INV PETOSKEY

47

ARREST WARRANT NUMBER

K333118

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

SEP 19 2008

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-40-2974

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2008

102

THE STATE

vs.

ANTHONY BLAKNEY

Indictment for

BURGLARY/(AFTER 6/20/85)

1ST DEGREE

SC Code: 16-11-311

CDR Code: 079

Class FEL-EXM(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on SEPTEMBER 17, 2008 the Grand Jurors of Richland County present upon their oath:

BURGLARY/(AFTER 6/20/85) - 1ST DEG

That ANTHONY BLAKNEY did in Richland County on MARCH 13, 2008, willfully and unlawfully enter the dwelling of MARY LEE HUTSON located at [REDACTED], Columbia, South Carolina and arm himself with a deadly weapon, without consent and with the intent to commit a crime therein, all in violation of §16-11-311, Code of Laws of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

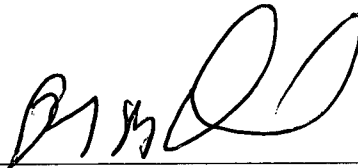


Warren B. Giese, SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

December 12th, 2013



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

G. Thomas Cooper, Jr., Circuit Court Judge

ORIGINAL

RECEIVED

DEC 12 2013

SC Court of Appeals

THE STATE,

RESPONDENT/APPELLANT,

V.

ANTHONY K. BLAKNEY,

APPELLANT/RESPONDENT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Tommy Evans, Jr., Esquire, at the South Carolina Department of Probation, Parole & Pardon Services, PO Box 50666, Columbia, SC 29250 this 12th day of December, 2013.

Brandon Hall
Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 12th day of December, 2013.

Darley Reed (L.S.)
Notary Public for South Carolina

My Commission Expires: October 24, 2021