

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

Thomas A. Russo, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BRIAN E. LORICK, JR.,

APPELLANT

APPELLATE CASE NO. 2013-000491

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON	—)	2012-GS-32-01635

STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
BRIAN E. LORICK, JR.	)	
_____ DEFENDANT	—)	

February 8, 2013
Lexington, South Carolina

B E F O R E:

THE HONORABLE CLIFTON NEWMAN, JUDGE.

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

DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES
Appearing for the State

ROBERT M. MADSEN, PUBLIC DEFENDER
Attorney for the Defendant

CAROL M. THUEME, RPR
Official Court Reporter

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EXHIBITS

(There were no exhibits marked.)

1 THE PROBATION AGENT: Brian Lorick.

2 BRIAN LORICK, after being duly sworn, testified
3 as follows:

4 MR. MADSEN: Judge, initially I have a motion.

5 THE COURT: All right.

6 MR. MADSEN: Judge, I would move to dismiss the
7 warrants on this case.

8 Just to kind of give you a little background,
9 they've got two separate --

10 THE COURT: Sorry. Let me get this before me.

11 This is Mr. Lorick, Brian Lorick?

12 MR. MADSEN: Yes, Your Honor.

13 THE COURT: All right. Yes, sir, Mr. Madsen.

14 MR. MADSEN: Thank you, Your Honor.

15 There's two separate violations in this case
16 that are alleged by Probation. The first one, they
17 indicate -- basically they're saying that he assaulted
18 Bethany Leaphart. It appears from what I had received
19 from the Probation Department that law enforcement was
20 involved, considering that there was a probation -- excuse
21 me, that there was an incident report from law
22 enforcement, but ultimately, law enforcement did not seek
23 a warrant. It does not appear that they even went to the
24 magistrate's office, your Honor. He was arrested on those
25 allegations. They then did a Form 1182 and indicated that

1 he should not go back around Ms. Leaphart.

2 They then charged him in a second warrant
3 indicating that he had again assaulted Ms. Leaphart, but
4 again, law enforcement never saw a warrant, the magistrate
5 apparently never heard it.

6 And so, Your Honor, at least with those two
7 instances, we do not believe that it would be appropriate.
8 You have a situation where basically Probation is kind of
9 trying to back-door conviction him. The magistrate's
10 never heard it, law enforcement when they were involved
11 did not even seek a warrant. We just believe that that
12 would be a violation of his Constitutional right to a jury
13 trial, additionally his right of confrontation.

14 Secondly, the second part of that second
15 warrants is a violation of the no contact. We believe,
16 Your Honor, that under State versus Stevens, 373 SC 595,
17 which was a 2007 case that indicated that Probation can
18 only -- basically they -- they can impose conditions of
19 supervision that enhance, but they can't create their own.

20 Initially in this case when he pled guilty in
21 front of Judge Brown, Judge Brown did not issue a no
22 contact. They did an 1182, but it was never signed off or
23 approved by a judge, so ultimately, Your Honor, we do not
24 believe that on the face that there is any appropriate
25 violations here and we would ask Your Honor to dismiss

1 both warrants based on that.

2 THE COURT: Yes, sir.

3 THE PROBATION AGENT: May it please the Court,
4 Your Honor.

5 THE COURT: Yes, sir, Mr. Lake.

6 THE PROBATION AGENT: May it please the Court.

7 I'm certainly not in a position to debate case
8 law with Mr. Madsen, but I would like to be heard briefly.

9 Your Honor, I would like to point out that in
10 both circumstances in both warrants, we are charging
11 Mr. Lorick under Condition 10, and that condition is that
12 basically that he should follow the advice and
13 instructions of the agent.

14 We have not charged Mr. Lorick under Condition
15 6. That condition states that he has violated the law.
16 And so in both warrants -- in neither warrant have we
17 charged him with a new violation that -- with a new
18 probation violation involving another law enforcement
19 entity other than Probation and Parole.

20 As to the Stevens ruling, Your Honor. Again, I
21 can't effectively argue the Stevens ruling and the case
22 law because I'm not an attorney, but in our office, the
23 Stevens ruling is in effect for conditions that the
24 department would impose, including home detention,
25 electronic monitoring and public service work. That is

1 how we use it. We don't -- as far as I'm concerned, we
2 don't have a -- the Stevens ruling does not affect any
3 other conditions the agent would impose such as what we
4 did here in this case, a no contact order. It wouldn't
5 affect us from imposing substance abuse treatment if
6 somebody would come in and test positive for drugs. And
7 so we would object to this motion and we would ask the
8 Court to proceed today.

9 MR. MADSEN: Judge, if I might?

10 THE COURT: Yes, sir. "

11 MR. MADSEN: I believe what Agent Lake is saying
12 is that they're not charging him, and I think that the
13 probation -- or the arrest warrant bears out, which is I
14 guess they have there ten rules, it would be Rule No. 6,
15 so it's ultimately that they're saying that he violated
16 the advice and instruction, and we believe that that goes
17 to the heart of our argument that it is not a proper
18 violation.

19 Additionally, under the Stevens ruling, it
20 basically says that they can't unilaterally just add
21 conditions -- and, Judge, if you need that cite, I've got
22 that again -- but they can't unilaterally -- and in that
23 situation or in that case, Probation had added GPS to
24 someone. And while I think that maybe they can do certain
25 things with that, I think that that case holds that they

1 can't revoke someone if they violated unless someone like
2 Your Honor -- Your Honor sitting up here could certainly
3 say hey, I'm now adding these conditions to your
4 probation, and that's perfectly appropriate, but what the
5 Stevens case says is that Probation can't unilaterally do
6 that.

7 THE PROBATION AGENT: May it please the Court,
8 Judge.

9 THE COURT: Yes, sir.

10 THE PROBATION AGENT: Certainly an attorney for
11 the department, Tommy Evans, for instance, may be able to
12 shed some light as far as the objection -- excuse me, the
13 motion that Mr. Madsen has raised.

14 I would again point out Condition 4 of a
15 probation case says that "I shall not associate with any
16 person who has a criminal record or any person who my
17 agent has instructed me to avoid."

18 THE COURT: You want to reschedule this at a
19 time when someone from the department can come and argue
20 the issue of whether or not this is in violation of State
21 v Stevens?

22 THE PROBATION AGENT: Yes, Your Honor, certainly
23 we would like to do that if Your Honor was leaning towards
24 granting the motion of Mr. Madsen.

25 THE COURT: Well, I don't know. I know that a

1 person on probation must follow the advice of the agent.
2 I know that anyone on probation must be on good behavior,
3 they can't just do whatever they want to other than comply
4 with some specific things that are written down or ordered
5 by a judge. That's on the one hand.

6 On the other hand, the way the violation warrant
7 is issued, stating that there was probable cause to
8 believe he committed an assault and all of that violates
9 Condition 10, I don't know. I don't know whether it's --
10 whether I should grant the motion or deny the motion since
11 I haven't reviewed the State v Stevens. In fact, I can't
12 get up on my computer.

