

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPELLATE CASE NO. 2013-000696

APPEAL FROM GREENWOOD COUNTY
FRANK R. ADDY JR., CIRCUIT COURT JUDGE
Case No. 2012-CP-24-1485

State of South Carolina,

Respondent,

vs.

Regan Berkley Chrisley,

Appellant.

RECORD ON APPEAL

Desa Ballard
Harvey M. Watson III
Ballard Watson Weissenstein
P.O. Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
E-mail: desab@desaballard.com
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Carson Henderson
The Henderson Law Firm, PC
109-B Oak Avenue
Greenwood, South Carolina 29646
Telephone 864.229.8000
Facsimile 864.229.8001
Email: carsonhenderson2@hotmail.com

ATTORNEYS FOR APPELLANT

RECEIVED
APR 03 2014
SC Court of Appeals

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Assistant Attorney General
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Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3727

DAVID M. STUMBO
Solicitor, Eighth Judicial Circuit
Post Office Box 516
Greenwood, SC 29648
(864) 942-8802

ATTORNEYS FOR RESPONDENT

INDEX

ORDERS

Order for Conditional Discharge dated December 14, 20111
Order vacating decision dated December 12, 20123
Order affirming lower court decision dated February 19, 20135
Order denying reconsideration by Frank R. Addy, Jr., dated March 18, 20137

PLEADINGS

Petition in Support of Appeal to Circuit Court dated December 21, 20129
Return to Appeal in Circuit Court dated January 3, 201314
Appellant’s Motion to Reconsider dated February 26, 201318

TRANSCRIPTS

Transcript of hearing in Magistrate’s Court on December 21, 201223
Transcript of the hearing in Circuit Court on February 19, 201328

OTHER MATERIALS OR DOCUMENTS

Traffic ticket #51191EW45

STATE OF SOUTH CAROLINA)

IN THE MAGISTRATE/MUNICIPAL COURT

COUNTY/MUNICIPALITY OF)
GREENWOOD)

VS)

ORDER FOR CONDITIONAL
DISCHARGE PURSUANT TO
S.C. CODE §44-53-450

REGAN BERKLEY CHRISLEY)
DEFENDANT.)

Certified, A True Copy
[Signature]
Clerk, Magistrate Court
Greenwood County, S.C.

This matter comes before the court pursuant to S.C. Code §44-53-450, in the above-referenced matter. On this date, the defendant entered a plea of guilt for simple possession of marijuana/hashish, on warrant/ticket number appearing above. I find that the defendant qualifies for, and hereby consents to, a **CONDITIONAL DISCHARGE** in this matter, by signature appearing below, and his/her plea of guilt shall not be entered against this defendant unless he/she fails to complete the terms and conditions appearing below.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the defendant:

- Is hereby placed under supervision of the court for a term not to exceed **SIX (6)** months, and shall comply with all terms and conditions imposed by the court; and
- Shall successfully complete any drug treatment and/or rehabilitation program designated below; and
- Shall remain on good behavior and drug free during the above stated term; and be subject to random Drug and Alcohol tests (if defendant is a minor or other circumstances warrant alcohol tests).
- Shall complete _____ hours of community service; and
- Shall pay a fee of One Hundred and Fifty (\$150) dollars (as required by the referenced statute); and
- Shall pay any other fees associated with the conditions set forth by this order, to include but not limited to: Drug Tests and Alcohol and Drug Counseling
- The defendant is continued to be subject to the terms and conditions associated with his/her bond on this charge. Defendant is responsible to notify the bondsman, if any, of continued liability on the bond.
- OTHER: DEFENDANT SHALL TAKE URINE DRUG TESTS AND THEREAFTER IMMEDIATELY PROVIDE THE RESULTS OF EACH TEST DIRECTLY TO THE COURT DURING THE FIRST WEEK OF JANUARY 2012, DURING THE FIRST WEEK OF MARCH 2012, AND DURING THE FIRST WEEK OF MAY 2012.**

I certify that I have never had a drug charge dismissed or discharged via **CONDITIONAL DISCHARGE**. Terms of the conditional discharge remain in effect until **JUNE 14, 2012** (initials of defendant)

(date)

RC

UPON successful completion by the defendant of all the terms and conditions above, the court shall discharge the defendant and dismiss these proceedings against him/her. Failure of the defendant to complete or violate any term or condition appearing above shall result in the automatic adjudication of defendant's prior guilty plea and subsequent sentencing pursuant to the above-referenced charge. **IT IS SO ORDERED!**

Date: **DECEMBER 14, 2011**

The Honorable *[Signature]*
Magistrate/Municipal Judge for **GREENWOOD COUNTY**

ROA000001

I CONSENT to and UNDERSTAND the foregoing:

Regan Chesley
11/14/11

Defendant

Christy M. Jones
11/14/11

Defendant's Attorney

Regan Berkley Chrisley	2012 DEC 11 AM 9:11	State of South Carolina, The
PLAINTIFF(S)		DEFENDANT(S)
Submitted by:		Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other: Order of May 29, 2012 is vacated

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

See attached order; (formal order to follow)

Statement of Judgment by the Court:

Notice to Δ was not given. Notice to atty. wasn't received until after the hearing. Henderson represents Δ for purposes of re-hearing so notice may be given to him (Henderson). Hearing shall be de novo.

ORDER INFORMATION

This order: ends does not end the case.

Additional Information for the Clerk:

ATTEST A TRUE COPY

Ingram Moon
INGRAM MOON
CCCP AND GS
GREENWOOD COUNTY
S. C.

ROA000003

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2012CP2401485

Regan Berkley Chrisley	South Carolina, The State of
PLAINTIFF(S)	DEFENDANT(S)

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	<input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

See attached order; (formal order to follow)

Statement of Judgment by the Court:

Affirmed

FILED COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.
2013 FEB 19 PM 5:23

ORDER INFORMATION

This order: ends does not end the case.

Additional Information for the Clerk:

ATTEST A TRUE COPY
Angela Woodhurst
ANGELA WOODHURST
CCCP AND GS
GREENWOOD COUNTY
S.C.

ROA000005

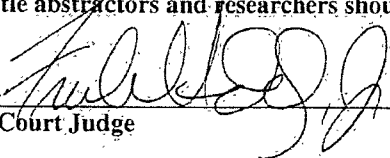
INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.
Note: Title abstractors and researchers should refer to the official court order for judgment details.


