

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

George C. James, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NICHOLAS A. SMITH,

APPELLANT

APPELLATE CASE NO. 2013-000986

RECORD ON APPEAL

BENJAMIN JOHN TRIPP
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Attorney for Respondent

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SC Court of Appeals

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STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

COURT OF GENERAL SESSIONS
2011-GS-32-03534

ORIGINAL

STATE OF SOUTH CAROLINA)

PLAINTIFF)

vs.)

TRANSCRIPT OF RECORD

NICHOLAS A. SMITH)

DEFENDANT)

April 26, 2013
Lexington, South Carolina

B E F O R E:

THE HONORABLE GEORGE C. JAMES, JR., Judge.

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

LORENZO JONES, PROBATION AGENT

SARAH HAHN, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

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NICHOLAS SMITH

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» > < «

There were no exhibits.

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1 NICHOLAS SMITH, after being duly sworn,
2 testified as follows:

3 THE COURT: Today is the 26th?

4 MS. HAHN: Yes, sir.

5 EXAMINATION

6 BY THE COURT:

7 Q Nicholas Smith?

8 A Yes, sir.

9 Q Okay, Mr. Smith, you're here today pursuant to a
10 warrant issued by the Department of Probation and
11 Parole and Pardon Services after you were put on
12 probation by Judge Keesley in November of 2011 for
13 use of a firearm while under the influence of
14 alcohol. Haven't seen that one before. He gave you
15 two years provided upon the service of 90 days. You
16 would be on probation for two years. Have you been
17 served with the warrant?

18 A Yes, sir.

19 Q Had a chance to talk your lawyer about it?

20 A Yes, sir.

21 Q And speak up for me, okay?

22 A Yes, sir.

23 Q Do you understand that you can receive a revocation
24 of your probation today?

25 A Yes, sir.

1 Q All right, you can appeal my decision within 10 days.

2 A Yes, sir.

3 THE COURT: Okay.

4 All right, Mr. Jones.

5 MR. JONES: May it please the Court, Your Honor.
6 Details of Mr. Smith's violations are that he failed to
7 follow advice and instructions of the supervising agent.
8 He did not report as directed on December -- October 25th,
9 2012. He failed to report for November 11th, 2012,
10 December of 2012 and January of 2013. He last reported
11 October 4th of 2012. As evidenced by a January 23rd, 2013
12 home visit, Mr. Smith has failed to provide the agent with
13 a valid resident plan. He failed to maintain gainful
14 employment under supervision. He failed to complete anger
15 management counseling and was terminated from services on
16 December 12th, 2012.

17 THE COURT: For not showing up?

18 MR. JONES: Yes, Your Honor.

19 He failed to continue to attend and complete
20 substance abuse counseling. He failed to pay his drug
21 test fees, Court ordered fines, intensive and regular
22 supervision fees as required.

23 We are asking for a full revocation in this
24 case, Your Honor. Two years less 90 days credit for time
25 served and any pre-revocation jail credits.

1 Justification of Mr. Smith is began supervision
2 in November 2011. Approximately five months later a
3 violation of probation warrant was issued, charging
4 Mr. Smith with failure to report and failure to complete
5 any Court ordered conditions. By that time he had also
6 been convicted of new offenses. May the 12th of 2012
7 Mr. Smith was continued at the Preliminary Hearing under
8 the original terms of his case. Thereafter, he
9 participated in a supervision at a minimum level for
10 approximately five months. Then he absconded.

11 Mr. Smith has failed to complete any Court
12 ordered obligation since the original November 2011
13 sentence. He does not report. He does not have a valid
14 resident plan. He does not work. He's currently charged
15 in a second new arrest while he's under supervision.

16 Since 2005 Mr. Smith has been arrested by
17 Kershaw County Sheriff's Department, Richland County
18 Sheriff's Department, South Congaree Police Department,
19 Springdale Police Department, USC Police Department, Cayce
20 Police Department and South Carolina Department of
21 Probation and Pardon. In all likelihood, Mr. Smith does
22 not want probation. But even if he does like the idea of
23 supervision as an alternative to prison, Mr. Smith has
24 proven time and time again to be a poor candidate for
25 probation. Full revocation of the suspended sentence is

1 appropriate at this time.