13 MR. MADSEN: Judge, I've got a copy if you'd
14 like to see it.

15 THE PROBATION AGENT: Judge, if it please the
16 Court.

17 THE COURT: Yes, sir.

18 THE PROBATION AGENT: I don't know if it would
19 be appropriate to set the case off for a moment and let me
20 make a phone call to Mr. Evans of our legal division.

21 THE COURT: All right. We'll come back to it.

22 THE PROBATION AGENT: Thank you, Judge.

23 (A break in proceedings was had while other
24 proceedings were taken.)

25 THE PROBATION AGENT: Brian Lorick.

1 THE COURT: Mr. Madsen.

2 MR. MADSEN: Yes, Your Honor.

3 It's my understanding that Probation was going
4 to move for a continuance on the hearing until they could
5 get their counsel here and reschedule it. Obviously, we
6 would oppose that. This is a situation obviously where
7 Mr. Lorick has been in jail since November 5th and they're
8 the ones who schedule these, and they have scheduled it
9 for today and we'd certainly like to hear it.

10 If Your Honor is inclined or does grant their
11 motion, then we would request Your Honor to consider a
12 bond reduction at this point in time. Mr. Lorick is in
13 jail on a hundred thousand dollar bond, and we ask Your
14 Honor to consider that if Your Honor is inclined to grant
15 their continuance motion.

16 THE COURT: I think when counsel makes a motion
17 to dismiss based on matters of law such as has been raised
18 in this instance, that some notice and opportunity for the
19 Department to get counsel here should be done so that at
20 least if they elect not to come, then we know that, but I
21 think this has hit Mr. Lorick kind of quickly -- not
22 Mr. Lorick, but the agent there kind of quickly, and I'm
23 going to continue it so that the lawyer for the department
24 will have an opportunity to come in and argue this case.
25 It is quite an interesting issue and I don't think

1 we're -- I don't think the department's prepared to argue
2 it today.

3 With regard to the bond issue, what do you
4 think?

5 THE PROBATION AGENT: Judge, I will be glad to
6 either hear Mr. Madsen's motion or go ahead and make our
7 own as far as bond reduction.

8 THE COURT: Yes, sir, we'll hear from you first
9 then.

10 THE PROBATION AGENT: Yes, sir. Thank you.

11 Judge, there are two warrants -- excuse me,
12 Judge. First of all, this is a CDV HAN case pled down to
13 assault and battery 2nd. Judge, the victim's in the
14 courtroom today.

15 Three months after Mr. Lorick was put on
16 probation, we issued probation warrant number one,
17 September 25th, 2012, after we believed we established
18 evidence that he assaulted the same victim in the case.
19 That bond was set at \$25,000. Mr. Lorick was given
20 instructions by the magistrate to have no contact with the
21 victim. He was additionally given written instructions by
22 the agent, which he signed, to have no contact with the
23 victim.

24 Judge, not -- or just over 30 days later, we
25 issued a second probation warrant after we received

1 evidence that Mr. Lorick violated the conditions of bond,
2 the \$25,000 bond of the original probation warrant and the
3 instructions of the agent. Basically, Judge, he assaulted
4 her again at their home, which he had been directed to
5 stay away from.

6 When we arrested Mr. Lorick a second time, he
7 was given additional verbal instructions during his
8 arrest. I went to that bond court hearing, the second
9 bond court hearing personally and asked Judge Reinhart to
10 set another no contact condition, which Judge Reinhart
11 did.

12 Your Honor, barely two hours after the bond
13 setting, he was calling her from the jail. I have the
14 records of the Lexington Sheriff's Department here where
15 he made a telephone call a couple of hours after bond
16 setting and he made another one the next morning.

17 Judge, additionally, he has sent at least nine
18 letters to the victim from jail in the months of November,
19 December and January of this year. Those letters are
20 menacing in nature.

21 Judge, not only do we oppose any motion to
22 reduce bond in this case, we ask that both the \$25,000
23 bond that was set on the first probation warrant and the
24 hundred thousand dollar bond that was set on the second
25 probation warrant be revoked and Mr. Lorick be remanded to

1 .Lexington County jail under no bond until we can get him
2 back here in court.

3 Thank you.

4 MR. MADSEN: Judge, just by way of background,
5 Brian's 23 years of age. He does have a GED. He has gone
6 to Insights and LRADAC in the past. He and Ms. Leaphart
7 share a two-year-old child together. He has worked at MDT
8 Personnel for the last three years. He lives with his
9 mother who is right beside him. That is his grandmother,
10 the other lady who is with him.

11 I will tell that he has, since he's been out,
12 has been going to B-C Family Practice, saw Dr. Aurora who
13 had prescribed him Adderall and Trazodone.

14 He does have a good job, Your Honor. If Your
15 Honor was inclined to reduce his bond, and he could make
16 it and get out, he would be working in Anderson County.

17 He has been in jail for 85 days. There is
18 nothing to indicate that he's any type of flight risk.

19 And in my discussions with the agent, it appears
20 that he has reported as instructed. He has passed his
21 drug screen.

22 There was a condition that if it was ordered,
23 mental health treatment, I don't think that they ever did
24 that, but he actually sought that on his own and he has
25 been going to classes.

1 Your Honor, there is -- and Agent Lake and I
2 discussed, I think there is at least six letters that
3 Ms. Leaphart has sent him while he has been incarcerated.
4 And I've spoken with Mr. Lake about that, and he's spoken
5 with her and she continually sends him letters. He made
6 reference as to a couple of phone calls, but if you look
7 at those records, apparently they were just hang-ups.
8 There was no conversation, they were shown as zero
9 seconds, and they were indicated as caller hang-ups. I
10 will tell Your Honor that I have spoken with him and have
11 impressed upon him the fact that even though she's written
12 him that communication needs to stop at this point in
13 time.

14 We ask Your Honor to consider reducing his bond
15 down to a \$10,000 surety bond. I believe from our
16 discussions that he understands that there should be
17 absolutely no contact. Whenever you have a child
18 involved, he's certainly been concerned and curious about
19 the welfare of his child, which any parent would be. As I
20 mentioned, he has been in jail since November 5th, which
21 by my calculations is 85 days.

22 THE PROBATION AGENT: May it please the Court.

23 THE COURT: Yes, sir.

24 THE PROBATION AGENT: Leading up to his
25 probationary sentencing, Mr. Lorick was convicted three

1 times of criminal domestic violence against this victim.
2 He has now assaulted the victim twice more on probation,
3 which I'm sure we argued later on in the probation
4 hearing. Judge, nothing that I know about this case
5 mitigates the fact that Mr. Lorick is an extreme risk to
6 the safety of this victim. I'll be glad to read any of
7 the variety of remarks he has made in the number of
8 letters that he has sent the victim which will tell you
9 everything that he intends to do to this victim.

