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May 05 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

COURTNEY REGISTER,

APPELLANT

APPELLATE CASE NO. 2025-002364

ANDERS BRIEF OF APPELLANT

KATHRINE H. HUDGINS
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STATEMENT OF ISSUE ON APPEAL

Did the probation judge err in revoking probation, based in part on the failure to pay fees, without making a finding that the failure to pay was willful?

STATEMENT OF THE CASE

On August 17, 2023, Appellant, Courtney Shannon Register, entered a guilty plea to forgery and was sentenced to three (3) years suspended upon the service of three (3) years of probation.¹ (R. p. 10). In addition, the judge ordered seven hundred (\$700.00) dollars in restitution. (R. p. 11). In December of 2023, the Department of Probation, Parole and Pardon Services [PPP] issued a notice of violation. As a result, the surcharge account was restructured. (R. p. 13). On May 8, 2025, the surcharge and restitution accounts were again restructured. (R. p. 14). On October 20, 2025, a probation violation arrest warrant issued. (R. p. 16). On November 10, 2025, Appellant appeared before the Honorable William H. Seals, Jr. for a probation revocation hearing. W. Vickery Meetz represented Appellant at the revocation hearing. Agent Brianna Graham represented PPP. Judge Seals revoked eighteen (18) months, terminated probation and converted restitution owed to a civil judgment. (R. p. 18). A timely notice of intent to appeal was served on November 14, 2025. This appeal follows.

¹ Appellant did not appeal and there was no challenge to the indictment.

STANDARD OF REVIEW

“The decision to revoke probation is addressed to the sound discretion of the trial court.” State v. Spare, 374 S.C. 264, 268, 647 S.E.2d 706, 708 (Ct. App. 2007)(citing State v. Allen, 370 S.C. 88, 94, 634 S.E.2d 653, 655 (2006)). The appellate court’s “authority to review such a decision is confined to correcting errors of law unless the lack of a legal or evidentiary basis indicates the circuit judge’s decision was arbitrary and capricious.” Id. (quoting State v. Hamilton, 333 S.C. 642, 647, 511 S.E.2d 94, 96 (Ct. App. 1999)).

ARGUMENT

The probation judge erred in revoking probation, based in part on the failure to pay fees, without making a finding that the failure to pay was willful.

The probation arrest warrant alleges that Appellant violated her probation by failing to pay supervision fees, court costs and restitution, failure to notify agent of two arrests, failure to work diligently, failure to report and failure to follow the advice of the probation agent. (R. p. 16). During the revocation hearing counsel for Appellant admitted she failed to report but explained that she had transportation issues. (R. p. 4, lines 11-14). Counsel advised that because of Appellant's disability she was unable to work and unable to pay. (R. p. 4, lines 15-23; p. 5, lines 9-16). Counsel asserted no conviction would come as a result of either arrest. (R. p. 4, line 24 – p. 5, lines 1-8).

The judge revoked eighteen (18) months of probation. The order revoking probation lists violation of conditions #1, #5, #6, and #7. (R. p. 18). Standard condition of probation #1 is the obligation to report. (R. p. 14). Standard condition of probation #5 is the requirement to work. (R. p. 14). Standard condition of probation #6 is the requirement not to violate any law and report arrests. (R. p. 14). Standard condition of probation #7 is the obligation to pay fees. The revocation was based in part on the failure to pay fees. The judge, however, made no finding that the failure to pay fees was willful. The judge erred in revoking probation.

Our appellate courts have continued to maintain that “probation may not be revoked *solely* for failure to make required payments of fines or restitution without the circuit judge first determining on the record that the probationer has failed to make a bona fide effort to pay.” Hamilton, 333 S.C. 642, 649, 511 S.E.2d 94, 97 (Ct. App. 1999) (discussing Bearden v. Georgia, 461 U.S. 660, 103 S.Ct. 2064, 76 L.Ed.2d 221 (1983)); Nichols v. State, 308 S.C. 334,

337, 417 S.E.2d 860, 861 (1992); Barlet v. State, 288 S.C. 481, 483, 343 S.E.2d 620, 622 (1986).

“Therefore, in those cases involving the failure to pay fines or restitution, the circuit judge must, in addition to finding sufficient factual evidence of the violation, make an additional finding of willfulness.” Hamilton, 333 S.C. at 649, 511 S.E.2d at 97.


In State v. Spare, 374 S.C. 264, 268–69, 647 S.E.2d 706, 708–09 (Ct. App. 2007), the South Carolina Court of Appeals wrote:

“Willful failure to pay means a voluntary, conscious and intentional failure.” People v. Davis, 216 Ill.App.3d 884, 159 Ill. Dec. 841, 576 N.E.2d 510, 513 (1991); see State v. Sowell, 370 S.C. 330, 336, 635 S.E.2d 81, 83 (2006) (“A willful act is defined as one ‘done voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done; that is to say, with bad purpose either to disobey or disregard the law.’ ” (quoting Spartanburg County Dep't of Soc. Servs. v. Padgett, 296 S.C. 79, 82-83, 370 S.E.2d 872, 874 (1988))). “The trial court may infer that the failure to pay is intentional where a probationer has the ability to pay a fee, but does not do so.” Joseph v. State, 3 S.W.3d 627, 641 (Tex.App.1999) (citations omitted).

The judge failed to make a finding that the failure to pay was willful. Defense counsel advised the probation revocation judge that because of Appellant’s disability she was unable to work and unable to pay. (R. p. 4, lines 15-23; p. 5, lines 9-16). The judge erred in revoking probation based on failure to pay when the failure was not willful. The remaining violations may not have warranted revocation. Appellant was unable to work due to her disability. She did not report because of transportation issues. The arrests and failure to notify may not have resulted in revocation and the judge could have continued Appellant on probation.

CONCLUSION

Based on the above argument, this Court should reverse the probation revocation and remand for a new probation revocation hearing.



Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 5th day of May, 2026.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Courtney Register states:

1. She is Senior 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 William H. Seals, which was held on Nov. 10, 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 Courtney Register.

Respectfully Submitted,



Kathrine H. Hudgins
Senior Appellate Defender


ATTORNEY FOR APPELLANT

This 5th day of May, 2026.

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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This 5th day of May, 2026.