

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

R. Markley Dennis, Jr., Circuit Court Judge

**RECEIVED**

JUL 14 2014

**SC Court of Appeals**

THE STATE,

RESPONDENT,

v.

BRAD ALAN DAY,

APPELLANT

APPELLATE CASE NO. 2013-002558

RECORD ON APPEAL

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INDEX

INDEX.....i

PROBATION VIOLATION HEARING TRANSCRIPT (NOVEMBER 21, 2013).....1

COLLOQUY .....4

RULING BY THE COURT .....19

CONTINUATION ORDER .....26

GPS MONITORING PROGRAM RULES AND ACKNOWLEDGMENT .....27

STANDARD SEX OFFENDER CONDITIONS.....28

COMMUNITY SUPERVISION PROGRAM CERTIFICATE .....29

ARREST WARRANT W-32-13-0318.....31

CITATION C-32-13-0263 .....33

VIOLATION REPORT .....35

ORDER REVOKING BOND .....38

ORDER OF APPOINTMENT OF LEGAL COUNSEL .....39

ORDER BY JUDGE DONALD B. HOCKER (FEBRUARY 5, 2014).....40

NOTICE OF APPEAL .....42

INDICTMENT .....44

SENTENCING SHEET .....46

CERTIFICATE OF COUNSEL.....47

1 State of South Carolina Court of General Sessions  
2 County of Lexington

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5 State )  
6 )  
7 v. ) Transcript of Record  
8 Brad A. Day ) 07-GS-32-1387  
9 Defendant. )

10  
11 November 21, 2013  
12 Lexington, South Carolina

13 B E F O R E:

14 The Honorable R. Markley Dennis, Jr., Judge.

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

17 Matthew C. Buchanan, Esquire.  
18 Attorney for Probation, Parole and Pardons

19 David M. Mauldin, Assist. Public Defender  
20 Attorney for the Defendant

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23  
24

25 Stacy L. Sheppard, RPR  
Circuit Court Reporter

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I N D E X

WITNESSES                      DIRECT   CROSS   REDIRECT   RECROSS

(There were no witnesses.)

E X H I B I T S

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NO.

DESCRIPTION

ID.

EVD.

(There were no exhibits.)



1           **DEFENDANT:** Yes, sir, Your Honor.

2           **THE COURT:** I find him to be in technical  
3 violation of the terms and conditions of the  
4 community supervision program, so it's appropriately  
5 before me. I'll be happy to hear from you, Mr.  
6 Mauldin.

7           **MR. MAULDIN:** Yes, sir, Your Honor. First, we  
8 have a legal argument before we present mitigation  
9 for Mr. Day. The legal argument would be that  
10 Mr. Day actually should not be participating in the  
11 community supervision program anymore. And I'm  
12 going to give the Court a way of background as far  
13 as his sentence and what has transpired.

14           **THE COURT:** Sure. Take your time.

15           **MR. MAULDIN:** He was arrested in February 20th  
16 of 2007, and pled guilty on October 29th of 2007 to  
17 a charge of criminal sexual conduct with a minor in  
18 the second degree. Judge Goode was the sentencing  
19 judge, sentenced Mr. Day to ten years suspended to  
20 five years and registry as a sex offender. I note  
21 to the Court that the sentence did not include a  
22 probationary term subsequent to the five-year  
23 incarceration term.

24           **THE COURT:** So he did not put probation in?

25           **MR. MAULDIN:** That is correct.

1           Mr. Day was released April 29th of '11 to  
2           community supervision. He was arrested in January  
3           11th of '12 for a violation of that, went to court  
4           on February 10th of 2012, and received a sentence of  
5           90 days and continued with supervision. He was  
6           released from that period of incarceration and was  
7           arrested May 15th of 2012, went to court on June the  
8           22nd, 2012, and received a sentence of one year.  
9           And he was released from that sentence on May 1st,  
10          2013.

11           So in totaling up the amount of days that  
12          Mr. Day has served on the sentence, he served 1529  
13          days on the original incarceration sentence of  
14          around about 90 days, I don't have the exact number  
15          for that one, and a sentence of 361 days on the 2012  
16          revocation. And the total would be 1980 days with  
17          the 90-day revocation. And even without the 90-day  
18          revocation, the sentence would be 1890 days.

19           Now, a five-year sentence, multiplying 365  
20          times five, would be 1825 days. And in either of  
21          those numbers I gave the Court, Mr. Day has exceeded  
22          an incarceration term for that five years.

23           Now, our position is is that the ten years was  
24          suspended upon the service of five years and that  
25          Mr. Day has actually served that five years and,

1           therefore, satisfied that sentence.

2           **THE COURT:** Actually served a little more than  
3           that.

4           **MR. MAULDIN:** That is correct, and that he had  
5           satisfied that sentence.

6           **THE COURT:** Let me interrupt you there so that  
7           we can be on the same page. In 2007, we hadn't had  
8           a decision yet and unless -- they changed how --  
9           they changed the portion that was available that  
10          reduced it from the -- was -- which now deals with  
11          15 percent remaining controlling the community  
12          supervision --

13          **MR. MAULDIN:** Correct, and --

14          **THE COURT:** -- but they also, at that point,  
15          the decision had been handed down, which we all  
16          knew, and Judge Goode was a good judge and I'm sure  
17          he knew too, that he was playing -- because as I  
18          understand it, I'm -- this is paraphrasing it -- I  
19          could revoke him in one-year increments up to the  
20          amount of his actual sentence, the sentence that was  
21          imposed, which, in that case, in taking what you  
22          said, he's served five, but in Judge Goode's mind  
23          for the community supervision, he still would have  
24          the balance of that and the five that he hadn't  
25          served because he could serve him up to ten because

1 that was the sentence.

2 **MR. MAULDIN:** That's Your Honor's  
3 interpretation.

4 **THE COURT:** No, no. I think that's what Judge  
5 Goode, because I don't think he was clairvoyant. I  
6 don't think he knew that, wait a minute, this thing  
7 is going to change and judge -- what's ultimately  
8 going to happen is Judge Pleicones' dissent is going  
9 to become the majority, and that's what happened. I  
10 don't think he could foresee that. We all -- all of  
11 us wanted that because we thought it was unfair. I  
12 thought it was grossly unfair originally, but  
13 they've corrected that. But I understand your  
14 argument. I understand your position.

15 **MR. MAULDIN:** Thank you, Your Honor. And, of  
16 course, obviously since then, cases like the Mills  
17 case, 378 S.C. 320, and the Picklesimer case, 388  
18 S.C. 264, have come out to the Court's  
19 interpretation of the statute as far as what the  
20 definition of the original sentence or original term  
21 of incarceration was under that section  
22 24-21-560(D).

23 The Mills case was a three-year flat sentence.  
24 And they objected that any sentencing beyond three  
25 years violated his criminal rights under the Sixth

1 Amendment; Article 1, Section 14; and South Carolina  
2 Constitution in the Fifth and Fourteenth Amendment  
3 of the U.S. in Article 1, Section 3. And we make  
4 the similar objection and argument as to Mr. Day for  
5 this portion.

6 We understand as far -- the Picklesimer case  
7 was ten years suspended to five years and five years  
8 probation. And we think there's a factual  
9 distinction in this case in that there was not a  
10 probationary term to be served after the five years.  
11 And, obviously, when a judge is sentencing somebody  
12 to probation, they're assuming that the ten years --  
13 that the remaining time would be revoked if they  
14 were on probation. And it's my, you know, and Your  
15 Honor believes that Judge Goode intended the ten  
16 year --

17 **THE COURT:** No. I think -- I think he didn't  
18 intend any probation. He knew he couldn't do  
19 probation because we all knew that it was -- well,  
20 first of all, I don't know what he knew, that's  
21 presumptuous of me. He did whatever rationalization  
22 he wanted. But from the standpoint of what he  
23 imposed, and I've done it not even with -- well,  
24 I've suspended a sentence and put him on probation,  
25 but when you impose a sentence, the sentence that is

1 imposed is the sentence that's written the first  
2 thing, that's the sentence, that's the punishment  
3 for the crime.

4 The other part is how do you resolve that  
5 punishment in my mind? And the judge said five  
6 years and then you're going to do a community  
7 supervision. And the problem that your argument has  
8 is there's still five years that's a potential  
9 punishment under the community supervision  
10 construing the law as it exists now, because we can  
11 -- he certainly didn't serve day for day when he was  
12 released, the five-year sentence. He served 85  
13 percent, and then you came out. And then you  
14 started dealing with what Picklesimer, I think was  
15 the case, that reduced it to 15 percent. I believe  
16 that was the one, it may have been, whichever one  
17 was the first one.

18 **MR. MAULDIN:** And I'll elucidate that as far as  
19 the Picklesimer case is concerned, there is a  
20 factual distinction for Mr. Day, although it appears  
21 that we are arguing against the holding of  
22 Picklesimer, and if I may, arguing against  
23 precedent. And the holding of Picklesimer that I  
24 think the probation department is relying on, and  
25 I'll quote it here for the Court, it says, We now

1 definitively state that the, quote/unquote, original  
2 sentence as referenced in section 24-21-560(D)  
3 includes both the suspended and unsuspended portions  
4 of the circuit court sentence. It is, in fact, the  
5 total sentence handed down by the court.

6 And the part of our argument, I guess, against  
7 the precedent is that if you actually look at the  
8 definition in the statute, the term, quote/unquote,  
9 original sentence is not used in the statute.

10 **THE COURT:** All right. I appreciate that and  
11 that's wonderful argument, but it's not going to fly  
12 for me. You've made your basis for it. You're  
13 relying on that he's maxed -- he's completed his  
14 sentence as the statute allows. He's served more  
15 than five years, and, therefore, he cannot continue  
16 in his supervision, correct?

17 **MR. MAULDIN:** Well, correct --

18 **THE COURT:** I mean, the bottom line here,  
19 seriously, for purposes of review, that's what your  
20 argument is.

21 **MR. MAULDIN:** Yes.

22 **THE COURT:** You just throw away the other five  
23 years, it doesn't matter.

24 **MR. MAULDIN:** Well, yes, but going back, that's  
25 their interpretation of the statute.

1           **THE COURT:** That's my construction of the law.  
2 Thank you.

3           **MR. MAULDIN:** And that the statute actually  
4 says that the original term of incarceration does  
5 not include any portion of the suspended sentence.