2159 2/19/2013

 Circuit Court Judge Judge Code Date

For Clerk of Court Office Use Only

This judgment was entered on _____, and a copy mailed first class or placed in the appropriate attorney's box on _____ to attorneys of record or to parties (when appearing pro se) as follows:

Carson McCurry Henderson 109-B Oak Ave. Greenwood, SC.
29646

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Angela Woodhurst - Clerk of Court

Court Reporter

ROA000006

MAR 19 2013

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2012 CP-24-01485

Regan Chrisley

South Carolina

APPELLANT(S)

RESPONDENT(S)

Submitted by: Court	Attorney for: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

FILED COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.
2013 MAR 19 AM 11:45

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: This matter is before the court on Appellant's Motion to Reconsider. The court previously affirmed the Magistrate on the grounds that he committed no reversible error. Appellant was afforded the minimum due process required by receiving adequate notice of a hearing and an opportunity to be heard. See *Dangerfield v. State*, 376 S.C. 176, 181-82, 656 S.E.2d 352, 355 (2008) (due process merely requires Defendant "be afforded notice and a hearing before imposition of a suspended sentence."). The record contains sufficient evidence to support the Magistrate's factual finding that Appellant violated the terms of the conditional discharge. Appellant's remaining grounds are without merit because a violation hearing is equivalent to a parole revocation, *Id.* at 180, 656 S.E.2d at 354, and the Magistrate satisfied the minimum requirements of due process when he gave Appellant "a reasonable opportunity to explain [the] alleged violation." *State v. Hill*, 368 S.C. 649, 655, 630 S.E.2d 274, 278 (2006) (citing *Morrissey v. Brewer*, 408 U.S. 471 (1972)). Therefore, the Magistrate did not commit an error of law. Accordingly, Appellant's Motion for Reconsideration is **DENIED**.

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$ ROA000007

STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

REGAN BERKLEY CHRISLEY

Plaintiff(s)

vs.

STATE OF SOUTH CAROLINA

Defendant(s)

Submitted By: CARSON M. HENDERSON

Address: 109-B OAK AVENUE, GREENWOOD, S.C. 29646

SC Bar #: 15348

Telephone #: 864-229-8000

Fax #: 864-229-8001

Other:

E-mail:

CIVIL ACTION COVERSHEET

2012-CP - 24- 1485

2012 DEC 21 AM 9:40

FILED COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. [X] NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Construction (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental (200), Legal (210), Medical (220), Previous Notice of Intent Case # 20-CP-1485, Notice of File Med Mal (230), Other (299)
Torts - Personal Injury: Assault/Slander/Libel (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstatement License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOJ (950), Worker's Comp (960), Zoning Board (970), Public Service Comm (990), Employment Security Comm (991), Other (999)
Special/Complex/Other: Environmental (600), Automobile Arb (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of-State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Sexual Predator (510)

Submitting Party Signature:

[Handwritten Signature]

Date: DECEMBER 21, 2012

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

ROA000009

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs; (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

ROA000010

COPY

APPEAL TO THE COURT OF COMMON PLEAS FOR GREENWOOD COUNTY
FROM THE GREENWOOD MAGISTRATE'S COURT

FILED COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.
2012 DEC 21 AM 9 40

STATE OF SOUTH CAROLINA)
COUNTY OF GREENWOOD)
REGAN BERKLEY CHRISLEY,)
Appellant,)
v.)
STATE OF SOUTH CAROLINA,)
Respondent.)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

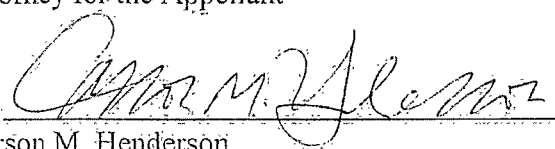
PETITION IN SUPPORT OF APPEAL
C/A No. 2012-CP-24- 1485

The Appellant Regan Berkley Chrisley appeals Greenwood Magistrate C. Ryan Johnson's entry of guilt in the Greenwood Magistrate's Court on Friday, December 21, 2012, regarding ticket #51191EW (marijuana possession). Judge Johnson expelled the Appellant from the conditional discharge program and convicted the Appellant of possession of marijuana 1st.

The Appellant will set forth his specific grounds for appeal after he receives the typed trial transcript and the Court's return.

RESPECTFULLY SUBMITTED.

THE HENDERSON LAW FIRM, P.C.
Attorney for the Appellant

By: 
Carson M. Henderson
109-B Oak Avenue
Greenwood, S.C. 29646
Phone: (864) 229-8000
Facsimile: (864) 229-8001

Greenwood, South Carolina
December 21, 2012.

ROA000011

COPY

FILED COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.
2012 DEC 21 AM 9 40

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)
)
REGAN BERKLEY CHRISLEY,)
)
Appellant,)
)
v.)
)
STATE OF SOUTH CAROLINA,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

CERTIFICATE OF HAND DELIVERY

C/A No. 2012-CP-24- 1485

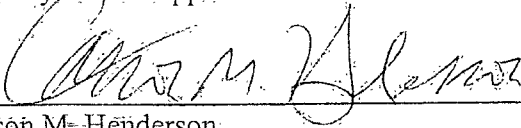
The undersigned does hereby certify that on the 21st day of December, 2012, he served Civil Action Coversheet and Petition in Support of Appeal, by hand delivering the same to the person(s) listed below at the address(es) listed below:

Honorable C. Ryan Johnson
Greenwood County Magistrate's Court
Greenwood County Courthouse, Room 100
Greenwood, S.C. 29646

Tim Woolston, Esquire
Eighth Circuit Solicitor's Office
(via clerk's box)

- 1. Civil Action Coversheet
- 2. Petition in Support of Appeal
- 3. Certificate of Hand Delivery

THE HENDERSON LAW FIRM, P.C.
Attorney for the Appellant

By: 
Carson M. Henderson
109-B Oak Avenue
Greenwood, S.C. 29646
Phone: (864) 229-8000
Facsimile: (864) 229-8001



Greenwood, South Carolina

December 21, 2012

Handwritten signature or initials, possibly "H2", located in the bottom left corner of the page.

COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD:)
)
STATE OF SOUTH CAROLINA)
)
-vs.-)
)
REGAN BERKLEY CHRISLEY)
DEFENDANT)

IN THE MAGISTRATE COURT

12-1485

RETURN TO APPEAL

51191EW
CASE NUMBER(S)

FILED-COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.
2013 JUN 2 AM 9

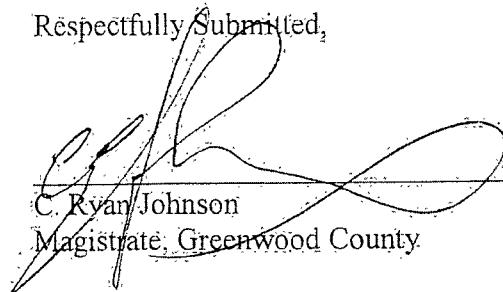
In regard to the Defendant's appeal, the Court would respond as follows:

1. On September 15, 2011, the defendant was charged with Possession of Marijuana, in violation of §44-53-370. The defendant, with his attorney Carson Henderson present, pled guilty to the charge on December 13, 2011 and received a conditional discharge sentence. The defendant's attorney prepared and submitted to the court the attached "Order for Conditional Discharge Pursuant to S.C. Code §44-53-450."
2. On May 11, 2012, the court, pursuant to terms of the conditional discharge, requested for the defendant to submit to a drug test by hair sample. The court, by telephone, notified the defendant's attorney of this request. The court received a copy of the results on May 17, 2012. The results showed the defendant testing positive for cocaine.
3. On December 21, 2012, a rule to show cause hearing was held. Present at the hearing was the defendant and his attorney, Carson Henderson.
4. The defendant was given an opportunity to dispute the evidence presented to the court. The defendant offered no defense.

