

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of General Sessions
Brian M. Gibbons, Circuit Court Judge

Appellate Case No.: 2013-002510

THE STATE, ...Respondent,

v.

JOSEPH WRIGHT, JR., ...Appellant.

APPELLANT'S EXTRAORDINARY PETITION
FOR
A WRIT OF SUPERSEDEAS

RECEIVED

MAR 11 2014

SC Court of Appeals

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ATTORNEY FOR APPELLANT

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FACTUAL BACKGROUND

With respect to this Petition for Writ of Supersedeas, the factual background consists of the procedural history of the case, summarized in this paragraph and set out in detail below. Wright entered three guilty pleas in 2005, and a final Order of Restitution was entered in 2007. In 2013, eight years after the date of the conviction and beginning of probation, Wright was cited for violation of his probation. Homeowners Mortgage Enterprise was present at the 2013 hearing, at which time Wright agreed to a finding of civil contempt. However, prior to the entry of the Order of contempt, Wright withdrew his consent. The trial court nevertheless entered the Order of contempt, and Wright appealed. In the meantime, Homeowners filed a Motion to Show Cause why Wright should not be held in contempt. Wright's attorney made a written request to the trial judge to take the Notice of Appeal into consideration with respect to Homeowner's motion; however, the trial court entered the Show Cause Order, setting the hearing for February 13, 2014.

The following is a more detailed description of the procedural history of this case.

On January 10, 2005, Joseph Wright, Jr. pled guilty to financial identity fraud, forgery, and obtaining signatures and property under false pretenses under S.C. Code Ann. §§ 16-13-510, 16-13-10 and 16-13-240 and respectively. (App. 1, Plea Agreements for Indictments 2003 GS 40-5502, 5503 and 5504 respectively, entered January 10, 2005) Mr. Wright was given three concurrent 10 year sentences, suspended upon service of 60 days of incarceration and five years of probation. Mr. Wright was also ordered to pay restitution in the amount of \$5,000 to Amos Price and in the amount of \$45,000 to Homeowners Mortgage Enterprise. At the January 10, 2005, hearing, it was noted in the record that Homeowners would be submitting a claim for additional restitution compensation. (App. 2, January 10, 2005, Transcript, page 35, lines 21-25).

On July 18, 2007, the trial court entered an Order of Restitution, which superseded the previous January 10, 2005, Orders. (App. 3, July 18, ²⁰⁰⁷~~2005~~, Order of Restitution) The

Order of Restitution noted that the Defendant had paid \$50,000.00 in restitution pursuant to the original sentence. (App. 3, July 18, 2005; Order of Restitution, p. 2, para 2). The Court waived the 60 day incarceration requirement and provided that the five year probationary period was to begin on July 1, 2007, and end July 1, 2012. (App. 3, July 18, 2005, Order of Restitution, p.2, para. 2 at bottom of page) The Court imposed an additional restitution requirement in favor of Homeowners in the amount of \$100,000 plus a \$15,000 collection fee to be "paid over the course of four (4) years (which is 80 % of Defendant Wright's probation)." (App. 3, July 18, 2005; Order of Restitution, p.3, paras. 3-5).

On May 21, 2013, probation services issued and served a citation on Defendant for failure to pay the remaining balance of the restitution in the amount of \$43,468.66. (App. 4, Probation Violation Citation).

On September 6, 2013, the trial court conducted a hearing on the probation services citation. Probation services represented at the hearing that Mr. Wright's probation was scheduled to expire on July 8, 2013, although the agent also stated that the Order of Restitution provided for a probation period beginning July 1, 2007, and ending July 1, 2012. (App. 5, Transcript of September 6, 2013, hearing, p. 2, lines 6-8 and 19-20) The trial court noted that probation services "want[ed] to terminate the probation [because] he has been on it for more than five years now." (App. 5, September 6, 2013, Hearing Transcript, p. 3, lines 19-24.)

At the September 6, 2013, hearing, the attorney for Homeowners outlined the terms of an agreement to the trial court: probation would be deemed to be over as of September 6, 2013, Defendant would be found in willful civil contempt for failure to make restitution payments in the amount of \$43,500 and sentenced to six months incarceration, but Defendant could pay \$5,000 as an initial payment and then \$1,500 a month thereafter for a total of \$38,500 in order to purge himself of contempt. (App. 5, September 6, 2013, hearing Transcript, p. 4, lines 3-25; p. 5, lines 1-10). Payments were to be made directly to

Homeowners and Homeowners was authorized to file a show cause motion if Defendant failed to pay. (App. 5, September 6, 2013, hearing Transcript, p. 4, lines 10-18) As a side agreement, Homeowners would release Wright from liability under the judgment obtained in civil court against him. (App. 5, September 6, 2013 hearing transcript, p. 5, lines 20-25) The Court entered the terms of the agreement on the record and terminated probation, and also requested Homeowners to prepare a consent order setting forth the terms of the agreement and a schedule for repayment. (App. 5, September 6, 2013 hearing transcript, pp. 9, lines 17-23; p. 10, lines 17-25; p. 11, lines 1-13)

On October 3, 2013, counsel for Defendant, S. Harrison Saunders, VI, notified the trial court in writing that the Defendant was now refusing to sign the proposed consent Order based on Defendant's contention that he had not been informed by his legal counsel that the State had to prove that his failure to pay restitution was willful in order to revoke his probation. (App. 6, Letter dated October 3, 2013, from counsel for Defendant, S. Harrison Saunders, VI, to the trial court).

The trial court signed the Order presented by Homeowners without the signatures of any of the parties. (The Order is undated, but was entered by the Clerk's Office on November 20, 2013) (App. 7, Order entered November 20, 2013) On November 8, 2013, Defendant filed a Notice of Motion and Motion To Reconsider with respect to the Order. (App. 8, Motion To Reconsider) That motion has not been ruled upon.

On November 26, 2013, Defendant, represented by new legal counsel, filed a Notice of Intent to Appeal in the Court of Appeals. (App. 9, Notice of Appeal dated November 26, 2013) On January 8, 2014, Homeowners filed a Motion for Rule to Show Cause why Wright should not be held in civil contempt based on his failure to pay pursuant to the consent agreement. (App. 10, Motion for Rule to Show Cause)

On January 14, 2014, Wright's current legal counsel sent a letter to Judge Gibbons in the trial court advising him that a Notice of Appeal had been filed in the case with respect

to the contempt Order and requesting him to take that action into account with respect to the Motion for Rule to Show Cause filed by Homeowners. (App. 11) On February ⁷6, 2014, Wright filed his Initial Brief of Appellant with the Court of Appeals. (App. 12). On February 7, 2014, Judge Gibbons entered the Show Cause Order, without setting a hearing date. (App. 13). Through a series of emails among counsel, a hearing date was set for February 13, 2014, 3:00 p.m. (App. 14)

ARGUMENT

An order of civil contempt is not automatically stayed on appeal. *Bakala v. Bakala*, 352 S.C. 612, 576 S.E.2d 156 (S.C. 2003). However, a party may seek an order of supersedeas under SCACR Rule 241. Normally, a party must first apply to the lower court for an order of supersedeas “[e]xcept where extraordinary circumstances make it impracticable.” Here, because the trial court has not expressly ruled on Wright’s request that the contempt proceeding be stayed during appeal, but has set a hearing date for February 13, 2014, on the Motion for Show Cause instead, the application for supersedeas made to the trial court has been denied *sub silentio*. In the alternative, extraordinary circumstances exist because Wright could be incarcerated at the February 13, 2014, hearing even though he has appealed the September 20, 2013, contempt order. Therefore, Wright’s appeal could be rendered moot if he is jailed for contempt during the pendency of his appeal. See *In the Matter of Decker*, 322 S.C. 212, 471 S.E.2d 459 (S. C. 1995)(trial court issued a written order denying appellant’s petition for a writ of supersedeas, but did temporarily stay any incarceration until the Supreme Court had an opportunity to consider granting a writ of supersedeas).

In his appeal, Wright argues that the subject matter jurisdiction of the trial court has ended at the time the Order of contempt was entered, that he had withdrawn his consent, and /or that civil contempt was not allowable under the circumstances of the case. The merits of these arguments are set forth in the Initial Brief of Appellant. (App. 12). Furthermore,

as the emails setting the hearing date make apparent, the State is no longer involved in this case as the case has been terminated. (App. 14). Therefore, Homeowners has no standing to pursue relief in criminal court, but must seek damages in civil court. In *Ex parte Littlefield*, 343 S.C. 212, 221, 540 S.E.2d 51 (S.C. 2000), the Supreme Court stated, "Once a criminal case has been resolved and the defendant is sentenced, the alleged victim loses his victim status under the Victim's Bill of Rights. The trial court cannot use the Victim's Bill of Rights to re-open a completed criminal proceeding." The trial court ordered that the probation period ended on September 6, 2013; therefore, the criminal proceeding has ended.

EXTRAORDINARY CIRCUMSTANCES WARRANTING SUPERSEDEAS

On January 13, 2014, Wright's current legal counsel sent a letter to Judge Gibbons in the trial court advising him that a Notice of Appeal had been filed in the case with respect to the contempt Order and requesting him to take that action into account with respect to the Motion for Rule to Show Cause filed by Homeowners. (App. 11). On February 7, 2014, Wright filed his Initial Brief of Appellant with the Court of Appeals. (App. 12). On January 15, 2014, Judge Gibbons entered the Show Cause Order without setting a hearing date. (App. 13) Emails among counsel set a hearing date for February 13, 2014. (App. 14)

Because the trial court has not expressly ruled on Wright's request that the contempt proceeding be stayed during appeal, but has set a hearing date for February 13, 2014, on the Motion for Show Cause instead, the application for supersedeas made to the trial court has been denied *sub silentio*. In the alternative, extraordinary circumstances exist because Wright could be incarcerated at the February 13, 2014, hearing even though he has appealed the September 20, 2013, contempt order. Therefore, Wright's appeal could be rendered moot if he is jailed for contempt during the pendency of his appeal.

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CONCLUSION

For all of the foregoing reasons, the Appellant requests that this Court issue a Writ of Supersedeas preventing the trial court from holding Appellant in contempt during the pendency of this Appeal.

Respectfully submitted,

March 11, 2014

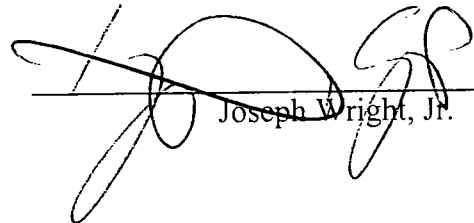

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND) VERIFICATION

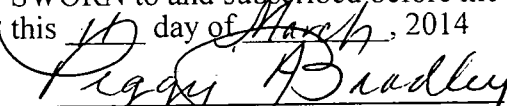
Personally appeared before the undersigned officer duly authorized to administer oaths, Joseph Wright, Jr. who, upon his oath, deposes and states that the statements contained in the Factual Background of this Petition for Writ of Supersedeas are true and correct to the best of his knowledge, information and belief.

This 11 day of March, 2014.



Joseph Wright, Jr.

SWORN to and subscribed before me
this 11 day of March, 2014



Notary Public for South Carolina
My commission Expires: 01/09/2017

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

CERTIFICATE OF SERVICE

I, the undersigned do hereby certify that all counsel and/or parties in this action were served with a copy of the pleading(s) herein below specified by mailing a copy of the same by United States mail, postage prepaid, to the following address(es):

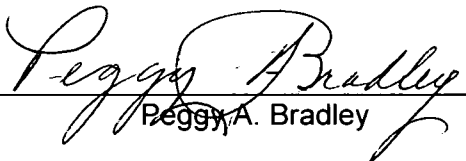
PLEADING: Appellant's Extraordinary Petition for A Writ of Supersedeas

PARTY: Honorable Daniel E. Johnson
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Peggy A. Bradley

Columbia, South Carolina

March 11, 2014.

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APPENDIX
FOR
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1 STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

2 COUNTY OF RICHLAND

3
4
5 STATE)

6 V.)

TRANSCRIPT OF RECORD

7 JOSEPH WRIGHT)

03-GS-40-5502

8 DEFENDANT.)

03-GS-40-5503

03-GS-40-5504

9
10
11 JANUARY 10, 2005

COLUMBIA, SOUTH CAROLINA

12
13 B E F O R E:

14 THE HONORABLE REGINALD I. LLOYD, JUDGE.

15
16 A P P E A R A N C E S:

17 ROBERT J. ELAM, ASSIST. SOLICITOR
18 ATTORNEY FOR THE STATE

19 JACK B. SWERLING, ESQUIRE
20 SWEPSON HARRISON SAUNDERS, VI, ESQUIRE
21 ATTORNEYS FOR THE DEFENDANT

22
23
24 STACY L. SHEPPARD
CIRCUIT COURT REPORTER

ORIGINAL

25
4

I N D E X

WITNESSESDIRECTCROSSREDIRECTRECROSS

(There were no witnesses.)

5

E X H I B I T S

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NO.DESCRIPTIONID.EVD.

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(There were no exhibits.)

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1 (The following proceedings were held on.
2 January 10, 2005.)

3 JOSEPH WRIGHT,
4 having been duly sworn, testified as follows:

5 **THE COURT:** Yes, sir, Mr. Elam.

6 **MR. ELAM:** Thank you, Your Honor. May it
7 please the Court.

8 Your Honor, standing before you is defendant
9 Joseph Wright. He's represented by Jack Swerling
10 and Harrison Saunders. Mr. Wright is pleading
11 guilty today to three separate indictments, they've
12 been true billed by the grand jury, 2003-5502,
13 financial identity fraud; 2003-5503, forgery more
14 than \$5,000; and 2003-5504, obtaining money under
15 false pretenses more than \$5,000.

16 And, Your Honor, present with me here in court
17 today are the victim in the case, Mr. Amos Price.
18 He's seated here before you, Your Honor. And also
19 with him is Ms. Amanda Cantey. And at the
20 appropriate time, I understand they would like to
21 address the Court later on in these proceedings.
22 They are represented by Mr. David Massey, private
23 attorney.

24 **MR. MASSEY:** May it please the Court, Your
25 Honor.

7

1 **MR. ELAM:** And we also have present Mr. Bob
2 Wood. And he is here in a representative capacity
3 for the mortgage company that's also a victim in
4 this case.

5 **THE COURT:** Thank you, sir.

6 Mr. Wright, all of these have been true billed.
7 As I understand it, you wish to enter pleas of
8 guilty to financial identity fraud, forgery over
9 \$5,000 and obtaining goods under false pretenses
10 over \$5,000; is that right?

11 **DEFENDANT WRIGHT:** Yes, sir.

12 **THE COURT:** Have you had a chance to discuss
13 your decision to plead guilty with your attorneys,
14 sir?

15 **DEFENDANT WRIGHT:** Yes, sir.

16 **THE COURT:** You understand, sir, that you have
17 the right to plead not guilty to these charges?

18 **DEFENDANT WRIGHT:** Yes, sir.

19 **THE COURT:** Have you discussed with them
20 thoroughly your rights to plead not guilty, as well
21 as any defenses you may have had to these charges?

22 **DEFENDANT WRIGHT:** Yes, sir.

23 **THE COURT:** Understanding that and having had
24 those discussions, do you wish to waive your rights
25 to a jury trial and enter pleas of guilty to these

1 charges?

2 **DEFENDANT WRIGHT:** Yes, sir.

3 **THE COURT:** All right. You understand, sir,
4 that by waiving your rights to a jury trial, you
5 give up your right to have your attorneys
6 cross-examine and challenge the witnesses and
7 evidence the State would have offered against you at
8 trial?

9 **DEFENDANT WRIGHT:** Yes, sir.

10 **THE COURT:** You also, thereby, give up your
11 right to offer witnesses and evidence on your own
12 behalf at trial. Obviously, at the conclusion of
13 any case, the State has the burden of convincing a
14 jury that you're, in fact, guilty beyond a
15 reasonable doubt of these offenses. Do you
16 understand that?

17 **DEFENDANT WRIGHT:** Yes, sir.

18 **THE COURT:** That's the highest burden of proof
19 we have; do you understand that fact?

20 **DEFENDANT WRIGHT:** Yes, sir.

21 **THE COURT:** Do you understand, sir, that at
22 trial, you don't have to do anything, you don't have
23 to offer one witness, you don't have to offer one
24 piece of evidence because the State, at all times,
25 bears the burden of proving to a jury that you're,

9

1 in fact, guilty beyond a reasonable doubt; do you
2 understand that?

3 **DEFENDANT WRIGHT:** Yes, sir.

4 **THE COURT:** At trial, sir, you would have the
5 right to either testify or not testify, that's a
6 constitutional right that you enjoy, sir, and nobody
7 can compel or prevent you from doing one or the
8 other. If you had chosen to go to trial and take
9 the witness stand on your own behalf, you obviously
10 have that right to do so, sir, and nobody can
11 prevent you from doing so.

12 Likewise, you have a constitutional right to
13 remain silent. Nobody can compel you, should you
14 decide to exercise that right to remain silent, to,
15 in fact, take the witness stand. Should you
16 exercise your right to remain silent, sir, the Court
17 would instruct a jury trying your case that they
18 cannot hold that fact against you. They cannot even
19 consider the fact that you've exercised your
20 constitutional right to remain silent. Do you
21 understand that?

22 **DEFENDANT WRIGHT:** Yes, sir.

23 **THE COURT:** And you want to waive those rights
24 and plead guilty to those three offenses that we
25 outlined earlier?

10

1 **DEFENDANT WRIGHT:** Yes, sir.

2 **THE COURT:** Sir, your first indictment alleges
3 that in Richland County, on or about November 29 of
4 2001, you did, with intent to defraud, falsely make,
5 forge, counterfeit, cause or procure to be falsely
6 made, forged or counterfeited, utter and published
7 as true or willfully act or assist in any of the
8 foregoing in regard to an instrument in writing. In
9 this case, you did fraudulently represent yourself
10 to be one, Mr. Amos Price, and did sign Mr. Price's
11 name on numerous documents regarding a 340,000
12 dollar mortgage loan for a house located at 2018
13 Riding Ridge Road. Are those the facts to which you
14 are pleading guilty to, sir?

15 **DEFENDANT WRIGHT:** Yes, sir.

16 **THE COURT:** Any disagreement with any of the
17 factual portion of the indictment?

18 **DEFENDANT WRIGHT:** No, sir.