6           **THE COURT:** Mr. Mauldin, I appreciate it.  
7 There's a great argument and I -- you and I talked  
8 about it. And I sincerely meant what I said, I  
9 thought it was a grave injustice what was done until  
10 they changed it, putting -- because it can basically  
11 double your sentence is what it amounted to, and --  
12 but this one you're not because this one you've  
13 served five, but you've still got -- your sentence  
14 was ten, so you're not even close yet. So I  
15 appreciate it. It's a legal argument. They can  
16 change it if they want my -- I'm sorry. Do you wish  
17 to be heard?

18           **MR. BUCHANAN:** Your Honor, generally, when the  
19 Judge is agreeing with you, it's generally advisable  
20 to stay quiet.

21           **THE COURT:** I understand, but I didn't want to  
22 preclude you wanting to put something else on the  
23 record that has not been addressed.

24           **MR. BUCHANAN:** Your Honor, the quote that I was  
25 going to relay to was just what Mr. Mauldin informed

1 the Court, so that's --

2 **MR. MAULDIN:** And as an officer of the court, I  
3 thought it appropriate to quote that.

4 **THE COURT:** And I think you're right. And I  
5 think you're -- substantively, I don't have a  
6 problem with it, but they're going to have to change  
7 the law in my opinion, and I don't do that, that's  
8 up to them to do that. They can modify their  
9 decision just as they did, they finally adopted  
10 Justice Pleicones' dissent and it became the  
11 majority.

12 They may change this law, but they'll have to  
13 do it there because right now it makes perfect sense  
14 to me based on just my knowledge of what I've done  
15 over the years. I used to do it not before we ever  
16 -- I did it for how much of a sentence somebody  
17 would have to actively do, because before they got  
18 into the 85 percent, you could sentence somebody a  
19 hundred years, the max they were ever going to serve  
20 was ten. It didn't matter because that was it.

21 So you played little mathematical games of  
22 trying to get a sentence that a person would be  
23 punished for -- and this doesn't apply to you, I'm  
24 just talking about the rationale -- So I used the  
25 ending sentence because I knew that it changed the

1 max-out dates. And the max-out date that he could  
2 never get to a parole situation because he'd have to  
3 reach his max-out date on the active sentence. And  
4 so that's what we did for purposes of sentencing.

5 But I understand it. Clearly, you've presented  
6 it clearly. I'm going to respectfully deny the  
7 motion based on the legal argument that you've made.

8 Do you have any further argument you wish to  
9 make?

10 **MR. MAULDIN:** Not as far as that issue, Your  
11 Honor, but since you have ruled against us, I will  
12 now address the violation.

13 **THE COURT:** Sure.

14 **MR. MAULDIN:** Thank you, Your Honor.

15 Mr. Day was released in May of 2013. I think  
16 his family home he was not allowed to live at  
17 because it was near a church that had a day care and  
18 so he had to live in one of those No-Tel Motels for  
19 a period of time. And he obtained a job at one of  
20 the chicken processing plants here at Columbia  
21 Farms, and he worked that job for a period of time.  
22 Apparently, the chemical solvents that they used to  
23 clean the chickens kind of burned his skin. And his  
24 mother showed me several pictures that he was  
25 receiving chemical burns while at work. And he did

1 quit his job as the warrant stated.

2 Mr. Day tells me he had some discussion with  
3 Ms. Baker regarding the chemical burns, thought he  
4 had the blessing, but he did not tell her the day he  
5 quit. He did tell her at the meeting on the 24th,  
6 as stated in the warrant, which is the same day that  
7 he tested positive for the drugs mentioned.

8 In talking to Mr. Day about the positive drug  
9 test on that day and the two subsequent days in the  
10 warrant, he said he had been doing good when he had  
11 been working. Basically, his mother would pick him  
12 up, take him to work, he would come back and go to  
13 bed and get up and go to work the next day. But  
14 when he wasn't at work, he had to basically, because  
15 of his GPS monitoring, stay at that hotel, and  
16 obviously it was one of those No-Tel Hotels, there  
17 are people involved in drugs around it.

18 Mr. Day, as the 1106 reflects, has a long  
19 criminal record and he says that he has had a  
20 long-standing cocaine and crack cocaine problem.  
21 And during that period of time, I think he also  
22 learned that his sister had been diagnosed with  
23 cancer. He's around this element in the hotel, he  
24 relapsed and did use cocaine for that period of  
25 time.

1           He tried to pay the financials as he could,  
2           Your Honor. I don't know if you care for me to  
3           address that issue. But that addresses the quitting  
4           the job, not telling the agent and the testing  
5           positive for drugs.

6           I would note that he had been on since May and  
7           the bulk of these violations occurred basically from  
8           October the 12th forward, which is a period of about  
9           two or three weeks that he has been messing up.

10          Your Honor, he's 46, from Columbia, has a GED.  
11          When he didn't work at the chicken plant, he was  
12          mainly doing floor work and mechanic work in his  
13          life. He's single. He has two grown children.

14          He does have a medical issue with some disks in  
15          his back when he was injured during the department  
16          of corrections while doing flooring work for them.  
17          He didn't seek Workers Comp because he wanted to  
18          keep the job and not be kept on lockdown, so he kept  
19          pursuing the job. He's been seeing a doctor here.  
20          And he takes a number of pain medications involved  
21          with the slipped disk and the torn rotator cuff that  
22          he has.

23          Your Honor, the materials reflect that he does  
24          report as instructed. We believe that he's had a  
25          slip as far as this drug abuse is concerned. He

1 would like to try to find another job that wouldn't  
2 cause him to have these chemical burns and be able  
3 to successfully complete this program, obviously put  
4 this behind him. We would hope that Your Honor  
5 would perhaps continue him on supervision and  
6 recommend some kind of drug treatment or some kind  
7 of inpatient drug treatment to address the issue  
8 which would be the most concern, which was the  
9 positive drug test.

10 **THE COURT:** Okay. Mr. Day, is there anything  
11 you wish to add further?

12 **DEFENDANT:** He's pretty much covered it.

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

14 Your recommendation?

15 **PROBATION AGENT:** Yes, sir, my name is Lisa  
16 Baker for the State.

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

18 **PROBATION AGENT:** I apologize. There is one  
19 warrant that was not added to the violation report  
20 first. I told his attorney about it. It was  
21 W-32130304 and that was that he failed to refrain  
22 from testing positive for cocaine on 11/1/2013 and  
23 11/7/2013.

24 **THE COURT:** So an additional dirty --

25 **PROBATION AGENT:** Exactly, Your Honor. And he

1 did have a previous violation on 6/13/2013, but  
2 those were just monies. And we -- we've exempted  
3 quite a bit on him. We exempted \$260. We exempted  
4 \$540. We reduced his fees to 25 -- I mean, we've  
5 really, really tried to help him. I am recommending  
6 the one-year revocation for the CSP.

7 **THE COURT:** Is it part of the community  
8 supervision program ordinarily, and I understand --  
9 my thought is it probably isn't because he can't do  
10 any drugs, that would be a violation, but there's no  
11 component of the community supervision that deals  
12 with substance abuse counseling?

13 **PROBATION AGENT:** No. I would --

14 **THE COURT:** It's strict -- and I understand  
15 that. I understand where you're coming from. I  
16 understand where he's coming from. You've got a law  
17 that you've got to comply with and I understand  
18 that.

19 The problem that we all have here, and it's the  
20 elephant in the room and nobody wants to address it,  
21 I understand about protecting children, in fact,  
22 that's probably one area where I'm going to come  
23 down harsh in sentencing, when you harm children,  
24 but the bottom line is we create this law, and I've  
25 asked -- you have removed, really and truly, not

1           you, but the law and the conditions on the sex  
2           offender, he's registered, so -- I mean, that's a  
3           given. He can't work in probably about 80 percent  
4           of the jobs that may be available and he can't  
5           live -- I mean, one of the frightening things, I  
6           remember seeing it several years ago in Florida  
7           where they were living under an overpass because  
8           that was the only place they could find that they  
9           would meet the law, that's the problem, that's the  
10          elephant in the room.

11                 I'm sorry. You don't have to agree with me.  
12           Y'all appeal it. We'll talk about it. I'm going to  
13           ask you to make a component for this man because of  
14           the -- his problems deal with the restrictions that  
15           are placed on him. He can't work everywhere. So  
16           I'm going to continue him on probation -- I'm going  
17           to continue him on supervision. Thank you.

18                 And the rationale is we've got to work harder  
19           when we have -- when you're presented with this kind  
20           of situation where this man, by virtue of the rules,  
21           is eliminated from much of the work force.

22                         **PROBATION AGENT:** So you want him to  
23           continue --

24                         **THE COURT:** I want him to continue, and I want  
25           you to make a component part that he participate in

1 substance abuse counseling. If he doesn't, now  
2 we're getting into a situation, now we can talk  
3 about something that says it doesn't relate to  
4 anything. We're going to try to help him, that's  
5 what I'm talking about.

6 **PROBATION AGENT:** My question is is he also has  
7 to pay for sex offender treatment which he cannot  
8 pay for.

9 **THE COURT:** Well, I understand it. You're  
10 telling me there's no sex offender treatment  
11 anywhere in the State of South Carolina that doesn't  
12 have -- that requires full payment -- that doesn't  
13 require full payment?

14 **PROBATION AGENT:** Not that I am aware of.

15 **THE COURT:** Well, let's see if we can find  
16 something, okay. If he gets employed, we're fine,  
17 but until he gets employed, we've got to work with  
18 him is what I'm saying.

19 **PROBATION AGENT:** Okay. Thank you, Your Honor.

20 **THE COURT:** Okay. Thank you.

21 **DEFENDANT:** Thank you, Your Honor.

22 **AGENT RINSE:** And restructure his money?

23 **THE COURT:** And restructure the money, yes,  
24 sir. Thank you so much.

25 **END OF PROCEEDINGS**

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh 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 hearing of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 21 of November, 2013.