2 THE COURT: I'm sorry, when was he first put on
3 prohibition? In November '11, he didn't report then
4 either?

5 MR. JONES: No, sir.

6 THE COURT: He was continued?

7 MR. JONES: Yes, sir. We had that hearing on
8 May 21st of 2012.

9 THE COURT: And he went to that?

10 MR. JONES: Yes, sir.

11 THE COURT: I'm sorry, Mr. Jones, anything else?

12 MR. JONES: Since I had Mr. Smith, he's been
13 pretty agitated anytime he comes to the office. Any
14 attempts we have tried to make to help him, he just
15 refuses. And I've tried to talk with him, visit his
16 family the day before this hearing. I had to go to his
17 house to get him to sign a note. His mother told me that
18 he wasn't there, he didn't live there. When he comes to
19 see me, I ask him to give me verification of where he's
20 living, he never presents anything.

21 THE COURT: Okay.

22 Ms. Hahn.

23 MS. HAHN: Thank you, Your Honor.

24 THE COURT: Let's talk about the no reporting,
25 okay.

1 MS. HAHN: Yes, sir.

2 THE COURT: All right.

3 MS. HAHN: As far as not reporting, he has
4 reported some, you know, since he got locked up on the
5 warrant in January. He's done 90 days in detention, then
6 bonded out. I think that he's been reporting since then.
7 I know that he made contact with Mr. Jones very recently
8 because they had to correct the date that he was supposed
9 to come to court for today's hearing. So I think he has
10 been doing what he's supposed to since the days that he
11 didn't report. The ones that were outlined in the
12 violation report were the ones from back in October 2012
13 to January of this year.

14 Your Honor, as far as the not having a steady
15 place to live -- I won't address the allegation about what
16 happened this week, that's the first I've heard about it.
17 I'll let Mr. Smith answer that question. But as far as
18 before that, he says that at one point before he did have
19 a job. And went -- Mr. Jones came to his house, that he
20 was not at the house that day but he was at work. The
21 other part of the problem he had with the home situation,
22 he was staying between his mother's house and a trailer
23 that he owned very close by, living at one sometimes, one
24 the other. I know that's probably not as stable a
25 residence as he should have had but that's what he says

1 happened. That that's about a mile up the road. And very
2 close to his mother's house.

3 I think the larger problem for him has been that
4 he has really struggled finding a job. He's done some
5 work but been -- (indiscernible.) job type work he said he
6 did that in Bamberg. He also worked in a meat factory for
7 a little while for a few months. He didn't have much
8 coming in. And that I think that was part of the reason
9 he wasn't reporting. That he made the mistake too many
10 people make, they don't have the money and they're going
11 to be violated for not having the money, even though the
12 one thing the Judge is concerned about is reporting. So,
13 he knows that he made a mistake. But I think that he has
14 reported since he's gotten out of jail, kind of started
15 over with that.

16 THE COURT: But he went to an administrative
17 hearing last spring for the same thing. And assume the
18 hearing officer said, Hey, you need to report.

19 MS. HAHN: They may have, Your Honor.

20 THE COURT: Did they tell him that?

21 MR. JONES: Yes, sir, Your Honor. Before we
22 revoke we give them an opportunity to comply with the
23 Order of the Court.

24 THE COURT: Okay.

25 MS. HAHN: All I can say is from the time of

1 October until January, that was the problem. He didn't
2 have the money to pay is, essentially, what it was. It
3 was the wrong decision on his part but that's what he did.
4 As far as the counseling, his understanding was that he
5 had to complete anger management counseling first. Then
6 he's supposed to do drug and alcohol counseling after
7 that. He said he went to five or six anger management
8 meetings in Batesburg like he was supposed to. So, when
9 he didn't have the money to pay for the alcohol and drugs
10 classes, he stopped going. Again, that was the wrong
11 thing to do. That's what he did since his understanding
12 was he had to do alcohol and drug classes, he didn't go.