ROA000014

5. The court found the defendant in willful violation of the conditions of his discharge by testing positive for cocaine. The defendant received a sentence of 30 days or the payment of \$620.00.

Respectfully Submitted,



C. Ryan Johnson
Magistrate, Greenwood County

January 3rd, 2013

ROA000015

STATE OF SOUTH CAROLINA)
)
COUNTY/MUNICIPALITY OF)
GREENWOOD)

IN THE MAGISTRATE/MUNICIPAL COURT

VS)

ORDER FOR CONDITIONAL
DISCHARGE PURSUANT TO
S.C. CODE §44-53-450

REGAN BERKLEY CHRISLEY)
DEFENDANT.)

FILED COMMON PLEAS
SOUTH CAROLINA CIRCUIT
GREENWOOD, S.C.
2011 DEC 14 9:25

This matter comes before the court pursuant to S.C. Code §44-53-450, in the above-referenced matter. On this date, the defendant entered a plea of guilt for simple possession of marijuana/hashish, on warrant/ticket number appearing above. I find that the defendant qualifies for, and hereby consents to, a **CONDITIONAL DISCHARGE** in this matter, by signature appearing below, and his/her plea of guilt shall not be entered against this defendant unless he/she fails to complete the terms and conditions appearing below.

~~THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the defendant:~~

- Is hereby placed under supervision of the court for a term not to exceed **SIX (6)** months, and shall comply with all terms and conditions imposed by the court; and
- Shall successfully complete any drug treatment and/or rehabilitation program designated below; and
- Shall remain on good behavior and drug free during the above stated term; and be subject to random Drug and Alcohol tests (if defendant is a minor or other circumstances warrant alcohol tests).
- Shall complete _____ hours of community service; and
- Shall pay a fee of One Hundred and Fifty (\$150) dollars (as required by the referenced statute); and
- Shall pay any other fees associated with the conditions set forth by this order, to include but not limited to: Drug Tests and Alcohol and Drug Counseling
- The defendant is continued to be subject to the terms and conditions associated with his/her bond on this charge. Defendant is responsible to notify the bondsman, if any, of continued liability on the bond.
- OTHER: DEFENDANT SHALL TAKE URINE DRUG TESTS AND THEREAFTER IMMEDIATELY PROVIDE THE RESULTS OF EACH TEST DIRECTLY TO THE COURT DURING THE FIRST WEEK OF JANUARY 2012, DURING THE FIRST WEEK OF MARCH 2012, AND DURING THE FIRST WEEK OF MAY 2012.**

I certify that I have never had a drug charge dismissed or discharged via **CONDITIONAL DISCHARGE**. Terms of the conditional discharge remain in effect until **JUNE 14, 2012** (initials of defendant)

(date)

RC

UPON successful completion by the defendant of all the terms and conditions above, the court shall discharge the defendant and dismiss these proceedings against him/her. Failure of the defendant to complete or violate any term or condition appearing above shall result in the automatic adjudication of defendant's prior guilty plea and subsequent sentencing pursuant to the above-referenced charge. **IF IS SO ORDERED!**

Date: **DECEMBER 14, 2011**

The Honorable _____
Magistrate/Municipal Judge for **GREENWOOD COUNTY**

ROA000016

I CONSENT to and UNDERSTAND the foregoing:

Regan Christy
11/14/11

, Defendant

Christy M. Jones
11/14/11

Defendant's Attorney

STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

REGAN BERKLEY CHRISLEY

Plaintiff,

vs.

STATE OF SOUTH CAROLINA

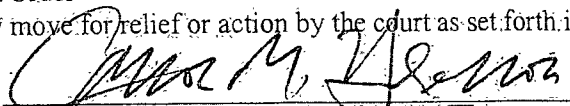
Defendant.



IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

CASE NO.: 2012-CP-24-01485

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: CARSON M. HENDERSON, Bar No. 15348 Address: 109-B OAK AVENUE, GREENWOOD, S.C. 29646 Phone: 864-229-8000 Fax 864-229-8001 E-mail: _____ Other: _____	Defendant's Attorney: TIM WOOLSTON/DEMETRI ANDREWS, Bar No. _____ Address: HAND DELIVERED VIA CLERK'S BOX Phone: _____ Fax _____ E-mail: _____ Other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: MOTION TO RECONSIDER Estimated Time Needed: 15 MINUTES Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached. <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order: <div style="text-align: center;">  Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant </div>	
FEBRUARY 26, 2013 Date submitted	
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: \$ _____ <input checked="" type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support. <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69; SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input checked="" type="checkbox"/> Other: MOTION CONCERNING CRIMINAL APPEAL FROM MAGISTRATE'S COURT	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

FILED COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.
2013 FEB 26 AM 10:25

ROA000018

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENWOOD)
)
 REGAN BERKLEY CHRISLEY,)
)
 Appellant,)
)
 v.)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 EIGHTH JUDICIAL CIRCUIT

APPELLANT'S MOTION TO RECONSIDER
 C/A No. 2012-CP-24-01485

2013 FEB 26 10:25

FILED COMMON PLEAS
 8TH JUDICIAL CIRCUIT
 GREENWOOD, S.C.

The Appellant Regan Berkley Chrisley, by and through his attorney of record, respectfully asks the Court to reconsider its Form 4 Order dated Tuesday, February 19, 2013, wherein the Court affirmed the Magistrate Court's ruling. The Appellant's attorney received the Form 4 Order on Thursday, February 21, 2013.

The Appellant submits that the Court should reconsider its Order and thereafter amend its Order as follows:

1. To set forth conclusions of law detailing on what basis (or bases) the Court affirmed the Magistrate's Court ruling which is described in the Return to Appeal dated January 3, 2013, and the transcript of the hearing held on December 21, 2012;
2. To find that the Magistrate's Court erred in failing to provide the requested evidentiary hearing to the Appellant;
3. To find that the Magistrate's Court erred in shifting the burden of proof to the Appellant when the State had not made a prima facie case against the Appellant;
4. To find that the Magistrate's Court erred in failing to place a copy of the Appellant's alleged failed drug test into the Magistrate's Court record and into the appellate record;

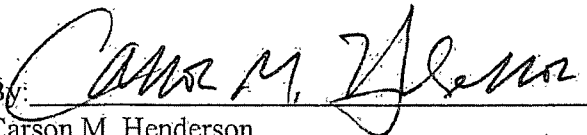
5. To find that the Magistrate's Court failed to follow the holdings set forth in Moore v. Moore, 657 S.E.2d 743 (S.C. 2008); State v. Hill, 630 S.E.2d 274 (S.C. 2006); Dangerfield v. State, 656 S.E.2d 352 (S.C. 2008); State v. Perkins, 661 S.E.2d 366 (S.C. 2008); and State v. Alexander G. Nutt, C/A No. 2011-CP-40-07689 (Order of Circuit Court Judge Allison R. Lee), all of which were provided to the Court by the Appellant at the appeal hearing; and

6. To find that the Magistrate's Court erred by acting as judge and prosecutor in the proceedings against the Appellant.

RESPECTFULLY SUBMITTED.