19 **THE COURT:** All right. Your next indictment
20 alleges that in Richland County, on or about
21 November 29 of 2001, with intent to cheat and
22 defraud the victim, Homeowners Mortgage Enterprises,
23 Incorporated, located at 1338 Main Street Columbia,
24 South Carolina, you did obtain a house valued at
25 over \$5,000 from the victim by means of false

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1 pretenses and representations. In this case, you
2 did execute a 340,000 dollar mortgage scheme to
3 defraud the business by fraudulently representing
4 yourself to be one, Amos Price, by using Mr. Price's
5 personal information to obtain a house at 2018
6 Riding Ridge Road where you took up residence, but
7 which was actually obtained through unlawful acts.
8 Are those the facts to which you are pleading guilty
9 to, sir?

10 **DEFENDANT WRIGHT:** Yes, sir.

11 **THE COURT:** Any facts in that indictment that
12 you disagree with?

13 **DEFENDANT WRIGHT:** No, sir.

14 **THE COURT:** The next indictment alleges that in
15 Richland County, on or about November 29 of 2001,
16 without authorization or permission of Mr. Amos
17 Price and with the intent of unlawfully
18 appropriating the financial resources of Mr. Amos
19 Price to your own use, you did execute a 340,000
20 dollar mortgage scheme by fraudulently representing
21 yourself to be one, Mr. Amos Price, by using
22 Mr. Price's personal information, in this case, date
23 of birth, social security, credit report, to obtain
24 a house at 2018 Ride -- I think the indictment
25 should be Riding Ridge Road where you took up

12

1 residence. Any disagreement with the facts in that
2 indictment, sir?

3 **DEFENDANT WRIGHT:** No, sir.

4 **THE COURT:** All right, sir. Has anybody
5 offered you anything or promised you any type of
6 reward of any sort to get you to come in here and
7 plead guilty today?

8 **DEFENDANT WRIGHT:** No, sir.

9 **THE COURT:** Anybody threaten or coerce you, in
10 any way, to get you to come in here and plead guilty
11 today?

12 **DEFENDANT WRIGHT:** No, sir.

13 **THE COURT:** Have you been the target of any
14 mistreatment whatsoever to get you to come in here
15 and plead guilty to these offenses?

16 **DEFENDANT WRIGHT:** No, sir.

17 **THE COURT:** Are you pleading guilty of your own
18 free will and accord because you are, in fact,
19 guilty of forgery over \$5,000, obtaining goods under
20 false pretenses over \$5,000, and financial identity
21 fraud?

22 **DEFENDANT WRIGHT:** Yes, sir.

23 **THE COURT:** You understand, sir, on each of
24 these offenses, you could be sentenced to up to ten
25 years?

13

1 **DEFENDANT WRIGHT:** Yes, sir, I do.

2 **THE COURT:** And you understand the Court could
3 run those consecutively, that's 30 years?

4 **DEFENDANT WRIGHT:** Yes, sir.

5 **THE COURT:** You've had an adequate opportunity
6 to meet with your attorneys and discuss the charges
7 against you, any defenses you may have had to those
8 charges, any constitutional rights you enjoy to a
9 jury trial and you're happy and satisfied with your
10 advice and representation of you in this matter?

11 **DEFENDANT WRIGHT:** Yes, sir.

12 **THE COURT:** Any questions at all about your
13 rights to a jury trial or anything else before we go
14 forward with your plea, sir?

15 **DEFENDANT WRIGHT:** No, sir.

16 **THE COURT:** All right. I find there's a
17 substantial, factual basis to accept your pleas. I
18 also find you're making a knowing, intelligent,
19 voluntary plea of guilty to each of these charges,
20 aided and assisted by qualified counsel. Thank you,
21 sir.

22 Mr. Elam.

23 **MR. ELAM:** Thank you, sir. May it please the
24 Court.

25 Before this crime happened on November 29th of

14

1 2001, Mr. Wright actually knew the human victims in
2 this case. They were actually clients of his. They
3 have used his mortgage broker skills and his
4 mortgage company to, in a legitimate purchase, buy a
5 much more modest piece of real estate. And that's,
6 of course, Mr. Amos Price and Ms. Cantey here.
7 That's where Mr. Wright got the financial
8 information that he used later on when he, himself,
9 decided to purchase a 340,000 dollar home in the
10 Spring Valley neighborhood here in Columbia. It's a
11 two story brick home, quite a nice home.

12 Mr. Wright forged Mr. Price's name on all of
13 the relevant documents necessary for closing, that
14 includes, of course, the mortgage, the sales
15 contract, the settlement statement, you name it,
16 every single document. There's just one charge for
17 that particular forgery.

18 Obviously, the amount of those documents is
19 worth more than \$5,000. As I said, the house was a
20 340,000 dollar house. The mortgage company in
21 question, Homeowners Mortgage Enterprises, was, as a
22 result of that, cheated out of certainly more than
23 \$5,000.

24 Mr. Wright moved into that house with his
25 family and lived in that house for about two years.

15

1 It's my understanding that he did not make any
2 mortgage payments once he moved into the house.
3 Obviously, since he wasn't making any mortgage
4 payments, the mortgage company started looking to
5 the person who got the loan. And Mr. Price here
6 started receiving dunning messages and much stronger
7 messages from the mortgage company.

8 He and Ms. Cantey consulted with Mr. Massey.
9 Mr. Massey is the gentleman, the attorney in this
10 case, who brought the case to the authorities. And
11 after a good deal of work with the authorities, he
12 got the case moving.

13 Brent Taverner is the investigator at the
14 Richland County Sheriff's Department who basically
15 made the case. He got the paperwork. He talked to
16 Mr. Wright about this crime. Mr. Wright did confess
17 in writing to what he did. He admitted freely that
18 he used Mr. Price's name on all the documents. The
19 reason he gave for that was, he said, he and his
20 family had been living in a hotel for so long, they
21 started thinking of the hotel as home and they
22 needed somewhere to live. That's the reason he gave
23 for doing this.

24 When asked if anybody else at all was involved,
25 in his confession, he said, No, nobody else was

16

1 involved. He took sole responsibility for
2 everything. And that's where we stand today.

3 Mr. Wood, as I mentioned, is the attorney who
4 represents the mortgage company in this matter.
5 I've had some dealings with him. We haven't seen
6 any restitution in this case. I know that Mr. Wood
7 also would like to address the Court concerning the
8 matters with the mortgage company.

9 I can tell you, Your Honor, I'm very happy that
10 we have Mr. Price here, Ms. Cantey here and
11 Mr. Massey here to put kind of a human face on this
12 because they'll be able to express to you much
13 better than I ever could what kind of impact this
14 has had on them.

15 I'm also glad that Mr. Wood is here because he
16 can express to you much better than I ever could the
17 impact and the havoc that it has wreaked on the
18 company that he represents. I know that we
19 sometimes look at companies as these big, impersonal
20 enterprises, but there is a cost there as well.

21 So if it's appropriate, Your Honor, they do
22 wish to address the Court concerning this matter.
23 And then, at some point, I guess, I need to go over
24 the priors. Do you want to hear those now or later?

25 **THE COURT:** Let me hear from the victims in

1 this case first.

2 **MR. MASSEY:** May it please the Court, Your
3 Honor. Briefly, I'm going to speak on behalf of
4 Mr. Price and then allow Amanda to speak on behalf
5 of the rest of the family.

6 Mr. Amos Price is a wonderful man. Everything
7 he's gotten, he earned the hard way. He's been
8 married over 50 years, has a lovely home up in
9 Fairfield County. He's retired. He's on social
10 security and retirement.

11 In a day and age when, you know, people file
12 bankruptcy and we go over our credit cards and think
13 nothing of it, that's not the generation that
14 Mr. Price comes from. Mr. Price comes from a
15 generation wherein he always paid his debts and had
16 a great credit and that was part of his name. It
17 wasn't just something to have, it was something that
18 he truly had worked 70 years to obtain that.

19 There's a big epidemic going on in this country
20 right now with identity theft. And you know who the
21 primary victims are it appears is primarily our
22 Senior Citizens, the ones from that generation who
23 have this good credit rating. The Washington Post
24 did an article on Mr. Price's identity theft in an
25 effort to kind of bring people's attention to it.

18

1 All I ask that the Court understand that
2 Mr. Price and his wife, Mrs. Price, got continually
3 harassed by collection agencies that they never
4 imagined they would ever have to deal with. It was
5 quite a burden on them. After I let people know,
6 hey, you've got the wrong guy, it continued and
7 continued.

8 Be that as it may, we're here today and I just
9 wanted to let the Court know that not necessarily
10 Mr. Wright in this event, but there is a message
11 that, in some fashion or form, should be sent to
12 other people that are going to prey on our Senior
13 Citizens by stealing their identity. And we ask the
14 Court to at least consider that in your wisdom and
15 we yield to you, Your Honor. And I'd like to let
16 his daughter, Amanda, speak on her behalf.

17 **THE COURT:** Thank you, Mr. Massey.

18 Yes, ma'am.

19 **MS. CANTEY:** My name is Amanda Cantey. And I'm
20 here to speak on behalf of my father.

21 When I enlisted the help of Mr. Wright, he had
22 prior did a house for us on North Main, so that was
23 the way that he obtained my father's financial
24 statements. At no time, did I give him permission
25 to take those documents and use it for himself.

1 And the reason why I trusted Mr. Wright, he and
2 his wife and I, we'd been friends, so I gave him my
3 business. And for him to do that to my father is
4 just inexcusable. I did not give him permission to
5 take my father's documents and purchase a home in
6 Spring Valley.

7 And not only that, Your Honor, when I began to
8 look and try to find the reason for the phone calls,
9 it took me almost a year and a half to track it
10 down. And I even tried to consult Mr. Wright as to
11 why am I getting these phone calls. He showed no
12 concern about it whatsoever until last Thursday he
13 sent an apology.

14 Even I took it upon myself to meet and talk
15 with his wife, but nobody from that family ever
16 bothered to call and say I'm sorry until Thursday,
17 until Thursday. And it's just a hurting thing. I
18 just don't understand. I don't understand. And
19 they know that I'm a good person. And we are not
20 here to collect a whole amount of money, but I think
21 something needs to be done.

22 My father is 73. Not once have we had a
23 falling out, but this put a bridge between he and I
24 until I found out what was going on. It was the
25 first time that he and I -- we didn't really have a

1 falling out, but I felt that he felt that I had
2 something to do with it and I did not. And I am his
3 only living child.

4 I have parents who have health problems. I
5 don't have any children, but these are the only two
6 blood relatives that I have. And it took something
7 away from me and my father, and we are gradually
8 gaining it back, because of Mr. Wright.

9 And then the sad part about it, he knew what he
10 had done. And the couple of times I've called, my
11 phone calls went unanswered. The next thing I know,
12 the numbers were changed. He had moved and shut
13 down the business. And not one time did he bother
14 to call and say I'm sorry. Thank you.

15 **THE COURT:** Thank you, ma'am.

16 **MR. WOOD:** Your Honor, I'm Bob Wood on behalf
17 of Homeowners Mortgage Enterprises, Inc. The
18 company is out of pocket over one -- almost \$160,000
19 because of this. And in addition to that out of
20 pocket loss, Your Honor, I'd point out that this
21 kind of behavior is what makes it tough for anybody
22 to get a home mortgage these days. The
23 ramifications go far beyond Mr. Price.

24 Mr. Price -- this happened to Mr. Price, at
25 least in part, because he did have absolutely

1 outstanding credit. Mr. Wright apparently knew that
2 and he took advantage of Mr. Price's outstanding
3 credit and was able to get this house, a 300,000
4 dollar plus house, in Spring Valley to live in until
5 he was forced to move out.

6 This is terrible what this man did. He may as
7 well have stolen money right out of my bank's pocket
8 and he may as well have stolen Mr. Price's pride as
9 well. We would ask you to make an example of
10 Mr. Wright frankly.

11 **THE COURT:** Thank you, sir.

12 **MR. ELAM:** I do have a prior record if you care
13 to hear that, Your Honor.

14 **THE COURT:** Yes, sir.

15 **MR. ELAM:** Your Honor, Mr. Wright was convicted
16 of four check frauds in July of 1989; three check
17 frauds in August of 1991; four check frauds in
18 November of 1992; a check fraud in September of 1991
19 again; October of 1991, three check frauds. In
20 Orangeburg, he had 37 magistrate level breach of
21 trusts. They were all consolidated into one case in
22 1994. Looks like he was fined in Orangeburg for
23 that one consolidation. And then in December of
24 2000, another check fraud. That's the extent of his
25 convictions, Your Honor.

1 **THE COURT:** Thank you, sir.

2 Yes, sir.

3 **MR. SAUNDERS:** Thank you, Your Honor. May it
4 please the Court.

5 Your Honor, Mr. Wright, who stands before you,
6 he's 36 years of age. Here with him today is his
7 wife, Glenda Wright. Your Honor, he owns and
8 operates a cleaning service now. He is from -- he's
9 been here for 33 years, Your Honor. He's a lifelong
10 resident of South Carolina.

11 Your Honor, I'd like to point out that he was
12 contacted by the sheriff's department. He went in
13 voluntarily. He cooperated. He confessed to the
14 crime. They let him go that day. He was not
15 arrested. He learned of the arrest warrants while
16 he was in Florida, spoke to the sheriff's
17 department, arranged to turn himself in and did so,
18 traveled from Florida, turned himself in.

19 Your Honor, this entire time, ever since we've
20 been representing Mr. Wright, he has taken full
21 responsibility, Your Honor. He never has tried to
22 say, I didn't do this, I'm not to blame. He's taken
23 full responsibility. He knows that he has done a
24 terrible thing. And, Your Honor, he is accepting
25 full responsibility here today.

1 Your Honor, we would ask you to take into
2 account that this man is saying that he was wrong.
3 He's coming before you and letting you know that.

4 Also, Your Honor this man was in the Navy for
5 eight years, four years active, four years reserve,
6 Your Honor.

7 So -- and Mr. Wright, Your Honor, he has two
8 small children. His wife's here. Of course,
9 they've been struggling ever since this all came to
10 light. And I would imagine they will suffer
11 further.

12 Now, Your Honor, I would like Mr. Swerling to
13 address you on a few other points -- oh, Your Honor,
14 I wanted to mention about the record, the 37 counts
15 of breach of trust, I believe that's important.

16 Your Honor, what that was, Mr. Wright was
17 working for a company. He was in charge of getting
18 teachers to train employees about certain things to
19 do with landscaping.

20 Your Honor, there was a gentleman that he hired
21 to teach these classes. What happened was this man
22 said he taught the classes, submitted invoices to
23 Mr. Wright so Mr. Wright could submit them to the
24 company for payment.

25 Now, Mr. Wright would have to sign off on

24

1 these, submit them, this teacher trainer was paid.
2 Mr. Wright was blamed for all of this, had no
3 knowledge of it until everything came to a head and
4 the company found out the trainer was not teaching.
5 Therefore, that is the background behind these
6 charges, Your Honor. It sounds terrible and it is
7 terrible. However, I just wanted you to know his
8 role in that.

9 The breach of trust, it implies very serious
10 circumstances and they are, but that's how he got
11 wrapped into it. And, Your Honor, he accepted
12 responsibility. He was sentenced. He complied with
13 his sentence and he moved on. That was some ten
14 years ago. Your Honor, I just wanted you to know
15 about that. I think that's very important.

16 **MR. SWERLING:** Judge, what Mr. Wright did,
17 obviously, is a despicable thing. He took advantage
18 of this gentleman's good credit, good name and went
19 ahead and got a loan strictly for selfish reasons to
20 go ahead and move into this house in Spring Valley
21 with his family.

22 I may sound like I'm putting down my client and
23 in a way, I am, because it is a very unfortunate
24 thing that he did and it is something that neither
25 we condone nor he condones at this point after

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1 looking back at what he realizes he did. And we
2 talked about it a number of times and he frankly
3 doesn't quite understand why he went ahead and did
4 it and really doesn't have an explanation for it.

5 So it is a very unfortunate situation, but,
6 unfortunately, Mr. Price's remedy is going to be in
7 civil court. Nobody in this court cannot make him
8 whole. He is not out of pocket any money, he,
9 himself. He did lose his reputation. He did lose
10 -- he did get harassed. His credit became an issue
11 for some period of time. But this court cannot
12 restore that to him. As I said, his remedy would be
13 in civil court.

14 The restitution here, the amount that someone's
15 out, is the bank. And, of course, the bank went
16 ahead and made his loan. And I guess, at some point
17 in time when there's litigation between Mr. Price
18 and the bank, the bank ought to explain how they
19 went ahead and loaned this 72-year-old individual
20 that amount of money based on the income he had.
21 But that's for another day.

22 What I want to propose is some way that
23 Mr. Wright can accept responsibility for what he
24 did, acknowledge that what he did was wrong, but
25 also try to make at least one of the victims in this

1 case somewhat whole again and that would be the
2 bank. They're out \$127,000 actual and 30,000, I
3 think, in attorney's fees.

4 I've spoken with Mr. Wright, and one of the
5 things that has been done on other occasions, and
6 I'm just asking the Court to consider this because
7 sentencing is totally up in your discretion, we
8 don't have any -- in any way propose to tell the
9 Court that we think one thing is appropriate over
10 another, but, as an alternative, what we would ask
11 you to consider is this:

12 I've spoken with Mr. Wright and asked him if
13 there's an amount of money that he can come up with
14 in the next 60 to 90 days that could be -- go toward
15 the restitution the bank is asking for of 127,000
16 plus attorney fees. He has confessed judgment
17 already for the amount and that was done some time
18 ago. He tells me that he's discussed it with his
19 family. And over the next 90 days, they can come up
20 with an initial payment of \$50,000.

21 I told him that he has to be realistic about it
22 because if Your Honor were to accept that as a
23 reasonable alternative to incarceration and if he
24 didn't pay the 50,000, it would be unlike being just
25 put on probation and having to make payments as a

1 condition of him possibly getting a suspended
2 sentence. He would have to make that 50,000 dollar
3 payment and if he didn't in 90 days, then he would
4 be incarcerated. That was what I was going to
5 propose to the Court. He understands exactly what I
6 am proposing to the Court.

7 If Your Honor were to accept that, and I have
8 no idea whether you will or not, but he understands
9 that if he doesn't pay that money, if you accept
10 that, then he will go to jail. And that gives him
11 90 days to go ahead and come up with that money.
12 Basically, the keys to the jailhouse will be in his
13 hand.

14 I would ask the Court to consider that. That
15 will at least go toward making the bank somewhat
16 whole. Mr. Price can go ahead and pursue his civil
17 suit. And Mr. Wright can spend the next number of
18 years of his life with this stigma attached to him
19 because it is a serious offense and he just -- he
20 needs to go ahead and make himself a whole and
21 better citizen as a result of this.

22 So that is the proposal I would have. I would
23 ask the Court to consider it. I don't know what the
24 bank's position is on it. We had talked at one time
25 in the past about coming up with an initial payment

1 and seeing if that was acceptable to them. It may
2 or may not be at this point.