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

January 30, 2014



Stacy L. Sheppard, RPR  
Circuit Court Reporter



D	E	Florida [1] - 19:6 fly [1] - 11:11 following [1] - 4:1 follows [1] - 4:12 force [1] - 19:21 foregoing [1] - 21:9 foresee [1] - 8:10 forward [2] - 4:4, 16:8 Fourteenth [1] - 9:2 frightening [1] - 19:5 full [2] - 20:12, 20:13	15:23 Hotels [1] - 15:16 hundred [1] - 13:19	kind [4] - 14:23, 17:6, 19:19 knowledge [1] - 13:14
<p>date [2] - 14:1, 14:3 dates [1] - 14:1 David [1] - 1:18 DAY [1] - 4:11 days [9] - 6:5, 6:11, 6:13, 6:14, 6:15, 6:16, 6:18, 6:20, 15:9 deal [1] - 19:14 dealing [1] - 10:14 deals [2] - 7:10, 18:11 decision [3] - 7:8, 7:15, 13:9 DEFENDANT [7] - 4:10, 4:14, 4:20, 4:23, 5:1, 17:12, 20:21 Defendant [2] - 1:8, 1:19 Defender [1] - 1:18 definition [2] - 8:20, 11:8 definitively [1] - 11:1 degree [1] - 5:18 Dennis [1] - 1:14 deny [1] - 14:6 department [2] - 10:24, 16:15 Department [1] - 4:5 DESCRIPTION [1] - 3:2 diagnosed [1] - 15:22 DIRECT [1] - 2:2 dirty [1] - 17:24 discussion [1] - 15:2 disk [1] - 16:21 disks [1] - 16:14 dissent [2] - 8:8, 13:10 distinction [2] - 9:9, 10:20 doctor [1] - 16:19 document [1] - 4:22 documents [2] - 4:16, 4:17 done [3] - 9:23, 12:9, 13:14 double [1] - 12:11 down [3] - 7:15, 11:5, 18:23 drug [5] - 15:8, 16:25, 17:6, 17:7, 17:9 drugs [4] - 15:7, 15:17, 16:5, 18:10 duly [1] - 4:12 during [2] - 15:21, 16:15</p>	<p>either [1] - 6:20 element [1] - 15:23 elephant [2] - 18:20, 19:10 Eleventh [1] - 21:7 eliminated [1] - 19:21 elucidate [1] - 10:18 employed [2] - 20:16, 20:17 END [1] - 20:25 ending [1] - 13:25 Esquire [1] - 1:17 EVD [1] - 3:2 everywhere [1] - 19:15 evidence [1] - 21:11 exact [1] - 6:14 exactly [1] - 17:25 exceeded [1] - 6:21 exempted [3] - 18:2, 18:3 exhibits [1] - 3:6 exists [1] - 10:10</p>	<p><b>G</b></p> <p>games [1] - 13:21 GED [1] - 16:10 General [1] - 1:1 generally [2] - 12:18, 12:19 given [1] - 19:3 Goode [4] - 5:18, 7:16, 8:5, 9:15 Goode's [1] - 7:22 GPS [1] - 15:15 grave [1] - 12:9 great [1] - 12:7 grossly [1] - 8:12 grown [1] - 16:13 guess [1] - 11:6 guilty [1] - 5:16</p>	<p><b>I</b></p> <p>ID [1] - 3:2 impose [1] - 9:25 imposed [3] - 7:21, 9:23, 10:1 incarceration [6] - 5:23, 6:6, 6:13, 6:22, 8:21, 12:4 include [2] - 5:21, 12:5 includes [1] - 11:3 increments [1] - 7:19 informed [1] - 12:25 injured [1] - 16:15 Injustice [1] - 12:9 inpatient [1] - 17:7 instructed [1] - 16:24 intend [1] - 9:18 intended [1] - 9:15 interest [1] - 21:16 interpretation [3] - 8:3, 8:19, 11:25 interrupt [1] - 7:6 introduced [1] - 21:11 involved [2] - 15:17, 16:20 issue [4] - 14:10, 16:3, 16:14, 17:7</p>	<p><b>L</b></p> <p>law [8] - 10:10, 12:1, 13:7, 13:12, 18:16, 18:24, 19:1, 19:9 lawyer [1] - 4:5 learned [1] - 15:22 legal [4] - 5:8, 5:9, 12:15, 14:7 LEXINGTON [1] - 21:4 Lexington [3] - 1:2, 1:11, 21:13 life [1] - 16:13 line [2] - 11:18, 18:24 Lisa [1] - 17:15 live [3] - 14:16, 14:18, 19:5 living [1] - 19:7 lockdown [1] - 16:18 long-standing [1] - 15:20 look [1] - 11:7</p>
	<p><b>F</b></p> <p>fact [2] - 11:4, 18:21 factual [2] - 9:8, 10:20 failed [1] - 17:21 familiar [1] - 4:7 family [1] - 14:16 far [6] - 5:12, 8:19, 9:6, 10:18, 14:10, 16:25 Farms [1] - 14:21 February [2] - 5:15, 6:4 fees [1] - 18:4 Fifth [1] - 9:2 file [1] - 4:16 finally [1] - 13:9 financials [1] - 16:1 fine [1] - 20:16 first [5] - 5:7, 9:20, 10:1, 10:17, 17:20 five [18] - 5:20, 5:22, 6:19, 6:20, 6:22, 6:24, 6:25, 7:22, 7:24, 9:7, 9:10, 10:5, 10:8, 10:12, 11:15, 11:22, 12:13 five-year [3] - 5:22, 6:19, 10:12 flat [1] - 8:23 floor [1] - 16:12 flooring [1] - 16:16</p>	<p><b>H</b></p> <p>handed [3] - 4:15, 7:15, 11:5 happy [1] - 5:5 harder [1] - 19:18 harm [1] - 18:23 harsh [1] - 18:23 hear [1] - 5:5 heard [1] - 12:17 hearing [1] - 21:11 held [1] - 4:1 help [2] - 18:5, 20:4 hereby [1] - 21:8 hereto [1] - 21:16 holding [2] - 10:21, 10:23 home [1] - 14:16 Honor [17] - 4:14, 4:23, 5:1, 5:7, 8:15, 9:15, 12:18, 12:24, 14:11, 14:14, 16:2, 16:10, 16:23, 17:4, 17:25, 20:19, 20:21 Honor's [1] - 8:2 Honorable [1] - 1:14 hope [1] - 17:4 hotel [2] - 15:15,</p>	<p><b>J</b></p> <p>January [2] - 6:2, 21:18 job [7] - 14:19, 14:21, 15:1, 16:4, 16:18, 16:19, 17:1 jobs [1] - 19:4 Jr [1] - 1:14 Judge [6] - 5:18, 5:19, 7:16, 8:7, 9:11, 10:5 Judge [7] - 1:14, 7:16, 7:22, 8:4, 8:8, 9:15, 12:19 Judicial [1] - 21:7 June [1] - 6:7 Justice [1] - 13:10</p>	<p><b>M</b></p> <p>ma'am [1] - 17:17 majority [2] - 8:9, 13:11 man [2] - 19:13, 19:20 Markley [1] - 1:14 materials [1] - 16:23 mathematical [1] - 13:21 matter [2] - 11:23, 13:20 Matthew [1] - 1:17 MAULDIN [15] - 5:7, 5:15, 5:25, 7:4, 7:13, 8:2, 8:15, 10:18, 11:17, 11:21, 11:24, 12:3, 13:2, 14:10, 14:14 Mauldin [4] - 1:18, 5:6, 12:6, 12:25 max [4] - 13:19, 14:1, 14:3 max-out [3] - 14:1, 14:3 maxed [1] - 11:13 mean [4] - 11:18, 18:4, 19:2, 19:5 meant [1] - 12:8 mechanic [1] - 16:12</p>
		<p><b>K</b></p> <p>keep [1] - 16:18 kept [2] - 16:18 kin [1] - 21:15</p>		