13 As far as his record, and Mr. Jones had made
14 mention of that, he mentioned a lot of arrest warrants, he
15 had those really since 2005. Mr. Smith was put on
16 probation in 2011. He had one conviction. But when we
17 reviewed the rap sheet last time we were here, I believe,
18 that that new conviction was of disorderly conduct.
19 Certainly, he shouldn't have had any charges but it wasn't
20 anything related to firearms or anything related to
21 anything he's on probation for. Certainly, not the
22 pending conviction.

23 THE COURT: What was that for?

24 MS. HAHN: Disorderly conduct, Your Honor. He
25 says that the charges was discharging a firearm when under

1 the influence. He says he doesn't own a gun. I think the
2 more important thing is that he hasn't gotten in any new
3 trouble with respect to that. That he basically followed
4 the rules in that report, Your Honor. He knows he's in a
5 bad position today. I think the biggest part of this has
6 been that he just not really had much money. And I think
7 that led him to make some bad decisions as far as how to
8 deal with probation.

9 He would like to continue on probation if, Your
10 Honor, would give him that opportunity. If not, we'd ask
11 for a short revocation. He would ask for something on
12 weekends. He does have a grandmother that's in poor
13 health that if allow to do time on weekends, that other
14 family members can fill in when he's not there.

15 THE COURT: What would you like to tell me?

16 MR. SMITH: Yes, sir, when I got revoked [sic]
17 last time--

18 THE COURT: You didn't get revoked.

19 MR. SMITH: I went to a hearing. I did report
20 to him when I first got out of jail.

21 THE COURT: Sir?

22 MR. SMITH: It's hard for me to talk. I did
23 report to him when I first got put on probation. He told
24 me--

25 THE COURT: You did report to?

1 MR. SMITH: When I first got put on probation.

2 THE COURT: Right.

3 MR. SMITH: He tried to tell me the whole time,
4 probation, he been trying to tell me I can't see my kids.
5 If see my kids, I'm going to go to jail. When we went to
6 the hearing, they told him he couldn't do that. The only
7 way he can do that if they get a Restraining Order. And
8 the next time I report, they told him that since I have
9 been removed from the anger management center, that I --
10 (indiscernible) insights. And my last Court Order it's
11 Court ordered for me to go to job corps or rehab. I was
12 under the impression that I was supposed to be referred
13 from him. I've had asked him every time I went in there.
14 He tried to tell me -- the job corps, there's not even a
15 job corps in South Carolina. There's one in Bamberg. I
16 have two children. I just had that trailer that I -- my
17 mom died a year and a half --

18 THE COURT: She died?

19 MR. SMITH: That was my grandmother that's 73
20 years old, that she's not there, you know. I walked
21 outside and he was out there telling my grandmother he was
22 going to lock her up if she -- if she didn't know I was
23 there. My grandmother lives a mile up the road from my
24 trailer. I sold the trailer to the mother of my children
25 for tax to take care of my grandma --

1 THE COURT: Why didn't you report when you were
2 supposed to?

3 MR. SMITH: I work out of town sometimes. I
4 call him -- the first time I talked to him I was scared to
5 go into that day. He said if I would report he's going to
6 have to get a warrant for me. So that's why I didn't even
7 report. I haven't run from him. I live right in the
8 same --

9 THE COURT: That's not his job to come look for
10 you, it's your job to report.

11 MR. SMITH: Yes, sir. But, I mean, I asked for
12 community service over and over. The money -- I do get to
13 see my children and support even my grandma. I do my best
14 when I go in there. One he took up all I had. I had like
15 \$16.00 I put -- I didn't have enough to pay the whole drug
16 test.

17 THE COURT: How much?

18 MR. SMITH: No, he asked how much I had, I
19 pulled it out and gave it to him.

20 THE COURT: All right.

21 MR. JONES: Your Honor, may I address the Court?

22 THE COURT: Yes, sir.

23 MR. JONES: The situation with Mr. Smith about
24 the money issue, I asked him how much money he had in his
25 pocket to address one of the issues of his probation and

1 that drug test fee. He paid all of it but four dollars.
2 I said take small steps to pay that money that you owe
3 off. There was no pressure on Mr. Smith. The situation
4 with his grandmother was I walked up to the front door and
5 I told her who I was. I was dressed in my uniform.