3 I would also like to answer Mr. Price and his
4 daughter. This young man and his wife wanted to
5 speak with them and apologize, but we were told, and
6 just as I think any lawyer would do, not to, no
7 contact with them, that they did not want any
8 contact. And that is the reason why there has been
9 no contact. We instructed him not to. Once another
10 party has a lawyer, it would be unethical for us to
11 make contact or have our clients make contact
12 without the permission of that lawyer. So that is
13 why contact was not made.

14 And as I understand it, there was indirect
15 contact was made last Thursday through some letters
16 that we sent over to Mr. Massey's office, which
17 Mr. Saunders has. And I think we would like you
18 just to take a look at it before you decide which
19 sentence should be appropriate.

20 **MR. SAUNDERS:** Your Honor, may I approach?

21 **THE COURT:** Yes, sir.

22 **MR. SWERLING:** Those were given to Mr. Massey,
23 I believe, last week.

24 **MR. MASSEY:** They were, Your Honor.

25 **MR. SAUNDERS:** Your Honor, Mr. Wright had

1 mentioned he wanted to read the letter in court. If
2 Your Honor would allow that, he would appreciate it,
3 but if not, we understand.

4 (Pause.)

5 **THE COURT:** I've read the letters. If he
6 wishes to address the Court, I'll be glad to let him
7 speak. I don't know that he needs to read those
8 unless that was going to be his only statement.
9 I'll be glad to make that a part of the record in
10 this case.

11 **MR. SAUNDERS:** No, sir. Your Honor, his wife,
12 Glenda Wright, wanted to address the Court. Would
13 you like to hear from her now?

14 **THE COURT:** Yes, sir.

15 **MS. WRIGHT:** Your Honor, I've been thinking of
16 how much to say and what not to say. And it's
17 unfortunate that it all happened. And as Attorney
18 Swerling had said that we wanted to make contact and
19 apologize, but we were instructed not to do so. And
20 Joseph and myself are heartily sorry for what
21 happened.

22 And as I told Joseph over and over again that
23 there are consequences and there will be a price you
24 will have to pay for it. But the hardest part of it
25 all is if it was just me, it would be fine. I'll be

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1 able to take it. But we have two boys, a two year
2 old and a six year old, and he's been in their life
3 since birth. And I guess the hardest thing for me
4 and for them would be how do I explain where's
5 daddy?

6 And he's -- Joseph is a good man. There's no
7 doubt about it. And even with all of this, I stand
8 beside him a hundred percent because he's ambitious,
9 he's a hard worker and he loves his family. And,
10 again, we are so sorry and if we can go back and do
11 it over, we wouldn't do it. If we can go back and
12 change things, we would.

13 But the hardest thing, and when I spoke with
14 Ms. Amanda when she called me and wanted to talk to
15 me and when we talked, the only thing I said to her
16 was, the hardest thing would be is what do I tell my
17 boys? How do I explain it to my boys? And that's
18 it. And I ask that the Court have mercy and that's
19 it.

20 **THE COURT:** Thank you, ma'am.

21 **MR. SAUNDERS:** Thank you, Your Honor. I
22 believe Mr. Wright would like to address you now,
23 Your Honor.

24 **THE COURT:** Mr. Wright.

25 **DEFENDANT WRIGHT:** Your Honor, Mr. Price and

1 family, Homeowners, to say that I'm sorry, doesn't
2 change what I did. I understand that. And I was
3 wrong.

4 At that time, my wife had been out of work for
5 a year with a difficult pregnancy. I had a three
6 month old and a three year old that were staying in
7 a hotel. I was sleeping on the floor. And my three
8 year old was saying, Daddy, this is home.

9 I tried -- I tried to do it the right way. I
10 tried with Homeowners the right way. When I
11 submitted the information, I didn't just do it in
12 your name, I had my name on it because I tried to do
13 it the right way.

14 I felt that I was at a point to where I
15 couldn't have my children living like that anymore.
16 It wasn't about the house in Spring Valley. The
17 house in Spring Valley was -- it was a house that
18 fit the profile. It was a house that had equity,
19 that had a motivated seller. It wasn't -- I could
20 care less about where the house was. It was the
21 fact that I had to do something to take them out of
22 a minivan, driving around all day trying to figure
23 out where are we going to stay tonight.

24 I had Mr. Price's information and I'm so very
25 sorry for what I did. If I could change it, I

1 truly, truly would. This has haunted me from the
2 day that I did it, not from the time the sheriff's
3 department called me, but from the day that I did
4 it.

5 Ms. Amanda, I didn't try to avoid your calls..
6 If I didn't return your call, I honestly didn't get
7 that call. I apologize. I apologize. I didn't try
8 to avoid you. To be honest with you, I wish, I wish
9 that you had reached me. I wish that you had
10 reached me so I could have gotten it over with.
11 When Mr. Taverner called me, I told him what
12 happened because I was tired and I was sorry and I
13 knew that I was wrong and I knew that there were
14 consequences.

15 I believe that no matter what the Court
16 decides, the Lord will take care of me. My concern
17 here, my asking for mercy of the Court is for my
18 children because no matter what, I will have to live
19 with this the rest of my life. But I have not only
20 -- the lives that I wanted to save, the lives that I
21 wanted to protect, I only ended up making it worse.
22 They could have overcome the situation before. Now,
23 I mean, they're the ones that will suffer. They're
24 the ones that will suffer regardless of what the
25 Court's decision is.

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1 I've asked the Lord to forgive me and I ask you
2 to forgive me. I was wrong. If I could turn back
3 the hands of time, I would, but I ask that you
4 forgive me. I apologize and I'm sorry.

5 **THE COURT:** Anything further from the defense?

6 **MR. SWERLING:** No, Your Honor.

7 **MR. SAUNDERS:** That's all I have, Your Honor.

8 **THE COURT:** Anything further from the State?

9 **MR. ELAM:** No, Your Honor.

10 **THE COURT:** Mr. Massey, is there any estimation
11 of what Mr. Price is out of at this point?

12 **MR. MASSEY:** Your Honor, there is not a
13 liquidated amount. That will be a matter that will
14 be discussed in the future with other entities,
15 including possibly Mr. Wright in a civil matter, as
16 Mr. Swerling stated.

17 **THE COURT:** Is he out of pocket attorney's fees
18 at this point?

19 **MR. MASSEY:** No, sir, I have not charged him
20 any attorney's fees. We're old friends.

21 **THE COURT:** Mr. Elam, anything in addition,
22 sir, from the State?

23 **MR. ELAM:** No, Your Honor, not unless you have
24 a question for us.

25 **THE COURT:** Let me see counsel at the side

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1 bar -- actually, why don't we take a break. We'll
2 step back to the jury room. We'll stand down for a
3 couple of minutes. Let me see Mr. Massey, Mr. Wood,
4 Mr. Elam, Mr. Swerling and Harrison for a second.

5 (Brief Recess.)

6 **THE COURT:** All right. Nothing further from
7 either side, Mr. Wright, I'm going to give you some
8 chance, sir, to try to make amends for this and,
9 obviously, the amounts that we're dealing with, you
10 may not ever be able to.

11 And, certainly, Mr. Price's reputation, there's
12 nothing I can order, Mr. Price, I'm sorry, but
13 there's absolutely nothing I can order to give that
14 back to you what he took from you in that regard.
15 And I do know -- I know the value of that
16 reputation. I know the value of the hard work you
17 did to get that kind of credit and reputation, sir.
18 And you didn't deserve to have that done to you.

19 Mr. Wright, I just don't find any real excuse
20 to do these kind of things. You know, it always
21 amazes me people talk about they steal to support
22 their family or feed their family, but they don't
23 steal a loaf of bread, you know, they go out and
24 steal a Cadillac or something. It just -- it
25 boggles the mind.

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1 Based on representations to your counsel and to
2 this Court, I'm going to give you some time to try
3 to come up with the \$50,000. I understand that you
4 have assured counsel and, thereby, I'm taking that
5 assurance in giving you this sentence. I'm going to
6 run your sentences concurrent, so that's ten years.
7 I'm going to suspend that. I'm going to give you 90
8 days to come up with \$50,000.

9 Five thousand dollars I'm going to find and
10 restitution is being owed to Mr. Price at this
11 point. I understand that there are probably a whole
12 host of civil suits that are going to come out of
13 this and matters that are going to be dealt with in
14 another venue, but, at this point, I know he's out
15 of pocket something and I'm going to order \$5,000 of
16 that 50 go to Mr. Price, 45 to the bank, the
17 mortgage company, at this point.

18 I'm going to also order within 90 days,
19 Mr. Wright, that you report to the Alvin S. Glenn
20 Detention Center. I'm going to sentence you to 60
21 days there. I'm then going to put you on probation
22 for five years. I'm going to order the remaining
23 restitution be a part of your probation.

24 I tell people all the time on Fridays when I do
25 probation, you need to make an effort to pay the

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1 money that you're ordered to pay, but you're going
2 to have other fees. And they'll go over that with
3 you in a moment.

4 Ultimately, the thing that I'm most concerned
5 about is not the money aspect of it versus doing
6 other things that probation requires you to do.
7 It's not easy to be on probation. Mr. Swerling will
8 tell you that and go over those matters with you.
9 It's not a joke. It's not a get out of jail card
10 free. You're going to have to do certain things and
11 they'll go over those. That's what I'm concerned
12 about, okay. That's what I don't like, when people
13 don't abide by that because it is your chance to try
14 to make a life for yourself and your sons and your
15 wife. This is your opportunity.

16 You understand, sir, that should you not make
17 it within the 90 days, your sentence is ten years at
18 this point; do you understand that?

19 **DEFENDANT WRIGHT:** Yes, sir.

20 **MR. SWERLING:** Judge, just so the record's
21 clear, we consented to \$5,000 restitution to
22 Mr. Price without proof of liquidated damages.

23 **THE COURT:** Yes, sir. Thank you, Mr. Swerling.
24 I forgot about that matter.

25 Mr. Wright, I know counsel addressed that with

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1 you. You're certain about the 90 days and the
2 50,000?

3 **DEFENDANT WRIGHT:** Yes, sir.

4 **THE COURT:** I'd have a long talk with your
5 family if I were you. I don't know where you're
6 going to get it from or how you're going to come up
7 with it, but I'd have a long talk with them because
8 if you miss it --

9 **DEFENDANT WRIGHT:** I understand, sir.

10 **THE COURT:** --you've got time hanging over you;
11 do you understand that?

12 **DEFENDANT WRIGHT:** Yes, sir.

13 **PROBATION AGENT:** Your Honor?

14 **THE COURT:** Yes, ma'am.

15 **PROBATION AGENT:** Is this being paid to the
16 probation office?

17 **THE COURT:** The 50,000 is not.

18 **PROBATION AGENT:** So 45 to the bank and five to
19 Mr. Price is not --

20 **THE COURT:** Is not going through your office.

21 **PROBATION AGENT:** And there's no restitution
22 that will be determined.

23 **THE COURT:** The remaining restitution, I guess,
24 we're going to end up having to do a hearing on as
25 far as the bank goes, so we'll leave that open.

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1 You all have finally -- is the number that you
2 all gave me earlier is that a final calculation?

3 **MR. WOOD:** We can go with a confession of
4 judgment that he gave to me for the exact amount, I
5 would imagine. Will you stipulate to that,
6 Mr. Swerling?

7 **MR. SWERLING:** It was 127.

8 **MR. WOOD:** Plus about 30,000 attorney's fees
9 plus or minus. I can get it out of my file and we
10 can let the Court know exactly what the amount is.

11 **MR. SWERLING:** Your Honor, we'll stipulate to
12 whatever's in the confession.

13 **THE COURT:** Thank you, sir. They'll provide
14 that to the Court and to probation.

15 **PROBATION AGENT:** Is it going straight to a
16 civil judgment or will it be something ordered on
17 probation?

18 **THE COURT:** We're going to order it on
19 probation.

20 **PROBATION AGENT:** Are you putting on there that
21 you want us to find out if this 50,000 was paid, if
22 not, he's in violation of probation? Or, is that
23 not part of probation?

24 **THE COURT:** What I'm going to require, Mr.
25 Elam, as to -- Mr. Elam will let me know as to

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1 whether or not they have made the 90 days. And I'll
2 leave defense counsel to let Mr. Elam know and
3 coordinate all of that. But I don't think y'all
4 need one more thing to keep up with.

5 **PROBATION AGENT:** Yes, thank you. And he is to
6 report for the 60 days in 90 days from today?

7 **THE COURT:** Right.

8 **PROBATION AGENT:** He's to report to Alvin S.
9 Glenn for 60 days straight time.

10 **THE COURT:** That's right.

11 **PROBATION AGENT:** Thank you.

12 **MR. ELAM:** Your Honor, can I repeat the
13 sentence back just to make sure I understand it? Is
14 it okay with the Court?

15 **THE COURT:** Yes, sir.

16 **MR. ELAM:** He's got 90 days to pay \$50,000. If
17 he doesn't pay the 50,000, the full amount, if he
18 pays \$49,000 in 90 days and nothing more, he goes to
19 prison for ten years.

20 **THE COURT:** That's what's hanging over his
21 head.

22 **MR. ELAM:** Okay. If he does pay the \$50,000,
23 then he goes on probation for five years with ten
24 years hanging over his head and he does do 60 days
25 at Alvin S. Glenn.

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1 **THE COURT:** If he makes the 90 days, he does --
2 on the 90th day, he needs to report to Alvin S.
3 Glenn to do the 60 days. Once he does the 60 days,
4 then he goes on probation at that point.

5 **MR. ELAM:** Ninety days starting today?

6 **THE COURT:** Yes, sir.

7 **MR. ELAM:** And is it necessary to have another
8 hearing if he doesn't pay it, come back before Your
9 Honor?

10 **THE COURT:** If he doesn't make it, unless
11 there's some other matter that needs to be raised at
12 that point, the original sentence, the unsuspended
13 sentence is what kicks in. That's why I don't want
14 probation -- probation only comes into the picture
15 if he makes the 90 days.

16 **MR. SWERLING:** Judge, I understand the
17 sentence. So in 90 days, we'll -- either within 90
18 days, we'll notify Mr. Elam with money or send him a
19 check. If not, he has to report to the detention
20 center.

21 **THE COURT:** The detention center for transport
22 to SCDC.

23 **PROBATION AGENT:** So you're specifying on the
24 sentence sheet that probation is to begin upon
25 release from AGSD, Alvin S. Glenn Detention Center?

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1 **THE COURT:** Yes, ma'am.

2 **PROBATION AGENT:** Thank you.

3 **THE COURT:** Thank you everybody. Thank you,
4 counsel.

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6 END OF PROCEEDINGS

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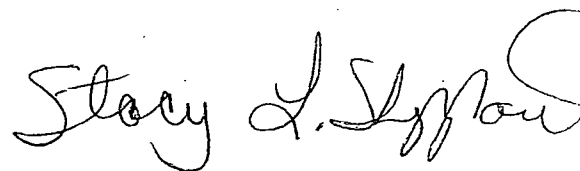
C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the guilty plea of the captioned cause, relative to appeal in the Criminal Court for Richland County, South Carolina, on the 10th of January, 2005.

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

January 16, 2005



Stacy L. Sheppard
Circuit Court Reporter

State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

State of South Carolina,

Plaintiff,

vs.

Joseph Wright,

Defendant.

ORDER OF RESTITUTION

03-GS-40-5502

03-GS-40-5503

03-GS-40-5504

This matter previously came before this Court on January 10, 2005, for a hearing on the following indictments:

Count One: That on or about November 29, 2001, Defendant Wright, with intent to defraud, falsely make, forge and/or counterfeit, did fraudulently represent himself to be one Amos Price for the purpose of obtaining a \$340,000 mortgage loan for the purchase of property located at 2018 Riding Ridge Road in Columbia.

Count Two: That Defendant Wright did cheat and defraud Homeowners Mortgage Enterprises, Inc. ("Homeowners") by fraudulently representing himself as one Amos Price by using Mr. Price's personal information to obtain a loan for the purchase of the above referenced house.

Count Three: That Defendant Wright, without authorization or permission of Mr. Amos Price and with the intent of unlawfully appropriating the financial resources of Mr. Amos Price for his own use, did execute a \$340,000 mortgage scheme by fraudulently using Mr. Price's personal information, i.e., date of birth, social security number and credit report.

Defendant Wright pled guilty to all counts and was sentenced by the Court as follows:

- 1) to make restitution, pursuant to SC Code §17-25-322(A), to Mr. Amos Price in the amount of \$5,000 (which restitution has been made as of the writing of this order);
- 2) to make restitution to Homeowners Mortgage Enterprises, Inc. ("Homeowners"), pursuant to SC Code §17-25-322(A), in the amount of \$45,000.00 on or before ninety (90) days from the date of the hearing (which restitution has been made as of the writing of this order);
- 3) to appear at the Alvin S. Glenn Detention Center within ninety (90) days of the date of the hearing to serve a sixty (60) day sentence;
- 4) to be placed on probation for five years to begin at the conclusion of his sixty (60) day sentence, during which time he would be required to make any remaining restitution due Homeowners.

IT APPEARING that the parties have reached an agreement as to the remaining restitution due Homeowners, and the Court approves of the settlement and incorporates it as an order of this Court.

NOW, THEREFORE, upon motion of the parties,

IT IS ORDERED that:

- 1) The Court, at the request of Homeowners, does hereby waive Defendant Wright's sixty (60) day incarceration at the Alvin S. Glenn Detention Center so that Defendant Wright may remain gainfully employed in order to make restitution as set out herein;
- 2) Defendant Wright's five (5) year probationary period will begin July 1, 2007, and end on July 1, 2012;

3) The total remaining restitution due to Homeowners from Defendant Wright is the sum of \$100,000.00;

4) An initial installment of \$25,000.00 will be paid on or before June 10, 2007;

5) The remaining balance of restitution (\$75,000.00), together with the court required collection fee of 20% pursuant to SC Code §17-25-322(C), for a total of \$90,000, will be paid over the course of four (4) years (which is 80% of Defendant Wright's probation) at the rate of \$1875.00 per month, made payable to the Court, beginning July 1, 2007; and

4) Pursuant to SC Code §17-25-323(B), should Defendant Wright default in the restitution payments set forth herein, Homeowners, the Attorney General, the solicitor, and/or an agent of the Department of Probation and Parole may move the court for a hearing to show cause why Defendant Wright's default should not be treated as a civil judgment or for a determination by the Court of any further remedy due.

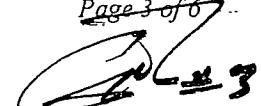
AND IT IS SO ORDERED.