THE HENDERSON LAW FIRM, P.C.

Attorney for the Appellant

By: 

Carson M. Henderson
109-B Oak Avenue
Greenwood, S.C. 29646
Phone: (864) 229-8000
Facsimile: (864) 229-8001

Greenwood, South Carolina

February 26, 2013

#2

 COPY

STATE OF SOUTH CAROLINA,)
)
COUNTY OF GREENWOOD)
)
REGAN BERKLEY CHRISLEY,)
)
Appellant,)
)
v.)
)
STATE OF SOUTH CAROLINA,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

CERTIFICATE OF HAND DELIVERY

C/A No. 2012-CP-24-01485

The undersigned does hereby certify that on the 26th day of February, 2013, he served Appellant's Motion to Reconsider, by hand delivering the same to the person(s) listed below at the address(es) listed below:

Honorable Frank R. Addy, Jr.
Greenwood County Courthouse
528 Monument Street, Suite 210
Greenwood, S.C. 29646

Tim Woolston, Esquire
Demetri Andrews, Esquire
Eighth Circuit Solicitor's Office
(VIA CLERK'S BOX)

Honorable C. Ryan Johnson
Greenwood Magistrate's Court
Greenwood County Courthouse
528 Monument Street, Room 100
Greenwood, S.C. 29646

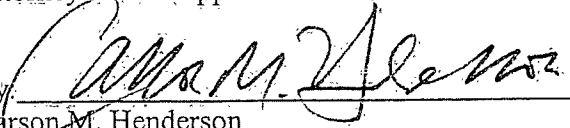
FILED - COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.
2013 FEB 26 AM 10:25

- 1. Appellant's Motion to Reconsider
- 2. Certificate of Hand Delivery



THE HENDERSON LAW FIRM, P.C.

Attorney for the Appellant

By: 

Carson M. Henderson

109-B Oak Avenue

Greenwood, S.C. 29646

Phone: (864) 229-8000

Facsimile: (864) 229-8001

Greenwood, South Carolina

February 26, 2013



STATE OF SOUTH CAROLINA)

)

TRANSCRIPT OF
RULE TO SHOW CAUSE HEARING
DECEMBER 21, 2012

V)

)

RAEGAN CHRISLEY)

TICKET #51191EW

BEFORE THE HONORABLE C. RYAN JOHNSON

APPEARANCES:

~~CARSON M. HENDERSON, ESQUIRE~~

FOR THE DEFENSE

1 **THE COURT:** TICKET 51191EW, STATE OF SOUTH CAROLINA
2 VERSUS REAGAN CHRISLEY; MR. CHRISLEY, YOU WERE CHARGED WITH
3 POSSESSION OF MARIJUANA. YOU PLED GUILTY TO THAT, AND WERE ON A
4 CONDITIONAL DISCHARGE. WE'D RECEIVED RESULTS BACK FROM THE DRUG
5 TESTING AGENCY, SAYING THAT YOU TESTED POSITIVE FOR COCAINE ON
6 MAY 14. NOTHING'S HAPPENED SUBSEQUENT TO THAT AND WE ENDED UP
7 HERE AGAIN TODAY. MR. HENDERSON, I'D BE HAPPY TO HEAR ANYTHING
8 YOU'D HAVE TO SAY WITH REGARDS TO MR. CHRISLEY'S SITUATION.

9 **MR. HENDERSON:** YOUR HONOR, MY CLIENT INVOKES HIS
10 RIGHT TO REMAIN SILENT AND HE HEREBY REQUESTS AN EVIDENTIARY
11 HEARING.

12 **THE COURT:** SO YOU'RE CHALLENGING THE RESULTS OF
13 THE DRUG TEST ON MAY 14?

14 **MR. HENDERSON:** YOUR HONOR, WE'RE REQUESTING AN
15 EVIDENTIARY HEARING.

16 **THE COURT:** WELL, THE EVIDENCE PRESENTED TO THE
17 COURT, AND THIS HERE IS WHAT I'LL PRESENT TO YOU AS WELL, WHICH
18 I'M SURE HAVE A COPY OF, IS THE RESULTS FROM THE DRUG TEST.

19 **MR. HENDERSON:** YOUR HONOR, I OBJECT TO ANYTHING
20 INTRODUCED TO THE COURT.

21 **THE COURT:** MR. HENDERSON, BASED ON THE RESULTS WE
22 RECEIVED FROM THE DRUG TEST, I'M INCLINED TO SAY THAT YOUR
23 CLIENT HAS VIOLATED HIS CONDITIONAL DISCHARGE.

1 **MR. HENDERSON:** YOUR HONOR, WE'RE REQUESTING AN
2 EVIDENTIARY HEARING.

3 **THE COURT:** THE EVIDENCE BEFORE THE COURT'S THE
4 ONLY EVIDENCE IT'S GONNA CONSIDER UNLESS YOU'RE WILLING TO
5 PRESENT SOMETHING TO CONTEST IT OTHERWISE.

6 **MR. HENDERSON:** YOUR HONOR, MR. CHRISLEY HAS NO
7 BURDEN AT ALL IN THIS MATTER

8 **THE COURT:** ALL RIGHT. SINCE THE RESULTS PRESENTED
9 TO THE COURT ARE NOT BEING CHALLENGED BY THE DEFENDANT ---

10 **MR. HENDERSON:** YOUR HONOR, WE ARE REQUESTING AN
11 EVIDENTIARY HEARING.

12 **THE COURT:** THE EVIDENCE HAS ALREADY BEEN PRESENTED
13 BEFORE THE COURT. YOU'RE MORE THAN WELCOME TO CHALLENGE ANYTHING
14 THAT'S ALREADY BEEN HERE.

15 **MR. HENDERSON:** WE OBJECT TO THAT, YOUR HONOR.

16 **THE COURT:** ALL RIGHT. YOUR OBJECTION'S GONNA BE
17 OVERRULED. MR. CHRISLEY, THE SENTENCE OF THE COURT'S GONNA BE
18 EITHER A THIRTY DAY SENTENCE OR THE PAYMENT OF A FINE OF SIX
19 HUNDRED AND TWENTY DOLLARS.

20 **MR. HENDERSON:** YOUR HONOR, WE WOULD MOVE TO
21 DISMISS THIS MATTER.

22 **THE COURT:** IT'S --- YOUR MOTION'S GONNA BE DENIED.
23 MR. CHRISLEY, DO YOU HAVE THE FINE MONEY TO PAY TODAY?