<p>medical [1] - 16:14  <b>medications</b> [1] - 16:20  <b>meet</b> [1] - 19:9  <b>meeting</b> [1] - 15:5  <b>mentioned</b> [1] - 15:7  <b>messaging</b> [1] - 16:9  <b>Mills</b> [2] - 8:16, 8:23  <b>mind</b> [2] - 7:22, 10:5  <b>minor</b> [1] - 5:17  <b>minute</b> [1] - 8:6  <b>mitigation</b> [1] - 5:8  <b>modify</b> [1] - 13:8  <b>money</b> [2] - 20:22, 20:23  <b>monies</b> [1] - 18:2  <b>monitoring</b> [1] - 15:15  <b>most</b> [1] - 17:8  <b>Motels</b> [1] - 14:18  <b>mother</b> [2] - 14:24, 15:11  <b>motion</b> [1] - 14:7  <b>MR</b> [17] - 5:7, 5:15, 5:25, 7:4, 7:13, 8:2, 8:15, 10:18, 11:17, 11:21, 11:24, 12:3, 12:18, 12:24, 13:2, 14:10, 14:14  <b>multiplying</b> [1] - 6:19</p>	<p><b>offender</b> [4] - 5:20, 19:2, 20:7, 20:10  <b>officer</b> [1] - 13:2  <b>one</b> [17] - 4:16, 4:22, 6:8, 6:15, 7:19, 10:16, 10:17, 12:12, 14:18, 14:19, 15:16, 17:18, 18:6, 18:22, 19:5  <b>one-year</b> [2] - 7:19, 18:6  <b>opinion</b> [1] - 13:7  <b>opportunity</b> [1] - 4:21  <b>ordinarily</b> [1] - 18:8  <b>original</b> [6] - 6:13, 8:20, 11:1, 11:9, 12:4  <b>originally</b> [1] - 8:12  <b>overpass</b> [1] - 19:7</p>	<p><b>playing</b> [1] - 7:17  <b>pled</b> [1] - 5:16  <b>Pleicones'</b> [2] - 8:8, 13:10  <b>point</b> [1] - 7:14  <b>portion</b> [3] - 7:9, 9:5, 12:5  <b>portions</b> [1] - 11:3  <b>position</b> [2] - 6:23, 8:14  <b>positive</b> [5] - 15:7, 15:8, 16:5, 17:9, 17:22  <b>potential</b> [1] - 10:8  <b>precedent</b> [2] - 10:23, 11:7  <b>preclude</b> [1] - 12:22  <b>present</b> [1] - 5:8  <b>presented</b> [2] - 14:5, 19:19  <b>presumptuous</b> [1] - 9:21  <b>pretty</b> [1] - 17:12  <b>previous</b> [1] - 18:1  <b>Probation</b> [2] - 1:17, 4:6  <b>PROBATION</b> [8] - 17:15, 17:18, 17:25, 18:13, 19:22, 20:6, 20:14, 20:19  <b>probation</b> [10] - 4:16, 5:24, 9:8, 9:12, 9:14, 9:18, 9:19, 9:24, 10:24, 19:16  <b>probationary</b> [2] - 5:22, 9:10  <b>problem</b> [5] - 10:7, 13:6, 15:20, 18:19, 19:9  <b>problems</b> [1] - 19:14  <b>proceedings</b> [2] - 4:1, 21:10  <b>PROCEEDINGS</b> [1] - 20:25  <b>processing</b> [1] - 14:20  <b>program</b> [5] - 4:19, 5:4, 5:11, 17:3, 18:8  <b>protecting</b> [1] - 18:21  <b>Public</b> [1] - 1:18  <b>punished</b> [1] - 13:23  <b>punishment</b> [3] - 10:2, 10:5, 10:9  <b>purposes</b> [2] - 11:19, 14:4  <b>pursuing</b> [1] - 16:19  <b>put</b> [4] - 5:24, 9:24, 12:22, 17:3  <b>putting</b> [1] - 12:10</p>	<p style="text-align: center;"><b>Q</b></p>	<p><b>quiet</b> [1] - 12:20  <b>quit</b> [2] - 15:1, 15:5  <b>quite</b> [1] - 18:3  <b>quitting</b> [1] - 16:3  <b>quote</b> [3] - 10:25, 12:24, 13:3  <b>quote/unquote</b> [2] - 11:1, 11:8</p>	<p><b>requested</b> [1] - 4:8  <b>require</b> [1] - 20:13  <b>requires</b> [1] - 20:12  <b>resolve</b> [1] - 10:4  <b>respectfully</b> [1] - 14:6  <b>restrictions</b> [1] - 19:14  <b>restructure</b> [2] - 20:22, 20:23  <b>review</b> [1] - 11:19  <b>revocation</b> [4] - 6:16, 6:17, 6:18, 18:6  <b>revoke</b> [1] - 7:19  <b>revoked</b> [1] - 9:13  <b>rights</b> [1] - 8:25  <b>RINSE</b> [1] - 20:22  <b>room</b> [2] - 18:20, 19:10  <b>rotator</b> [1] - 16:21  <b>RPR</b> [2] - 1:24, 21:21  <b>ruled</b> [1] - 14:11  <b>rules</b> [1] - 19:20</p>
<p style="text-align: center;"><b>N</b></p>	<p style="text-align: center;"><b>P</b></p>	<p style="text-align: center;"><b>R</b></p>	<p style="text-align: center;"><b>R</b></p>	<p><b>rationale</b> [2] - 13:24, 19:18  <b>rationalization</b> [1] - 9:21  <b>reach</b> [1] - 14:3  <b>really</b> [3] - 18:5, 18:25  <b>received</b> [3] - 4:22, 6:4, 6:8  <b>receiving</b> [1] - 14:25  <b>recommend</b> [1] - 17:6  <b>recommendation</b> [1] - 17:14  <b>recommending</b> [1] - 18:5  <b>Record</b> [1] - 1:6  <b>record</b> [4] - 4:3, 12:23, 15:19, 21:10  <b>RECROSS</b> [1] - 2:2  <b>REDIRECT</b> [1] - 2:2  <b>reduced</b> [3] - 7:10, 10:15, 18:4  <b>referenced</b> [1] - 11:2  <b>reflect</b> [2] - 4:3, 16:23  <b>reflects</b> [1] - 15:18  <b>refrain</b> [1] - 17:21  <b>regarding</b> [1] - 15:3  <b>registered</b> [1] - 19:2  <b>registry</b> [1] - 5:20  <b>relapsed</b> [1] - 15:24  <b>relate</b> [1] - 20:3  <b>relative</b> [1] - 21:12  <b>relay</b> [1] - 12:25  <b>released</b> [5] - 6:1, 6:6, 6:9, 10:12, 14:15  <b>relying</b> [2] - 10:24, 11:13  <b>remaining</b> [2] - 7:11, 9:13  <b>remember</b> [1] - 19:6  <b>removed</b> [1] - 18:25  <b>report</b> [2] - 16:24, 17:19  <b>Reporter</b> [3] - 1:25, 21:7, 21:22</p>	
<p><b>name</b> [1] - 17:15  <b>near</b> [1] - 14:17  <b>never</b> [1] - 14:2  <b>next</b> [1] - 15:13  <b>NO</b> [1] - 3:2  <b>No-Tel</b> [2] - 14:18, 15:16  <b>nobody</b> [1] - 18:20  <b>note</b> [2] - 5:20, 16:6  <b>November</b> [3] - 1:10, 4:2, 21:14  <b>number</b> [3] - 4:22, 6:14, 16:20  <b>numbers</b> [1] - 6:21</p>	<p><b>page</b> [1] - 7:7  <b>pain</b> [1] - 16:20  <b>paraphrasing</b> [1] - 7:18  <b>Pardon</b> [1] - 4:6  <b>Pardons</b> [1] - 1:17  <b>parole</b> [1] - 14:2  <b>Parole</b> [2] - 1:17, 4:6  <b>part</b> [4] - 10:4, 11:6, 18:7, 19:25  <b>participate</b> [1] - 19:25  <b>participating</b> [1] - 5:10  <b>party</b> [1] - 21:16  <b>pay</b> [3] - 16:1, 20:7, 20:8  <b>payment</b> [2] - 20:12, 20:13  <b>people</b> [1] - 15:17  <b>percent</b> [5] - 7:11, 10:13, 10:15, 13:18, 19:3  <b>perfect</b> [1] - 13:13  <b>perhaps</b> [1] - 17:5  <b>period</b> [6] - 6:6, 14:19, 14:21, 15:21, 15:24, 16:8  <b>person</b> [1] - 13:22  <b>pick</b> [1] - 15:11  <b>Picklesimer</b> [6] - 8:17, 9:6, 10:14, 10:19, 10:22, 10:23  <b>pictures</b> [1] - 14:24  <b>place</b> [1] - 19:8  <b>placed</b> [1] - 19:15  <b>plant</b> [1] - 16:11  <b>plants</b> [1] - 14:20  <b>played</b> [1] - 13:21</p>	<p style="text-align: center;"><b>P</b></p>	<p><b>rationalization</b> [1] - 9:21  <b>reach</b> [1] - 14:3  <b>really</b> [3] - 18:5, 18:25  <b>received</b> [3] - 4:22, 6:4, 6:8  <b>receiving</b> [1] - 14:25  <b>recommend</b> [1] - 17:6  <b>recommendation</b> [1] - 17:14  <b>recommending</b> [1] - 18:5  <b>Record</b> [1] - 1:6  <b>record</b> [4] - 4:3, 12:23, 15:19, 21:10  <b>RECROSS</b> [1] - 2:2  <b>REDIRECT</b> [1] - 2:2  <b>reduced</b> [3] - 7:10, 10:15, 18:4  <b>referenced</b> [1] - 11:2  <b>reflect</b> [2] - 4:3, 16:23  <b>reflects</b> [1] - 15:18  <b>refrain</b> [1] - 17:21  <b>regarding</b> [1] - 15:3  <b>registered</b> [1] - 19:2  <b>registry</b> [1] - 5:20  <b>relapsed</b> [1] - 15:24  <b>relate</b> [1] - 20:3  <b>relative</b> [1] - 21:12  <b>relay</b> [1] - 12:25  <b>released</b> [5] - 6:1, 6:6, 6:9, 10:12, 14:15  <b>relying</b> [2] - 10:24, 11:13  <b>remaining</b> [2] - 7:11, 9:13  <b>remember</b> [1] - 19:6  <b>removed</b> [1] - 18:25  <b>report</b> [2] - 16:24, 17:19  <b>Reporter</b> [3] - 1:25, 21:7, 21:22</p>	<p style="text-align: center;"><b>S</b></p>	
<p style="text-align: center;"><b>O</b></p>	<p style="text-align: center;"><b>P</b></p>	<p style="text-align: center;"><b>R</b></p>	<p style="text-align: center;"><b>R</b></p>	<p><b>S.C</b> [2] - 8:17, 8:18  <b>satisfied</b> [2] - 7:1, 7:5  <b>second</b> [1] - 5:18  <b>Section</b> [2] - 9:1, 9:3  <b>section</b> [2] - 8:21, 11:2  <b>see</b> [1] - 20:15  <b>seeing</b> [2] - 16:19, 19:6  <b>seek</b> [1] - 16:17  <b>sense</b> [1] - 13:13  <b>sentence</b> [36] - 5:13, 5:21, 6:4, 6:8, 6:9, 6:12, 6:13, 6:15, 6:18, 6:19, 7:1, 7:5, 7:20, 8:1, 8:20, 8:23, 9:24, 9:25, 10:1, 10:2, 10:12, 11:2, 11:4, 11:5, 11:9, 11:14, 12:5, 12:11, 12:13, 13:16, 13:18, 13:22, 13:25, 14:3  <b>sentenced</b> [1] - 5:19  <b>sentencing</b> [5] - 5:18, 8:24, 9:11, 14:4, 18:23  <b>seriously</b> [1] - 11:19  <b>serve</b> [3] - 7:25, 10:11, 13:19  <b>served</b> [10] - 6:12, 6:25, 7:2, 7:22, 7:25, 9:10, 10:12, 11:14, 12:13</p>	