Columbia, South Carolina

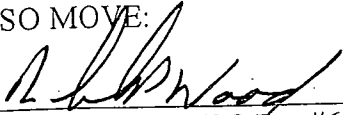
by May 10, 2007


James W. Johnson, Jr.
Judge, Fifth Judicial Circuit
CHIEF ADMINISTRATIVE SERVICES
GENERAL SERVICES

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I SO MOVE:



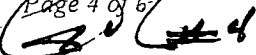
Robert P. Wood (SC Bar #6206)
Rogers Townsend & Thomas, PC
220 Executive Center Drive, Suite 109
Post Office Box 100200 (29202)
Columbia, SC 29210
(803) 771-7900

Attorney for Homeowners Mortgage
Enterprises, Inc.

Order of Restitution

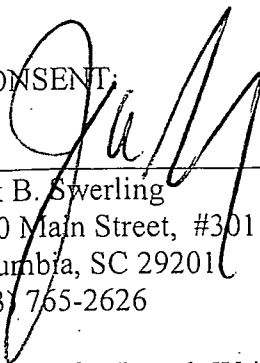
03-GS-40-5502, 03-GS-40-5503 and 03-GS-40-5504

Page 4 of 6



46 47

I CONSENT:



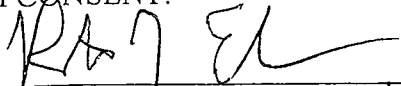
Jack B. Swerling
1720 Main Street, #301
Columbia, SC 29201
(803) 765-2626

Attorney for Joseph Wright

Dated: _____



I CONSENT:



Robert J. Elam, Asst. Solicitor
Richland County Solicitor's Office
1701 Main Street, 3rd Floor
Columbia, SC 29201

Dated: 6/1/07

Order of Restitution

03-GS-40-5502, 03-GS-40-5503 and 03-GS-40-5504

page 6 of 6

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PROBATION CITATION

No. 'C-29-13-0025

SOUTH CAROLINA V. JOSEPH JR WRIGHT	COUNTY: LANCASTER	
	SCDC #	SID # 00710835

TO: JOSEPH JR WRIGHT

YOU ARE HEREBY NOTIFIED to appear in the above named case at the time, date and place specified below.

Place Lancaster County Courthouse	Room Upstairs Courtroom
	Date and Time 6/17/2013 9:00 AM

YOU ARE HEREBY NOTIFIED that you are charged with violating the conditions of your supervision as stated below.

Violations Charged

By violating conditions 9 and 10 of cause numbers 2003-GS-40-5502, 5503 and 5504 as ordered in the Richland County Court of General Session on 1/10/05 by the Honorable Judge Lloyd, and order of restitution dated 7/10/2007 by the Honorable Judge Cooper and continuation order dated May 15, 2009 by the Honorable Judge Dickson.

YOU ARE HEREBY NOTIFIED that you have the rights listed below.

List of Rights:

You have the right at the hearing to question any person who appears as a witness against you and to have witnesses appear on your behalf. You may present evidence on your behalf. You may have an attorney represent you. If you cannot afford an attorney, an attorney will be appointed for you. You must advise the agent or the court in writing of your desire for an attorney. It is your responsibility to make arrangements for your witnesses and your attorney to appear at the hearing.

IF YOU FAIL TO APPEAR AT THE TIME, DATE AND PLACE SHOWN ABOVE, THE HEARING WILL BE HELD IN YOUR ABSENCE AND YOU MAY BE INCARCERATED.

LANCASTER, South Carolina	Probation and Parole Agent	Agent #
Date 5/21/2013	Lewis Coleman Brown	0499

A copy of the citation was served by the undersigned and given to the individual named therein at the time, date, and place indicated below.

Place SC PROBATION, PAROLE & PARDON SERVICES -LANCASTER COUNTY OFFICE P.O. BOX 1809 LANCASTER, SC 29721	Date and Time 5-21-13 11:55 AM
	Serving Officer's Signature <i>Wmونا Boyd</i>

Sworn to and subscribed before me this <u>21st</u> day of <u>May</u> , <u>2013</u>	My Commission Expires <u>05/14/2017</u>
 Signature of Notary Public	

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STATE OF SOUTH CAROLINA

AFFIDAVIT

County of LANCASTER

Personally appeared before me, Lewis Coleman Brown, who first being duly sworn, deposes and says that JOSEPH JR WRIGHT did within this county and State on the 21 day of May, 2013, violate certain conditions of release in the following particulars:

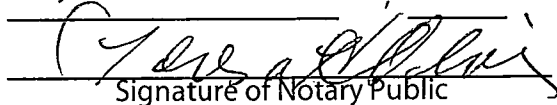
DESCRIPTION OF VIOLATION

By violating conditions 9 and 10 of cause numbers 2003-GS-40-5502, 5503 and 5504 as ordered in the Richland County Court of General Session on 1/10/05 by the Honorable Judge Lloyd, and order of restitution dated 7/10/2007 by the Honorable Judge Cooper and continuation order dated May 15, 2009 by the Honorable Judge Dickson.

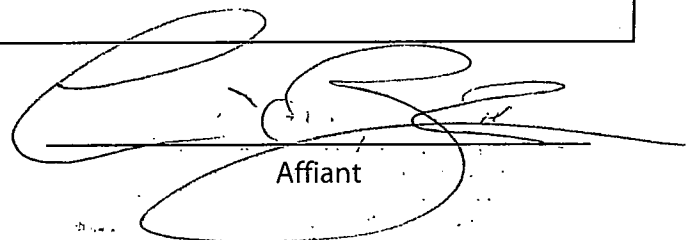
The Affiant states that there is probable cause to believe the defendant named committed the violations set forth and that such probable cause is based on the following facts:

By failing to follow the advice and instructions of his agent in that offender failed to pay court ordered restitution being \$43,468.66 in arrears at the issuance of process. Restitution was ordered to be paid to Attorney Robert P. Wood's office. Offender was ordered per form 9 on May 15, 2009 to pay Bob Wood attorney for victim Homeowner's Mortgage at rate of 1,875.00 per month until the sum of \$100,000 is paid. As of 5/15/2013 Joseph Wright has a balance of \$43,468.66 due to Homeowner's Mortgage.

Sworn to and subscribed
before me this 21 day of
May 2013


Signature of Notary Public

My Commission Expires: 05/14/2017


Affiant

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF RICHLAND
4 2003-GS-40-5502 to 5504
5

6 State of South Carolina

7 vs.

8 Joseph Wright
9
10

11 Lancaster, South Carolina

12 September 6, 2013

13 Before the Honorable Brian Gibbons
14

15 APPEARANCES

16 For Probation: Agent Lynn Oliver

17 For the Defendant: Harrison Saunders

18 For Homeowners Enterprise, Inc.: Robert P. Wood

19 Reported by: Michael C. Watkins

20 Official Court Reporter
21
22
23
24
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1 THE COURT: All right. Yes, ma'am?

2 AGENT BOYD: Your Honor, you have before you Joseph
3 Wright on indictments number 2003-40 for Richland County
4 5503, 5504 and 5502 for forgery value \$5,000 or more,
5 obtaining signatures and property under false pretenses
6 \$5,000 or more and financial identity fraud. His probation
7 began actually July 9th of 2008, had an expiration date of
8 July 8th of 2013. He was sentenced by the Honorable
9 Reginald Lloyd in Richland County, sentence was ten years
10 suspended upon the service of 60 days and five years
11 probation for each indictment. The indictment was later
12 amended in July of 2007 and stipulates that \$45,000 had
13 already been paid to Homeowners Mortgage Enterprise, and
14 \$5,000 had been paid to Mr. Amos Price. It was ordered on
15 the same date at the request of Homeowners that Mr. Wright
16 be sentenced to a 60 day incarceration at Alvin S. Glenn
17 Detention Center and was waived so that Defendant Wright
18 could remain gainfully employed in order to make restitution
19 as set out herein. That five year probationary period would
20 begin on July 1st of 2007 and end on July 1st of 2012, the
21 total remaining restitution due to Homeowners -- the total
22 remaining restitution due to Homeowners from Defendant
23 Wright was the sum of \$100,000. An installment of \$25,000
24 was to be paid on or before June 10th of 2007, the remaining
25 balance of restitution \$75,000 together with the court

1 required fee of 20 percent pursuant to South Carolina Code
2 17-25-322C for a total of \$90,000 would be paid over the
3 course of four years which required 80 percent of Defendant
4 Wright's probation at the rate of \$1,875 per month.

5 THE COURT: All of his fees to y'all have been paid?

6 AGENT BOYD: Your Honor, at the time that the process
7 was issued we were still showing outstanding sur-charges for
8 the Richland County Clerk of Court.

9 THE COURT: All right. I see there's several lawyers
10 standing in front of me now so apparently there has been a
11 deal reached was the best way to put it, is that correct,
12 Mr. Saunders?

13 MR. SAUNDERS: That is correct, Your Honor, Harrison
14 Saunders here for Joseph Wright. That is correct, Your
15 Honor, and we have it -- I think I'll let Mr. Wood explain
16 the deal, Your Honor, and see if you would accept that. I
17 think he's a little clearer on it and probably would present
18 it better than me.

19 THE COURT: Does the deal as presented get probation
20 out of the picture?

21 MR. SAUNDERS: Yes, sir.

22 THE COURT: Because y'all want to terminate the
23 probation, he has been on it for more than five years now.

24 AGENT BOYD: Yes, sir.

25 MR. SAUNDERS: Yes, sir, it does.

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1 THE COURT: Mr. Wood, let me hear from you then and we
2 will see what we're going to do.

3 MR. WOOD: Thank you, Your Honor. My name is Robert P.
4 Wood, I go by Bob Wood, I represent Homeowners Enterprises,
5 Inc. We have reached a deal whereby today probation will be
6 deemed over, ended whether it's Richland County or Lancaster
7 or wherever it may be for Mr. Wright. Also today Mr. Wright
8 will confess today to being guilty of willful civil contempt
9 for not having made his payments, however -- and he would
10 agree to serve six months in jail for that contempt. He can
11 purge himself of that contempt, however, if he will pay my
12 client through my office, Rogers, Townsend and Thomas, the
13 sum of \$5,000 on or before October 1st of 2013. Thereafter
14 as long as he pays \$1,500 a month we will not try to enforce
15 the civil contempt until he has paid my law firm the sum of
16 \$38,500, that sum of money being the sum that starts today
17 or moving forward. If however he misses any of these
18 payments we will have --

19 THE COURT: And the payments are due on what day each
20 month?

21 MR. WOOD: The 5th day of each month.

22 THE COURT: Commencing?

23 MR. WOOD: October 1.

24 THE COURT: So October 1 you're going to get 6,500.

25 MR. WOOD: No, I'm glad you asked. On October 1 he

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1 will pay my client through my law firm \$5,000.

2 THE COURT: Got it.

3 MR. WOOD: On November 1 he will pay my office \$1,500.

4 THE COURT: Got it.

5 MR. WOOD: On December 2 -- we had to work this out --
6 on December 2 he will pay my office \$1,500. On January 6th
7 he will pay my office \$1,500 and thereafter starting
8 February 5 he will pay my office \$1,500 a month until he has
9 paid my office, my client the total sum of \$38,500 starting
10 with this payment that's due.

11 THE COURT: Prepay without penalty?

12 MR. WOOD: That's right. And Your Honor, we are
13 working out a different deal but we couldn't get it done
14 today and if we do reach this different deal it would not
15 require Court approval. And what that is is if he does this
16 other deal then I would simply agree not to file a motion to
17 have him put in jail but I don't think you need to know
18 about that. So the ball would be in my court to ask this
19 Court to put him in jail if he misses one of these payments.
20 Also if he makes all of these payments then my office, my
21 client will satisfy this big judgment that we have against
22 Mr. Wright, I think it's for roughly \$150,000, but we will
23 satisfy all judgments we have against Mr. Wright, we will
24 give him a release, we will agree not to prosecute him for
25 any crimes, the whole case will be totally over if he meets

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1 all of these payments on time as he is agreeing here this
2 morning. And that is our deal, Your Honor.

3 THE COURT: Mr. Saunders, is that your understanding of
4 the agreement?

5 MR. SAUNDERS: That's right, Your Honor. And I was
6 talking to my client and I didn't hear the very end of that
7 but I believe Mr. Wood said all judgments would be
8 released --

9 THE COURT: All judgments satisfied, released,
10 everything will be over with upon the payment of 38-5 per
11 the terms he just stated, plus the five initially up front.

12 MR. WOOD: Well, no, the 38-5 includes that five that
13 he pays up front.

14 THE COURT: So a total of 38-5.

15 MR. WOOD: That's right.

16 THE COURT: Not 43-5.

17 MR. WOOD: Right. The 43-5 is really what he owes
18 according to probation and part of the deal, the sweetener,
19 is we would drop that last \$5,000 if he meets these terms.

20 THE COURT: Okay. I've got it. All right. And Mr.
21 Wright, if you will raise your right hand for me.

22 (The defendant was sworn.)

23 THE COURT: And I need you to answer out loud so my
24 court reporter can pick up your testimony. First of all
25 have you heard what Mr. Wood and your lawyer stated into the

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1 record?

2 THE DEFENDANT: Yes, I have.

3 THE COURT: Do you understand the agreement?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: Has anybody forced, pressured, coerced or
6 made you enter into this agreement against your will?

7 THE DEFENDANT: No.

8 THE COURT: Are you today under the influence of
9 alcohol, drugs or any other mind alternating substance?

10 THE DEFENDANT: No.

11 THE COURT: Do you understand this agreement?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that one of the terms, in
14 fact, the very important term of this agreement being that
15 you are admitting that you have willfully violated the terms
16 of any repayment you were supposed to do to get this debt
17 off of you. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Is that true?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you understand that once I adjudicate or
22 find that you are in civil contempt of court you could be
23 sentenced up to six months in jail for civil contempt
24 without a jury trial. If you have a jury trial then you're
25 looking at it could be five years or so, do you understand

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1 that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. But the terms of this agreement
4 say that you're admitting that you're in civil contempt of
5 court and you're agreeing that if you don't pay as stated in
6 this agreement you're looking at six months in jail for your
7 contempt, do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you have the ability to make these
10 payments?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And I find that he has the ability to make
13 these payments. Now, you understand what happens if you
14 don't make these payments?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: What happens?

17 THE DEFENDANT: Six months in jail.

18 THE COURT: Right. Are you satisfied with your lawyer?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has he answered all of your questions?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you believe that under the circumstances
23 this a fair resolution to this situation?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Are you asking me to approve this

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1 agreement?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Is this what you want me to do?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Mr. Saunders, any other questions for your
6 client?

7 MR. SAUNDERS: Your Honor, I do not believe so.
8 Actually we talked in one of the rooms outside of the
9 courtroom, all three of us, Mr. Woods, Mr. Wright and myself
10 went over this particular agreement and the contingent
11 agreement that Mr. Wood referenced and I believe he
12 understands everything and I believe this is a fair
13 arrangement.

14 THE COURT: All right.

15 MR. SAUNDERS: So we would ask you to accept it.

16 THE COURT: All right. Mr. Wood, do you agree?

17 MR. WOOD: Yes, sir. I do want to make sure, though,
18 that I'm going to prepare an order whereby the Court will
19 today find that Mr. Wright is in willful civil contempt of
20 court and is sentenced to six months.

21 THE COURT: I'm fixin' to do that.

22 MR. WOOD: I just want to make sure we're straight
23 about that.

24 THE COURT: That's why I had to ask them those
25 questions. Anything else from probation's standpoint?

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1 AGENT BOYD: No, sir Your Honor.

2 THE COURT: The terms of this agreement then would be
3 taking it off your rolls and that is the good thing for
4 probation. And you understand that then, sir, you won't be
5 on probation anymore, that's going to be done, be over with
6 so that's a big lick for you. The big lick for them, of
7 course, is they're getting their money back. And, of
8 course, you understand that I'm going to find based upon my
9 questioning of you that you have not paid this money when up
10 to this point you had the ability to do so so therefore I am
11 going to make a finding of contempt against you, do you
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you agree with that finding of
15 contempt?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Therefore it is ordered. I
18 find that Mr. Wright is in willful civil contempt of the
19 previous restitution orders ordering that he pay the
20 restitution in full. I find that the total amount that he
21 is behind is \$38,500 comprised by the agreement of the
22 parties. I therefore sentence him to six months in the
23 Lancaster County Detention Center, however he may purge
24 himself of that sentence if he abides by the agreed upon
25 terms previously stated into the record. That order will be

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1 prepared by Mr. Wood. Mr. Saunders, I'll ask that you sign
2 off on that order as well when it comes in so it will be a
3 consent order and I also want your client to sign it if you
4 can get him in the office to sign it as well before it comes
5 to me for my signature.

6 MR. SAUNDERS: Yes, sir.

7 MR. WOOD: Your Honor, because the \$5,000 comes off the
8 back end, I think I do want the Court to find that he owes
9 the \$43,500.

10 THE COURT: The sentence of the Court -- or the finding
11 of the Court is that the total amount is the 43-5, however I
12 find that your client, Mr. Wood, has agreed to take 38-5 in
13 exchange for this settlement today.

14 MR. WOOD: That's exactly right.

15 (End of the hearing.)

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1 I, the undersigned, Michael C. Watkins, Official Court
2 Reporter for the Sixth Judicial Circuit of the State of South
3 Carolina, do hereby certify that the foregoing is a true,
4 accurate and complete transcript of the proceedings had and
5 evidence introduced in the trial of the captioned case,
6 relative to appeal, in the Court of General Sessions for
7 Lancaster County, South Carolina, on the 6th day of
8 September, 2013.

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

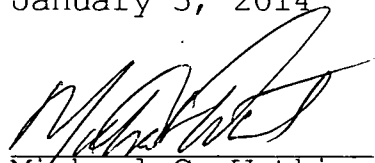
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January 3, 2014

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Michael C. Watkins
Court Reporter

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LAW OFFICE OF
S. HARRISON SAUNDERS, VI, LLC
1720 Main Street, Suite 301
Columbia, South Carolina 29201

Telephone: (803) 779-6333
Facsimile: (803) 799-4059

Email: Harrison@HsaundersLaw.com

October 3, 2013

VIA EMAIL ADDRESS: bgibbonssc@sccourts.org

The Honorable Brian M. Gibbons
Lancaster County Sixth Judicial Circuit Court
P.O. Drawer 580
Chester, South Carolina 29706

Re: State of South Carolina vs. Joseph Wright, Jr.
Indictment #'s: 2003-GS-40-5502
2003-GS-40-5503
2002-GS-40-5504
Warrant/Citation #: C-29-13-0025

Dear Judge Gibbons:

I hope you are doing well. On September 6, 2013, this matter came before you scheduled as a probation violation hearing. I appeared as counsel for Mr. Wright and Bob Wood appeared on behalf of the victim, Homeowners Mortgage.

