

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jun 24 2026
SC Court of Appeals

Appeal from Bamberg County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAQUAN PATRICK ANTHONY JONES,

APPELLANT

APPELLATE CASE NO. 2025-001364

ANDERS BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court abused its discretion by failing to properly consider appellant's mitigation or provide sufficient reasoning underlying its sentencing decision and its decision to fully revoke appellant's probation?

STATEMENT OF THE CASE

Appellant was indicted at the August 2025 term of the Bamberg County grand jury for two counts of attempted murder. R. 3-6. At his June 25, 2025, plea hearing appellant was represented by Wallis Alves and David W. Miller represented the state. R. 20. Judge Walton J. McLeod IV, imposed an 18 year sentence as to one count of attempted murder and a 10 year sentence as to the second count of attempted murder, set to run concurrently. R. 42, ll. 9-13. Judge McLeod also revoked appellant's probation in full, set to run concurrent to the 18-year total sentence. R. 42, ll. 14-17. Appellant then filed a notice of appeal and a Rule 203(b) explanation wherein appellant's plea counsel stated she did not have a good faith basis to believe any issues were properly before the Court of Appeals and no motion to reconsider the sentence was filed. R. 45-50. On July 10, 2025, the South Carolina Court of Appeals allowed the appeal to proceed. R. 51.

This appeal follows.

STANDARD OF REVIEW

“In criminal cases, the appellate court sits to review errors of law only.” *State v. Vick*, 384 S.C. 189, 197, 682 S.E.2d 275, 279 (Ct. App. 2009) (quoting *State v. Wilson*, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001)). The appellate court is “bound by the trial court’s factual findings unless they are clearly erroneous.” *Id.* The reviewing court “does not re-evaluate the facts based on its own view of the preponderance of the evidence but simply determines whether the trial court’s ruling is supported by any evidence.” *State v. Slocumb*, 412 S.C. 88, 91, 770 S.E.2d 436, 438 (Ct. App. 2015). “A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law or a factual conclusion without evidentiary support.” *In re M.B.H.*, 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010).

This Court reviews the trial court’s decision whether to revoke probation for abuse of discretion. *State v. Miller*, 122 S.C. 468, 474-75, 115 S.E. 742, 745 (1923). “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. Allen*, 370 S.C. 88, 94, 634 S.E.2d 653, 655 (2006). “While probation is a matter of grace, the probationer is entitled to fair treatment and is not to be made the victim of whim or caprice.” *Id.* at 94, 634 S.E.2d at 655-56 (quoting *State v. White*, 218 S.C. 130, 136, 61 S.E.2d 754, 756 (1950)).

ARGUMENT

The trial court abused its discretion by failing to properly consider appellant's mitigation or provide sufficient reasoning underlying its sentencing decision and its decision to fully revoke appellant's probation.

Relevant facts

2023 plea hearing

On October 19, 2023, a plea hearing was held before the Honorable Courtney Clyburn Pope, concerning a prior stalking charge in Bamberg County. R. 7. Wallis Alves represented appellant and Leigh B. Staggs represented the state. R. 7. The state requested a five year sentence suspended on five years' probation, no contact with the complainant, and a permanent restraining order. R. 12, ll. 15-17. The plea court accepted appellant's guilty plea. R. 13, ll. 1-4. The plea court thus imposed a five year sentence suspended on a five-year probationary sentence, with credit for 205 days' time served. R. 15, ll. 3-6. The plea court also ordered that appellant would have no contact with the complainant and signed the permanent restraining order. R. 15, ll. 7-9.

2025 plea hearing

On June 25, 2025, a plea hearing was held before the Honorable Walton J. McLeod, IV. R. 20. Wallis Alves represented appellant and David W. Miller represented the state. R. 20. The state noted that appellant was pleading guilty to two attempted murder charges but would enter a plea pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), for the indictment ending in -138. R. 22, ll. 5-10. The plea court confirmed that there was a negotiated cap of 20 years on these charges. R. 22, ll. 23-24. The state provided the facts underlying the offenses. R. 24, l. 21 – 26, l. 14; 26, l. 24 – 29, l. 9. Appellant agreed with the state's recitation of the facts. R. 29, ll.

10-14. Appellant plead guilty to the attempted murder indictment ending in -137 and entered a plea pursuant to *Alford* on the second attempted murder indictment ending in -138. R. 29, l. 15 – 30, l. 20. The plea court accepted appellant's pleas as voluntarily, knowingly, and intelligently made with a substantial factual basis for the pleas. R. 30, ll. 21-25.