<p><b>service</b> [1] - 6:24  <b>Sessions</b> [1] - 1:1  <b>several</b> [2] - 14:24, 19:6  <b>sex</b> [4] - 5:20, 19:1, 20:7, 20:10  <b>sexual</b> [1] - 5:17  <b>Sheppard</b> [3] - 1:24, 21:6, 21:21  <b>showed</b> [1] - 14:24  <b>similar</b> [1] - 9:4  <b>sincerely</b> [1] - 12:8  <b>single</b> [1] - 16:13  <b>sister</b> [1] - 15:22  <b>situation</b> [4] - 4:7, 14:2, 19:20, 20:2  <b>Sixth</b> [1] - 8:25  <b>skin</b> [1] - 14:23  <b>slip</b> [1] - 16:25  <b>slipped</b> [1] - 16:21  <b>solvents</b> [1] - 14:22  <b>somewhat</b> [1] - 4:6  <b>sorry</b> [2] - 12:16, 19:11  <b>SOUTH</b> [1] - 21:3  <b>South</b> [6] - 1:1, 1:11, 9:1, 20:11, 21:8, 21:13  <b>Stacy</b> [3] - 1:24, 21:6, 21:21  <b>standing</b> [1] - 15:20  <b>standpoint</b> [1] - 9:22  <b>started</b> [1] - 10:14  <b>State</b> [5] - 1:1, 1:5, 17:16, 20:11, 21:8  <b>state</b> [1] - 11:1  <b>STATE</b> [1] - 21:3  <b>statute</b> [6] - 8:19, 11:8, 11:9, 11:14, 11:25, 12:3  <b>stay</b> [2] - 12:20, 15:15  <b>still</b> [3] - 7:23, 10:8, 12:13  <b>strict</b> [1] - 18:14  <b>subsequent</b> [2] - 5:22, 15:9  <b>substance</b> [2] - 18:12, 20:1  <b>substantively</b> [1] - 13:5  <b>successfully</b> [1] - 17:3  <b>supervision</b> [14] - 4:19, 5:4, 5:11, 6:2, 6:5, 7:12, 7:23, 10:7, 10:9, 11:16, 17:5, 18:8, 18:11, 19:17  <b>suspended</b> [6] - 5:19, 6:24, 9:7, 9:24,</p>	<p>11:3, 12:5  <b>sworn</b> [1] - 4:12</p> <p style="text-align: center;"><b>T</b></p> <p><b>technical</b> [1] - 5:2  <b>Tel</b> [2] - 14:18, 15:16  <b>ten</b> [8] - 5:19, 6:23, 7:25, 9:7, 9:12, 9:15, 12:14, 13:20  <b>term</b> [7] - 5:22, 5:23, 6:22, 8:20, 9:10, 11:8, 12:4  <b>terms</b> [2] - 4:18, 5:3  <b>test</b> [2] - 15:9, 17:9  <b>tested</b> [1] - 15:7  <b>testified</b> [1] - 4:12  <b>testing</b> [2] - 16:4, 17:22  <b>THE</b> [32] - 4:3, 4:13, 4:15, 4:21, 4:24, 5:2, 5:14, 5:24, 7:2, 7:6, 7:14, 8:4, 9:17, 11:10, 11:18, 11:22, 12:1, 12:6, 12:21, 13:4, 14:13, 17:10, 17:13, 17:17, 17:24, 18:7, 18:14, 19:24, 20:9, 20:15, 20:20, 20:23  <b>therefore</b> [2] - 7:1, 11:15  <b>they've</b> [1] - 8:13  <b>three</b> [3] - 8:23, 8:24, 16:9  <b>three-year</b> [1] - 8:23  <b>throw</b> [1] - 11:22  <b>torn</b> [1] - 16:21  <b>total</b> [2] - 6:16, 11:5  <b>totaling</b> [1] - 6:11  <b>Transcript</b> [1] - 1:6  <b>transcript</b> [1] - 21:10  <b>transpired</b> [1] - 5:13  <b>treatment</b> [4] - 17:6, 17:7, 20:7, 20:10  <b>tried</b> [2] - 16:1, 18:5  <b>true</b> [2] - 4:22, 21:9  <b>truly</b> [1] - 18:25  <b>try</b> [2] - 17:1, 20:4  <b>trying</b> [1] - 13:22  <b>two</b> [3] - 15:9, 16:9, 16:13</p> <p style="text-align: center;"><b>U</b></p> <p><b>U.S</b> [1] - 9:3  <b>ultimately</b> [1] - 8:7  <b>under</b> [4] - 8:21, 8:25, 10:9, 19:7  <b>undersigned</b> [1] - 21:6</p>	<p><b>unfair</b> [2] - 8:11, 8:12  <b>unless</b> [1] - 7:8  <b>unsuspended</b> [1] - 11:3  <b>up</b> [7] - 6:11, 7:19, 7:25, 13:8, 15:12, 15:13, 16:9</p> <p style="text-align: center;"><b>V</b></p> <p><b>violate</b> [1] - 4:25  <b>violated</b> [1] - 8:25  <b>violating</b> [1] - 4:18  <b>violation</b> [6] - 5:3, 6:3, 14:12, 17:19, 18:1, 18:10  <b>violations</b> [1] - 16:7  <b>virtue</b> [1] - 19:20</p> <p style="text-align: center;"><b>W</b></p> <p><b>W-32130304</b> [1] - 17:21  <b>wait</b> [1] - 8:6  <b>wants</b> [1] - 18:20  <b>warrant</b> [5] - 4:17, 15:1, 15:6, 15:10, 17:19  <b>weeks</b> [1] - 16:9  <b>whichever</b> [1] - 10:16  <b>wish</b> [3] - 12:16, 14:8, 17:11  <b>WITNESSES</b> [1] - 2:2  <b>witnesses</b> [1] - 2:5  <b>wonderful</b> [1] - 11:11  <b>Workers</b> [1] - 16:17  <b>written</b> [1] - 10:1</p> <p style="text-align: center;"><b>Y</b></p> <p><b>y'all</b> [1] - 19:12  <b>year</b> [8] - 5:22, 6:8, 6:19, 7:19, 8:23, 9:16, 10:12, 18:6  <b>years</b> [19] - 5:19, 5:20, 6:22, 6:23, 6:24, 6:25, 8:25, 9:7, 9:10, 9:12, 10:6, 10:8, 11:15, 11:23, 13:15, 13:19, 19:6</p>
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IN THE COURT OF GENERAL SESSIONS  
No. 07 -GS- 32 - 01387  
Count

STATE OF SOUTH CAROLINA  
COUNTY OF [County]

STATE

-vs-

Brad Day

Defendant

00457830

SID #

12/16/66

SCDC# or DOB

Community Supervision  
CONTINUATION ORDER

This matter was brought before me on the 21 day of November, 2013, pursuant to a [warrant or citation] charging the Defendant with violating the Defendant=s Community Supervision Program and asking the Court to revoke the Defendant=s community supervision. I find:

1. The terms of the Community Supervision Program are fair and reasonable;
2. The Defendant has not complied with all terms of the Community Supervision Program;
3. The Defendant has willfully violated terms of the Community Supervision Program;
4. The Defendant should be continued in the Community Supervision Program under its current terms or under other terms and conditions;

The Defendant is ordered continued on Community Supervision subject to all conditions not inconsistent with this order. The Court orders the following additional Conditions:

SUBSTANCE ABUSE counseling  
RESTRUCTURE FINANCIAL OBLIGATIONS

This 21 day of November, 2013

LEXINGTON

S. C.

[Signature]  
Presiding Judge  
11th Judicial Circuit

TRUE COPY  
Lex. Co. C.C.P., C.S. & P.C.

This is to certify that I have read or have had read to me the Continuation Order and the Conditions set out therein. I agree to comply with such conditions and the conditions of my supervision order not inconsistent with this order during the period of my supervision. I have received a copy of this court order.

Offender=s  
Signature

Witnessed by

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_, SC

**South Carolina Department of Probation, Parole and Pardon Services  
GPS Monitoring Program - Participant Rules Acknowledgment and Agreement**

Failure to comply with the following conditions may result in a violation and you may be sentenced to a term of incarceration:

1. I will not tamper with the GPS equipment in any manner.
2. If the agent places equipment in my residence, I will not disconnect or move the GPS equipment unless I am approved to do so.
3. I will charge the equipment as instructed.
4. I will submit schedules for approval to my Agent.
5. I will allow Probation and Parole Agents to inspect the equipment at any time.
6. I acknowledge that intentional damage to the GPS equipment may result in a felony conviction of a fine of not more than \$5,000.00 or not more than five years. I agree to take responsibility and care of the equipment.
7. I will not intentionally block the GPS component of equipment.
8. I acknowledge that if I am indoors I may be instructed to go outside and acquire GPS.
9. I acknowledge when outside my residence, the tracking unit will be carried at all times in the pouch provided, unless otherwise instructed by the Agent (applies to two piece GPS unit only).
10. I will follow all established GPS Monitoring Program rules and schedules. Failure to do so may result in a violation.
11. I will not enter areas that are defined to be off-limits (exclusion zones). Entering an exclusion zone may result in the issuance of a warrant for my arrest.
12. If I receive a page from the Agent, I will call the number on the pager immediately or follow the instructions below:  
 "1" received on the pager-plug in device (applies to one piece GPS device)  
 "2" received on the pager- go outdoors in clear sky for 10 minutes
13. I agree to pay all fees associated with GPS, which may include a supervision fee and monitoring fee.
14. I agree to return all equipment issued to me when instructed to do so by the Agent.

Homeowner's Name: _____
Address: _____
Telephone Number: _____

15. I acknowledge that during times of an emergency I will go to a shelter designated by SCDPPPS when the first evacuation notice is given.
16. I agree that any data or information gathered or recorded by my Department issued GPS equipment shall be admissible as evidence in any hearing concerning the violation of the conditions of my supervision, or any criminal action brought against me pursuant to Section 23-3-540 (M) of the South Carolina Code

*Inclusion Zone Schedule (if applicable) – Time period that Offender may be away from residence:*

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Leave	9-3	9-3	9-3	9-6	9-3	<del>                    </del>	
Enter						<del>                    </del>	

*Change time:  
8 PM  
- 10 PM*

**NOTE: Do not provide the pager phone number to the offender, please document the number in OMS and the G.P.S. vendor website(s).**

I acknowledge that I have received a copy of this agreement and that the terms of the agreement have been explained to me. I understand that I must comply with these rules and that violation of the terms of this agreement will constitute a violation of the conditions of my supervision, or a felony if I have completed my term of supervision.			
Offender's Signature <i>[Signature]</i>	Date	Agent's Signature <i>[Signature]</i>	Date <i>5-2-13</i>
Offender Name (Printed) <i>Bradley</i>		SID <i>[Blank]</i>	
The undersigned represents that he or she is the owner or tenant of the above identified residence and has voluntarily signed this consent to allow SCDPPPS personnel to enter the residence to install, maintain or collect the above identified monitoring equipment. The Undersigned also understands that the participant must comply with all terms of this agreement. This consent may not be revoked until SCDPPPS regains possession of said equipment.			
Owner/Tenant Signature	Date	Agent's Signature	Date





COMMUNITY SUPERVISION PROGRAM CERTIFICATE

Know all men by these presents:

It having been made to appear to the satisfaction of the SOUTH CAROLINA DEPARTMENT OF PROBATION PAROLE AND PARDON SERVICES that the offender mentioned below who was convicted of the offense(s) indicated below on said date(s) and in said county(ies) meets the requirements for Community Supervision Program as provided for in §24-21-560 of the South Carolina Code of Laws 1976, as amended.

It is therefore ORDERED that the said prisoner enter the Community Supervision Program at the end of his or her active sentence under supervision subject to the specific conditions listed below until the expiration of this Community Supervision Program as indicated below.

This release shall not prevent the delivery of the prisoner to authorities of the Federal Government or any state otherwise entitled to his or her custody.

In witness whereof, this Certificate bearing the approval of the South Carolina Department of Probation, Parole and Pardon Services is issued on the date below.