Prior to the hearing, an agreement was entered into between the parties regarding a payment schedule for restitution with additional terms regarding civil contempt and execution of judgments. The terms of the agreement were put on the record and Mr. Wood was directed to prepare an Order to be signed by all parties then submitted to your Honor. Mr. Wood prepared that Proposed Order and sent it to me for review. After review, Mr. Wright requested some language be removed from the Proposed Order. I communicated this request to Mr. Wood and he agreed to remove the language. After review of the revised Proposed Order, Mr. Wright informed me that he could not consent to the terms of the agreement. I have enclosed a copy of the revised Proposed Order for reference.

Following my conversation with Mr. Wright, I informed Mr. Wood of my client's position. I told Mr. Wood I would be requesting a hearing before your Honor in an effort to resolve this matter. It is my understanding Mr. Wood intends to respond once this letter is submitted.

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Letter to Judge Gibbons

Page 2

October 3, 2013

Therefore, based on these circumstances, I am requesting a hearing be scheduled before your Honor as soon as it is convenient. I appreciate your consideration of this request.

Thank you for your assistance. If you have any questions, please do not hesitate to contact me.

Sincerely

A handwritten signature in black ink, appearing to read 'S. Harrison Saunders, VI', written over the word 'Sincerely'.

S. Harrison Saunders, VI

SHS,VI:krs

Enclosure

cc: Robert P. Wood, Esquire
Joseph Wright
Teresa H. Oliver

A handwritten mark or signature in black ink, located in the bottom right corner of the page.

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

IN THE COURT OF GENERAL SESSIONS
2003-GS-40-5502
PROBATION C/W #S C-29-13-0025

STATE OF SOUTH CAROLINA

v.

ORDER

JOSEPH WRIGHT, JR.

This matter came before the court for a probation violation hearing. In attendance were Teresa H. Oliver (Agent In Charge for the South Carolina Department of Probation, Parole, and Pardon Services), Joseph Wright, Jr. (Individually), Harrison Saunders, Esq. (attorney for Mr. Wright), and Robert P. Wood (attorney for Homeowners Mortgage Enterprises, Inc. (the victim)).

At the hearing and under oath, Mr. Wright admitted he was in willful civil contempt of previous orders in this case requiring him to pay Homeowners Mortgage restitution. And the Court finds that Mr. Wright is in fact in willful civil contempt for violating previous restitution orders in this case. The court orders Mr. Wright to serve six months in the Lancaster County Detention Center for his contempt of court. Mr. Wright admits he is within the jurisdiction of this court and that he has been and remains able to pay the restitution ordered by this court.

At the request of Homeowners Mortgage, and with the consent of Mr. Wright and his counsel, and with the approval of the Court, Mr. Wright's period of incarceration shall not commence unless and until Homeowners' Mortgage Enterprises (through the company or through its counsel) has filed with this Court (a) an affidavit averring that Mr. Wright has failed to meet one of the following two payment schedules and (b) a motion and rule to show cause why Mr. Wright should not be incarcerated immediately. The payment schedules are as follows:

2013 NOV 20 AM 11:11
FILED
RICHLAND COUNTY
SOUTH CAROLINA
CERTIFIED TRUE COPY
ORIGINAL FILED
J. C. P. & G. S.
RICHLAND COUNTY
SOUTH CAROLINA
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Schedule A		
	Date	Payment Due
	October 1, 2013	\$5,000
	November 1, 2013	1,500
	December 2, 2013	1,500
	January 2, 2014	1,500
	February 5, 2014 and the fifth day of each month thereafter until Mr. Wright has paid the sum of \$38,500 after September 6, 2013.	1,500/month

Schedule B		
	Date	Payment Due
	October 1, 2013	\$5,000
	November 1, 2013	1,000
	December 2, 2013	5,000
	January 2, 2014	1,500
	February 5, 2014, and the fifth day of each month thereafter until Mr. Wright has paid the sum of \$36,000 to Homeowners Mortgage after September 6, 2014.	1,500

All payments shall be made to Rogers Townsend & Thomas, PC, and shall be delivered in the care of Sheri McClendon, 220 Executive Center Drive, Columbia, SC 29210.

Mr. Wright shall notify Ms. McClendon in writing at the address above within 30 days of any change of his residence address.

Upon receipt of the amounts due on whichever of the two payment schedules Mr. Wright elects to follow, Homeowners Mortgage shall mark all judgments it has against Mr. Wright fully paid and satisfied.

Rogers Townsend & Thomas, PC is authorized to deal directly with Mr. Wright in person, over the telephone, or in writing (including email) with respect to any payments or his

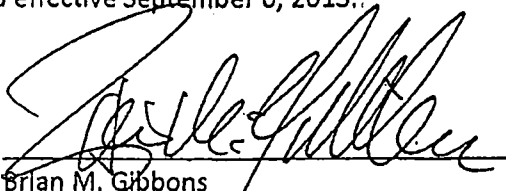
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performance of this agreement. The firm shall copy Mr. Saunders on any written communications with Mr. Wright.

The undersigned shall retain Jurisdiction of this case.

Mr. Wright's probation is terminated effective September 6, 2013.

AND IT IS SO ORDERED.



Brian M. Gibbons
Circuit Court Judge

Chester, South Carolina
September __, 2013

WE CONSENT:

~~_____
Joseph Wright~~

~~Address: _____

_____~~

Telephone No.: _____

~~_____
S. Harrison Saunders VI
1720 Main Street, Ste. 301
Columbia, SC 29201-2850
(803) 779-6333~~

~~_____
Robert P. Wood
Rogers Townsend & Thomas, PC
220 Executive Center Drive (29210)
PO Box 100200
Columbia, SC 29202
(803) 771-7900~~

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)
)
The State of South Carolina,)
)
)
)
vs.)
)
Joseph Wright, Jr.,)
)
Defendant.)
_____)

IN THE COURT OF GENERAL SESSIONS

PROBATION C/W #S: C-29-13-0025

**NOTICE OF MOTION AND MOTION TO
RECONSIDER**

TO: ROBERT P. WOOD, ATTORNEY FOR HOMEOWNER'S MORTGAGE
ENTERPRISES, INC.

THERESA H. OLIVER, SOUTH CAROLINA DEPARTMENT OF PROBATION,
PAROLE, AND PARDON SERVICES

PLEASE TAKE NOTICE that the defendant, through his undersigned attorney, will move before the Honorable Brian M. Gibbons at the Lancaster County Judicial Center at such time and place as is convenient to the Court for reconsideration of the Order entered in this matter. The motion is being filed pursuant to SCRCRP 29.

This matter was scheduled for a hearing before the Court on September 6, 2013. The purpose of the hearing was to address an alleged probation violation. It was alleged through a probation citation that the defendant failed to pay a remaining balance of restitution in the amount of \$43,468.66. The defendant was served with this citation on May 21, 2013. The defendant's probation was due to expire on July 8, 2013. Prior to the hearing, counsel for the victim, Homeowner's Mortgage, and counsel for the defendant met with the Court in chambers. Also present was Theresa H. Oliver on behalf of SCDPPPS. During this meeting in chambers it was discussed that an agreement between the defendant and Homeowner's Mortgage be proposed wherein the defendant would agree to a payment schedule outlining monthly payments

to Homeowners. This schedule would allow the defendant to make payments towards the balance of restitution owed to Homeowners. In entering this agreement, the defendant would admit to willful civil contempt for violating previous restitution orders in this case. Further, the Court would order, at Homeowners request, that the defendant serve six months in the Lancaster County Jail should the defendant fail to meet the payment obligations. The defendant's probation would be terminated per this agreement as well. Counsel for the defendant met with the defendant and discussed this proposed agreement. Following this discussion, counsel, the defendant, and counsel for Homeowners met to discuss the proposed agreement. During this meeting, all parties agreed to the terms and conditions of the agreement.

A hearing was then held before the Court wherein the agreement was stated on the record. The Court engaged in a colloquy with the defendant and counsel as to the agreement and the voluntariness of the defendant entering into such an agreement. The Court accepted the agreement and terminated the defendant's probation. (see attached Transcript).

Counsel for Homeowners prepared a proposed Order to be signed by the Court and all parties. On October 2, 2013, after some revisions to the Order were completed, the defendant indicated he would not sign the Order. On October 3, 2013, counsel for the defendant informed the Court in writing of the defendant's position and requested the Court hold a hearing to resolve the matter. (see attached letter). On October 4, 2013, the defendant provided counsel with a check in the amount of \$5,000.00 to hold in trust until this matter could be resolved. This \$5,000.00 check represented the initial payment due pursuant to the agreement.

On October 29, 2013, counsel for Homeowners and counsel for Defendant met with the Court in chambers and explained the current circumstances. Those being that the defendant wished to have the agreement vacated as he believed he was not fully informed of the burden of

proof to be met by the State regarding his probation violation of failure to pay restitution. The defendant took the position that had he known the Court would have to find he willfully failed to pay restitution in order to revoke his probation, he would not have entered into the agreement. He maintains that his defenses to be presented as to why he had not fully paid the restitution would prove his violation to not be willful, and thus, the Court would not have revoked any portion of his probation. Through this discussion with the Court, it was determined by the Court that the defendant's reasons for wanting the agreement vacated were only relevant to the defendant's discussions with counsel prior to entering into the agreement on the record. Therefore, the Court signed the Order. (see attached Order). The defendant now requests reconsideration of the Order.

Following this meeting in chambers, counsel informed the defendant of the signing of the Order. The defendant instructed counsel he wished to appeal the decision of the Court. Since those instructions were given, counsel has met with the defendant who still wishes to appeal the decision. In light of the defendant's reasons for requesting that the Order be vacated, counsel informed the defendant that he would file a Notice of Intent to Appeal on the defendant's behalf, but that the defendant will retain alternate counsel. The defendant agreed to seek other counsel and further requested that counsel return the \$5,000.00 from trust. This request raises the second matter for reconsideration.

During the October 29, 2013 meeting in chambers, the Court ordered counsel to pay Homeowners the \$5,000.00 held in trust. Counsel believes filing of the appeal would stay the Order signed on October 29, 2013. However, counsel now faces the dilemma of how to handle the funds held in trust. Therefore, counsel requests that the Court reconsider the Order to pay Homeowners the \$5,000.00 in trust and instruct counsel as to whether the funds should be

returned to the defendant, paid to Homeowners, or held in trust until this Motion is ruled upon and until resolution of any appeal.

Therefore based on the foregoing, counsel requests the Court hold a hearing so that the above issues may be addressed.

RESPECTFULLY SUBMITTED,

Law Office of S. Harrison Saunders, VI, LLC



S. Harrison Saunders, VI
1720 Main Street, Suite 301
Columbia, South Carolina 29201
803-779-6333
803-799-4059 facsimile
Harrison@hsaunderslaw.com

ATTORNEY FOR THE DEFENDANT

Columbia, South Carolina
November 8, 2013

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addresses listed below:

Theresa H. Oliver
South Carolina Department of Probation, Parole, and Pardon Services
P.O. Box 1809
Lancaster, South Carolina 29721

Kayla Sharpe

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ATTACHMENT #1

Joseph Wright hearing

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF RICHLAND
4 2003-GS-40-5502 to 5504
5

6 State of South Carolina

7 vs.

8 Joseph Wright
9
10

11 Lancaster, South Carolina
12 September 6, 2013
13 Before the Honorable Brian Gibbons
14

15 APPEARANCES

16 For Probation: Agent Lynn Oliver

17 For the Defendant: Harrison Saunders

18 For Homeowners Enterprise, Inc.: Robert P. Wood

19 Reported by: Michael C. Watkins

20 Official Court Reporter
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1 THE COURT: All right. Yes, ma'am?

2 AGENT BOYD: Your Honor, you have before you Joseph
3 Wright on indictments number 2003-40 for Richland County

Joseph Wright hearing

4 5503, 5504 and 5502 for forgery value \$5,000 or more,
5 obtaining signatures and property under false pretenses
6 \$5,000 or more and financial identity fraud. His probation
7 began actually July 9th of 2008, had an expiration date of
8 July 8th of 2013. He was sentenced by the Honorable
9 Reginald Lloyd in Richland County, sentence was ten years
10 suspended upon the service of 60 days and five years
11 probation for each indictment. The indictment was later
12 amended in July of 2007 and stipulates that \$45,000 had
13 already been paid to Homeowners Mortgage Enterprise, and
14 \$5,000 had been paid to Mr. Amos Price. It was ordered on
15 the same date at the request of Homeowners that Mr. Wright
16 be sentenced to a 60 day incarceration at Alvin S. Glenn
17 Detention Center and was waived so that Defendant Wright
18 could remain gainfully employed in order to make restitution
19 as set out herein. That five year probationary period would
20 begin on July 1st of 2007 and end on July 1st of 2012, the
21 total remaining restitution due to Homeowners -- the total
22 remaining restitution due to Homeowners from Defendant
23 Wright was the sum of \$100,000. An installment of \$25,000
24 was to be paid on or before June 10th of 2007, the remaining
25 balance of restitution \$75,000 together with the court

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1 required fee of 20 percent pursuant to South Carolina Code
2 17-25-322C for a total of \$90,000 would be paid over the
3 course of four years which required 80 percent of Defendant
4 Wright's probation at the rate of \$1,875 per month.

5 THE COURT: All of his fees to y'all have been paid?

6 AGENT BOYD: Your Honor, at the time that the process
7 was issued we were still showing outstanding sur-charges for
8 the Richland County Clerk of Court.

9 Joseph Wright hearing
10 THE COURT: All right. I see there's several lawyers
11 standing in front of me now so apparently there has been a
12 deal reached was the best way to put it, is that correct,
13 Mr. Saunders?
14 MR. SAUNDERS: That is correct, Your Honor, Harrison
15 Saunders here for Joseph Wright. That is correct, Your
16 Honor, and we have it -- I think I'll let Mr. Wood explain
17 the deal, Your Honor, and see if you would accept that. I
18 think he's a little clearer on it and probably would present
19 it better than me.
20 THE COURT: Does the deal as presented get probation
21 out of the picture?
22 MR. SAUNDERS: Yes, sir.
23 THE COURT: Because y'all want to terminate the
24 probation, he has been on it for more than five years now.
25 AGENT BOYD: Yes, sir.
26 MR. SAUNDERS: Yes, sir, it does.

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1 THE COURT: Mr. Wood, let me hear from you then and we
2 will see what we're going to do.
3 MR. WOOD: Thank you, Your Honor. My name is Robert P.
4 Wood, I go by Bob Wood, I represent Homeowners Enterprises,
5 Inc. We have reached a deal whereby today probation will be
6 deemed over, ended whether it's Richland County or Lancaster
7 or wherever it may be for Mr. Wright. Also today Mr. Wright
8 will confess today to being guilty of willful civil contempt
9 for not having made his payments, however -- and he would
10 agree to serve six months in jail for that contempt. He can
11 purge himself of that contempt, however, if he will pay my
12 client through my office, Rogers, Townsend and Thomas, the
13 sum of \$5,000 on or before October 1st of 2013. Thereafter

Joseph Wright hearing

14 as long as he pays \$1,500 a month we will not try to enforce
15 the civil contempt until he has paid my law firm the sum of
16 \$38,500, that sum of money being the sum that starts today
17 or moving forward. If however he misses any of these
18 payments we will have --

19 THE COURT: And the payments are due on what day each
20 month?

21 MR. WOOD: The 5th day of each month.

22 THE COURT: Commencing?

23 MR. WOOD: October 1.

24 THE COURT: So October 1 you're going to get 6,500.

25 MR. WOOD: No, I'm glad you asked. On October 1 he

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1 will pay my client through my law firm \$5,000.

2 THE COURT: Got it.

3 MR. WOOD: On November 1 he will pay my office \$1,500.

4 THE COURT: Got it.

5 MR. WOOD: On December 2 -- we had to work this out --
6 on December 2 he will pay my office \$1,500. On January 6th
7 he will pay my office \$1,500 and thereafter starting
8 February 5 he will pay my office \$1,500 a month until he has
9 paid my office, my client the total sum of \$38,500 starting
10 with this payment that's due.

11 THE COURT: Prepay without penalty?

12 MR. WOOD: That's right. And Your Honor, we are
13 working out a different deal but we couldn't get it done
14 today and if we do reach this different deal it would not
15 require Court approval. And what that is is if he does this
16 other deal then I would simply agree not to file a motion to
17 have him put in jail but I don't think you need to know
18 about that. So the ball would be in my court to ask this

Joseph Wright hearing

19 Court to put him in jail if he misses one of these payments.
20 Also if he makes all of these payments then my office, my
21 client will satisfy this big judgment that we have against
22 Mr. Wright, I think it's for roughly \$150,000, but we will
23 satisfy all judgments we have against Mr. Wright, we will
24 give him a release, we will agree not to prosecute him for
25 any crimes, the whole case will be totally over if he meets

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1 all of these payments on time as he is agreeing here this
2 morning. And that is our deal, Your Honor.

3 THE COURT: Mr. Saunders, is that your understanding of
4 the agreement?

5 MR. SAUNDERS: That's right, Your Honor. And I was
6 talking to my client and I didn't hear the very end of that
7 but I believe Mr. Wood said all judgments would be
8 released --

9 THE COURT: All judgments satisfied, released,
10 everything will be over with upon the payment of 38-5 per
11 the terms he just stated, plus the five initially up front.

12 MR. WOOD: Well, no, the 38-5 includes that five that
13 he pays up front.

14 THE COURT: So a total of 38-5.

15 MR. WOOD: That's right.

16 THE COURT: Not 43-5.

17 MR. WOOD: Right. The 43-5 is really what he owes
18 according to probation and part of the deal, the sweetener,
19 is we would drop that last \$5,000 if he meets these terms.

20 THE COURT: Okay. I've got it. All right. And Mr.
21 Wright, if you will raise your right hand for me.

22 (The defendant was sworn.)

23 THE COURT: And I need you to answer out loud so my

Joseph Wright hearing
24 court reporter can pick up your testimony. First of all
25 have you heard what Mr. Wood and your lawyer stated into the

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1 record?

2 THE DEFENDANT: Yes, I have.

3 THE COURT: Do you understand the agreement?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: Has anybody forced, pressured, coerced or
6 made you enter into this agreement against your will?

7 THE DEFENDANT: No.

8 THE COURT: Are you today under the influence of
9 alcohol, drugs or any other mind alternating substance?

10 THE DEFENDANT: No.

11 THE COURT: Do you understand this agreement?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that one of the terms, in
14 fact, the very important term of this agreement being that
15 you are admitting that you have willfully violated the terms
16 of any repayment you were supposed to do to get this debt
17 off of you. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Is that true?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you understand that once I adjudicate or
22 find that you are in civil contempt of court you could be
23 sentenced up to six months in jail for civil contempt
24 without a jury trial. If you have a jury trial then you're
25 looking at it could be five years or so, do you understand

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1 that?