6 I said, Ma'am, Is Nicholas here?

7 She said, No, he is not.

8 He walked right out the door within a second.

9 And I looked at her and said, Ma'am, it's not a
10 good idea to lie to law enforcement. If he's here, all
11 you have to do is tell me he's here.

12 She is very, very elderly. Simply, I did not
13 try to intimidate her by no means.

14 Mr. Smith comes into my office, I have to
15 constantly remind him of his obligations to the Court.
16 And I made it very easy for him. I tell him and all the
17 people that I have supervise, if you have a problem, pick
18 up the telephone, call me, I will reschedule. I will do
19 everything that I possibly can to help you. When we went
20 to the administrative hearing, the hearing officer said
21 for him to go to the drug treatment program. As I have
22 explained to Mr. Smith, we're going to do this one thing
23 at a time. When you finish one thing, then we would
24 proceed to the other.

25 I have a -- substance abuse program that I refer

1 him to. It's the closest place, here in Lexington, Your
2 Honor. It's not free, Your Honor, but the counselor will
3 make it clear to everybody that the supervisors, they will
4 work with them if they don't have the money to pay that
5 they require to take the classes. If there's a problem at
6 the end of their treatment, they don't give them the
7 completion notice until the money is paid. But there's no
8 pressure to come, to show up, to pay anything. They work
9 with all the clients that we send to them. They send us a
10 monthly list to let us know when they attend and what
11 their progress is.

12 Mr. Smith has -- just would not comply. And I
13 do believe what he says about him selling his trailer, the
14 incident with his children. But as we explained to him,
15 that was an incident or community complaint about him
16 going to see the children. To avoid that I reminded him,
17 Look don't go unless you get a Court Order. That will
18 keep him out of trouble. That will keep the community
19 complaints down. Mr. Smith is a young man. I don't have
20 any grudges against him. I'm sure he will let the Court
21 know I have tried to work with him. I've made every
22 effort to provide him -- give him as much assistance and
23 time as I possibly can.

24 THE COURT: What drug do you have a problem
25 with?

1 MR. SMITH: I don't have a drug problem, sir. I
2 smoked marijuana but I don't drink alcohol since I got---

3 THE COURT: Shows substance abuse treatment,
4 drug treatment.

5 MR. SMITH: Well, they gave me both because is
6 necessity of drug -- a drug charge with the--

7 THE COURT: When's the last time you smoked
8 marijuana?

9 MR. SMITH: Like two and a half weeks ago.

10 THE COURT: That's a violation of your
11 probation, too.

12 MR. SMITH: I mean, yes, sir. But he --

13 THE COURT: Doesn't make any sense to me.

14 MR. SMITH: I ask him every time I come in
15 there--

16 THE COURT: But you don't.

17 MR. SMITH: Pretty rare, right. Because he told
18 me he'd take me to jail.

19 THE COURT: Okay. Why did you quit reporting?

20 MR. SMITH: Because I was scared he was going to
21 take me to jail.

22 THE COURT: Anything else, Ms. Hahn?

23 MS. HAHN: The only thing I point out in this
24 report, he felt like there were new rules. Certainly,
25 probation's allowed to add conditions like that.

1 THE COURT: But that was before the hearing
2 officer, it was done.

3 MS. HAHN: Yes, sir.

4 MR. SMITH: It happened afterwards. That's why
5 I didn't report this time. Because I went back in there,
6 he told me that I was allowed to a -- one time around
7 type, that's why I stopped reporting again. I had the
8 same -- they had -- that he talked about I had that court
9 date the last date he said I reported after that. He told
10 me -- he says that I had to give him my address. I did.
11 That letter that -- I got a letter at my address for Cayce
12 courthouse for disorderly conduct. That's what he put on
13 the copy or whatever because they had my address on it
14 when I gave it to him. I didn't have the paper anymore.
15 I lost it or something. I asked him what the court date
16 for that because I don't know it. Because---

17 THE COURT: You asked him?

18 MR. SMITH: Yes, sir. The paper -- he looked up
19 the paper and that court date had already passed. The
20 court date I got to show up three days after that. Which
21 I didn't miss the court date, he told me that. I gave him
22 all the money that I could possibly give. I asked for the
23 community service and I asked for permission to go to voc
24 rehab. I mean, anything just so he can help me find a job
25 or something. I've tried. I've reported. The --

1 (indiscernible) center, the reason I violated reporting,
2 you have two times to miss classes before you get -- they
3 call some record they say, but they say two times miss
4 payments. You can sit in two payments but don't get
5 credit for time until payment after that second time.