By Order of:
South Carolina Department of Probation, Parole and Pardon Services
By: Katherine G. Moore
Katherine G. Moore, Coordinator, Community Release and Programs

Offender/Prisoner's Name: DAY, BRAD
Supervision Beginning Date: May 1, 2013
State Identification # (SID): 00457830
SC Dept. of Corrections # (SCDC): 00226463
Supervision Ending Date: April 30, 2015

Table with 8 columns: Offense(s), CDR, Indictment #(s), Conviction Date(s), County of Conviction(s), Incarceration Termination Date, Restitution Ordered (\$), Probation to Follow. Row 1: Criminal sexual conduct with minor or Attempt - victim under 16 yrs of age - Second degree (SR unless ordered not...)

CONDITIONS OF SUPERVISION

Additional Offenses or Notes Page 2

Violation of any of these conditions may result in the immediate revocation of supervision.

- 1. I shall report in person to the South Carolina Department of Probation, Parole and Pardon Services' office on the day of my release or not later than 8:30 AM on the next business day, and as instructed by the Department; and I shall make complete and truthful reports to the Agent. Please report to the office in the County of: LEXINGTON Phone: (803) 359-2551
2. I shall not change my residence or employment without the consent of my Agent. Further, I shall allow my Agent to visit me in my home, at my place of employment, or elsewhere at any time.
3. I shall not use controlled substances, except when properly prescribed by a licensed physician, not consume alcoholic beverages to excess nor enter establishments whose primary business is the sale and drinking of alcoholic beverages. Further, I shall submit to a urinalysis, blood test or provide forensic evidence when instructed by Agents of the Department, and I agree that any of these test results may be used as evidence in any hearing.
4. I shall not possess or purchase any firearms, knives, or dangerous weapons, and I shall not associate with any person who has a criminal record, or any other person whom my Agent has instructed me to avoid.
5. I shall work diligently at a lawful occupation. Further, I shall notify my Agent if I become unemployed.
6. I shall not violate any Federal, State, or local laws and I shall contact my Agent if I am ever arrested or questioned by a law enforcement official for any reason whatsoever.
7. I shall pay a supervision fee as determined by the Department.
8. I shall not leave the State without permission from my Agent. Further, if I am ever arrested in another state for violating these conditions, I hereby irrevocably waive all extradition rights I may otherwise be entitled to and agree to return to South Carolina when directed by my Agent, the court, or by a warrant.
9. I shall obey all conditions of supervision set forth in this order including the payment of fines, restitution, or other payments, and the services of any period of incarceration. I will make all child support payments as ordered by the courts.
10. I shall follow the advice and instructions of my Agent and I agree to comply with any further conditions imposed by the Department or its' Agents.
11. Unless I was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year, I shall be subject to search or seizure, without a search warrant, with or without cause, of my person, any vehicle I own or am driving, and any of my possessions by: (1) any probation agent employed by the Department; or (2) any other law enforcement officer.

ADDITIONAL CONDITIONS:

- 04 Must have no contact with the Victim and/or Victim's family for duration of supervision.
23 Residence Plan Rejected.
27 GPS Monitoring Not Less than 6 Months. If I am unable to report on the day of release I understand that I will be confined to my home until I report to SCDPPPS at 8:30 AM the next business day.
I hereby certify that the conditions listed above have been read and explained fully to me and in agreement thereto, I attach my signature.

Offender Signature Address: 105 W Ball Park Rd,GASTON, SC 29053,LEXINGTON,USA Phone: (803) 238-1196 Date

I hereby certify that this Statement of Conditions has been read and explained to the offender and he/she has agreed to them.

Witness Signature Date



South Carolina Department of Probation, Parole and Pardon Services  
COMMUNITY SUPERVISION PROGRAM CERTIFICATE

Page 2

Offender/Prisoner's Name: DAY, BRAD  
Supervision Beginning Date: May 1, 2013  
State Identification # (SID): 00457830  
SC Dept. of Corrections # (SCDC): 00226463  
Supervision Ending Date: April 30, 2015

Offense(s)	CDR	Indictment #(s)	Conviction Date(s)	County of Conviction(s)	Incarceration Termination Date	Restitution Ordered (\$)	Probation to Follow
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**ADDITIONAL CONDITIONS:**

31 Attend Sex Offender Counseling.

**ADDITIONAL CONVICTIONS:**

Form 16.1 - Arrest Warrant  
Form Approved by  
SC Attorney General  
Section 17-13-160  
March 15, 1978

Community Supervision

**STATE OF SOUTH CAROLINA**

**ARREST WARRANT**

COUNTY OF LEXINGTON

Indictment Number 07-GS-32-01387

Warrant Number W-32-13-0318

State Identification No. (SID) 00457830

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

It appearing from the attached affidavit that there are reasonable grounds to believe that BRAD ALAN DAY, did on the 5 day of December, 2013 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Violation of Community Supervision pursuant to Section 24-21-560.

Now, therefore, you are empowered and directed to arrest the said defendant and bring BRAD ALAN DAY before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Done at LEXINGTON, S. C. this 5 day of December, 2013.

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

County of LEXINGTON

**STATE OF SOUTH CAROLINA**

**AFFIDAVIT**

Personally appeared before me, one Lisa S. Baker, who, first being duly sworn, deposes and says that BRAD ALAN DAY did within this County and State on the 5 day of December, 2013, violate the criminal laws of the State of South Carolina in the following particulars:

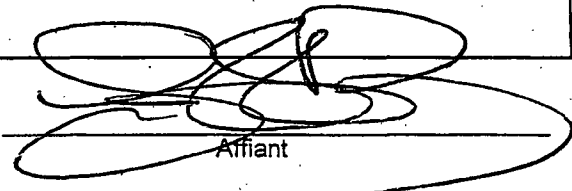
DESCRIPTION OF OFFENSE:

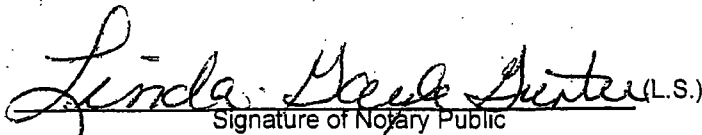
Violation of Community Supervision pursuant to Section 24-21-560.

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

Subject has violated his Community Supervision in the following manner: By failing to refrain from using illegal drugs by admitting to using Cocaine use on 12/1/2013. Such actions constitute a violation of Sections 3 and 10 of the original release agreement dated 5/1/2013.

Sworn to and Subscribed before me  
this 5 day of December, 2013.

  
\_\_\_\_\_  
Affiant

  
\_\_\_\_\_  
Signature of Notary Public (L.S.)

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

4-24-2017  
\_\_\_\_\_  
My Commission Expires

RETURN

STATE OF SOUTH CAROLINA

COUNTY OF

LEXINGTON

THE STATE

against

BRAD ALAN DAY

INFORMATION ON DEFENDANT

Name BRAD ALAN DAY
Address [REDACTED] WEST COLUMBIA, SC 29170
Phone (000) 000-0000
Sex Male Race White Height 600
Weight 250 Birth date [REDACTED]
Social Security Number [REDACTED]

INFORMATION ON WITNESSES

Name
Address
Phone
Name
Address
Phone
Name
Address
Phone
Name
Address
Phone

PRELIMINARY HEARING held by

Magistrate
on
with
Attorney for the Defendant.

Decision
BAIL
Date Set
Magistrate
Amount
Surety

Constable or Law Enforcement Officer

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

ARREST WARRANT

Offense: Violation of Conditions of Community Supervision Supervision

Offense Section: 24-21-560

Date: 12/5/2013

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

Lisa S. Baker

Disposition

Sentence

Co-Defendants

on the 5 day of Decmbr 2013

[Signature]
Constable or Law Enforcement Officer

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

ENTERED

(L.S.)

Signature of Judge

**CITATION**

Indictment Number(s):  
07-GS-32-01387

No. C-32-13-0263

<b>SOUTH CAROLINA</b>  V.  BRAD ALAN DAY	County LEXINGTON	
	SCDC # 00226463	SID # 00457830
	Citation for Violation of <input type="checkbox"/> Parole <input type="checkbox"/> Emergency Powers Act Release <input type="checkbox"/> Supervised Re-entry Program <input checked="" type="checkbox"/> Community Supervision <input type="checkbox"/> Supervised Furlough	

TO: BRAD ALAN DAY

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

Place General Sessions Court	Room
	Date and Time 12/20/2013 8:30 AM

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

**Violations Charged**  
Violation of Community Supervision pursuant to Section 24-21-560.

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

**List of Rights:**  
You have the right at the preliminary 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 at the hearing at your expense. An attorney may be appointed to represent you in extraordinary circumstances. 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.

LEXINGTON, South Carolina	Probation and Parole Agent	Agent #
Date 12/12/2013	Sandra Young	0812

**PROOF OF SERVICE**

Date Served: 12/12/13	Place: Lex PPP
Served On: (Print Name) Brad Day	
Served By: (Print Name) Justin Price	Title: Agent

**DECLARATION OF SERVER**

I certify that the foregoing information contained in the Proof of Service is true and correct

Executed on: 12/12/13 DATE	Signature of Server
Address of Server	City    State    Zip

**SCDPPPS**

605 West Main Street, Ste#104  
Lexington, SC 29072

STATE OF SOUTH CAROLINA

AFFIDAVIT

County of LEXINGTON

Personally appeared before me, Sandra Young, who first being duly sworn, deposes and says that BRAD ALAN DAY did within this county and State on the 12 day of December, 2013, violate certain conditions of release in the following particulars:

DESCRIPTION OF VIOLATION

Violation of Community Supervision pursuant to Section 24-21-560.

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:

Subject has violated his Community Supervision in the following manner. He has failed to pay Intensive Fees being a total in arrears of \$120.00. He has failed to pay GPS fees being a total in arrears of \$440.00 in arrears. Subject has failed to charge his GPS unit as instructed. He has been instructed to charge his unit for 2 hours everyday. He was released from LCDC on 12/6/2013 at 6:42 pm and did not charge his unit until 12/8/2013 at 11:27 pm. This caused the unit to lose power and the subject was untracked for 51 hours and 45 minutes. He failed to call the GOC as previously instructed for 24 hour assistance on his GPS unit. He was given their phone number. He admitted that he stayed with his mother at 301 Taylor Street, West Columbia SC 29169. This residence has been unapproved for him to reside as it is within 1000 feet of a school. Subject has failed to follow the advice and instructions of the agent. Such actions constitute a violation of Sections 7, 10, and special conditions of the release certificate dated 5/1/2013 and Sections 3, 10, 11, 13, of the Participant Rules Acknowledgment and Agreement, and Sections 10 and 12 of The Standard Sex Offender Conditions signed by subject dated 5/2/13. This citation is in addition to warrant W-32-13-0318 issued on 12/5/2013 and served on 12/5/2013.