1 **MR. HENDERSON:** YOUR HONOR, WE REQUEST THAT YOU
2 HOLD THAT IN ABEYANCE. I'VE ALREADY GOT THE NOTICE OF INTENT TO
3 APPEAL TO BE FILED. ACTUALLY, I MISPOKE. ACTUALLY, I'VE GOT
4 THE PETITION TO FILE OVER IN THE CIRCUIT COURT --- COMMON PLEAS.

5 **THE COURT:** I'M NOT GONNA HOLD IT IN ABEYANCE. I'M
6 GONNA REQUIRE THE PAYMENT OF THE FINE. YOU'RE MORE THAN WELCOME
7 TO APPEAL, AND, IF YOU'RE SUCCESSFUL ON THE APPEAL, THE FINE
8 MONEY WILL BE RETURNED.

9 **MR. HENDERSON:** WHAT WILL BE THE FINE MONEY?

10 **THE COURT:** SIX HUNDRED AND TWENTY DOLLARS.

11 **MR. HENDERSON:** CAN WE HAVE UNTIL NEXT FRIDAY TO
12 PAY THAT? CAN YOU PAY THAT BY NEXT FRIDAY --- WHO'S POSTING HIS
13 BOND? YOUR HONOR, DO YOU WANT IT POSTED HERE OR WITH THE ---

14 **THE COURT:** POST HERE.

15 **MR. HENDERSON:** OKAY.

16 **THE COURT:** HE CAN HAVE IT TODAY BY 4:00.

17 **MR. HENDERSON:** CAN YOU HAVE IT TODAY BY 4:00?

18 **MR. CHRISLEY:** YES, SIR.

19 **MR. HENDERSON:** YEAH. NOT A PROBLEM, YOUR HONOR.

20 **THE COURT:** UH HUH. THAT'S ALL.


21 ----- END OF TRANSCRIPT -----

CERTIFICATE


THE UNDERSIGNED DOES HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF THE RECORDED PROCEEDINGS HELD IN THE CAPTIONED CASE, IN THE GREENWOOD COUNTY MAGISTRATE COURT IN GREENWOOD, SOUTH CAROLINA, ON THE 12TH DAY OF DECEMBER, 2012.

I DO FURTHER CERTIFY THAT I AM NOT OF KIN, COUNSEL, OR INTEREST TO ANY PARTY HERETO.

FEBRUARY 12, 2013


PAT SIMPSON

SWORN TO BEFORE ME THIS
12TH DAY OF FEBRUARY, 2013


NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 7/16/2018

State of South Carolina)
) Court of Common Pleas
County of Greenwood) 2012-CP-24-1485

State of South Carolina)
) vs.) Transcript of Record
))
Regan Berkley Chrisley)
))
) DEFENDANT)

February 19, 2013
Greenwood, South Carolina.

B E F O R E:

Honorable Frank R. Addy, Jr., Judge

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

Demetri Andrews, Assistant Solicitor
Attorney for the State

Carson Henderson, Esq.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

ROA000028

1 THE COURT: We are back on the record and we have Mr.
2 Henderson present representing Ms. Chrisley. Mr. Andrews
3 was kind enough to join us to represent the State today.
4 This is the second time I believe this matter has been
5 appealed. It is essentially a conditional discharge. The
6 Court previously reversed, it looks like an evidentiary
7 hearing was held in front of the Magistrate or a hearing
8 was held of some kind in front of the Magistrate in
9 December. And at that point I think Mr. Henderson,
10 according to the transcript, requested an evidentiary
11 hearing and this all stems from Ms. Chrisley's failure of
12 a drug test that was administered on May the 14th and
13 apparently the Court proceeded to find Ms. Chrisley, Mr.
14 Chrisley, Ms. Chrisley?

15 MR. HENDERSON: Mr.

16 THE COURT: Mr. Chrisley, sorry, the name threw me,
17 fined Mr. Chrisley and this appeal resulted. So let me
18 hear from you, Mr. Henderson, I think you are the moving
19 party.

20 MR. HENDERSON: Thank you, Your Honor. You are
21 right, the Court had reversed this the first time on lack
22 of notice and then knowing all of the Magistrate Court's
23 backlog I hadn't any sooner gotten back to my office and I
24 got notice of a second hearing, Your Honor, by mail. So
25 went in there that day, took Mr. Chrisley with me and I

1 thought it was kind of odd that we are the only two people
2 in there and then the Judge is there and his recording
3 secretary is there. So, Your Honor, immediately the Judge
4 wants to talk about what he thinks may or may not have
5 happened here. And I request an evidentiary hearing.
6 And, Your Honor, obviously the Court just denies my
7 request and does not conduct an evidentiary hearing. And,
8 Your Honor, there was no hearing whatsoever. The
9 Government was not there, no evidence was presented
10 against my client, no testimony was presented against my
11 client. The Judge had a copy of a document in his hand
12 that he says I am sure you have which I did not have,
13 still do not have, a document that was not produced,
14 entered into evidence whatsoever. He says, look at this,
15 I think he failed a drug test. So, Your Honor, reading
16 the transcript I am very adamant that I requested an
17 evidentiary hearing which means that the Government has
18 got to put forth evidence, valid evidence, competent
19 evidence in the record in order to establish that my
20 client may have failed a drug test. And so, you know, I
21 timely objected to the entire proceeding, Your Honor. And
22 if you look I have attached a bunch of case law here that
23 under 44-53-450, conditional discharge, it is a form of
24 probation. I mean it is just kind of the drug court
25 probation but it is a form of probation. And if you look

ROA000030

1 and then I put Moore versus Moore, it is in the Family
2 Court context but talks about that when the Government in
3 the civil context, which probation is, it is kind of a
4 civil context within the criminal justice system that the
5 Government has got to put forth evidence that you have a
6 right to cross-examine. You have got to be able to see
7 your witnesses, none of that happened here other than
8 Judge Johnson waiving a little piece of paper around
9 saying I think you flunked the drug test. Your Honor,
10 then if you keep looking through==

11 THE COURT: Let me just sort of stop you there
12 because we are dealing with kind of two different things.
13 If you are using the probation analogy under current South
14 Carolina law you are entitled certainly to a hearing, you
15 are entitled to some minimum level of due process before
16 probation is revoked. But it is not a full-blown
17 evidentiary hearing in the sense that the agent is subject
18 to cross-examination, that they are questioned, that their
19 file then becomes subject to discovery, quite the contrary
20 according to South Carolina law. The file of the
21 probation department is actually confidential and would
22 not be subject to that level of discovery. At a
23 probationary hearing the primary question is whether there
24 has been a willful violation of that probation. And the
25 Court has a great deal of latitude as far as what it can

ROA000031

1 consider and what sort of report the probation department
2 can make to the Court absent a full-blown evidentiary
3 hearing. The Court can determine in that context, based
4 on simply the assertions of the probation agent that a
5 willful violation has taken place despite the
6 protestations of the person on probation. So likening
7 those two situations it seems to me that perhaps, I see
8 the transcript and it is extremely brief but basically on
9 the first page you request an evidentiary hearing, the
10 Court says, so you are challenging the results of the drug
11 test on May the 15th. And then you say, Your Honor, we
12 are requesting an evidentiary hearing.