The plea court then addressed the outstanding probation violation. Defense counsel acknowledged that appellant had a probation violation. R. 31, ll. 13-15. The probation agent explained that he did not have any paperwork for the court but provided that appellant was sentenced to five years suspended on five years' probation for stalking. R. 31, ll. 21-25. The probation agent asked that any revocation run concurrently with the active time he would receive on these charges. R. 32, ll. 1-6.

Plea counsel articulated to the court that appellant and the complainant from the stalking charge shared a child whom he had visited, maintained a relationship with, and saw while he was on probation. R. 32, ll. 10-17. Counsel also noted that appellant had a child born while he was incarcerated that he had not had contact with. R. 32, ll. 14-15. As to the second attempted murder charge, plea counsel argued that while appellant admitted that he shot, he maintained he shot one time in self-defense because he was scared Clarence Martino was shooting at him. R. 34, ll. 1-9. Counsel continued that appellant entered an *Alford* plea because he asserted that he only shot in response to Martino shooting at him for which appellant did receive medical treatment. R. 34, ll. 10-13. Plea counsel also explained that appellant was 26 years old and his mother wanted plea counsel to communicate to the court that she loved her son and supported him. R. 36, l. 18 – 37, l. 5. Counsel requested a ten-year sentence for the charges with 564 days of credit. R. 37, ll. 6-7.

Complainant addressed the court and stated that she was the mother of appellant's baby. R. 37, ll. 12-13. She acknowledged that she and appellant had their problems but explained they got over it for the sake of their child. R. 37, ll. 13-14. She stated that appellant was a good father and asked the court to take that into consideration. R. 37, ll. 14-16. She concluded by reminding the court that appellant had two kids looking up to him. R. 37, ll. 16-17.

The state provided appellant's prior record. R. 37, l. 22 – 38, l. 7. The state argued that appellant needed to go to prison for "a whole lot longer than ten years." R. 39, ll. 2-3. The state requested that the plea court impose a 20-year sentence. R. 39, ll. 3-6.

Plea counsel provided the plea court with a letter from Sergeant Bennett, a jailer at the Colleton County jail where appellant had been housed, that expressed appellant had been polite, well-behaved, well-disciplined, helpful, and supportive during his incarceration. R. 39, l. 21 – 40, l. 8. Counsel asked the court to take the letter into consideration. R. 40, ll. 8-9. Appellant then addressed the court, took full accountability, and apologized. R. 40, l. 13 – 22, l. 10.

The plea court explained it heard the factual allegations from the December 9, 2023, incident. R. 41, ll. 13-14. The court noted that appellant had opportunities and listed his YOA sentence in 2019 and two probationary sentences he received in 2021 and 2023. R. 41, ll. 15-19. The court stated that it hoped when appellant completed his sentence that "we don't see you again like this." R. 42, ll. 3-4. The court continued that it knew appellant wanted to be a dad but explained he would have "an opportunity at the end of this to live a better life." R. 42, ll. 5-8. The court then imposed an 18-year sentence as to the attempted murder indictment ending in -137 and a 10-year sentence as to the attempted murder indictment ending in -138, set to run concurrently. R. 42, ll. 9-12. Plea counsel inquired about probation and the court responded "[p]robation revoked in full, terminate." R. 42, ll. 14-15. The court confirmed it would run

concurrently. R. 42, ll. 16-17. Plea counsel did not object to the court's sentence or its full revocation of appellant's probation.

Discussion

"A sentence is not excessive if it is within statutory limitations and there are no facts supporting an allegation of prejudice against a defendant." *Brooks v. State*, 325 S.C. 269, 272, 481 S.E.2d 712, 712 (1997). Moreover, "[a]t sentencing, a judge has an obligation to consider information material to punishment." *Hayden v. State*, 283 S.C. 121, 123, 322 S.E.2d 14, 15 (1984). "A sentencing judge may appropriately conduct an inquiry broad in scope, largely unlimited as to either the kind of information he may consider, or the source from which it may come." *Id.* (citing *United States v. Tucker*, 404 U.S. 443, 92 S. Ct. 589 (1972) (internal quotation marks omitted)).