Sandra Young  
Affiant

Sworn to and subscribed before me this  
12 day of December, 2013

Clare M. US  
Signature of Notary Public

May 29 2018  
My Commission Expires

South Carolina Department of Probation, Parole and Pardon Services.  
Violation Report

LD

Offender's Name: BRAD ALAN DAY

State of South Carolina, County of: LEXINGTON

SID#: 00457830

Warrant#: W-32-13-0318; C-32-13-0263

Date of Birth: [REDACTED]

SCDC#: 00226463

Indictment Numbers:

07-GS-32-01387

Offense and Offense Code:

397 - Criminal sexual conduct with minor or Attempt - victim under 16 yrs of age - Second degree (SR unless ordered not by judge)

GPS DISCRETIONARY

Supervision Program: Community Supervision Begin Date: 4/29/2011 End Date: 4/30/2015

Supervision Level: Institutionalized

Sentencing Judge:

Sentencing County: LEXINGTON

Sentencing Date: 4/29/2011

Location (Bold Response): Community

Sentence:

\*\*9/12/2011 FORM 9B MUST RESPOND TO ALL ALERTS/CONTACTS FROM MONITORING CENTER, AGENT TO ADJUST SCHEDULE AS DEEMED NECESSARY \*\*2/10/12 FORM 1152 REVOCATION 90 DAYS NO GPS DISCRETIONARY \*\*RELEASED TO CSP 5/1/13 \*\*6/21/13 FORM 1182 EXEMPT \$120 INTEN FEES AND \$240 GPS, MOVE DRUG TEST FEE TO THE END OF SUPERVISION \*\*9/24/13 FORM 9B CONT ON SUPERVISION, EXEMPT ARREARS \$260 & GPS ARREARS \$540, REDUCE SF TO \$25/MTH FOR REMAINDER OF SUPERVISION, WAIVE DRUG TEST FEES (\$20) \*\*11/21/13 FORM 1151 CONT, SA COUNSELING, RESTR FINANCIAL OBLIGATIONS

Special Conditions:

F1151 - \*\*11/21/13 FORM 1151 CONT, SA COUNSELING, RESTR FINANCIAL OBLIGATIONS; F1182 - \*\*6/21/13 FORM 1182 EXEMPT \$120 INTEN FEES AND \$240 GPS, MOVE DRUG TEST FEE TO THE END OF SUPERVISION; F9B - \*\*9/24/13 FORM 9B CONT ON SUPERVISION, EXEMPT ARREARS \$260 & GPS ARREARS \$540, REDUCE SF TO \$25/MTH FOR REMAINDER OF SUPERVISION, WAIVE DRUG TEST FEES (\$20); FORM9B - \*\*9/12/2011 FORM 9B MUST RESPOND TO ALL ALERTS/CONTACTS FROM MONITORING CENTER, AGENT TO ADJUST SCHEDULE AS DEEMED NECESSARY; NEW CSP - RELEASED 5/1/13 NEW CSP: NO CONTACT W/VIC &/OR VIC'S FAMILY FOR DURATION, RESIDENCE PLAN REJECTED, GPS NLT 6MTHS, IF UNABLE TO REPORT DAY OF RELEASE I WILL BE CONFINED TO HOME UNTIL I REPORT TO SCDPPPS AT 8:30AM NEXT BUSINESS DAY, ATTEND S/O COUNSELING; Other1 - MUST HAVE NO CONTACT W/VICT AND/OR VIC'S FAMILY FOR DURATION OF SUPERVISION, RESIDENCE PLAN REJECTED, GPS MONITORING NLT 6MTHS, IF UNABLE TO REPORT ON DAY OF RELEASE, I WILL BE CONFINED TO MY HOME UNTIL I REPORT TO SCDPPPS AT 8:30AM THE NEXT BUSINESS...; Other2 - ...DAY, ATTEND SEX OFFENDER COUNSELING

Current Address and Summary of Residence:

[REDACTED], CAYCE, SC 29033, LEXINGTON, USA,  
[REDACTED], WEST COLUMBIA, SC 29169, LEXINGTON, USA, ; [REDACTED], GASTON, SC 29053, LEXINGTON, USA, [REDACTED]  
[REDACTED], WEST COLUMBIA, SC 29169, LEXINGTON, USA, ; [REDACTED], KNIGHTS INN, COLUMBIA, SC 29210, LEXINGTON, USA, ;  
[REDACTED], WEST COLUMBIA, SC 29169, LEXINGTON, USA, ; [REDACTED], WEST COLUMBIA, SC 29170,  
LEXINGTON, USA, ; SAME, , SC, USA,

Subject does lives at The Masters Inn located at Commerce Drive, Cayce SC 29033 Room [REDACTED]

Reporting:

He usually reports as scheduled.

Employment Records While Under Supervision:

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
SHARPE'S BODY SHOP TOWING	12/5/2013 -		\$0.00
SHARPE'S BODY SHOP & TOWING	4/29/2011 - 1/11/2012		\$800.00
COLUMBIA FARMS	5/20/2013 - 10/11/2013		\$0.00
	10/12/2013 - 12/5/2013		\$0.00

**South Carolina Department of Probation, Parole and Pardon Services**  
**Violation Report**

Offender's Name: **BRAD ALAN DAY**

He has just started back work at "Sharpes Body Shop and Towing"

**Financial Conditions:**

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Fees						
Drug Test Fee	\$20.00	\$20.00/M	\$0.00		\$0.00	\$20.00
GPS Active	\$200.00	\$40.00/W	\$0.00		\$200.00	\$200.00
GPS Active	\$80.00	\$40.00/W	\$0.00		\$80.00	\$80.00
GPS Active	\$120.00	\$40.00/W	\$0.00		\$120.00	\$120.00
GPS Active	\$840.00	\$40.00/W	\$800.00	10/2/2013	\$40.00	\$40.00
Intensive Supervision	\$25.00	\$25.00/M	\$0.00		\$25.00	\$25.00
Intensive Supervision	\$420.00	\$20.00/W	\$400.00	10/2/2013	\$20.00	\$20.00
Intensive Supervision	\$25.00	\$25.00/M	\$0.00		\$25.00	\$25.00
Intensive Supervision	\$50.00	\$25.00/M	\$0.00		\$50.00	\$50.00

His monies are in arrears. \$440.00 in arrears on GPS. \$400.00 on Intensive Fees. \$20.00 on Drug Testing Fee.

Prior Violation Dates	Prior Violations	Prior Violation Disposition
6/13/2013	Failed to pay his gps fees and intensive fees.	6/13/2013-Exempted \$120.00 on Intensive Fees and \$240.00 on GPS fees.
10/24/2013	Failed to follow the advice and instruction of the agent. Failed to pay fees. Failed to work at a lawful occupation. Testing positive for cocaine, methamphetamines, and amphetamines and opiates on 10/24/2013.	9/24/2013-Continue on Supervision. Exempt Arrears of \$260.00 and GPS arrears \$540.00. Reduce SF to \$25.00 for remainder of supervision.
11/7/2013	Failing to refrain from the use of illegal drugs by testing positive for Cocaine on 11/1/2013 and 11/7/2013	11/21/2013-Subject was continued. Substance abuse counseling. Restructure financial obligations.

**Details of the Present Violation:**

W-32-13-0318

By failing to refrain from the use of illegal drugs by admitting to using Cocaine on 12/1/2013.

C-32-13-026

Subject has failed to pay Intensive Fees being a total in arrears of \$120.00. He has failed to pay GPS fees-being \$440.00 in arrears. Subject was released on LCDC on 12/6/2013 at 6:42 pm and did not charge until 12/8/2013 at 11:27 pm. This caused the unit to lose power and the subject was untracked for 51 hours and 45 minutes. He failed to call the GOC as previously instructed for 24 hour assistance on his GPS unit. He was given their phone number. He admitted that he stayed with his mother at [REDACTED], West Columbia SCSC 29179. This residence has been unapproved for him to reside as it is within 1000 feet of a school. Subject has failed to follow the advice and instructions of the agent. Such actions constitute a violation of Sections 7, 10, and special conditions and the release certificate dated 5/1/2013 and Sections 3, 10, 11, 13 of the Participant Rules Acknowledgement and Agreement, and Sections 10 and 12 of The Standard Sex Offender Conditions signed 5/2/2013. This citation is in addition to Warrant W-32-13-0318

**South Carolina Department of Probation, Parole and Pardon Services  
Violation Report**

Offender's Name: **BRAD ALAN DAY**

**Agent's Recommendation:**

Revoke 1 year.

**Agent's Justification:**

Subject cannot do this community supervision. He has violated his CSP on many occasions. Just 10 days after being continued from his last violation he violated again in the same manner. He doesn't have money for treatment but he can afford a \$19.00 drug test before he reports to try and make sure he is clean. He also has someone drive his mother's car around for dealers to get drugs or get money for drugs. He continues to use drugs and he was not tracked by GPS for 51 hours because he didn't charge his unit (even though the unit speaks to him outloud and tells him that he needs to charge his unit because it's low on the battery. He has shown over and over that he is not a good candidate for community supervision. Subject is a threat to the community. He has a serious rap sheet. He should be revoked for 1 year.

Note: This is his 7th case under supervision. His record consists of:

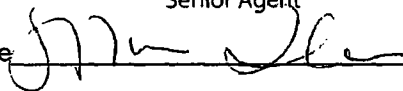
1984 Simple assault and battery  
1988 Criminal Domestic Violence and Public Drunk  
1990 Breaking into MV, Hit and Run, DUI  
1991 DUS more than 1st and DUI more than first, Simple Assault  
1992 False information to police, DUS more than first, DUI 2nd  
1993 Breaking into MV, Criminal Domestic Violence, Disorderly  
1995 DUS 3rd offense, DUI second, DUS 6th offense  
1996 DUS 3rd, Grand Larceny, Assault and Battery of High and Aggravated Nature  
2000 DUS  
2001 7 counts of fraudulent check  
2003 Burglary 3rd  
2007 Breach of Peace, Grand Larceny, CSC with minor

Lisa S. Baker

Senior Agent

Date: 12/13/2013

Supervisor's Signature



Date: 12/16/2013

FILED

ORIGINAL

2013 DEC 20 AM 11:04

BETH A. CARRIGG  
CLERK OF COURT

STATE OF SOUTH CAROLINA, LEXINGTON COURT OF GENERAL SESSIONS

COUNTY OF LEXINGTON

ORDER REVOKING BOND

THE STATE,

vs.