13 MR. HENDERSON: Correct.

14 THE COURT: And then the Court, well, the evidence
15 here in the court is what's been presented. I am sure you
16 have got a copy of it, it is the result of the drug test.
17 I object to anything introduced to the Court. Second
18 page, sorry, third page the Court says, evidence before
19 the Court, the only evidence it is going to consider
20 unless you are willing to present something contested
21 otherwise. He seems to be inviting you to offer whatever
22 you would offer in the way of testimony to contradict the
23 results that are involved here.

24 MR. HENDERSON: But, Your Honor, he has got to put,
25 number one, you can't have the Court be the Judge, the

1 jury and executioner which I have got a fundamental
2 problem with, number one. Number two, nothing is in
3 evidence for me to contest. The burden I so applicably
4 note to the Court, the burden is not on me or Mr. Chrisley
5 to prove or disprove anything. The Government has got to
6 come forth with evidence that my client more likely than
7 not has violated the term of his conditional discharge.
8 That is what the evidentiary hearing is. Your Honor, I
9 mean it would be the same context up in circuit court for
10 a probation hearing. You have got a probation agent
11 standing over here who you put under oath and says, Your
12 Honor,--

13 THE COURT: You don't put the probation agent under
14 oath.

15 MR. HENDERSON: Okay.

16 THE COURT: The probation agent simply reports, I was
17 monitoring John Smith and John Smith violated drug tests
18 on April 1st, April 2nd and April 23rd. Now, if John
19 Smith wants to stand up there and say, hey, it is
20 impossible for me to have violated a drug test on April
21 the 23rd because I was vacationing in Charleston that week
22 and here is the receipt from the hotel that demonstrates
23 that I wasn't even present in Greenwood County. Then he
24 can do that but it is still, it is what it is and a
25 conditional discharge I think is a lot like that

1 probationary hearing. I hear your concerns about the
2 Court being Judge, jury and executioner, whatever. And it
3 is not that I am not sympathetic to those concerns but
4 this is typically how a conditional discharge is done.
5 The person is let go, if the Court doesn't hear anything
6 back then the charge is simply evaporated after about six
7 months, they go away once the person has completed all of
8 their drug tests. It is only when something happens in
9 the way of a drug test result that it is reported back to
10 the Court, not to make Mr. Andrew's argument for him. Let
11 me hear from you on that, Mr. Henderson.

12 MR. HENDERSON: Here, Your Honor, you have got the
13 government has put forth no evidence. At least in the
14 probation revocation setting you have got an agent over
15 here and says, hey, John Doe has moved from his residence,
16 he has changed his employment, he flunked a drug test.
17 And then that is putting forth say a prima facie case
18 which the defendant can come in and rebut. Like I said, I
19 was in Charleston that day, I couldn't have failed this
20 drug test. And, Your Honor, if you look at the last
21 document that I put in this file, it is kind of eerie that
22 attorney John O'Leary in Columbia just recently sent this
23 to me, he had basically this same thing, same sort of
24 event happen in front of him with one of his client's
25 where actually it looks like the Government was

ROA000034

1 prosecuting this, the conditional discharge violation and
2 actually put forth evidence suggesting or tried to suggest
3 that this Nutt fellow, N-U-T-T, had violated his
4 conditional discharge and Judge Alison Lee reversed it and
5 said no. The fact that in this case, he had something
6 introduced into evidence saying that wasn't sufficient to
7 establish Mr. Nutt violated his conditional discharge,
8 where here in Greenwood Mr. Chrisley, we have nothing in
9 evidence other than the Court waving around a piece of
10 paper saying that I think you flunked a drug test. I mean
11 that is not in the record, where the Court got that is not
12 in the record, who signed off on it is not in the record,
13 none of that. And, Your Honor, we think that, I mean that
14 is the whole idea of an evidentiary hearing that my client
15 has got to be able to hear and see what is being presented
16 against him and then he has an opportunity to present a
17 defense, cross-examine, that type of stuff, Your Honor.
18 And I thought it was eerie that this Nutt order came out
19 here in December. And the other cases I set forth, Your
20 Honor, talks about the constitutional dimensions of having
21 a proper and valid evidentiary hearing and the parole
22 violation and the probation violation context and here,
23 you know, by statute this is the probation context, the
24 conditional discharge context. And, Your Honor, I would
25 ask that based upon all of this that the Court vacate this

ROA000035

1 ruling again and if the Government wants to prove this
2 make them prove it proper.

3 THE COURT: Well, Mr. Andrews, what is the State's
4 position concerning this?

5 MR. ANDREWS: Your Honor, first we would note that,
6 while the Honorable Judge Lee's opinion may be persuasive,
7 it is not binding upon this Court. Furthermore a
8 conditional discharge in Magistrate's court is not exactly
9 like a probation violation. In general sessions when
10 somebody is placed on probation they are then monitored by
11 the probation department. And a conditional discharge in
12 Magistrate's court the Magistrate is, it is the
13 Magistrate's court who is monitoring a defendant for their
14 progress on the condition of this charge. It sounds like,
15 Your Honor, Judge Johnson had a copy of the drug results
16 which he would have gotten because the Magistrate was the
17 one supervising the conditional discharge. At the hearing
18 Judge Johnson asked if anyone chose to object to those
19 results, noting that that would be the only evidence
20 entered into the hearing.

21 MR. HENDERSON: But it was never entered into
22 evidence, Your Honor. It wasn't presented to us and I
23 dare say it is not in the Court's file.

24 THE COURT: Well, the transcript seems to reflect
25 that communication was had to Judge Johnson, I understand

1 your contentions, I do Mr. Henderson, one-hundred percent,
2 I understand exactly what you are saying. And ideally I
3 think it would be preferable to have those drug tests
4 results in there. On a practical level, Mr. Henderson,
5 people enter conditional discharge pleas thousands of
6 times a day throughout the State. On a practical level,
7 if conditional discharge is to remain a, and I am talking
8 public policy at this point, but if it is to remain a
9 viable potential disposition and if every time someone
10 test positive or violates the terms of that conditional
11 discharge, if a full-blown evidentiary hearing has to be
12 held where the person who performed the drug test and
13 usually these are done by private operations, the cost is
14 born by the individual involved. But the Court in
15 supervising this individual on the conditional discharge
16 just like in drug court the way I supervise folks, if you
17 have to then subpoena the individual who administered the
18 test, concern yourself with things like chain of custody,
19 subject that person to cross-examination, I don't see how
20 it is going to be possible to continue every time, this is
21 what it is. Let's assume for a moment I grant your
22 request, I reverse it and I send it back to the
23 Magistrate. The Magistrate in all likelihood will then
24 issue a subpoena for the person, have them appear in
25 Court, you will get your evidentiary hearing where the guy

ROA000037

1 will sit on the stand and two questions will be asked,
2 well, did you test this person on May the 14th? Yes, I
3 did. What were the results. Positive for X.