10 THE COURT: All right. Anything further?

11 MR. MADSEN: No.

12 THE PROBATION AGENT: No, sir.

13 THE COURT: Anything the victim wants to say?

14 THE PROBATION AGENT: Not at this time, Your
15 Honor.

16 THE COURT: I'm seeing these various expressions
17 from people in the back, various gestures.

18 THE PROBATION AGENT: I'm reticent to have any
19 statement, Judge. We certainly don't want to try the case
20 right now. We want to have a hearing on Mr. Madsen's
21 motion for bond reduction.

22 THE COURT: All right. When can the hearing be
23 rescheduled?

24 THE PROBATION AGENT: Judge, my understanding,
25 and Mr. Rentz might back me up, my understanding is March

1 1st is full as far as I know.

2 MR. RENTZ:: It's fairly full. I don't know if
3 every slot is full.

4 THE PROBATION AGENT: We may be able to get back
5 him back here March 1st, Judge. Otherwise, it's going to
6 be -- the next court hearing is the 15th. I'm really not
7 sure, Judge.

8 If I can get him scheduled for March 1st, Judge,
9 I'll do everything I can. I'll talk with Mr. Rentz there,
10 and if he's got room, we'll put him on for March 1st.

11 THE COURT: All right. I would deny the motion
12 to reduce the bond. I grant the motion that he be held
13 without bond pending the hearing.

14 THE PROBATION AGENT: Thank you, Judge.

15 MR. MADSEN: Thank you, Your Honor.

16 (The proceedings were concluded.)

17 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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3
4 CERTIFICATE OF REPORTER5
6
7
8 STATE OF SOUTH CAROLINA)
9)
10 COUNTY OF LEXINGTON)
11
1213
14 I, CAROL M. THUEME, RPR, Official Court Reporter for
15 the 11th Judicial Circuit of the State of South Carolina,
16 do hereby certify that the foregoing is a true, accurate
17 and complete Transcript of Record of the proceedings had
18 and evidence introduced in the trial of the captioned
19 case, relative to appeal, in the Court of General Sessions
20 for Lexington County, South Carolina, on the 8th day of
21 February, 2013.
2223
24 I do further certify that I am neither of kin,
25 counsel nor interest to any party hereto.

October 21, 2013


_____23
24 CAROL M. THUEME, RPR
25 Circuit Court Reporter

ORIGINAL

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF LEXINGTON)

State of South Carolina,)
)
 PLAINTIFF,) Motion to Dismiss
) Probation Revocation
 -VS-) Hearing
) 2012-GS-32-01635
)
 Brian E. Lorick, Jr.,)
)
 DEFENDANT.)
 _____)

BEFORE THE HONORABLE THOMAS A. RUSSO, JUDGE

MARCH 1, 2013

LEXINGTON, SOUTH CAROLINA

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

Tommy Evans, Esq.
 For the State

Robert Madsen, Esq.
 For the Defendant

REMA K. GANTT THOMAS
 CIRCUIT COURT REPORTER

I N D E X

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E X H I B I T S

THERE WERE NO EXHIBITS MARKED TO THIS PROCEEDING.

1 (The defendant, together with counsel, was
2 personally present in the courtroom.)

3 MR. EVANS: Brian Lorick.

4 (The witness was sworn.)

5 THE COURT: This is, for the record, the
6 case regarding Brian E. Lorick, Jr. And I've
7 reviewed the report. Is there anything further from
8 the Department?

9 MR. EVANS: Well, Your Honor, I think
10 defense counsel last week maybe raised a motion to
11 dismiss the warrants. My name is Tommy Evans. I'm
12 legal counsel at the Department of Probation,
13 Parole, and Pardon Services. The reason I'm here is
14 to address the actual motion raised by defense
15 counsel regarding the warrant that was issued
16 against Mr. Lorick --

17 THE COURT: All right.

18 MR. EVANS: -- in an attempt to dismiss
19 the warrant that was served against him in violation
20 of probation --o I would hand over to defense
21 counsel--

22 THE COURT: All right.

23 And, Mr. Madsen, you represent Mr. Lorick?

24 MR. MADSEN: I do, Your Honor.

25 THE COURT: I'll hear from you regarding

1 your motion, sir.

2 MR. MADSEN: Thank you, Your Honor. Just
3 kind of by way of background, we actually came in
4 front of Judge Newman back I believe on February
5 8th. It was continued at that point in time for the
6 Department of Probation and Parole to have their
7 counsel here.

8 What we are doing at this point in time,
9 Your Honor, is we would move to dismiss the warrant.
10 Let me kind of see if I can break it down into
11 basically two different issues.

12 THE COURT: Okay.

13 MR. MADSEN: They have allegations
14 initially from 9/21/12 and 10/27/12 where they say
15 that my client had assaulted the victim. Now, I had
16 been provided by Probation and Parole on the first
17 incident with an incident report from law
18 enforcement.

19 After law enforcement was notified,
20 apparently they decided that there wasn't probable
21 cause. They didn't go to a magistrate. It doesn't
22 appear that they sought any type of warrant. The
23 second incident, it does not appear -- or at least I
24 haven't been provided -- that there was any law
25 enforcement involvement whatsoever in that.

1 So you've got a situation here, Your
2 Honor, where my client is never charged with a crime
3 and that basically Probation is trying to bypass law
4 enforcement, Magistrate's Office, jury. And we
5 believe that that would violate the U.S. and South
6 Carolina Constitutions to the right of confrontation
7 and to a jury trial.

8 Additionally, Your Honor, if you look at
9 those warrants, Probation has a set of 10 standard
10 conditions of probation. Condition number six is
11 basically violating the law. In other words,
12 someone has violated the law.

13 As Your Honor might be aware, there's
14 cases out there such as State versus Williamson that
15 says, "Hey, if someone is charged with a crime, we
16 don't have to wait for the disposition of that. We
17 could bring them in front of the Court so that the
18 Court can make any decision."

19 This is not that type of case. He's not
20 been charged with anything. Ultimately, they're
21 saying he violated condition number 10, which is
22 that he has failed to follow the advice and
23 instruction of the agency. You've got a situation
24 here where they're basically saying, "Hey, there's a
25 violation because we say there's a violation. We're

7

1 not alleging that he's violated any type of law. We
2 just decide that that's a violation."

3 And we believe that that basically makes
4 it kind of void for vagueness. That is basically
5 one of the allegations that they have in their
6 warrant. The second one, Your Honor, is he was
7 arrested on one of the warrants. They did what's
8 called a Form 1182.

9 And in that Form 1182, my client, the
10 Probation, and I believe the supervisor agreed that
11 he would not go back around the victim -- in other
12 words, a no contact. He has written letters to her.
13 There has been contact, and they are trying to
14 violate him on that.

15 We believe that that is a violation under
16 State versus Stevens. As Your Honor is aware, State
17 versus Stevens was a GPS case where I'm not sure if
18 it was done by an 1182, but there was an agreement
19 among the parties in there to basically add the
20 condition of GPS on here.

21 The Court said, "Hey, that's a violation
22 of separation of powers. You can't do that. PP&P
23 is an executive branch, and you just can't add
24 conditions." And it would be our contention that
25 ultimately that no contact as a condition of

1 probation.