2 THE DEFENDANT: Yes, sir.
Page 6

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Joseph Wright hearing

3 THE COURT: All right. But the terms of this agreement
4 say that you're admitting that you're in civil contempt of
5 court and you're agreeing that if you don't pay as stated in
6 this agreement you're looking at six months in jail for your
7 contempt, do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you have the ability to make these
10 payments?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And I find that he has the ability to make
13 these payments. Now, you understand what happens if you
14 don't make these payments?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: What happens?

17 THE DEFENDANT: Six months in jail.

18 THE COURT: Right. Are you satisfied with your lawyer?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has he answered all of your questions?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you believe that under the circumstances
23 this a fair resolution to this situation?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Are you asking me to approve this

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1 agreement?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Is this what you want me to do?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Mr. Saunders, any other questions for your
6 client?

7 MR. SAUNDERS: Your Honor, I do not believe so.
Page 7

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Joseph Wright hearing

8 Actually we talked in one of the rooms outside of the
9 courtroom, all three of us, Mr. Woods, Mr. Wright and myself
10 went over this particular agreement and the contingent
11 agreement that Mr. Wood referenced and I believe he
12 understands everything and I believe this is a fair
13 arrangement.

14 THE COURT: All right.

15 MR. SAUNDERS: So we would ask you to accept it.

16 THE COURT: All right. Mr. Wood, do you agree?

17 MR. WOOD: Yes, sir. I do want to make sure, though,
18 that I'm going to prepare an order whereby the Court will
19 today find that Mr. Wright is in willful civil contempt of
20 court and is sentenced to six months.

21 THE COURT: I'm fixin' to do that.

22 MR. WOOD: I just want to make sure we're straight
23 about that.

24 THE COURT: That's why I had to ask them those
25 questions. Anything else from probation's standpoint?

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1 AGENT BOYD: No, sir Your Honor.

2 THE COURT: The terms of this agreement then would be
3 taking it off your rolls and that is the good thing for
4 probation. And you understand that then, sir, you won't be
5 on probation anymore, that's going to be done, be over with
6 so that's a big lick for you. The big lick for them, of
7 course, is they're getting their money back. And, of
8 course, you understand that I'm going to find based upon my
9 questioning of you that you have not paid this money when up
10 to this point you had the ability to do so so therefore I am
11 going to make a finding of contempt against you, do you
12 understand that?

Joseph Wright hearing

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you agree with that finding of
15 contempt?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Therefore it is ordered. I
18 find that Mr. Wright is in willful civil contempt of the
19 previous restitution orders ordering that he pay the
20 restitution in full. I find that the total amount that he
21 is behind is \$38,500 comprised by the agreement of the
22 parties. I therefore sentence him to six months in the
23 Lancaster County Detention Center, however he may purge
24 himself of that sentence if he abides by the agreed upon
25 terms previously stated into the record. That order will be

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1 prepared by Mr. Wood. Mr. Saunders, I'll ask that you sign
2 off on that order as well when it comes in so it will be a
3 consent order and I also want your client to sign it if you
4 can get him in the office to sign it as well before it comes
5 to me for my signature.

6 MR. SAUNDERS: Yes, sir.

7 MR. WOOD: Your Honor, because the \$5,000 comes off the
8 back end, I think I do want the Court to find that he owes
9 the \$43,500.

10 THE COURT: The sentence of the Court -- or the finding
11 of the Court is that the total amount is the 43-5, however I
12 find that your client, Mr. Wood, has agreed to take 38-5 in
13 exchange for this settlement today.

14 MR. WOOD: That's exactly right.

15 (End of the hearing.)

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Joseph Wright hearing

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1 I, the undersigned, Michael C. Watkins, Official Court
2 Reporter for the Sixth Judicial Circuit of the State of South
3 Carolina, do hereby certify that the foregoing is a true,
4 accurate and complete transcript of the proceedings had and
5 evidence introduced in the trial of the captioned case,
6 relative to appeal, in the Court of General Sessions for
7 Lancaster County, South Carolina, on the 6th day of
8 September, 2013.

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

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October 25, 2013

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Michael C. Watkins
Court Reporter

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Joseph Wright hearing

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ATTACHMENT #2

LAW OFFICE OF
S. HARRISON SAUNDERS, VI, LLC
1720 Main Street, Suite 301
Columbia, South Carolina 29201

Email: Harrison@HSAundersLaw.com

Telephone: (803) 779-6333
Facsimile: (803) 799-4059

October 3, 2013

VIA EMAIL ADDRESS: bgibbons@sccourts.org

The Honorable Brian M. Gibbons
Lancaster County Sixth Judicial Circuit Court
P.O. Drawer 580
Chester, South Carolina 29706

Re: State of South Carolina vs. Joseph Wright, Jr.
Indictment #'s: 2003-GS-40-5502
2003-GS-40-5503
2002-GS-40-5504
Warrant/Citation #: C-29-13-0025

Dear Judge Gibbons:

I hope you are doing well. On September 6, 2013, this matter came before you scheduled as a probation violation hearing. I appeared as counsel for Mr. Wright and Bob Wood appeared on behalf of the victim, Homeowners Mortgage.

Prior to the hearing, an agreement was entered into between the parties regarding a payment schedule for restitution with additional terms regarding civil contempt and execution of judgments. The terms of the agreement were put on the record and Mr. Wood was directed to prepare an Order to be signed by all parties then submitted to your Honor. Mr. Wood prepared that Proposed Order and sent it to me for review. After review, Mr. Wright requested some language be removed from the Proposed Order. I communicated this request to Mr. Wood and he agreed to remove the language. After review of the revised Proposed Order, Mr. Wright informed me that he could not consent to the terms of the agreement. I have enclosed a copy of the revised Proposed Order for reference.

Following my conversation with Mr. Wright, I informed Mr. Wood of my client's position. I told Mr. Wood I would be requesting a hearing before your Honor in an effort to resolve this matter. It is my understanding Mr. Wood intends to respond once this letter is submitted.

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Letter to Judge Gibbons

Page 2

October 3, 2013

Therefore, based on these circumstances, I am requesting a hearing be scheduled before your Honor as soon as it is convenient. I appreciate your consideration of this request.

Thank you for your assistance. If you have any questions, please do not hesitate to contact me.

Sincerely

A handwritten signature in black ink, appearing to read 'S. Harrison Saunders, VI', written in a cursive style.

S. Harrison Saunders, VI

SHS,VI:krs

Enclosure

cc: Robert P. Wood, Esquire
Joseph Wright
Teresa H. Oliver

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STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of General Sessions
Brian M. Gibbons, Circuit Court Judge

Docket No. 2003-GS-40-5502
PROBATION C/W #SC-29-13-0025

RECEIVED

NOV 26 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA Respondent.

vs.

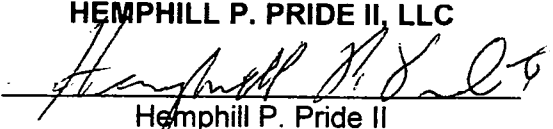
JOSEPH WRIGHT, JR. Appellant,

NOTICE OF INTENT TO APPEAL

Notice is hereby given that Appellant Joseph Wright, Jr., by and through his undersigned counsel, hereby appeals to the South Carolina Court of Appeals from the following Order of the Court of General Sessions for the Sixth Judicial Circuit which is attached hereto: Order signed by the Honorable Brian M. Gibbons, undated but filed on November 20, 2013.

Law Office
of

HEMPHILL P. PRIDE II, LLC


Hemphill P. Pride II

Lesli B. Darwin

Post Office Box 4529

Columbia, South Carolina 29240

(803) 256-8015

e-mail hppride@bellsouth.net

ATTORNEYS FOR APPELLANT

November 26, 2013

89

Other Counsel of Record

**Honorable Daniel E. Johnson
Solicitor for Richland County
OFFICE OF THE SOLICITOR
Post Office Box 192
Columbia, South Carolina 29202-0192**

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

CERTIFICATE OF SERVICE

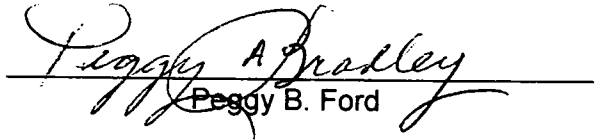
I, the undersigned employee of the Law Office of Hemphill P. Pride II, LLC, do hereby certify that all counsel and/or parties in this action were served with a copy of the pleading(s) herein below specified by mailing a copy of the same by United States mail, postage prepaid, to the following address(es):

PLEADINGS: Notice of Intent to Appeal

PARTIES: Honorable Daniel E. Johnson
Solicitor for the Fifth Judicial Circuit
OFFICE OF THE SOLICITOR
Post Office Box 192
Columbia, South Carolina 29202-0192

Columbia, South Carolina

November 26, 2013


Peggy B. Ford

RECEIVED

NOV 26 2013

SC Court of Appeals

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF GENERAL SESSIONS
2003-GS-40-5502
PROBATION C/W #S C-29-13-0025

STATE OF SOUTH CAROLINA

v.

JOSEPH WRIGHT, JR.

MOTION FOR RULE TO SHOW CAUSE

TO: S. HARRISON SAUNDERS VI, ESQ AND HEMPHILL PRIDE II, ESQ, ATTORNEYS
FOR JOSEPH WRIGHT, JR.:

YOU WILL PLEASE TAKE NOTICE that Homeowners Mortgage Enterprises moves the Court to enter a rule ordering Joseph Wright to show cause, if he can, why this Court should not incarcerate Mr. Wright for a term of six months in the Lancaster County Detention Center, such term of incarceration to commence immediately, based on his failure to make payments as required by the order of this Court entered November 20, 2013.

This motion is based on this Court's order entered November 20, 2013 (a copy of which is attached), the affidavit of Sheri H. McClendon, the papers filed in this case, the proceedings in this case, the proposed rule to show cause filed herewith, and such other and further matters as may be properly presented to the Court.



Robert P. Wood (SC Bar No. 6206)
Rogers Townsend & Thomas, PC
220 Executive Center Drive (29210)
PO Box 100200
Columbia, SC 29202
(803) 771-7900
robert.wood@rtt-law.com

Attorney for the Victim, Homeowners
Mortgage Enterprises, Inc.

January 8, 2014

RICHLAND COUNTY
FILED
2014 JAN -8 PM 1:26
JEANETTE W. MCORRIDE
C.C.P. & J.S.

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LAW OFFICE
OF
HEMPHILL P. PRIDE II, LLC

1401 GREGG STREET
COLUMBIA, S C 29201
TELEPHONE (803) 256-8015
TELE-COPIER (803) 771-8014

MAILING ADDRESS
P.O. BOX 4529
COLUMBIA, SC 29240

January 13, 2014

Honorable Brian M. Gibbons
Presiding Judge of the Sixth Judicial Circuit
Post Office Box 580
Chester, South Carolina 29706

RE: **State v. Joseph Wright, Jr.**
Case No. 2003-GS-40-5507

Dear Judge Gibbons:

In a letter to the Honorable Jeanette McBride, dated January 9, 2013 and of which I received a copy, Robert P. Wood, Esq., served the undersigned with a Motion for Rule to Show Cause. Said motion is based on the Order, executed by you in September 2013 without a date but filed with the Clerk of Court for Richland County on November 20, 2013. Additionally, I am also in receipt of a proposed Rule to Show Cause Order submitted for your signature by Mr. Woods..

On November 26, 2013, the undersigned filed Notice of Appeal of your Order of "September 2013"; with the South Carolina Court of Appeals. [Copy of Notice enclosed.] This letter is to make you aware of this action as you consider the proposed Rule To Show Cause submitted to you by Attorney Woods.

Please advise

Sincerely,


Hemphill P. Pride II

HPPII/pab

Enclosure

c: Robert P. Wood, Esq. [w/Enclosure]
S. Harrison Saunders VI, Esq. [w/Enclosure]

93

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM LANCASTER COUNTY
Court of General Sessions
Brian M. Gibbons, Circuit Court Judge

Appellate Case No.: 2013-002510

RECEIVED

FEB 07 2014

SC Court of Appeals

THE STATE, ... Respondent,

v.

JOSEPH WRIGHT, JR., ... Appellant.

INITIAL BRIEF OF APPELLANT

Hemphill P. Pride II
LAW OFFICE OF HEMPHILL P. PRIDE II, LLC
Post Office Box 4529
Columbia, South Carolina 29240-4529
(803) 256-8015
E-mail: hppride@bellsouth.net

ATTORNEY FOR APPELLANT

94

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STATEMENT OF ISSUES ON APPEAL

1. Did the trial court err in entering the November 20, 2013, Order after the period of probation had expired?
2. Did the trial court err in entering the November 20, 2013, Order after the Defendant withdrew his consent?
3. Did the trial court err in entering an Order providing for a remedy of civil contempt?

STATEMENT OF THE CASE

On January 10, 2005, Joseph Wright, Jr. pled guilty to financial identity fraud, forgery, and obtaining signatures and property under false pretenses under S.C. Code Ann. §§ 16-13-510, 16-13-10 and 16-13-240 and respectively. (R. , Plea Agreements for Indictments 2003 GS 40-5502, 5503 and 5504 respectively, entered January 10, 2005) Mr. Wright was given three concurrent 10 year sentences, suspended upon service of 60 days of incarceration and five years of probation. Mr. Wright was also ordered to pay restitution in the amount of \$5,000 to Amos Price and in the amount of \$45,000 to Homeowners Mortgage Enterprise within 90 days of the Order and then serve the 60 days jail time, after which Mr. Wright would be on probation. (R. , Id. and Transcript of January 10, 2005, Hearing, pp. 33, lines 1-23; 38, lines 1-25; 39, line 1). At the January 10, 2005, hearing, it was noted in the record that Homeowners would be submitting a claim for additional restitution compensation. (R. , January 10, 2005, Transcript, page 35, lines 21-25).

July 18, 2007, the trial court entered an Order of Restitution, which superseded the previous January 10, 2005, Orders. (R. , July 18, 2005, Order of Restitution) The Order of Restitution noted that the Defendant had paid \$50,000.00 in restitution pursuant to the original sentence. (R. , July 18, 2005, Order of Restitution, p. 2, para 2). The Court waived the 60 day incarceration requirement and provided that the five year probationary period was to begin on July 1, 2007, and end July 1, 2012. (R. , July 18, 2005, Order of Restitution, p.2, para. 2 at bottom of page) The Court imposed an additional restitution requirement in favor of Homeowners in the amount of \$100,000 plus a \$15,000 collection fee to be "paid over the course of four (4) years (which is 80 % of Defendant Wright's probation)." (R. , July 18, 2005, Order of Restitution, p.3, paras. 3-5) Finally, the Order of Restitution provided that, pursuant to "S.C. Code § 17-25-323(B), should Defendant Wright default in the restitution payments set forth herein, Homeowners, the Attorney General, the solicitor, and/or an agent of the Department of Probation and Parole may move

the court for a hearing to show cause why Defendant Wright's default should not be treated as a civil judgment or for a determination by the Court of any further remedy due." (R. , July 18, 2005, Order of Restitution, p.3, para. 4 [sic should be 6])

On March 27, 2009, Wright was arrested for violating the terms of his probation (R. , SCDPPPS Violation Report) On May 15, 2009, a probation revocation hearing was held, and Defendant was ordered to serve a total of 20 days on consecutive weekends starting May 16, 2009. (R. , Orders dated May 16, 2009, for Indictments 2003 GS 40-5502, 5503 and 5504 respectively). The trial court ordered the Defendant to make payments of \$5,000 on May 15, 2009, \$1,875.00 in June 2009 and \$1,875.00 in July 2009, payable directly to Homeowners. (R. , Id.) The trial court further recommended that the probation supervision fees be waived and that the "fine" [restitution] be converted to a civil judgment. (R. , Id.) The May 15, 2009, Orders did not change the term of probation specified in the Order of Restitution.

On May 21, 2013, probation services issued and served a citation on Defendant for failure to pay the remaining balance of the restitution in the amount of \$43,468.66. (R. , Probation Violation Citation).

On September 6, 2013, the trial court conducted a hearing on the probation services citation. Probation services represented at the hearing that Mr. Wright's probation was scheduled to expire on July 8, 2013, although the agent also stated that the Order of Restitution provided for a probation period beginning July 1, 2007, and ending July 1, 2012. (R. , Transcript of September 6, 2013, hearing, p. 2, lines 6-8 and 19-20) The trial court noted that probation services "want[ed] to terminate the probation [because] he has been on it for more than five years now." (R. , September 6, 2013, Hearing Transcript, p. 3, lines 19-24.)

At the September 6, 2013, hearing, the attorney for Homeowners outlined the terms of an agreement to the trial court: probation would be deemed to be over as of September

6, 2013, Defendant would be found in willful civil contempt for failure to make restitution payments in the amount of \$43,500 and sentenced to six months incarceration, but Defendant could pay \$5,000 as an initial payment and then \$1,500 a month thereafter for a total of \$38,500 in order to purge himself of contempt. (R. , September 6, 2013, hearing Transcript, p. 4, lines 3-25; p. 5, lines 1-10). Payments were to be made directly to Homeowners and Homeowners was authorized to file a show cause motion if Defendant failed to pay. (R. , September 6, 2013, hearing Transcript, p. 4, lines 10-18) As a side agreement, Homeowners would release Wright from liability under the judgment obtained in civil court against him. (R. September 6, 2013 hearing transcript, p. 5, lines 20-25) The Court entered the terms of the agreement on the record and terminated probation, and also requested Homeowners to prepare a consent order setting forth the terms of the agreement and a schedule for repayment. (R. , September 6, 2013 hearing transcript, pp. 9, lines 17-23; p. 10, lines 17-25; p. 11, lines 1-13)

On October 3, 2013, counsel for Defendant, S. Harrison Saunders, VI, notified the trial court in writing that the Defendant was now refusing to sign the proposed consent Order based on Defendant's contention that he had not been informed by his legal counsel that the State had to prove that his failure to pay restitution was willful in order to revoke his probation. (R. , Letter dated October 3, 2013, from counsel for Defendant, S. Harrison Saunders, VI, to the trial court).