4 MR. HENDERSON: A couple of things, Your Honor.
5 Number one, I don't want to go into the public policy
6 argument statewide because very few conditional discharge
7 cases is there a dispute about anything. And even less of
8 them are represented by me. I mean, I think when it is a
9 civil context and again, I think the U.S. Supreme Court
10 has been clear that you don't have to go into the
11 full-blown criminal stuff that you have to do to get
12 something into evidence in the criminal court. But I
13 think you have to at least meet some threshold of
14 relevancy and competency to get documents and testimony
15 into evidence even at a conditional discharge hearing.
16 And I am not going to suggest to the Government how you do
17 it, I would have my own ideas about how that can
18 practically be done. And I am also not going to give away
19 my hand. But if the Court did remand it, you have got all
20 sorts of other issues going on and I would dare would see
21 another appeal before we ever had any type of hearing on
22 the merits.

23 THE COURT: I understand but again the Court is
24 acting as somewhat the probation agent in these
25 conditional discharge situations and the statute seems to

1 authorize that. I think you can even agree with that.

2 MR. HENDERSON: It is a probation that is monitored
3 by the Magistrate's Court. But, Your Honor, no Judge can
4 introduce stuff into evidence. And even here he didn't
5 even, Judge Johnson didn't try to introduce them into
6 evidence. It is almost like he took it upon himself to be
7 the long arm of the law and the Solicitor's office and
8 didn't even do the decency to try to put it into evidence,
9 just waiving around a sheet of paper, not testimony about
10 where he got it, how he got it, chain of custody other
11 than I think he flunked it.

12 THE COURT: Well, again if you disputed any of that
13 and he is waiving around a piece of paper that obviously
14 reflects a positive drug test. If you are disputing that
15 what prevents you from contacting the and again we are in
16 the probation type of a context, here is the information
17 that I have got. Gee, Judge, that can't be correct and
18 here is the testimony. You said we request an evidentiary
19 hearing, certainly you would have been at liberty to
20 subpoena the person who administered the drug test, you
21 would have been at liberty to offer any sort of evidence
22 concerning the reliability of that drug test.

23 MR. HENDERSON: That is the burden shifting off the
24 front, Your Honor.

25 THE COURT: Which it is but that is the way it works

1 when you are on probation.

2 MR. HENDERSON: Even up in big court, circuit court,
3 that the Government Agent still has to come in and put
4 forth a prima facia case. Your Honor, John Doe flunked
5 the marijuana test I gave him last week. John Doe moved
6 from his residence and didn't tell me he was moving, you
7 have got testimony, you have got the Government's version
8 of the case before you and then you have got John Doe over
9 here that is saying, no, that didn't happen, I was in
10 Charleston, that type of stuff. But here there is nothing
11 for me to put up a defense to cross-examine, to contest
12 because there is not evidence in the record suggesting
13 that my client has violated anything to do with this
14 conditional discharge other than the Court waiving around
15 a piece of paper that I haven't seen, that is not in the
16 Court's file, that is not in the appellate file, I don't
17 know what is on that sheet of paper, Your Honor. And that
18 is, just causes me grave concern that our Magistrates are
19 trying to doing stuff like this.

20 THE COURT: Mr. Andrews.

21 MR. ANDREWS: Your Honor, I guess, you mentioned this
22 and I said it before and I am not going to say that I am
23 exactly pleased about it but the Magistrate's court is in
24 this case acting like a probation agent. And, again Mr.
25 Henderson is correct, in general sessions you have a

1 probation agent who presents a case, puts violations on
2 the record. Your Honor, in this case there is a record,
3 we have it before us. Mr. Henderson, based on the results
4 that we received on the drug test I am inclined to say
5 that your client has violated his conditional discharge.
6 To me that was introduced into evidence, there was a
7 record of it. If the Magistrate court is acting as a
8 probation agent as they are in this case and as the
9 conditional discharge statute seems to authorize that was
10 introduced into evidence.

11 MR. HENDERSON: Your Honor, stuff in evidence is
12 marked as exhibit A, exhibit 1. I mean that is evidence,
13 if it is non-verifiable you have got to have something
14 marked as evidence, moved into evidence, competent
15 evidence. That was not the case here other than just the
16 Court's assertions that I think your client has flunked
17 the drug test.

18 THE COURT: But again when I deal with probation
19 revocations, if somebody says John Smith was convicted of
20 assault and battery and that is one of the elements that I
21 am using for the violation it doesn't require the actual
22 ticket be submitted into evidence demonstrating that
23 conviction. It is sufficient for the individual probation
24 agent to simply say, John Smith was convicted of assault
25 and battery and fined \$300.00 dollars in Magistrate's

ROA000041

1 court. At that point and time John Smith has an
2 opportunity to say, whoa, whoa, whoa, that wasn't me, that
3 was another John Smith and that is the probation agent's
4 mistake. Here is evidence that I have that the John Smith
5 they are talking about is not me.

6 MR. HENDERSON: I follow you loud and clear but in
7 that case you had the Government put forth evidence that
8 this actually happened. There is something there--

9 THE COURT: I am going to the question about the
10 marking, you say it has to be marked as an exhibit. I
11 don't agree with that assertion, I don't know that that is
12 correct.

13 MR. HENDERSON: Then how else, actually if you flunk
14 a drug test up in circuit court the probation agent I
15 guess is going to give you a copy of the flunked drug
16 test. You have got to have something--

17 THE COURT: They actually don't, they just simply
18 tell you that he flunked the drug test on date X, they
19 don't actually provide you with a copy of that. It is
20 very informal.

21 MR. HENDERSON: But you still have got to be able to
22 see what the Government is accusing you of and you are
23 hearing it from a probation agent, here I have just got
24 Magistrate telling me this happened without any proof to
25 back it up, Your Honor.

1 THE COURT: You didn't actually have a chance to look
2 at the drug test sheet?

3 MR. HENDERSON: I still have never seen it, Your
4 Honor. Again, the burden is not on me to go out here and
5 do the prosecution's job for them. And in this case the
6 Court thought it was the prosecutor and it just wasn't my
7 job to go out here to collect evidence allegedly against
8 my client.

9 THE COURT: Well, your client is invoking his right
10 to remain silent and you request an evidentiary hearing?

11 MR. HENDERSON: Correct which puts the burden back on
12 the Government to put forth evidence more likely than not
13 my client has violated the terms of his probation.