2 Initially, when Judge Brown heard this
3 case, he did not order a no contact. And we do not
4 believe that even with his consent, which is the
5 exact same thing as the Stevens case says, that
6 Probation can add that condition on there.

7 Now, obviously, they could have, you know,
8 got agreement. They could have come to any Circuit
9 Judge, whether it's Your Honor or one of our
10 resident judges, and had the judge sign an order,
11 because Your Honor certainly has the ability even
12 here today to add that condition on. But we just
13 don't believe that they can violate him for
14 something that they have added on afterwards.

15 And because of that, and if I understand
16 correctly, those are basically the two different
17 ways that they are attempting to violate him with
18 those warrants. And we would move to dismiss based
19 on that.

20 MR. EVANS: Thank you, Your Honor, may it
21 please the Court. First, I'd like to address the
22 Stevens case initially, Your Honor. Under Stevens,
23 GPS and an inclusion zone was added with the
24 defendant's consent and under the standard
25 conditions.

1 Those are not standard conditions, Your
2 Honor. Therefore, Stevens is not like the case
3 before you today. Basically, the offender, Lorick,
4 was on probation for criminal domestic violence of a
5 high and aggravated nature in which he was convicted
6 of assaulting his girlfriend, Your Honor -- excuse
7 me, fiancée.

8 While on probation, we received word from
9 the fiancée and his mother that he assaulted her
10 again. And there were physical injuries toward her.
11 Now, that should be enough right there for us to
12 issue a violation warrant, because he's committing
13 the same offense, Your Honor.

14 We don't need actual law enforcement to
15 get involved in the actual case because he's on
16 probation. He's not a free citizen as you and me
17 would be. So therefore the standards are different
18 and also we have a right as an agency protecting the
19 community to issue a warrant if there is any
20 evidence of a possible crime that has occurred.

21 While on probation, Your Honor, and during
22 his bond setting, the magistrate at the time of the
23 bond ordered that he have no contact with the
24 victim. Agent Lake advised him not to have any
25 contact with this victim. That's what -- because

1 we needed written proof that we gave him advice not
2 to have any contact, because Agent Lake could come
3 before the Court and say, "Well, I told him not to
4 contact this woman," and he could say, "Well, I
5 never heard that. No one told me that."

6 So we needed written proof showing the
7 Court that that occurred. And he still went and
8 assaulted her again, Your Honor. He was ordered by
9 the magistrate and also by our agency not to have
10 contact. And she showed us physical proof of the
11 second assault, and also we have verification from
12 her and other eyewitness that this occurred.

13 We are not going forward on a condition
14 that's not part of that condition. We are going
15 forward regarding his failure to accept and follow
16 the advice of our agent, Your Honor. There are
17 standard conditions that exist. The Court does not
18 add a condition that you have to report, or that you
19 have to obey the law, or you can't have a firearm,
20 or you have to have a job, because those are
21 standard conditions.

22 And if you fail to do those conditions, of
23 course, Your Honor, the person would be presented as
24 failing to do those conditions, you can revoke
25 probation in those matters, as well as a person

11

1 failing to follow the advice and instructions of an
2 agent. And that's the reason why we're going
3 forward.

4 So Stevens does not apply in this matter,
5 Your Honor. I think in a dismissal case, the cases
6 are clear that the evidence in the light most
7 favorable to the non-moving party, which would be
8 us. So I think there's ample evidence that's been
9 shown that the warrant was valid.

10 Now, if the Court feels that there's no
11 violation and he should be on probation, of course,
12 that's your prerogative. But I think there's ample
13 evidence that has been shown that the warrant was
14 valid, it was served properly, issued properly.
15 Therefore, I think we should be allowed to go
16 forward with revocation here, Your Honor.

17 MR. MADSEN: Judge, if I might respond.
18 Just on the Stevens case, I think that the only
19 difference is that it's GPS in the Stevens case, and
20 here it is a no contact. I think other than that,
21 the cases are exactly on point.

22 Additionally, to get back to the initial
23 allegations in, as I mentioned, State versus
24 Williamson, which I think is cited in State versus
25 Sullivan, which is an old 1923 case, and it

1 indicated that judge can hesitate to take upon
2 himself the responsibility of deciding the guilt of
3 a defendant.

4 The safest course is to hold in abeyance
5 until a jury makes the decision. You don't even
6 have -- law enforcement was involved in one of these
7 and did not find probable cause obviously to seek a
8 warrant.

9 I'm not a hundred percent sure, but I
10 believe that those laws are written that if they
11 found evidence, I believe that they're required to
12 seek a warrant, although, quite honestly, I did not
13 look at that. But we would just stand by our
14 arguments, Your Honor, and move for a dismissal of
15 the charge.

16 MR. EVANS: May I be heard, Your Honor?

17 THE COURT: Yes, sir.

18 MR. EVANS: We are not going forward
19 regarding the fact that he had contact. We are
20 going forward about the fact that he failed to
21 follow the advice and instructions of the agent.
22 The agent advised him to have no contact with this
23 woman whatsoever.

24 And he not only assaulted her again, he
25 wrote letters admitting to this assault. I think

13

1 that is ample evidence that this actually occurred,
2 Your Honor. I don't think we need to go through law
3 enforcement to show that there's been a violation of
4 probation.

5 If that's the case, Your Honor, if a
6 person goes into a bar and has a drink to excess and
7 leaves and drives home, then we would have to wait
8 for the law enforcement to issue a warrant for DUI
9 before we can violate. But we do that all the time.

10 If there's been ample proof showing that
11 he's drinking in excess, then we have a right to
12 issue a warrant for violation of probation. This is
13 no different than that case, Your Honor. We have a
14 right to issue a violation warrant, which I think
15 there's ample evidence showing that this incident
16 occurred. And it would be up to the Court to
17 determine whether or not it was a violation.

18 THE COURT: I agree. The whole nature of
19 probation is that the Court cannot foresee every
20 possibility of how it could supervise someone on
21 probation. The Department is entrusted with that
22 supervision.

23 I don't have to tell a defendant that you
24 have to report once a month or once every three
25 months, or once every week. That's up to Probation.

1 If they tell them they have to report every week,
2 they have to report every week.

3 That may not be ordered by the Court, but
4 it's still a requirement of their probation that
5 they follow the terms and conditions under the
6 advice and the instructions of their agent.

7 MR. MADSEN: I agree with that, Your
8 Honor. And I think that the case law basically says
9 that they're allowed to do anything that enhances
10 the conditions; they just can't add conditions.

11 And it's our position that the no contact
12 is adding a contact and not an enhancement. And I
13 think that that's kind of that dividing line, and
14 that is our argument.

15 THE COURT: I'm going to respectfully deny
16 the motion. I don't see this as being that case.
17 Your motion is denied.

18 MR. MADSEN: Thank you, Your Honor.

19 THE COURT: I want to address the
20 allegations. Apparently, there were several
21 contacts after having those discussions with the
22 agent and entering that?