A probationer may only be revoked if the revocation is "[predicated] [sic] upon an evidentiary showing of fact tending to establish violation of the conditions." *White*, 218 S.C. at 135, 61 S.E.2d at 756. A judicial determination that lacks evidentiary support is "arbitrary and capricious," and cannot be the basis for a probation revocation. *Id.*; *State v. Hamilton*, 333 S.C. 642, 647, 511 S.E.2d 94, 96 (Ct. App. 1999). When a probation court's ruling rests on factual conclusions, a ruling without evidentiary support constitutes an abuse of discretion. *Allen*, 370 S.C. at 94, 634 S.E.2d at 656. Moreover, whether a lower court abused its discretion when revoking probation "must be determined in accordance with principles governing exercise of judicial discretion, which implies conscientious judgment, not arbitrary action, takes account of law and particular circumstances, and is directed by judge's reason and conscience ot just result." *State v. Lee*, 350 S.C. 125, 130, 564 S.E.2d 372, 375 (Ct. App. 2002) (citing *White*, 218 S.C. at 130, 61 S.E.2d at 754).

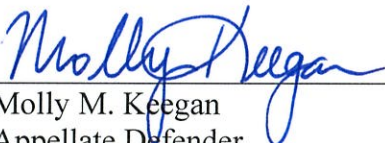
In appellant's case, the plea court abused its discretion by failing to consider mitigation evidence presented on behalf of appellant during his plea hearing. Specifically, the court did not adequately consider complainant's testimony that appellant was a good father, which she expressly asked the court to consider, and the court did not consider the letter from Sergeant Bennet attesting to appellant's well-disciplined and helpful behavior while he was in pretrial detention. R. 37, ll. 14-17; R. 39, l. 21 – 40, l. 8. Although the plea court heard the recitation of facts underlying appellant's guilty pleas, allocutions, and arguments of counsel during the plea proceeding, the plea court failed to address the mitigation presented on its behalf when crafting appellant's sentence. R. 41, l. 15 – 42, l. 12. In failing to do so, the plea court failed to consider information that was material to appellant's punishment. *Hayden*, 283 S.C. at 123, 322 S.E.2d at 15. Therefore, because the plea court did not sufficiently articulate the reasoning underlying its sentencing decision or indicate that it considered appellant's mitigation evidence, the plea court abused its discretion. *See State v. Hawes*, 411 S.C. 188, 191, 767 S.E.2d 707, 708 (2015) ("A failure to exercise discretion amounts to an abuse of that discretion."); *In re M.B.H.*, 387 S.C. at 326, 692 S.E.2d at 542.

Likewise, the lower court abused its discretion by provoking appellant's probation in full without any explanation or consideration of the mitigating circumstances presented to the court. Although defense counsel acknowledged that appellant had violated probation, R. 31, ll. 13-15, the probation agent did not provide the court with any documentation regarding the alleged probation violation, R. 31, ll. 21-25. In ruling on the probation issue, the lower court merely stated "[p]robation revoked in full, terminate," and determined it would run concurrently to the total 18-year sentence on the guilty pleas consistent with the probation agent's recommendation. R. 31, ll. 1-6; R.42, ll. 14-17. The lower court did not articulate a basis for the facts supporting

revocation nor did the court consider the statement from complainant, the complainant from the underlying stalking charge the probation revocation originated from, that appellant was a good father, and thus, abused its discretion by revoking appellant's probation in full absent any explanation for its decision. *Allen*, 370 S.C. at 94, 634 S.E.2d at 656; *Lee*, 350 S.C. at 130, 564 S.E.2d at 375; *White*, 218 S.C. at 130, 61 S.E.2d at 754; *see also* R. 42, ll. 14-17.

CONCLUSION

Based on the foregoing argument, appellant respectfully requests this Court to reverse his convictions, sentence, and order revoking appellant's probation, and this case should be remanded to the Court of General Sessions of Bamberg for resentencing and a new revocation hearing.


Molly M. Keegan
Appellate Defender

ATTORNEY FOR APPELLANT

This 24th day of June, 2026.

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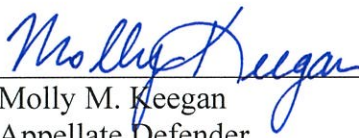
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jaquan Jones states:

1. She is 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 plea hearing before Judge Walton J. McLeod, IV, which was held on June 25, 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 Jaquan Jones.

Respectfully Submitted,


Molly M. Keegan
Appellate Defender

ATTORNEY FOR APPELLANT

This 24th day of June, 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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Appellate Defender

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