14 THE COURT: I understand your position. Thank you.

15 MR. HENDERSON: Thank you, Judge.

16 MR. ANDREWS: Thank you, Judge.

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

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CERTIFICATE OF REPORTER

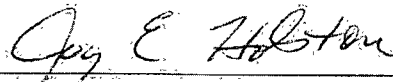
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State of South Carolina)
)
County of Newberry)

I, Joy E. Holston, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Greenwood, South Carolina on the 19th day of February, 2013.

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

July 6, 2013



Joy E. Holston, Court Reporter

My Commission expires: March 13, 2016

STATE OF SOUTH CAROLINA
UNIFORM TRAFFIC TICKET

CITY OR COUNTY OF Greenwood VERSUS

FIRST NAME Kevin MIDDLE NAME Berkley LAST NAME Christley

STREET AND NO. 506 Montague Ave. CITY Greenwood STATE SC ZIP CODE 29646

STATE LICENSED SC DRIVER'S LICENSE NO. 15 CDL YES NO DRI. LIC. CLASS 15

VEH. LIC. NO. STATE MAKE OF VEH YEAR COMM. VEH. AUTO 16 PSGR. VEH. COMB. HAZ. MT. MOPED MTRCYCL. OTHER

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL OFFICER

NAME OF TRIAL OFFICER Magistrate STREET AND NO. 528 Monument St.

DATE OF TRIAL 11/07/2011 TIME OF TRIAL 0900 CITY Greenwood STATE SC ZIP CODE 29646

VIOLATION - COURT APPEARANCE REQUIRED YES NO Simple Poss. of Intoxication VIOLATION SECTION NO. 44-53-370

OWNER OF VEHICLE Simple Poss. of Intoxication DATE OF ARREST 09/15/2011

ADDRESS OF OWNER DATE OF VIOLATION 09/15/2011

BAIL DEPOSITED \$ 100 NAME OF ARRESTING OFFICER Coy RANK Sgt

DESCRIPTION OF ACCUSED Greenwood COUNTY Greenwood NUMBER 335

RACE: SEX W M BIRTH DATE 07/26/1987 HT. 5'7" HAIR BRN WT. 135 EYES BRN DISTRICT 02

DATE BAIL REC'D. BY 20 DATE 20 BY 20

CASE BEFORE MAGISTRATE MUN. COURT DISTRICT COURT FAMILY COURT FEDERAL COURT

NAME OF TRIAL OFFICER IF DIFFERENT FROM ABOVE

DEFENDANT: DID NOT APPEAR APPEARED

DISPOSITION NOLLE PROSSED GUILTY FORFEITED BOND PLED: NOLO CONTENDERE

TRIAL BY: TRIAL OFFICER JURY

VERDICT OF TRIAL IF ANY GUILTY NOT GUILTY

JAIL 30 SUSPEND 60 FINE 200 AMT. COLLECTED BLW AMT. SUSPENDED

COMMITTED TO: Vehicle Searched Arrest as Result of Collision NO

OFFENSE CODE 94 B.A. LEVEL EW

DATE 5/29/2011 51181 EW

Bond \$ 620.00

POCKET NO.

TRIAL OFFICER'S COPY

12-13-11 - G.P.
conditional discharge

05-29-12 - cond. Disc. Failure

30 days or \$620=

10 days or \$500=

BW
contempt

ROA000746

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPELLATE CASE NO. 2013-000696

APPEAL FROM GREENWOOD COUNTY
FRANK R. ADDY JR., CIRCUIT COURT JUDGE
Case No. 2012-CP-24-1485

State of South Carolina,

Respondent,

vs.

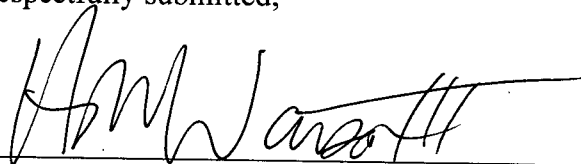
Regan Berkley Chrisley,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully submitted,



Harvey M. Watson III
Desa Ballard

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CO-COUNSEL FOR APPELLANT

March 14, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
FRANK R. ADDY JR., CIRCUIT COURT JUDGE
Case No. 2012-CP-24-1485

State of South Carolina,

Respondent,

v.

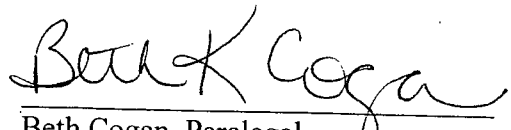
Regan Berkley Chrisley,

Appellant.

CERTIFICATE OF SERVICE

I, Beth Cogan, an employee with the Law Offices of Ballard Watson Weissenstein, do hereby certify that on March 14, 2014, I served a copy of the **Record on Appeal** in the above-captioned case on the following individuals by standard US Mail:

**Benjamin Aplin, Esquire
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211**


Beth Cogan, Paralegal

March 14, 2014
West Columbia, South Carolina

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APR 03 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPELLATE CASE NO. 2013-000696

APPEAL FROM GREENWOOD COUNTY
FRANK R. ADDY JR., CIRCUIT COURT JUDGE
Case No. 2012-CP-24-1485

State of South Carolina,

Respondent,

vs.

Regan Berkley Chrisley,

Appellant.

RECEIVED

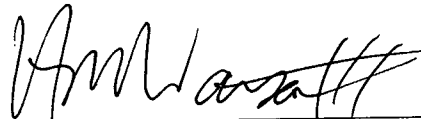
APR 03 2014

SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Reply Brief of Appellant and the Final Brief of Appellant complies with Rule 211(b), SCACR.

Respectfully submitted,



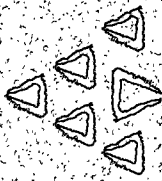
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CO-COUNSEL FOR APPELLANT

April 3, 2014



**Ballard
Watson Weissenstein**
PERSISTENT. UNWAVERING.

Desa Ballard
Harvey M. Watson III
Stephanie Weissenstein
Attorneys at Law

April 3, 2014

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RECEIVED

APR 03 2014

SC Court of Appeals

Via Hand-Delivery

Honorable Jenny A. Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: *State v. Regan Berkley Chrisley*
Appellate Case No.: 2013-000696

Dear Ms. Kitchings:

Please find enclosed for filing one (1) original unbound copy and fifteen (15) bound copies of the Final Brief of Appellant, along with (1) original unbound copy and fifteen (15) bound copies of the Reply Brief of Appellant in the above-referenced matter. Also enclosed is an original and one copy of both a Certificate of Service as well as a Certificate of Counsel, pursuant to Rule 211(b), SCACR. Please return a clocked in copy of all of the above once filing has been completed.

Additionally, we have enclosed for filing one (1) original, unbound copy and fifteen (15) bound copies of the Record on Appeal which was previously served on opposing counsel on March 14, 2014. We would also like to receive a clocked copy of the Record on Appeal.

Please do not hesitate to contact our office if you should have any questions. With warm personal regards, I am,

Sincerely yours,

Harvey M. Watson III
harvey@desaballard.com

Enclosure

c: Carson Henderson, Esquire
J. Benjamin Aplin, Esquire