23 MR. MADSEN: Yes, Your Honor, if I can
24 start maybe with background, and then I can go into
25 that, also.

15

1 THE COURT: All right, sir.

2 MR. MADSEN: Brian is 23 years of age. He
3 got his GED after going through the 10th grade. His
4 mother and I believe his grandmother are standing
5 here with him today. He's single.

6 He and Bethany have a two-year-old
7 together. He has worked on and off at MD Personnel
8 for the last three years. He's been living with his
9 mother, although ultimately if Your Honor was to
10 continue him, he would move I believe with his
11 grandparents, who live out of Aiken County --
12 Anderson County with his stepfather, excuse me, I'm
13 sorry, Your Honor.

14 THE COURT: Yes, sir.

15 MR. MADSEN: Actually, while he was out on
16 probation, Brian realized that he had some problems
17 and actually on his own sought some mental health
18 and went to B.C. Family Practice. He has been
19 prescribed Adderall and Trazadone through a Dr.
20 Aurora there.

21 He had given me some records where he
22 actually -- he knows that those medications have
23 helped him, and so he provided me today with some
24 letters that he had written inside of the detention
25 center requesting to get back on those medications.

1 I don't think that they've been
2 prescribing those, is what they indicated, but they
3 referred him to Mental Health and said that they
4 have different medications that ultimately that they
5 could give him.

6 He has written letters to Bethany, Your
7 Honor, and Probation is aware of these. Mr. Lake
8 and I have talked about these. These are letters
9 that she has been writing to him since he has been
10 incarcerated, also.

11 There's numerous ones that, like I said,
12 Agent Lake and I had some discussions where he had
13 told her, "Hey, you don't need to be writing him
14 either," and she kept on writing him the entire
15 time. Your Honor, what we would ask Your Honor to
16 do is to continue him to add the condition of no
17 contact on there.

18 They do have a young child together, and
19 so we would request that Your Honor would add that
20 condition that there be some mechanism through the
21 family for -- you know, that the Family Court could
22 issue an order in regards to visitation. I've
23 gotten a letter from I believe his stepfather that
24 he has a job waiting on him and tells me that he's
25 actually had some other officers, if Your Honor

17

1 thinks that electronic monitoring is necessary, any
2 type of third-party supervision as far as the
3 passing off of the child.

4 He's been in jail since November 5, 2012,
5 which is 116 days if my calculation is correct.

6 Your Honor, we believe that ultimately he can be
7 successful on probation. I've explained to him that
8 -- you know, I think they kind of went back and
9 forth in their letters that they love one another,
10 they have a child together, and they kind of wanted
11 to make it work.

12 But, you know, sometimes people are just
13 kind of oil and water. And they're always going to
14 end up having a relationship because they have this
15 child. But I've quite honestly told them I don't
16 think it needs to be of a romantic nature any
17 longer, that they just both of them need to go their
18 separate ways.

19 I will tell you looking through -- he was
20 reported as instructed. He passed all his drug
21 screens. He was going to classes, and the judge,
22 Judge Brown -- went out there for mental health
23 counseling, which Probation didn't refer him to, but
24 he felt he needed it. And so he took those steps on
25 his own.

1 He certainly understands he's not perfect
2 and has made some mistakes. But we would ask Your
3 Honor not to send him to prison and to continue him.
4 I don't know if his mother or grandmother want to
5 say anything or if he wants to address Your Honor.

6 THE COURT: I will be happy to hear from
7 anyone who wishes to address the Court.

8 I need your name for the record, please.

9 MS. BERRY: Oh, yes, sir, Alicia Lane
10 Berry. Eric is my son. I worked last night. I'm
11 so sleepy. I didn't sleep.

12 THE COURT: Yes, ma'am.

13 MS. BERRY: So I'm nodding off. It's not
14 intentionally. I'm just sleeping.

15 THE COURT: I understand.

16 MS. BERRY: I've worked four days, and I'm
17 tired. But, yes, I love my son, and I've had talks
18 with him numerous, and I hope he can respect, you
19 know, authority and, you know, what I've told him,
20 and that he has listened and learned this time. And
21 I feel that he has -- that's all I've got to tell
22 you. Thank you.

23 THE COURT: Anyone else?

24 MS. YOUNG: Nona Kay Young.

25 THE COURT: Yes, ma'am.

19

1 MS. YOUNG: I'm his grandmother. And he's
2 got a job waiting on him. He wants to provide for
3 his son and be a father. He has lost a lot of time
4 that could have been spent with that child. And it
5 is my opinion that there's three victims here --
6 one, the baby; one, Alicia; and also him for the
7 time he's lost with his child.

8 He's got a job waiting on him when he
9 comes out so he can help his support his child and
10 be a father to his child. And I think through all
11 this he has learned, and probably it will make a
12 better father.

13 MR. MADSEN: And, Judge, he was supporting
14 the child when he was in. I think his mother had
15 given me some receipts where he was living somewhere
16 else, but I think he was also helping her with some
17 bills. She doesn't work herself. And I think the
18 mother wanted one last thing or wanted to say one
19 last thing.

20 THE COURT: Sure.

21 MS. BERRY: I think from the last time he
22 was like that, she took a car loan out and tried to
23 get him out jail. I paid \$1,500 to get her car back
24 so that --

25 THE COURT: Stop right there.

1 MS. BERRY: Yes, sir.

2 THE COURT: She's not under any court
3 order.

4 MS. BERRY: Well, I --

5 THE COURT: He's got a problem.

6 MS. BERRY: Yes, sir. I paid to get the
7 car out, and I feel like I helped, you know, on both
8 sides.

9 THE COURT: Well, you know what, maybe
10 that was a massive mistake. You better take him in
11 a direction away from her --

12 MS. BERRY: You're right.

13 THE COURT: -- instead of trying to help.

14 MS. BERRY: But I did that for her.

15 THE COURT: Wait a minute.

16 There's a gentleman back there that wants
17 to speak, Mr. Madsen. I don't know who he is.

18 MS. BERRY: He is his grandfather.

19 THE COURT: Yes, sir.

20 MR. YONCE: I'm Brian's granddad.

21 THE COURT: Yes, sir, your name?

22 MR. YONCE: Burkett Yonce.

23 THE COURT: Mr. Yonce.

24 MR. YONCE: He's got a job waiting on him.
25 He's had three or four calls. He's a good worker.

21

1 I took him back and forth to Beech Island to work
2 every day. He made good money, and he paid her rent
3 -- part of it, maybe not all of it. But I know him.

4 He's a good man. And I appreciate getting
5 to say something. The last time he was in court
6 here, nobody would let me talk. I'm a Korean
7 veteran, disabled, and I ain't here to lie. I'm
8 here to tell the truth.

9 THE COURT: Yes, sir.

10 MR. YONCE: That's all I've got to say,
11 Your Honor.

12 THE COURT: Thank you, Mr. Yonce. I
13 appreciate you being here.

14 Mr. Lorick?

15 MR. LORICK: Yes, sir. I just want to say
16 that the two grandparents you just seen stand for
17 me, they are actually a blood relation to me. When
18 my mom married my stepfather, they took me in as
19 family, and they've been family ever since. For
20 them to stand up here and be my grandparents when my
21 other ones haven't is really something that's all I
22 can say.