WARRANT(S) OR INDICTMENT #

W-32-13-0318

BRAD DAY  
DEFENDANT

The above named Defendant's bond is hereby revoked. The defendant is remanded to the custody of the Lexington County Detention Center.

It is further ordered

That: THE LEXINGTON COUNTY PUBLIC DEFENDER'S OFFICE  
IS APPOINTED TO REPRESENT SUBJECT. SUBJECT IS TO  
BE RETURNED TO COURT ON 1/17/14 FOR HIS VIOLATION  
HEARING.

AND IT IS SO ORDERED.

THIS 20 DAY OF  
DECEMBER 2013

Re Hood  
PRESIDING JUDGE



ORIGINAL

FILED

STATE OF SOUTH CAROLINA

2014 FEB - 7 PM 1:02

IN THE COURT OF GENERAL SESSIONS FOR THE

COUNTY OF LEXINGTON

BETH A. GARRIGG  
CLERK OF COURT  
LEXINGTON, SC

ELEVENTH JUDICIAL CIRCUIT

WARRANT #W-32-13-0318

CITATION #32-13-0263

Plaintiff, )

ORDER

v. )

BRAD DAY, )

Defendant. )

This Matter came before the Court on January 31, 2014. The Department of Probation, Parole and Pardon Services (PPP) alleged violations of Defendant's Community Supervision Program (CSP) pursuant to S.C. Code 24-21-560. Defendant Day was represented by David Mauldin at the hearing.

In light of the information presented at the hearing, the Court finds that Defendant violated his CSP in the following ways: For testing positive for cocaine and living in an unapproved residence. The Court revokes one year pursuant to section 24-21-560(C). \* DAK

Also at the hearing, Defendant moved for a finding that he had served his sentence and should no longer be considered to be on CSP. In support of his motion, Defendant showed that he had been sentenced to ten years suspended to the service of five years for indictment 07-GS-32-01387, Criminal Sexual Conduct with a Minor in the Second Degree.

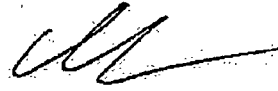
Defendant served eighty-five percent of his five years and was released to the supervision of PPP under CSP pursuant to S.C. Code 24-21-560 on September 12, 2011. Since that time, he has served one 90-day revocation period and a one-year revocation period. It is undisputed Defendant has served more than the full five years of his unsuspended sentence.

#1  
Dak

However, the Supreme Court in State v. Picklesimer, 388 S.C. 264, 695 S.E.2d 845 (2010), ruled that CSP is to use both the suspended and unsuspended portions of the sentence when determining the maximum amount of time a defendant is to be on CSP. "We now definitively state that the 'original sentence,' as referenced in section 24-21-560(D), includes both the suspended and unsuspended portions of a circuit court's sentence; it is, in fact, the total sentence handed down by the court." Id. at 268, 848. Picklesimer also ruled that CSP is either completed through two continuous years of CSP without violations, or the expiration of the original sentence, which includes both suspended and unsuspended portions of the sentence. Id. at 270, 848-849.

Because Defendant Day's original sentence was ten years suspended to the service of five years, the total sentence is ten years. Therefore, Mr. Day has not yet fully completed his sentence. He is to be sentenced to one year incarceration for the violation of the conditions of CSP and is to return to CSP when he is released from incarceration.

It is so ordered.



Donald B. Hocker  
Presiding Judge  
Eleventh Judicial Circuit

This 5th day of February, 2014

*DBH*  
\* *Mr. Day shall receive credit for 37 days served.*

# 2

A TRUE COPY  
*DBH*  
Lex. Co. C.C.P., G.S. & F.C.

ORIGINAL

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of General Sessions

HONORABLE DONALD B. HOCKER, CIRCUIT COURT JUDGE

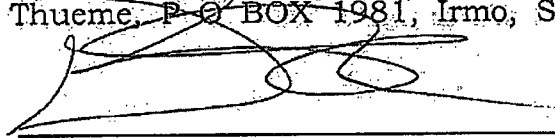
Citation No.: 32-13-0263

Probation C/W No.: W-32-13-0318

The State,.....Respondent.  
V.  
Brad Alan Day,.....Appellant.

NOTICE OF APPEAL

Brad Alan Day, had a community supervision violation hearing in front of the Honorable Donald B. Hocker on January 31, 2014. The Honorable Donald B. Hocker ruled on this case February 5, 2014. The Order was filed on February 7, 2014. He appeals the Court's finding that he had not satisfied his sentence and was still required to participate in the community supervision program. The court reporter was Carol Thueme, P O BOX 1981, Irmo, SC 29063.



David M. Mauldin  
Assistant Public Defender  
407 1/2 W. Main Street  
Lexington, SC 29072  
(803) 785-8873

**OTHER COUNSEL OF RECORD:**

Matthew C. Buchanan, General Counsel for Probation  
S.C. Dept of Probation, Parole and Pardon Services  
P.O. Box 50666  
Columbia, SC 29250

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of General Sessions

HONORABLE DONALD B. HOCKER, CIRCUIT COURT JUDGE

Citation No.: 32-13-0263

Probation C/W No.: W-32-13-0318

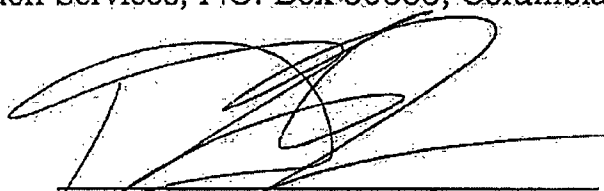
The State.....Respondent.

V.

Brad Alan Day.....Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Matthew C. Buchanan, by depositing a copy of it in the United States Mail, postage prepaid, on February 10, 2014, addressed to Matthew C. Buchanan, General Counsel for Probation, S.C. Dept of Probation, Parole and Pardon Services, P.O. Box 50666, Columbia, SC 29250.



David M. Mauldin  
Assistant Public Defender  
407 1/2 W. Main Street  
Lexington, SC 29072  
(803) 785-8873

WITNESSES

LCSD  
Russell, E.

DOCKET NO. 2007 GS-32-1387

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

APRIL TERM 2007

THE STATE

vs.

Brad Alan Day  
AKA Brad A Day

A-2007-32-00687

4/18/2007 10:37 AM

ARREST WARRANT NUMBER

J056445

ACTING FOREPERSON OF GRAND JURY

**TRUE BILL**

Foreman

Foreperson of Grand Jury

Date: 4-30-07

VERDICT

Foreperson of Petit Jury

Date:

CDR# 0397

Indictment for

Criminal Sexual Conduct with Minor 2nd  
Degree 14 to 16 and or Position of familial,  
custodial, etc.

§16-3-655(C)

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA )  
COUNTY OF LEXINGTON )

INDICTMENT FOR  
Criminal Sexual Conduct with Minor 2nd Degree 14 to  
16 and or Position of familial, custodial, etc.

§16-3-655(C)

At a Court of General Sessions, convened on APRIL, 2007, the Grand Jurors of Lexington County present upon their oath:

That Brad Alan Day, did in Lexington County on or about February 19, 2007, commit a sexual battery upon and with the body of Minor \_\_\_\_\_ being a child of at least fourteen (14) years of age but who is less than sixteen (16) years of age, and Brad Alan Day was in a position of familial, custodial, or official authority to coerce the victim to submit or was older than the victim, to wit: the defendant and victim did engage in sexual intercourse in violation of § 16-3-655 (C) [formerly section 16-3-655(3) of the Code of Laws of South Carolina, 1976, as amended.

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

  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Lexington  
STATE OF South Carolina

AKA: Brad Alan Day  
Race: W Sex: M Age: 32  
DOB: [REDACTED] SS#: [REDACTED]  
Address: [REDACTED]  
City, State, Zip: [REDACTED]  
DL# \_\_\_\_\_ SID# \_\_\_\_\_

IN THE COURT OF GENERAL SESSIONS

INDICTMENT CASE# 07-32-13A7 GS: 32-13A7  
A/W#: 5056445  
Date of Offense: 2-19-07  
S.C. Code §: 16-3-653  
CDR Code #: 0397

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: SCA 11-11-07 - Defeg

in violation of § 16-3-653 of the S.C. Code of Laws, bearing CDR Code # 397  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS (CSC w/minor 1<sup>st</sup> or Lewd Act)  §17-25-45

The charge is  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury, \_\_\_\_\_ (Defendant initial)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State, Lenof

ATTEST: [Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant yr

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 10 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of 5 days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*, the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. FEBRUARY 20, 2007 - CREDIT TIME SERVED  
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCOPPPS \_\_\_\_\_

PTUP \_\_\_\_\_ days/hours Public Service Employment

Recipient:	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ <u>23.00</u>
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ _____
TOTAL	\$ <u>125.00</u>

Obtain GED \_\_\_\_\_  
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling \_\_\_\_\_  
Random Drug/Alcohol Testing \_\_\_\_\_  
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_ paid to Public Defender Fund \$ \_\_\_\_\_  
Other: must register as sex offender

Appointed PD or appointed other counsel, \$35.13 TP  
Requires \$500 be paid to Clerk during probation.

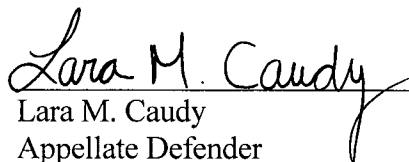
Beth A. Paige  
Clerk of Court/ Deputy Clerk  
Court Reporter: Carol Thorne

PRESIDING JUDGE [Signature]  
Judge Code: 0111210  
Sentence Date: October 29, 2007

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

July 14th, 2014

  
Lara M. Caudy  
Appellate Defender

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

ATTORNEY FOR APPELLANT

**RECEIVED**

JUL 14 2014

**SC Court of Appeals**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

R. Markley Dennis, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRAD ALAN DAY,

APPELLANT

APPELLATE CASE NO. 2013-002558

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Matthew Buchanan, Esquire, at South Carolina Department of Probation, Parole & Pardon Services, PO Box 50666, Columbia, SC 29250, this 14th day of July, 2014.

*Brandon Hall*  
Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 14th day of July, 2014.

*Palat McKay* (L.S.)

Notary Public for South Carolina

My Commission Expires: July 24, 2022

RECEIVED

JUL 14 2014

SC Court of Appeals