The trial court signed the Order presented by Homeowners without the signatures of any of the parties. (The Order is undated, but was entered by the Clerk's Office on November 20, 2013) (R. , Order entered November 20, 2013) On November 8, 2013, Defendant filed a Notice of Motion and Motion To Reconsider with respect to the Order. (R. , Motion To Reconsider) That motion has not been ruled upon. On November 26, 2013, Defendant, represented by new legal counsel, filed a Notice of Intent to Appeal in the Court of Appeals. (R. , Notice of Appeal dated November 26, 2013) On January 8,

2014, Homeowners filed a Motion for Rule to Show Cause why Wright should not be held in civil contempt based on his failure to pay pursuant to the consent agreement. (R. , Motion for Rule to Show Cause)

ARGUMENT

1. **The Trial Court Erred in Entering the November 20, 2013, Order After the Period of Probation Had Expired.**

S.C. Code Ann. § 24-21-440 provides that “The period of probation or suspension of sentence shall not exceed a period of five years and shall be determined by the judge of the court and may be continued or suspended *within the above limit.*” (Emphasis added) In addition, S.C. Code Ann. § 24-21-550 provides that “A probation term ordered to end upon the payment of fines, court costs, assessments, and restitution must continue until the clerk of court certifies in writing that all monies have been paid, *or the probation term has expired*, or the expiration of probation has been changed by a subsequent order.” (Emphasis added) Also, under S.C. Code Ann. § 17-25-322, restitution orders must provide for a repayment schedule that will “result in full payment of both restitution and collection fees by the end of eighty percent of the offender’s supervision period.” Thus, under South Carolina law, restitution requirements are tied to the probationary period and do not extend beyond the five year limit.

Probation may be revoked under S.C. Code Ann. § 24-21-460 if a warrant is issued during the period of probation by the probation agency pursuant to S.C. Code Ann, § 24-21-450. After the probationary period has expired, the court lacks subject matter jurisdiction to revoke probation. *State v. Crouch*, 355 S.C. 355, 359, 585 S.E.2d 288, (S.C. 2003). Furthermore, express waiver of statutory warrant requirements by the defendant is not sufficient to confer subject matter jurisdiction. *State v. Richburg*, 304 S.C. 162, 164-165, 403 S.E.2d 315, 317(S.C. 1991).

In addition, S.C. Code Ann. § 17-25-323 provides:

(A) The trial court retains jurisdiction of the case for the purpose of

modifying the manner in which court-ordered payments are made until paid in full, or until the defendant's active sentence and probation or parole expires.

(B) When a defendant has been placed on probation by the court or parole by the Board of Probation, Parole, and Pardon Services, and ordered to make restitution, and the defendant is in default in the payment of them or any installment or of any criminal fines, surcharges, assessments, costs, and fees ordered, the court, *before the defendant completes his period of probation or parole*, on motion of the victim or the victim's legal representative, the Attorney General, the solicitor, or a probation or parole agent, or upon its own motion, *must hold a hearing to require the defendant to show cause why his default should not be treated as a civil judgment* and a judgment lien attached. The court must enter (1) judgment in favor of the State for the unpaid balance, if any, of any fines, costs, fees, surcharges, or assessments imposed; and (2) judgment in favor of each person entitled to restitution for the unpaid balance if any restitution ordered plus reasonable attorney's fees and cost ordered by the court.

(C) The judgments may be enforced as a civil judgment.

(Emphasis added). Thus, S.C. Code Ann. § 17-25-323 recognizes that the ability of the trial court to convert the restitution order into a civil judgment expires at the end of the probationary period. Not only must the motion be filed prior to the end of the probationary period, but a hearing granting or denying the request must be held within the probationary period.

Here, the probation period expired on July 1, 2012, ending the case. There is nothing in the record to support the representation by the probation agent at the September 6, 2013, hearing that probation ended July 8, 2013. Indeed, probation services indicated to the trial court that probation had gone beyond five years. It is obvious from the September 6, 2013, transcript that probation services simply wanted to have an express end to probation, which had already expired by the terms of the Order of Restitution. Furthermore, realizing that there was no longer any "probation" to "revoke" Homeowners attempted to do an end run around the expiration of the probation period by requesting that the trial court impose a civil contempt order with respect to the remaining balance of the restitution amount. However, since the trial court did not have subject matter jurisdiction to revoke Defendant's probation or convert the restitution to a civil judgment, it follows that the trial also did not have

jurisdiction to impose a civil contempt order, even if the parties consented thereto.

2. **The Trial Court Erred in Entering the November 20, 2013, Order After the Defendant Withdrew His Consent.**

On October 3, 2013, counsel for Defendant, S. Harrison Saunders, VI, notified the trial court in writing that the Defendant was now refusing to sign the proposed consent Order based on Defendant's contention that he had not been informed by his legal counsel that the State had to prove that his failure to pay restitution was willful in order to revoke his probation. When the State seeks to revoke probation solely on the basis of failure to pay fines or restitution, a finding of willfulness is mandatory. *State v. Hamilton*, 333 S.C. 642, 649, 511 S.E.2d 511 (S.C. App. 1999). Nevertheless, the trial court signed the Order presented by Homeowners without the signatures of any of the parties. (The Order is undated, but was entered by the Clerk's Office on November 20, 2013)

Although there appears to be no South Carolina law addressing this situation, a North Carolina case found that a court has no authority to enter a judgment based on a consent agreement, even after the terms have been read into the record and the parties were questioned by the trial court, if a party repudiates the agreement by withdrawing consent prior to entry of an order. *Chance v. Henderson*, 518 S.E.2d 780, 784, 134 N.C. App. 657, (N.C. App. 1999). The North Carolina Court of Appeals stated: "If a party repudiates the agreement by withdrawing consent before entry of the judgment, the trial court is 'without power to sign [the] judgment.'" *Id.* (citation omitted.)

In this case, the trial court should have declined to sign the Order after being notified by Defendant's counsel that he no longer consented to the agreement proposed by Homeowners.

3. **The Trial Court Erred in Entering an Order Providing For a Remedy of Civil Contempt.**

Even if the trial court had subject matter jurisdiction in this case, the trial court only had authority to revoke probation under S.C. Code Ann. § 24-21-460 or convert the restitution balance into a civil judgment under S.C. Code Ann. § 17-25-323. By specifying a particular remedy, i.e., revocation or conversion to a civil judgment, South Carolina law excludes the use of other remedies to enforce restitution orders or criminal fines, surcharges, assessments, costs, and fees.

In general, the purpose of civil contempt proceedings is to coerce obedience to a court order. *Checker Yellow Cab Co., Inc. v. Checker Cab and Parcel Service, Inc.*, 287 S.C. 608, 610, 340 S.E.2d 549, 551 (S.C. App. 1985). However, civil contempt proceedings are abated by a final disposition of the cause in which contempt occurred. 287 S.C. at 611, 340 S.E.2d at 551. Therefore, once a criminal defendant's sentence has expired, criminal courts should not continue to act to enforce monetary penalties against defendants. Use of civil contempt to get around this problem is improper and constitutes reversible error. Furthermore, once the trial court ended probation as of September 6, 2013, the State had no more interest in Wright; rather, it was Homeowners (who has a civil judgment against Wright anyway) who sought enforcement through the criminal court of its monetary damages.

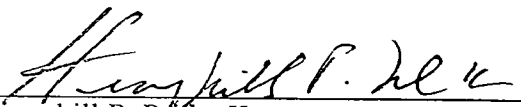
Lastly, it is not apparent that Homeowners, even though a "victim," had standing to seek civil contempt. Contempt is a remedy afforded to a court, not an individual. See *Checker Yellow Cab Co., Inc. v. Checker Cab and Parcel Service, Inc.*, 287 S.C. 608, 610, 340 S.E.2d 549, 551 (S.C. App. 1985). Moreover, contempt requires a specific finding of fact that the party has intentionally failed to obey the court's order.

CONCLUSION

For all of the foregoing reasons, the Appellant requests that the Order entered on November 20, 2013, be vacated as a nullity or reversed on the merits and that no further proceedings be allowed in this case.

Respectfully submitted,

February 7, 2014



Hemphill P. Pride II
S.C. Bar No. 4569
LAW OFFICE OF HEMPHILL P. PRIDE II, LLC
Post Office Box 4529
Columbia, South Carolina 29240-4529
(803) 256-8015
E-mail address: hppride@bellsouth.net

ATTORNEY FOR APPELLANT

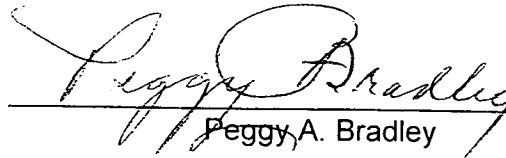
STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

CERTIFICATE OF SERVICE

I, the undersigned do hereby certify that all counsel and/or parties in this action were served with a copy of the pleading(s) herein below specified by mailing a copy of the same by United States mail, postage prepaid, to the following address(es):

PLEADING: Initial Brief of Appellant

PARTY: Honorable Daniel E. Johnson
Solicitor for the Fifth Judicial Circuit
OFFICE OF THE SOLICITOR
Post Office Box 192
Columbia, South Carolina 29202-0192


Peggy A. Bradley

Columbia, South Carolina

February 7, 2014.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF GENERAL SESSIONS
2003-GS-40-5502
PROBATION C/W #S C-29-13-0025

STATE OF SOUTH CAROLINA

v.

JOSEPH WRIGHT, JR.

RULE TO SHOW CAUSE

TO: JOSEPH WRIGHT, JR.:

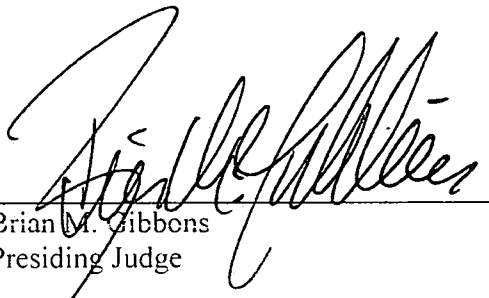
Upon reading the affidavit of Sheri H. McClendon and the previous orders entered in this case, you are hereby required to appear before the undersigned at _____ M. on January _____, 2014, at the Lancaster County Courthouse, 104 N. Main Street, Lancaster, SC, to show cause why an order should not be entered incarcerating you immediately for a term of six months for failure to make payments as required by the order of this Court entered November 20, 2013 (a copy of which order is attached).

This motion is based on the November 20, 2013, order of this Court, all other orders filed in this case, the affidavit of Sheri H. McClendon, all other papers filed in this case, and the proceedings in this case.

AND IT IS SO ORDERED.

Lancaster, South Carolina

January 15, 2014



Brian M. Gibbons
Presiding Judge

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Subject: Re: Hearing Feb 13, 2014

From: Harrison Saunders (harrison@hsaunderslaw.com)

To: jwwmc@hotmail.com;

Cc: hp pride@bellsouth.net;

Date: Tuesday, February 11, 2014 8:44 AM

Wood told the Court yesterday afternoon that he is on vacation that week. Can you be there the 24th or 25th? If not I will try to get some other dates.
Thanks.

Harrison Saunders
Sent from my iPhone

On Feb 11, 2014, at 8:27 AM, "jwwmc" <jwwmc@hotmail.com> wrote:

Good morning, March 3rd or 4th works better for me.

Regards
Joseph Wright

"Change your Thoughts and Change your World"

----- Original message -----

From: Harrison Saunders <harrison@hsaunderslaw.com>

Date: 02/10/2014 12:14 PM (GMT-05:00)

To: jwwmc <jwwmc@hotmail.com>

Cc: "Hemphill Pride II (hp pride@bellsouth.net)" <hp pride@bellsouth.net>

Subject: RE: Hearing Feb 13, 2014

Joe-

Judge Gibbons' office has proposed hearing the matter in Colleton County on Feb. 24th or 25th or in Fairfield County March 3rd or 4th. I am available all day on Feb. 24 and the afternoon of Feb. 25. I am also available the afternoon of March 4th. Please let me know what suits you.

Thanks,

Harrison Saunders

S. Harrison Saunders, VI

Subject: RE: Hearing Feb 13, 2014

From: Harrison Saunders (harrison@hsaunderslaw.com)

To: jwwmc@hotmail.com;

Cc: hppride@bellsouth.net;

Date: Tuesday, February 11, 2014 3:33 PM

Joe-

Around 10:45 this morning, I received a call from Judge Gibbons' law clerk, Neil Alger. Mr. Alger told me the Judge wanted to have a conference call with Bob Wood and I this morning. We had the conference call.

Mr. Wood has requested that the Rule to Show Cause hearing regarding contempt be held at the same time the Court addresses the motion to be relieved and the status of the \$5,000. Judge Gibbons asked Mr. Wood if he had personally served you with the Rule to Show Cause Notice. Mr. Wood advised he had not as the Court had not set a date and time. Judge Gibbons advised Mr. Wood that he must personally serve you with a Rule to Show Cause Notice setting the hearing for the week of March 10 in Lexington County if Mr. Wood wants a hearing. Judge Gibbons is scheduled to be in Lexington County the week of March 10. Mr. Wood is checking with the clerk in Lexington to determine which day of the week and what time the matter could be heard. Once he gets that information, he will serve you with the notice.

Judge Gibbons said he would hold the hearing and address the motion to be relieved, the status of the \$5,000, and the contempt issue involving the payments not being made to Homeowners per the Order filed November 20, 2013, which is the subject of your appeal. The judge intends to hear all arguments involving these matters. Should the judge determine he has the authority to address the contempt issue even in light of the pending appeal, I believe he will hold you in contempt. If he does, I anticipate he will sentence you to the 6 months provided in the November Order and allow you to purge that sentence with the payment of restitution to Homeowners.

I believe Judge Gibbons may accept some agreement between you and Homeowners as to the contempt and restitution issue. If you want me to explore that course of action, please let me know.

It is my understanding that Mr. Pride will not attend any hearing at the trial level. Since that is the case, I intend to argue that the November Order is on appeal and no action should be taken with regard to that Order until the Court of Appeals has ruled.

I will update you should I receive additional information.

Subject: RE: Wright Hearing on Feb. 13

From: Gibbons, Brian Law Clerk (Neil E. Alger) (bgibbonslc@sccourts.org)

To: harrison@hsaunderslaw.com;

Cc: Robert.Wood@rtt-law.com; hppride@bellsouth.net;

Date: Monday, February 10, 2014 12:04 PM

We will be holding court in Colleton County the week of February 24 and then Fairfield County the week of March 3. We will be glad to hear this matter on Monday or Tuesday of those weeks. Please let me know if any of those days work.

Bests,

Neil

From: Harrison Saunders [mailto:harrison@hsaunderslaw.com]**Sent:** Monday, February 10, 2014 10:52 AM**To:** Gibbons, Brian Law Clerk (Neil E. Alger)**Cc:** Robert P. Wood; Hemphill Pride II (hppride@bellsouth.net)**Subject:** Wright Hearing on Feb. 13

Neil-

Mr. Wright informed me that he will be out of town on Feb. 13. Would it be possible to reschedule the hearing? Mr. Wright will be available Feb. 21 and thereafter. I apologize for the inconvenience.

Regards,

Harrison Saunders

S. Harrison Saunders, VI

Attorney at Law

Law Office of S. Harrison Saunders VI, LLC

1720 Main Street, Suite 301

Columbia, SC 29201

110

Subject: RE: Hearing Feb 13, 2014

From: Harrison Saunders (harrison@hsaunderslaw.com)

To: jwwmc@hotmail.com;

Cc: hppride@bellsouth.net;

Date: Monday, February 10, 2014 12:14 PM

Joe-

Judge Gibbons' office has proposed hearing the matter in Colleton County on Feb. 24th or 25th or in Fairfield County March 3rd or 4th. I am available all day on Feb. 24 and the afternoon of Feb. 25. I am also available the afternoon of March 4th. Please let me know what suits you.

Thanks,

Harrison Saunders

S. Harrison Saunders, VI

Attorney at Law

Law Office of S. Harrison Saunders VI, LLC

1720 Main Street, Suite 301

Columbia, SC 29201

Phone: 803-779-6333

Cell: 803-530-1998

Fax: 803-799-4059

Email: harrison@hsaunderslaw.com

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Subject: RE: Wright Hearing on Feb. 13

From: Harrison Saunders (harrison@hsaunderslaw.com)

To: Robert.Wood@rtt-law.com; bgibbonslc@sccourts.org;

Cc: hppride@bellsouth.net;

Date: Monday, February 10, 2014 6:12 PM

I am free all day on February 24th and the afternoon of February 25th. I am also available the afternoon of March 4th but certainly would not want to interfere with Mr. Wood's vacation plans. I have relayed the proposed dates and my availability to Mr. Wright. I should have his response very soon.

During the hearing, I would like to address the motion to be relieved and the status of the \$5,000 in trust. Although I believe a Rule to Show Cause hearing is premature in light of the pending appeal, I will be prepared to address the applicability of the stay should the Court wish to address that issue.

Thank you,

Harrison Saunders

S. Harrison Saunders, VI

Attorney at Law

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1720 Main Street, Suite 301

Columbia, SC 29201

Phone: 803-779-6333

Cell: 803-530-1998

Fax: 803-799-4059

Email: harrison@hsaunderslaw.com

112 ✓

Subject: RE: Wright Hearing on Feb. 13

From: Robert P. Wood (Robert.Wood@rtt-law.com)

To: bgibbonslc@sccourts.org; harrison@hsaunderslaw.com;

Cc: hppride@bellsouth.net;

Date: Monday, February 10, 2014 5:57 PM

I have a hearing in St. George on at 11 AM on Monday Feb. 24, so I would love to do this Wright hearing at 9 AM that morning or sometime that afternoon.

Any time Tuesday is also fine.

The week of March 3 I will be on vacation.

Because of the delay in setting this hearing, would it be possible for the court to go ahead and schedule the rule to show cause to be held with Harrison's motion to be relieved? Certainly Mr. Wright could argue the applicability of the appellate stay if he wanted to.

Bob



Robert P. Wood
Shareholder

Rogers Townsend & Thomas, PC
220 Executive Center Dr.
Columbia, SC 29210

Direct 803.744.1275
Robert.Wood@rtt-law.com

Fax 803.343.7017
Main 803.771.7900

Website rtt-law.com

Admitted in SC and USVI

Subject: Wright Hearing on Feb. 13

From: Harrison Saunders (harrison@hsaunderslaw.com)

To: bgibbonslc@sccourts.org;

Cc: Robert.Wood@rtt-law.com; hppride@bellsouth.net;

Date: Monday, February 10, 2014 10:52 AM

Neil-

Mr. Wright informed me that he will be out of town on Feb. 13. Would it be possible to reschedule the hearing? Mr. Wright will be available Feb. 21 and thereafter. I apologize for the inconvenience.

Regards,

Harrison Saunders

S. Harrison Saunders, VI

Attorney at Law

Law Office of S. Harrison Saunders VI, LLC

1720 Main Street, Suite 301

Columbia, SC 29201

Phone: 803-779-6333

Cell: 803-530-1998

Fax: 803-799-4059

Email: harrison@hsaunderslaw.com

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IRS CIRCULAR 230 NOTICE: Any federal tax advice contained in this communication (or in any attachment) is not

114

Subject: RE: rescheduling- Joseph Wright hearing

From: jwwmc (jwwmc@hotmail.com)

To: hppride@bellsouth.net;

Date: Friday, February 7, 2014 12:31 PM

Hi, should I let them know that I won't be available until February 21, 2014 or is that something you will be doing?