23 I also want to say I do have a job, I do
24 make good money, and I do love to support my child.
25 And every bit is true. I did pay for my own bills

1 and hers as well, and I still took care of my child.

2 I also want to say that before I got out
3 on probation, I was in a mess. I was on drugs and
4 stuff, but, you know, I'm clean of marijuana now for
5 over a year, so I'm very proud of myself. Probation
6 actually helped me a lot.

7 I would have never took it upon myself --
8 you know, I would have never had the motion that
9 probation actually gave me to stay straight as far
10 as, you know, paying bills and keeping off of the
11 drugs, and working. And it just made me feel so
12 good about myself, Your Honor.

13 I understand I've made some mistakes, but
14 I have realized -- I haven't had contact with the
15 victim in over two months now. I don't plan on
16 having contact with her unless it involves our
17 child. And I'm just ready to move on. They do have
18 a job waiting for me. I've had numerous jobs call,
19 and I just want to support my child.

20 And it's not about us any more. It's
21 really about him, and he needs his father. I've
22 been out of his life and I need to get back to him,
23 if Your Honor sees fit. That's all I have to say.

24 MR. LAKE: I'm Supervisor Dan Lake with
25 Lexington County Probation and Parole Office. Mr.

23

1 Lorick beat up the victim, Bethany Leaphart, three
2 times leading up to this probation case. Within
3 three months, he beat her up again. We issued
4 warrant number one.

5 We also issued written instructions and
6 verbal instructions, of course, to stay away from
7 the victim. He made bond on that warrant. He went
8 right over to the house. And a month later, he beat
9 her up again.

10 We again told him after we issued and
11 served the second warrant to stay away from her.
12 Within one hour of being down at the jail, he was on
13 the phone with her. The next day, he had bond
14 court. He got a \$100,000 bond set on that bond and
15 instructions from Judge Rinehart to stay away from
16 her.

17 Within one hour of getting out of bond
18 court, he was trying to call her again. Judge, I'll
19 be glad to give you the details in both warrants
20 where he telephoned Ms. Leaphart or on the no
21 contact order. But to tell you the truth, Judge,
22 I'd really like for you to hear from the victim.

23 If I may approach, these are letters from
24 the victim's parents. Bethany Leaphart's mother,
25 father, and brother are here in the courtroom. And

1 Your Honor, at the appropriate time I'd like Ms.
2 Leaphart to address the Court.

3 THE COURT: Sure, I'm happy to hear from
4 her.

5 MS. LEAPHART: I'm sorry, Your Honor.

6 THE COURT: It's all right. Take your
7 time.

8 MS. LEAPHART: In the past three years
9 that me and Mr. Lorick were together, I've had
10 several injuries by him -- back injuries, three
11 black eyes, a fractured nose. He's choked me more
12 times than I could probably count. He's held knives
13 to my throat and threatened to kill me. He's hit me
14 in my head over and over.

15 THE COURT: Ms. Leaphart, may I ask a
16 question?

17 MS. LEAPHART: Yes, sir.

18 THE COURT: And I don't know anything,
19 because Mr. Madsen didn't actually pass me those
20 letters. But apparently you stay in contact with
21 him. Now, I'm having a little bit of trouble --

22 MS. LEAPHART: Yes, sir.

23 THE COURT: -- and I haven't seen the
24 contents of those letters, so I don't know what
25 you're saying to me. But I'm struggling a little

1 bit with that.

2 MS. LEAPHART: Yes, sir, I did write him,
3 which was a mistake. I was honestly in fear for my
4 safety and my life if he was to get out.

5 THE COURT: Then why did you write him?

6 MS. LEAPHART: Because of the mind games
7 he has played me over the years. He's constantly
8 told me if I didn't write him, there would be
9 consequences. And I do admit I do still love the
10 defendant due to our son together. But there's no
11 emotional thing.

12 THE COURT: If you don't mind me saying
13 this --

14 MS. LEAPHART: Yes, sir.

15 THE COURT: -- and your parents would
16 probably agree with me, you don't have a clue what
17 love is.

18 MS. LEAPHART: Yes, sir, I probably don't.

19 THE COURT: You don't.

20 Neither do you, Mr. Lorick.

21 You all are destructive. And it's funny,
22 people say there's a fine line between love and
23 hate. You all probably have more hate for each
24 other than you do love. And, once again, my heart
25 goes to the child. I needn't continue on.

1 Ma'am, and to the parents, let me say that
2 your children have to carry this. You're begging
3 him to write you. You didn't receive a letter from
4 him, and you're sitting here going "What's wrong?
5 Don't you want me to write you anymore? Why haven't
6 I heard from you?" This isn't someone --

7 MR. MADSEN: Your Honor --

8 THE COURT: Yes."

9 MR. MADSEN: -- just to back up what Ms.
10 Leaphart is saying, these are excerpts from the many
11 letters that Mr. Lorick has written.

12 THE COURT: Oh, I know. I'm sitting here
13 reading them.

14 MR. MADSEN: They're quite menacing, sir.

15 THE COURT: They are.

16 MR. MADSEN: I think Ms. Leaphart's
17 continued contact, like she said, was such a mistake
18 that it's mitigated by the fact they've had a three-
19 year relationship, the fact they have children
20 together, but most of all, Your Honor, the fact that
21 she's been repeatedly beaten by this defendant.
22 She's got every reason in the world to maintain
23 contact because if she does not, she's just going to
24 get beat up again, like she has time and time again.

25 THE COURT: Here's a concern I've got,

27

1 too, Mr. Madsen, is -- Mr. Lorick can address me it
2 if he wants to. But throughout every one of these
3 letters that he writes, it's clear, he's adamant,
4 "Please do not turn these in. Please keep this away
5 from my agent. Please don't." He's doing
6 everything in his power to do an end run around
7 Probation -- ain't no question about it.

8 MR. MADSEN: And, Judge, you know, he
9 doesn't deny that he has written those letters and
10 that they were very, very, you know --

11 THE COURT: I'm not going to take up any
12 more Court time. There's only one possible decision
13 in this case. I find that the violations of
14 probation are extreme. They are definitely willful.
15 I'm revoking this probation in full.

16 Now, ma'am, I'm going to tell you, you
17 need to get into the Family Court and get this thing
18 done legally, because you do have this child, and
19 he's going to serve whatever time is left, and he's
20 to be given any credit for time that he has served.
21 And then he's going to be out.

22 And it's his child as much as it's your
23 child. So the two of you are going to have to
24 figure out how you can co-exist via the child
25 without co-existing with each other. And it's going

1 to be out of my hands. I can't protect you.