6 THE COURT: All right, let's talk about
7 reporting, sir, that's what I'm concerned with. Did you
8 report in November?

9 MR. SMITH: I don't know when I started
10 reporting, sir.

11 THE COURT: So -- November, December, January
12 and then they served the warrant on you in February?

13 MR. SMITH: No, sir. I just got -- the warrant
14 was served in -- warrant right here. The last time I
15 reported was October.

16 THE COURT: Okay. This warrant was served
17 February 27th.

18 MR. SMITH: Yes, sir.

19 THE COURT: And have you seen him at all in the
20 intervening time?

21 MR. SMITH: I talked to him.

22 THE COURT: Have you gone to make your visits?

23 MR. SMITH: I -- I didn't -- this is hard enough
24 for me to get rides to get my kids groceries and stuff on
25 EBT. I mean, it's not easy.

1 THE COURT: Your recommendation?

2 MR. JONES: Your Honor, first I'd like to
3 address, again, one of the implications that he said. A
4 special condition was that the substance abuse counseling,
5 anger management counseling no contact with Daniel Sawyer.
6 I would like to address the anger management and substance
7 abuse counseling, Your Honor. At the Lance Center (ph),
8 they address both of those special conditions. He
9 finishes one then he can go into the other. As, he
10 said -- center makes every effort for people who don't
11 have the money to still participate in the class. They
12 have a point which they will still provided services but
13 they -- if you have a problem just let them know, they try
14 to work with them. Mr. Smith just is not a good candidate
15 for probation, Your Honor. He simply refuses to follow
16 advice and instructions.

17 THE COURT: All right. Anything else?

18 MS. HAHN: Your Honor, only other thing I can
19 say, we just ask for a short revocation if you're inclined
20 to go that direction.

21 THE COURT: All right, I find that Mr. Smith is
22 aware of the nature of these proceedings. Represented by
23 competent counsel. He is in violation of his probation.
24 Probation is a two-way street. You're lane is wide. You
25 got to stay in it, you got to report. I understand --

1 well, I disagree with you. The easiest thing to do is to
2 report. Then, you know, the agent will work with you.

3 MR. SMITH: Well, I called him, told him I
4 didn't have a ride. He said I was going to have a
5 warrant. Why would I go report if I'm going to jail
6 still?

7 THE COURT: You got to report. It's your
8 responsibility to report.

9 MR. SMITH: I'm not a bad person.

10 SENTENCING

11 THE COURT: I'm going to rule, okay. All right.
12 I'm not going to revoke all the time you have remaining.
13 I'm going to revoke -- your probation is going to end.
14 I'm going to revoke 10 months and he's done. All right.

15 MR. JONES: Convert the balance of the
16 obligations, Your Honor, to civil judgment?

17 THE COURT: Yes, sir.

18 MR. JONES: Thank you.

19 (WHEREUPON, the proceedings were concluded.)
20
21
22
23
24
25

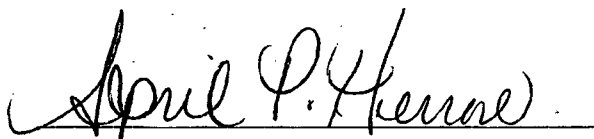
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the
Thirteenth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and complete Transcript of Record of the
proceedings had and evidence introduced in the trial of
the captioned case, relative to appeal, in the Court of
General Sessions for Lexington County, South Carolina, on
the 26th day of April, 2013.

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

June 31, 2013



APRIL P. HERRON, Court Reporter

WITNESSES

Lexington County Sheriffs Department

Billy R. Laney

Law Enforcement Case #: 11026708

KWJ

ARREST WARRANT NUMBER

M303046

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-32-03534

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2011

THE STATE
vs.