Joe

"Change your Thoughts and Change your World"

----- Original message -----

From: "H.P. PRIDE" <hppride@bellsouth.net>

Date: 02/07/2014 12:02 PM (GMT-05:00)

To: jwwmc <jwwmc@hotmail.com>

Subject: Fw: rescheduling- Joseph Wright hearing

Please see my answer to the below email.

----- Forwarded Message -----

From: H.P. PRIDE <hppride@bellsouth.net>

To: Robert P. Wood <Robert.Wood@rtt-law.com>; "Gibbons, Brian Law Clerk (Neil E. Alger)" <bgibbonslc@sccourts.org>; "Gibbons, Brian M." <BGibbonsj@sccourts.org>

Cc: Harrison Saunders <harrison@hsaunderslaw.com>

Sent: Friday, February 7, 2014 12:01 PM

Subject: Re: rescheduling- Joseph Wright hearing

This is to confirm that I do not represent Mr. Joseph Wright, Jr. in the Court of General Sessions but only on the Appeal.

From: Robert P. Wood <Robert.Wood@rtt-law.com>

To: "Gibbons, Brian Law Clerk (Neil E. Alger)" <bgibbonslc@sccourts.org>; "Gibbons, Brian M." <BGibbonsj@sccourts.org>

Cc: Harrison Saunders <harrison@hsaunderslaw.com>; "Hemphill Pride II (hppride@bellsouth.net)" <hppride@bellsouth.net>

Sent: Friday, February 7, 2014 11:18 AM

Subject: RE: rescheduling- Joseph Wright hearing

I just now spoke with Mr. Pride. He said work at the trial level is beyond the scope of his representation of Mr. Wright, so he does not plan to attend the hearing next week.

Mr. Pride agreed that in the event Mr. Saunders is relieved as counsel, I should deal directly with Mr. Wright but copy Mr. Pride. Mr. Pride confirmed that he has been forwarding all communications related to the trial-court level goings-on to Mr. Wright.

115

Subject: RE: rescheduling- Joseph Wright hearing

From: Robert P. Wood (Robert.Wood@rtt-law.com)

To: bgibbonslc@sccourts.org; BGibbonsj@sccourts.org;

Cc: harrison@hsaunderslaw.com; hp pride@bellsouth.net;

Date: Friday, February 7, 2014 11:18 AM

I just now spoke with Mr. Pride. He said work at the trial level is beyond the scope of his representation of Mr. Wright, so he does not plan to attend the hearing next week.

Mr. Pride agreed that in the event Mr. Saunders is relieved as counsel, I should deal directly with Mr. Wright but copy Mr. Pride. Mr. Pride confirmed that he has been forwarding all communications related to the trial-court level goings-on to Mr. Wright.

This all suits me, and I'm asking Mr. Pride to confirm this is our arrangement.

Bob

Robert P. Wood
Shareholder
Direct 803.744.1275
Robert.Wood@rtt-law.com
Fax 803.343.7017
Rogers Townsend & Thomas, PC
220 Executive Center Dr.
Columbia, SC 29210
Main 803.771.7900
Website rtt-law.com
Admitted in SC and USVI

116

-----Original Message-----

From: Gibbons, Brian Law Clerk (Neil E. Alger) [mailto:bgibbonslc@sccourts.org]

Sent: Wednesday, February 05, 2014 9:23 PM

To: Gibbons, Brian M.

Cc: Harrison Saunders; Robert P. Wood; Gibbons, Brian Law Clerk (Neil E. Alger); Hemphill Pride II (hp pride@bellsouth.net)

Subject: Re: rescheduling- Joseph Wright hearing

Everyone, we will see you on Thursday, February 13, 2014 at 3 pm at the Lancaster County Courthouse.

- Neil

Sent from my iPhone

On Feb 5, 2014, at 8:00 PM, "Gibbons, Brian M."

<BGibbonsj@sccourts.org<mailto:BGibbonsj@sccourts.org>> wrote:

Ok, yall bring Mr. Pride into this discussion and invite him to participate. He needs to be there

From: Harrison Saunders [mailto:harrison@hsaunderslaw.com]

Sent: Wednesday, February 05, 2014 5:34 PM

To: Robert P. Wood; Gibbons, Brian M.

Cc: Gibbons, Brian Law Clerk (Neil E. Alger); Hemphill Pride II

(hp pride@bellsouth.net<mailto:hp pride@bellsouth.net>)

Subject: RE: rescheduling- Joseph Wright hearing

Neil-

I can be there at 3:00 p.m.

Thanks,

Harrison

S. Harrison Saunders, VI

Attorney at Law

Law Office of S. Harrison Saunders VI, LLC

1720 Main Street, Suite 301

Columbia, SC 29201

Phone: 803-779-6333

Cell: 803-530-1998

Fax: 803-799-4059

Email: harrison@hsaunderslaw.com<mailto:harrison@hsaunderslaw.com>

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From: Robert P. Wood [mailto:Robert.Wood@rtt-law.com]
Sent: Wednesday, February 05, 2014 5:27 PM
To: Harrison Saunders; Gibbons, Brian M.
Cc: Gibbons, Brian Law Clerk (Neil E. Alger); Hemphill Pride II (hp pride@bellsouth.net<mailto:hp pride@bellsouth.net>)
Subject: RE: rescheduling- Joseph Wright hearing

That Thursday I have an hour-long motion hearing in Greenville at 11 AM. Since it's about 2½ hours from Greenville to Lancaster, could we have the hearing at 3 PM or so?

I spoke with Mr. Pride a couple of weeks or so ago about the issue of the stay, and I got the impression he felt he would be the one to argue that. But I don't want to speak for him.

Bob

From: Harrison Saunders [mailto:harrison@hsaunderslaw.com]
Sent: Wednesday, February 05, 2014 5:09 PM
To: Gibbons, Brian M.
Cc: Robert P. Wood; Gibbons, Brian Law Clerk (Neil E. Alger)
Subject: RE: rescheduling- Joseph Wright hearing

Thank you Judge Gibbons. Next Thursday the 13th works for me. I will send a separate email to Mr. Alger.

S. Harrison Saunders, VI
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From: Gibbons, Brian M. [mailto:BGibbonsj@sccourts.org]
Sent: Wednesday, February 05, 2014 4:40 PM
To: Harrison Saunders
Cc: Robert P. Wood; Gibbons, Brian Law Clerk (Neil E. Alger)
Subject: RE: rescheduling- Joseph Wright hearing

Ok. I will be in Lancaster next week doing General Sessions. Next Thursday the 13th would be fine

Y'all get with my clerk to set up time. thanks
From: Harrison Saunders [mailto:harrison@hsaunderslaw.com]
Sent: Wednesday, February 05, 2014 2:38 PM
To: Gibbons, Brian M.
Cc: Robert P. Wood
Subject: RE: rescheduling- Joseph Wright hearing

Judge Gibbons-

I have asked Mr. Pride to accept the money but he declined. He has made it clear that he is appellate counsel only and he does not wish to be involved with the \$5,000 in trust.

Thank you,
Harrison Saunders

S. Harrison Saunders, VI
Attorney at Law
Law Office of S. Harrison Saunders VI, LLC
1720 Main Street, Suite 301
Columbia, SC 29201

Phone: 803-779-6333
Cell: 803-530-1998
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From: Gibbons, Brian M. [mailto:BGibbonsj@sccourts.org]
Sent: Wednesday, February 05, 2014 2:33 PM
To: Harrison Saunders
Cc: Robert P. Wood
Subject: RE: rescheduling- Joseph Wright hearing

Why not send the money to Hemphill Pride? He can hold it in his trust account

From: Harrison Saunders [mailto:harrison@hsaunderslaw.com]
Sent: Wednesday, February 05, 2014 11:33 AM
To: Gibbons, Brian M.
Cc: Robert P. Wood
Subject: RE: rescheduling- Joseph Wright hearing

Judge Gibbons-

Yes sir, the matter is on appeal and I can certainly circulate a consent order regarding my being relieved as counsel. Also in the motion is a request for guidance from the Court as to the status of the \$5,000 held in my trust account. In the motion, I request the Court allow me to return the money to Mr. Wright or to instruct me further how to handle the funds. This request is based upon the Court directing me in chambers to pay the \$5,000 to Homeowners and Mr. Wright's subsequent request for an appeal and return of the \$5,000. The appeal was ultimately filed on November 26, 2013 by Hemphill Pride, Esquire. My Motion was mailed to the Lancaster County Clerk of Court on November 27, 2013 and filed December 10, 2013.

I am requesting an Order instructing me to return the money to Mr. Wright. It appears the Order filed on November 20, 2013, which is the subject of the appeal, is now stayed. The decision by the Court of Appeals will dictate the status of the restitution due and owing. Should that decision be to uphold the Order, then payment of restitution will be due to Homeowners or Mr. Wright may face sanctions. Should the Order be set aside, then some other resolution would be available. No matter how the matter may be resolved, it does not appear that any circumstances warrant the money in trust being

held for the duration of the appeal. At present, it does not appear that Homeowners has a valid claim to the money in trust. Once the appeal is ruled upon, Homeowners can seek the appropriate relief. Even though the case is on appeal, I do believe the Court can rule upon the status of the money in trust as this money is not the subject of the appeal.

I have spoken to Bob Wood, who consents to my being relieved as counsel but opposes the money in trust being returned to Mr. Wright. I am respectfully requesting a hearing to address the issue of the \$5,000 in trust or an Order instructing me to return the \$5,000 to Mr. Wright. In doing so, I want to also make the Court aware that Mr. Wright has filed a grievance against me with the Office of Disciplinary Counsel. The subject of the grievance is the status of the \$5,000 in my trust account. Based upon this circumstance, I would appreciate the Court addressing the status of the money in trust at your earliest opportunity.

I appreciate your consideration of my requests.

Regards,
Harrison Saunders

S. Harrison Saunders, VI
Attorney at Law
Law Office of S. Harrison Saunders VI, LLC
1720 Main Street, Suite 301
Columbia, SC 29201

Phone: 803-779-6333
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From: Gibbons, Brian M. [mailto:BGibbonsj@sccourts.org]
Sent: Tuesday, February 04, 2014 3:34 PM
To: Harrison Saunders; Gibbons, Brian Law Clerk (Neil E. Alger)
Cc: Robert P. Wood
Subject: RE: rescheduling- Joseph Wright hearing

It is my understanding that this matter is on appeal. As such, please circulate a consent order for all involved counsel to sign and I will be glad to sign it. thanks, judge gibbons

From: Harrison Saunders [mailto:harrison@hsaunderslaw.com]
Sent: Tuesday, February 04, 2014 3:21 PM
To: Gibbons, Brian M.; Gibbons, Brian Law Clerk (Neil E. Alger)
Cc: Robert P. Wood
Subject: rescheduling- Joseph Wright hearing

Judge Gibbons-

I hope you are doing well. Would it be possible to hold a hearing soon to address my motion to be relieved as counsel? I will make myself available whenever it suits the Court and counsel. Thank you.
Regards,
Harrison Saunders

S. Harrison Saunders, VI
Attorney at Law
Law Office of S. Harrison Saunders VI, LLC
1720 Main Street, Suite 301
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Subject: Re: rescheduling- Joseph Wright hearing

From: Gibbons, Brian Law Clerk (Neil E. Alger) (bgibbonslc@sccourts.org)

To: BGibbonsj@sccourts.org;

Cc: harrison@hsaunderslaw.com; Robert.Wood@rtt-law.com; bgibbonslc@sccourts.org; hp pride@bellsouth.net;

Date: Wednesday, February 5, 2014 9:23 PM

Everyone, we will see you on Thursday, February 13, 2014 at 3 pm at the Lancaster County Courthouse.

- Neil

Sent from my iPhone

On Feb 5, 2014, at 8:00 PM, "Gibbons, Brian M."

<BGibbonsj@sccourts.org<mailto:BGibbonsj@sccourts.org>> wrote:

Ok, yall bring Mr. Pride into this discussion and invite him to participate. He needs to be there

From: Harrison Saunders [mailto:harrison@hsaunderslaw.com]

Sent: Wednesday, February 05, 2014 5:34 PM

To: Robert P. Wood; Gibbons, Brian M.

Cc: Gibbons, Brian Law Clerk (Neil E. Alger); Hemphill Pride II (hp pride@bellsouth.net<mailto:hp pride@bellsouth.net>)

Subject: RE: rescheduling- Joseph Wright hearing

Neil-

I can be there at 3:00 p.m.

Thanks,

Harrison

S. Harrison Saunders, VI

Attorney at Law

Law Office of S. Harrison Saunders VI, LLC

1720 Main Street, Suite 301

Columbia, SC 29201

Phone: 803-779-6333

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To: harrison@hsaunderslaw.com; Robert.Wood@rtt-law.com;

Cc: bgibbonslc@sccourts.org; hp pride@bellsouth.net;

Date: Wednesday, February 5, 2014 8:00 PM

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Sent: Wednesday, February 05, 2014 5:34 PM
To: Robert P. Wood; Gibbons, Brian M.
Cc: Gibbons, Brian Law Clerk (Neil E. Alger); Hemphill Pride II (hp pride@bellsouth.net)
Subject: RE: rescheduling- Joseph Wright hearing

Neil-

I can be there at 3:00 p.m.

Thanks,

Harrison

S. Harrison Saunders, VI

Attorney at Law

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Columbia, SC 29201

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Email: harrison@hsaunderslaw.com

Subject: RE: rescheduling- Joseph Wright hearing

From: Robert P. Wood (Robert.Wood@rtt-law.com)

To: BGibbonsj@sccourts.org;

Cc: harrison@hsaunderslaw.com; hpride@bellsouth.net;

Date: Wednesday, February 5, 2014 1:12 PM

Judge Gibbons:

As Mr. Saunders said, I represent Homeowners. Because your November 20 order calls for a period of confinement, Homeowners takes the position that under Appellate Court Rule 246, the appeal does not stay your order. (The November 20 order reads, "The court orders Mr. Wright to serve six months in the Lancaster County Detention Center for his contempt of court.")

I think the Appellate Court Rule is pretty clear about that. But note that if the position is taken that the appeal does in fact stay the November 20 order, then an order requiring Mr. Saunders to return the money to Mr. Wright would operate to vacate the payment schedule in in the November 20 order.

on January 15, the Court signed and returned to me a proposed rule to show cause I drafted, but the court failed to set a hearing date on the rule. Because the order is not stayed by the appeal, Homeowners asks the Court to set a hearing date on the rule. Pending that hearing, Homeowners consents to an order of this Court (1) allowing Mr. Saunders to pay the money into the clerk of court, and (2) relieving Mr. Saunders as counsel for Mr. Wright.

I have attached a copy of the rule to show cause with the November 20 order attached to it.

Thank you.

Bob Wood

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Robert P. Wood
Shareholder

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220 Executive Center Dr.
Columbia, SC 29210

Direct 803.744.1275
Robert.Wood@rtt-law.com

Fax 803.343.7017
Main 803.771.7900

Website rtt-law.com

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Sent: Wednesday, February 05, 2014 11:33 AM
To: Gibbons, Brian M.
Cc: Robert P. Wood
Subject: RE: rescheduling- Joseph Wright hearing

Judge Gibbons-

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128

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I appreciate your consideration of my requests.

Regards,

Harrison Saunders

S. Harrison Saunders, VI

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Subject: RE: rescheduling- Joseph Wright hearing

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Subject: rescheduling- Joseph Wright hearing

Judge Gibbons-

I hope you are doing well. Would it be possible to hold a hearing soon to address my motion to be relieved as counsel? I will make myself available whenever it suits the Court and counsel. Thank you.

Regards,

Harrison Saunders

S. Harrison Saunders, VI

Attorney at Law

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130

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transaction(s) or matter(s) addresses in this communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

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Subject: Re: rescheduling- Joseph Wright hearing

From: Harrison Saunders (harrison@hsaunderslaw.com)

To: bgibbonslc@sccourts.org;

Cc: BGibbonsj@sccourts.org; Robert.Wood@rtt-law.com; bgibbonslc@sccourts.org; hppride@bellsouth.net;

Date: Wednesday, February 5, 2014 11:02 PM

Thank you.

Harrison Saunders
Sent from my iPhone

On Feb 5, 2014, at 9:23 PM, "Gibbons, Brian Law Clerk (Neil E. Alger)" <bgibbonslc@sccourts.org> wrote:

> Everyone, we will see you on Thursday, February 13, 2014 at 3 pm at the Lancaster County Courthouse.

>

> - Neil

>

> Sent from my iPhone

>

> On Feb 5, 2014, at 8:00 PM, "Gibbons, Brian M."

<BGibbonsj@sccourts.org<mailto:BGibbonsj@sccourts.org>> wrote:

>

> Ok, yall bring Mr. Pride into this discussion and invite him to participate. He needs to be there

>

> From: Harrison Saunders [mailto:harrison@hsaunderslaw.com]

> Sent: Wednesday, February 05, 2014 5:34 PM

> To: Robert P. Wood; Gibbons, Brian M.

> Cc: Gibbons, Brian Law Clerk (Neil E. Alger); Hemphill Pride II (hppride@bellsouth.net<mailto:hppride@bellsouth.net>)

> Subject: RE: rescheduling- Joseph Wright hearing

>

> Neil-

> I can be there at 3:00 p.m.

> Thanks,

> Harrison

>

> S. Harrison Saunders, VI

> Attorney at Law

> Law Office of S. Harrison Saunders VI, LLC

> 1720 Main Street, Suite 301

> Columbia, SC 29201

>

> Phone: 803-779-6333

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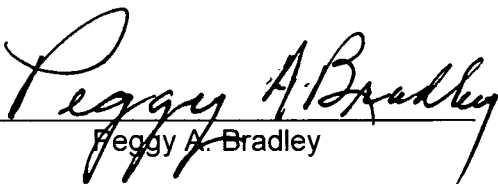
STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

CERTIFICATE OF SERVICE

I, the undersigned do hereby certify that all counsel and/or parties in this action were served with a copy of the pleading(s) herein below specified by mailing a copy of the same by United States mail, postage prepaid, to the following address(es):

PLEADING: Appendix for Appellant's Extraordinary Petition for A Writ of Supersedeas

PARTY: Honorable Daniel E. Johnson
Solicitor for the Fifth Judicial Circuit
OFFICE OF THE SOLICITOR
Post Office Box 192
Columbia, South Carolina 29202-0192


Peggy A. Bradley

Columbia, South Carolina

March 11, 2014.

RECEIVED

MAR 11 2014

SC Court of Appeals