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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
The Honorable Debra R. McCaslin, Circuit Court Judge

Appellate Case No. 2025-002510

STATE OF SOUTH CAROLINARESPONDENT,

v.

DANDRERAVON-LARENZ BLOOME,.....APPELLANT.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF APPELLANT'S ISSUE ON APPEAL

Whether the circuit court erred in revoking Appellant's probation where Appellant's "absconding" was due to his being homeless and where the court did not make a finding that Appellant's failure to pay was willful?

STATEMENT OF RESPONDENT'S ISSUES ON APPEAL

Did the circuit court err in revoking Appellant's probation when he admitted at the violation hearing that he had committed numerous violations, when willfulness is only required in cases where probation is revoked solely for failure to pay fines, fees, or restitution, there were numerous non-financial violations, and Appellant admitted his violations were willful?

STATEMENT OF THE CASE

Respondent agrees with the Statement of the Case by Appellant¹.

STANDARD OF REVIEW

The decision to revoke probation is addressed to the discretion of the circuit judge. *State v. White*, 218 S.C. 130, 134–35, 61 S.E.2d 754, 756 (1950); *State v. Proctor*, 345 S.C. 299, 546 S.E.2d 673 (Ct. App. 2001); *State v. Hamilton*, 333 S.C. 642, 511 S.E.2d 94 (Ct. App. 1999). A court's authority to revoke a suspended sentence cannot be exercised arbitrarily, but must be based on a sufficient evidentiary showing. *State v. Clough*, 220 S.C. 390, 68 S.E.2d 329 (1951).

A reviewing court will only reverse this determination when it is based on an error of law or a lack of supporting evidence renders it arbitrary or capricious. *Proctor*, 345 S.C. at 301, 546 S.E.2d at 674. The court has great discretionary authority in dealing with guilty persons who are in a probationary status. *Shannon v. Young*, 272 S.C. 61, 248 S.E.2d 914 (1978).

However, this authority "may not be capriciously or arbitrarily exercised, but should always be predicated upon an evidentiary showing of fact tending to establish [a] violation of the conditions." *State v. White*, 218 S.C. 130, 135, 61 S.E.2d 754, 756 (1950) (quoting *State v. Gleaton*, 172 S.C. 323, 333, 174 S.E. 12, 16 (1934)).

"[P]robation 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.... 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.

¹ However, the Eleventh Judicial Circuit Solicitor's name is Samuel Richardson Hubbard, III. Solicitor Hubbard did not represent the State at this hearing, as the transcript inaccurately reflects. R.11-16. Appellant's Probation Agent Caleb Remion represented the State.

ARGUMENT

The probation revocation court has the authority to determine if the conditions of probation were violated. *See State v. Hamilton*, 333 S.C. at 647, 511 S.E.2d at 96. “[T]he authority of the revoking court should always be predicated upon an evidentiary showing of fact tending to establish a violation of the conditions. *White*, at 135, 61 S.E.2d at 756; *State v. Miller*, 122 S.C. 468, 475, 115 S.E. 742, 745 (1923).”

As a threshold matter, Appellant’s argument seems to assume a finding of willfulness is required for all violations of probation. However, “willfulness” is required only when the violation is due to the probationer’s failure to meet financial obligations. “It is only when probation is revoked *solely* for failure to pay fines or restitution that a finding of willfulness is mandatory.” *Hamilton*, 333 S.C. at 648, 511 S.E.2d at 97 (emphasis in original). In *Hamilton*, the probationer had argued his violations were not “intentional” because he believed his probationary period had terminated. *Id.* This Court corrected the trial court’s assumption that the circuit court judge was required to find willfulness. Instead, all the court requires is a “sufficient factual basis” that the conditions have been violated to support the decision to revoke probation. *Id.* at 650, 511 S.E.2d at 97.

At the outset of the probation revocation hearing, the Honorable Debra R. McCaslin, Circuit Court Judge, wasted no time. She had Appellant sworn, asked if he was “Mr. Bloome,” whether he had read his (violation) report, and Appellant answered both in the affirmative. (R.p.13). Then, this exchange followed: “The Court: All right. Are you admitting that you **willfully violated** your probation?” The Defendant: “Yes.” *Id.* (Emphasis added.)

At this juncture in the hearing, the Court asked Solicitor Hubbard to “put the violations on the record and then [his] recommendation.” To this, the Solicitor replies:

“Dandre Bloome, he was sentenced on March 22, 2022, in Lexington County by Judge Keesley. He was given three years, period of time served was three days, suspended two years probation. Special conditions for this case: Zero tolerance for further violations after the hearing on August 19, 2023. So the warrant we have for him is absconding, your Honor. He absconded supervision by failing to make his current whereabouts known to his supervision agent. A failure to notify of a change of address was evidenced by a home visit conducted on July 16th.

He was supposed to be staying at a hotel where he would report his address. He was not staying there. He was trespassing the property. He failed to report by responding to multiple telephone contact attempts, failed to pay his court restitution, being \$100 in arrears at the time of his affidavit. The court finds him \$26 in arrears, and \$50 in arrears from the supervision fees. It looks like he has had one, two, three, four separate violations on this case.

The Court: I see it. And still tested positive, I see, on a couple of them after—afterwards. Let me hear from [Appellant’s counsel].

At this point, counsel for Appellant noted he was “experiencing periods of homelessness.” She goes on to say, “And that has led to the absconding...because of this he’s not reported like he should. He admits to it.” (R.p.13-p.15)².

The Court asks whether this violation “makes his fifth violation.” Upon receiving an affirmative reply from the Solicitor, the Court revoked Appellant’s suspended sentence in full. (R.p.15). Notably, absconding, failing to notify his agent of his whereabouts, failure to notify his agent of his change of address (in addition to testing positive for drugs) are all non-financial violations, so willfulness is not required to establish a violation.

This Court should affirm the decision of the circuit court because, as stated in *State v. Clough*:

"the authority of the court of general sessions to revoke such suspension of sentence may not be capriciously or arbitrarily exercised, but should always be

² In addition, apparent from the transcript, p. 4, is an additional violation and basis for the revocation, because Appellant also tested positive for drugs.

predicated upon an evidentiary showing of fact tending to establish violation of the conditions. Since, however, this court's authority to review the findings of a lower court upon such an issue is confined to the correction of errors of law, unless it appears that the action of the circuit court was influenced or controlled by some erroneous view of the law, or was wholly without evidence to support it (a judicial determination wholly without a supporting basis of fact being error of law), or amounted to a manifest abuse of discretion, a finding of fact by the court of general sessions as to a breach of the conditions of a suspended sentence is final."

220 S.C. at 400, 68 S.E.2d at 334.

The Solicitor's recitation of facts established violations, Appellant admitted they were willful, and his attorney agreed, even though willfulness was not required to establish many of the violations. Because Appellant's argument goes to whether he willfully violated probation in the face of numerous non-financial violations, the trial court's decision should be upheld and this appeal should be dismissed.

CONCLUSION

For the foregoing reasons, this Honorable Court should find the circuit court appropriately relied upon the uncontradicted statements of the Solicitor, the admissions of the Appellant and his attorney, and affirm the revocation imposed by the circuit court. The appeal should be dismissed.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael D. McMullen", is written over a horizontal line.

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October 5, 2026