Nicholas Alexander Smith

CDR #: 2506

Indictment for

Use of Firearm while under the Influence

§ 23-31-0400(C)

DONALD V. MYERS, SOLICITOR

I DO HEREBY WAIVE MY RIGHT
TO GRAND JURY PRESENTMENT*Nicholas Alexander Smith*
DEFENDANT11/02/11
DATE*D. V. Myers*
WITNESSLex. Co. C.O.P., G.B. & P.O.
A TRUE COPY

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

INDICTMENT FOR
Use of Firearm while under the Influence

§ 23-31-0400(C)

At a Court of General Sessions, convened on November 2011, the Grand Jurors of Lexington County present upon their oath:

That in Lexington County, South Carolina, on or about August 3, 2011, the Defendant, Nicholas Alexander Smith, did discharge a firearm while under the influence of alcohol or a controlled substance; in violation of Section 23-31-400 (B), and punishable under 23-31-400 (C) Code of Laws of South Carolina, (1976, as amended).

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


ASSISTANT SOLICITOR

up to 23 yrs
or
up to \$2,000

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.
Nicholas Alexander Smith

AKA:

Race: White Sex: M Age: 23

DOB: SS#: 2

Address:

City, State, Zip: West Columbia, SC 29172

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Weapons / Use of firearm while under influence of alcohol or drugs

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-GS-32-03534

A/W#: M303046

Date of Offense: 8/3/2011

S.C. Code §: 23-31-0400(C)

CDR Code #: 2506

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 23-31-0400(C) of the S.C. Code of Laws, bearing CDR Code # 2506
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45 w/minor 1st or Lewd Act

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. NS (defendant's initials)

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

ATTEST: Shat Whit Solicitor 7/6/12 SC Bar# Richard Smith Defendant Attorney Attorney for Defendant 66261 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 2 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 90 days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 2

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.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

14-1-206 (Assessments 107.5%) \$ _____

14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

56-5-2995 (DUI Assessment) \$12 \$ _____

56-1-280 (DUI Breath Test) \$25 \$ _____

Proviso 4 (Public Def/Prob) \$500 \$ 500.00

14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

14-1-213 (Drug Court Surcharge) \$150 \$ _____

50-2-117 (BUI Breath Test Fee) \$50 \$ _____

56-5-2942(I) (Vehicle Assessment) \$40/ca \$ _____

Proviso 90 (SCCA Surcharge) \$5 \$ 5.00

% to County (if paid in installments) \$ _____

TOTAL \$ 1030.00

Clerk of Court/Deputy Clerk Beth A. Carver

Court Reporter: S. Sheppard

SCCA217 (03/2011)

_____ 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: Anger mgmt. counseling; no

contact w/ _____ Daniel Sawyer;

def. cannot possess any firearm; consume

no alcohol; pay P.D. fee of ct. cost @ \$50/mo.

☒ Appointed PD or appointed other counsel, beginning

§ 47.12 requires \$500 be paid to Clerk 1/5/12

during probation.

Presiding Judge William P. Kinsley

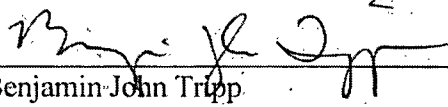
Judge Code: 2050

Sentence Date: Nov. 2, 2011

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."

January 6, 2014


Benjamin John Tripp
Appellate Defender

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

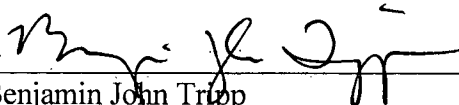
ATTORNEY FOR APPELLANT

RECEIVED
JAN 06 2014
SC Court of Appeals

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ATTORNEY FOR APPELLANT

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JAN 06 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA

ORIGINAL

IN THE COURT OF APPEALS

Appeal from Lexington County

George C. James, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NICHOLAS A. SMITH,

APPELLANT

APPELLATE CASE NO. 2013-000986

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Matthew Buchanan, Esquire, at South Carolina Department of Probation, Parole & Pardon Services, PO Box 50666, Columbia, SC 29250, this 6th day of January, 2014.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 6th day of January, 2014

Patricia McKeon (L.S.)

Notary Public for South Carolina
My Commission Expires: July 24, 2022.

RECEIVED

JAN 06 2014

SC Court of Appeals