2 I can protect your right now, and I've
3 done that as much as I can. But I can't protect you
4 after this. A Family Court might can. But you know
5 who can really protect you? -- you. There are
6 people -- don't get me wrong -- that the best thing
7 in the world for your child, the best thing in the
8 world for your daughter --

9 Mr. Lorick, I'm going to tell you this,
10 because this is what my dad told me a long time ago.
11 I've been blessed. I've got a wonderful and
12 wonderful family. But let me tell you something.
13 My dad told me this. He said, "Son, never forget
14 this. The best way -- the best way -- that you can
15 love your child is to love their mama. The best way
16 you can love your child is to love their mama."

17 And you hate this girl. And you're
18 violent. And you have no qualities of a man,
19 because a man doesn't beat women. But you all are
20 going to have to figure this out. And unfortunately
21 for your child, it may be that this child has to
22 grow up loving you and loving you but knowing that
23 the two of you don't love each other.

24 You know what? That happens a lot
25 unfortunately, but it can be done. You better

29

1 figure out a way to honor his parental rights you
2 honor hers, and do it separately. I'm very
3 frustrated, and there's a side of me that has a
4 tremendous amount of sympathy for you, because you
5 should never have had a hand laid on you.

6 But there's the other side of me that
7 wants to say, "Oh, my God, ma'am, there must be some
8 craziness inside of you that likes it or that
9 whatever - or maybe hopes that he'll change." He's
10 not going to change, okay?

11 MS. LEAPHART: Yes, sir.

12 THE COURT: Protect yourself.

13 MS. LEAPHART: I'll try to.

14 THE COURT: And, parents, protect and help
15 her. It's expensive, and I know it is. Borrow the
16 money, or if you have it, get her a good lawyer.
17 Get into Family Court, and let's get some boundaries
18 drawn as to this parental thing and how this is
19 going to work out, because he's not going to be in
20 jail forever. And when he gets out, this needs to
21 be amicable to the extent that it can.

22 MR. FLAKE: Thank you, Judge.

23 MR. MADSEN: Thank you, Your Honor.

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

COURT REPORTER'S CERTIFICATION

I, REMA K. GANTT THOMAS, OFFICIAL COURT
REPORTER, AND NOTARY PUBLIC IN AND FOR 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 ABOVE-CAPTIONED CASE ON MARCH 1,
2013, IN LEXINGTON, SOUTH CAROLINA.

I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL
NOR KIN TO ANY OF THE PARTIES TO THIS CAUSE OF
ACTION, NOR AM I INTERESTED IN ANY MANNER IN ITS
OUTCOME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND
AND SEAL AT CHAPIN, SOUTH CAROLINA, THIS THE TENTH
DAY OF MAY, 2013.



REMA K. GANTT THOMAS
OFFICIAL COURT REPORTER
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES 11/21/2013

Form 15-1-Arrest Warrant
Form Approved by
SC Attorney General
Section 17-13-180
March 15 1978

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

Probation

ARREST WARRANT

Indictment Number 12-GS-32-01635

Warrant Number WA-32-12-0316

State Identification No (SID) 01705740

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF LEXINGTON, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that BRIAN E JR LORICK, did on the 31 day of October, 2012 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Violation of Probation pursuant to statute 24-21-430 in that the defendant has willfully violated the conditions of his/her probation sentence as imposed by Judge Brown at the 06/21/2012 term of General Sessions Court holden in Lexington County, Lexington, South Carolina.

Now, therefore, you are empowered and directed to arrest the said defendant and bring BRIAN E JR LORICK before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Done at LEXINGTON, S. C. this 31 day of October, 2012.

County of LEXINGTON

Signature of Probation and Parole Agent

(L.S.)

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Daniel J. Lake, who, first being duly sworn, deposes and says that BRIAN E JR LORICK did within this County and State on the 31 day of October, 2012, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

Violation of Probation pursuant to statute 24-21-430 in that the defendant has willfully violated the conditions of his/her probation sentence as imposed by Judge Brown at the 06/21/2012 term of General Sessions Court holden in Lexington County, Lexington, South Carolina.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

Brian Lorick has continued to directly contact Bethany Lephart (victim), against the written order (Form 1182) issued by the Agent, dated 09/25/12. Mr. Lorick agreed to and signed this written order, on 09/25/12. Additionally, a preponderance of evidence exists indicating that Mr. Lorick did in fact physically assault the victim (Bethany Lephart) on or about October 27th, 2012. This is evidenced by the affidavit of Bethany Lephart, dated 10/30/12. These actions constitute a willful failure to follow advice and instructions of the Agent. Subject was notified in writing of the Standard Conditions of Probation as evidenced by his signature of this document on 06/21/12. The above actions constitute violations of probation condition 10 of the original Probation Order signed by the defendant, dated 06/21/12. These violations are in addition to those contained within W-32-12-265, issued 09/21/12, and served on 09/25/12.

Sworn to and Subscribed before me
this 31 day of October, 2012.

Linda David Hunter (L.S.)
Signature of Notary Public

4-24-2017
My Commission Expires

Address: 605 West Main Street
Suite 104
LEXINGTON, SC 29072
LEXINGTON
USA
(803) 359-2551

Affiant

RETURN

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

on the 05 day of NOV 2012

Daniel J. Lake
Constable or Law Enforcement Officer

This Warrant is certified for service in (County of warrant Certification) County. The accused is to be arrested and brought before me to deal with according to law.

Signature of Judge

(L.S.)

Sentence

Co-Defendants

STATE OF SOUTH CAROLINA

COUNTY OF

LEXINGTON

THE STATE

against

BRIAN E. LORICK

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 10/31/2012

Officer and Agency: SC Department of Probation,
Parole and Pardon Services

Daniel J. Lake

Disposition

INFORMATION ON DEFENDANT

Name BRIAN E JR LORICK

Address 127 BOYKIN LANE
LEXINGTON, SC 29073

Phone (000) 000-0000

Sex Male Race White Height 600

Weight 160 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

on

with

Attorney for the Defendant

Decision

BAIL

Date Set

Magistrate

Amount

Surety

Form 18 - Arrest Warrant
Form Approved by
SC Attorney General
Edition 17-13-189
March 15, 1978

FILED

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

Probation

707 SEP 21 11 31 26

ARREST WARRANT

Indictment Number 12-GS-32-01835

Warrant Number W-32-12-0265

State Identification No. (SID) 01705740

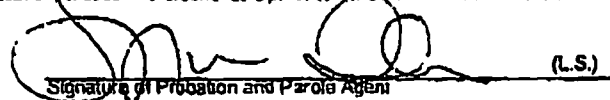
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF LEXINGTON, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that BRIAN E JR LORICK, did on the 21 day of September, 2012 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Violation of probation pursuant to Section 24-21-430 in that the defendant has violated the conditions of his probation sentence as imposed by Judge Brown at the June 21, 2012 term of General Sessions Court holden in Lexington County, Lexington, SC.

Now, therefore, you are empowered and directed to arrest the said defendant and bring BRIAN E JR LORICK before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution or as soon thereafter as is practicable. Done at LEXINGTON, S. C. this 21 day of September, 2012.

 (L.S.)
Signature of Probation and Parole Agent

County of LEXINGTON**STATE OF SOUTH CAROLINA****AFFIDAVIT**

Personally appeared before me, one Monica Thomas, who, first being duly sworn, deposes and says that BRIAN E JR LORICK did within this County and State on the 21 day of September, 2012, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

Violation of probation pursuant to Section 24-21-430 in that the defendant has violated the conditions of his probation sentence as imposed by Judge Brown at the June 21, 2012 term of General Sessions Court holden in Lexington County, Lexington, SC.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

There is probable cause to believe that the Brian Lorick did commit the crime of Assault against Bethany Leapahart by striking her and causing an abrasion on her upper left arm. This is evident by the affidavits written by the Bethany Leapahart and Debbie Knapp on the date of 9/21/2012. It is also evident by the physical manifestations on the victim observed by the agent on 9/21/2012. Mr. Lorick's actions are considered a community safety violation. Such actions constitute a violation of conditions 10 of the original Probation Order dated 6/21/2012.

Sworn to and Subscribed before me
this 21 day of September, 2012.

 (L.S.)
Signature of Notary Public

My Commission Expires

 Affiant

Address: 605 West Main Street
Suite 104
LEXINGTON, SC 29072
USA
(803) 359-2551

RETURN

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

on the 25 day of September, 2012
Rusty Reed
Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

Signature of Judge

STATE OF SOUTH CAROLINA
COUNTY OF

LEXINGTON

THE STATE
against

BRIAN E. LORICK

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-150

Date: 9/21/2012

Officer and Agency: SC Department of Probation,
Parole and Pardon Services

Monika Thomas

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name BRIAN E. JR LORICK

Address 127 BOYKIN LANE
LEXINGTON, SC 29073

Phone (803) 885-7342

Sex Male Race White Height

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

on

with

Attorney for the Defendant

Decision

BAIL

Date Set

Magistrate

Amount

Surety

WITNESSES

Lexington County Sheriffs Department

Kenneth T Bass

Law Enforcement Case #. 1103194

KWU

ARREST WARRANT NUMBER

M303493

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date

VERDICT

Foreperson of Petit Jury
DateDOCKET NO. 2012-GS-32-01635The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

JUNE TERM 2012

THE STATE
vs.

Brian Eugene Lorick Jr

CDR #: 3413

Indictment for

Assault and Battery 2nd Degree

§ 16-03-0600(D)(1)

DONALD V. MYERS, SOLICITOR

I DO HEREBY WAIVE MY RIGHT
TO GRAND JURY PRESENTMENT

DEFENDANT

DATE

WITNESS

Lex. Co. C.C.P., G.S. & F.C.

TRUE COPY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Assault and Battery 2nd Degree

§ 16-03-0600(D)(1)

At a Court of General Sessions, convened on June 2012, the Grand Jurors of Lexington County present upon their oath:

That Brian Eugene Lorick Jr did in Lexington County, South Carolina, on or about October 20, 2011, unlawfully injure another person, or offered or attempted to injure another person with the present ability to do so, and moderate bodily injury to another person resulted or moderate bodily injury to another person could have resulted; to wit. striking Bethany Leaphart and/or attempting to strangle her, in violation of §16-03-600(D) of the South Carolina Code of Laws of 1976, as amended

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


 ASSISTANT SOLICITOR

TRUE COPY
 I. Co. C.C.P., G.S. & F.C.

53
0 + 3 yr

STATE OF SOUTH CAROLINA)
COUNTY OF Lexington)
STAT VS.)
Brian Eugene Lorick Jr)
AKA)
Race Sex: M Age 23)
DOB: SS#:)
Address:)
SC 29123-9174)
DL#: SID#)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO. Assault / Assault & Battery 2nd degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#. 2012-GS-32-01635
A/W# M303493
Date of Offense 10/20/2011
S.C Code § 16-03-0600(D)(1)
CDR Code # 3413

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0600(D)(1) of the S.C. Code of Laws, bearing CDR Code # 3413
☒ 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 (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence ☐ Recommendation by the State
ATTEST

Thad W. [Signature] 76118 SC Bar# *X-3-5-12* Defendant *[Signature]* Attorney for Defendant 12210 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 3 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 6 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. 68 days
☐ 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
Total: \$ _____ plus 20% fee \$ _____
Payment Terms _____
☐ Set by SCDPPPS
Recipient _____

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

*Fine	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 14-1-212 (Public Def/Prob)	\$500	\$500
§ 14-1-212 (Law Enforce Funding)	\$25	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 56-5-2912 (DUI Breath Test Fee)	\$50	\$
§ 56-5-2912 (Vehicle Assessment)	\$40/ea	\$
§ 16-5-2912 (SCCJA Surcharge)	\$5	\$5
County (if paid in installments)	\$	\$630
TOTAL	\$	\$630
Clerk of Court Deputy Clerk		<i>Beth A. [Signature]</i>
Court Reporter		<i>B. [Signature]</i>
SCJA217 (03/2011)		

Other: Complete Paternal Program
Attend mental health treatment if deemed necessary.

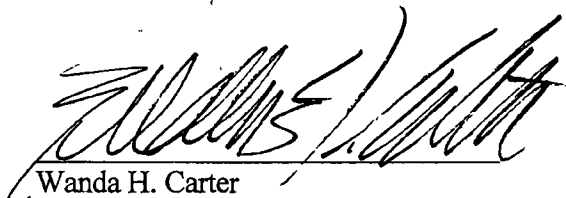
☒ Appointed PD or appointed other counsel,
§ 47-12 requires \$500 be paid to Clerk during probation

Presiding Judge *[Signature]*
Judge Code 2700
Sentence Date 6-21-12

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."

February 4th, 2014



Wanda H. Carter

Deputy Chief Appellate Defender

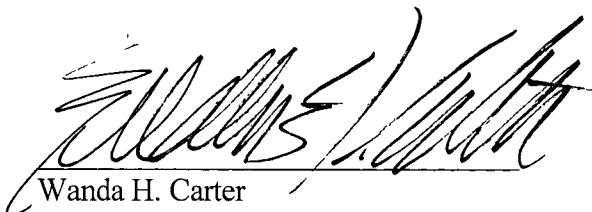
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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February 4th, 2014

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', is written over a horizontal line.

Wanda H. Carter
Deputy 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

ORIGINAL

IN THE COURT OF APPEALS

Appeal from Lexington County

Thomas A. Russo, Circuit Court Judge

RECEIVED

FEB 04 2014

SC Court of Appeals
RESPONDENT,

THE STATE,

V.

BRIAN E. LORICK, JR.,

APPELLANT

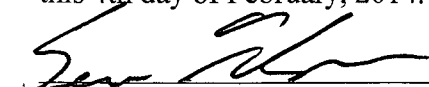
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Matthew Buchanan, Esquire, at the South Carolina Department of Probation, Parole, and Pardon Services, PO Box 50666, Columbia, SC , 29250 this 5th day of February, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 4th day of February, 2014.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022 .