STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. Supreme Court

Certiorari to Greenville County

Edward W. Miller, Circuit Court Judge

JAMES FREDDIE MILLER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000373

PETITION FOR WRIT OF CERTIORARI

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ISSUES PRESENTED

1.

Did the PCR court err in finding probation counsel was not ineffective for failing to subpoena Carlton Andrews, an addictions specialist at Morris Village, to testify at Petitioner's probation revocation hearing to prove Petitioner successfully completed the inpatient program at Morris Village, which was a condition of his probation, where Petitioner had requested counsel subpoena Andrews before his hearing and counsel instead relied on a letter containing inadmissible hearsay?

2.

Did the PCR court err in finding probation counsel was not ineffective for failing to advise Petitioner of his right to a direct appeal from his probation revocation where extraordinary circumstances existed, namely Petitioner had a non-frivolous ground for an appeal, and where Petitioner suffered prejudice since if he would have been advised of his right to appeal, he would have appealed, and likely would have been granted relief on appeal since the trial court abused its discretion in finding Petitioner willfully violated the conditions of his probation?

STATEMENT OF THE FACTS

Procedural History

Petitioner waived presentment to the Greenville County Grand Jury for shoplifting third or subsequent. App. 88-89. On May 11, 2010, he pled guilty before the Honorable R. Lawton McIntosh. App. 90. Assistant Solicitor Leigh B. Paoletti represented the state, and Susannah C. Ross represented Petitioner. App. 90. Judge McIntosh sentenced Petitioner to ten years suspended upon the service of three years imprisonment and five years probation. App. 90.

On November 7, 2011, Petitioner appeared before the Honorable Deadra L. Jefferson for a probation revocation hearing. App. 75. He was represented by Tara Schultz Waters. App. 11, ll. 4-5. Judge Jefferson found Petitioner in willful violation of the terms or conditions of his probation and ordered him to remain in custody until bed space was available at an inpatient substance abuse treatment program. App. 75. After Petitioner successfully completed the inpatient substance abuse treatment program he was ordered to continue on probation. App. 75.

On April 3, 2012, Petitioner appeared before the Honorable Frank R. Addy, Jr. for a second probation revocation hearing. App. 1. He was again represented by Tara Schultz Waters. App. 1. The Department of Probation, Parole, and Pardon Services was represented by Eden Rose Castillo. App. 1. Judge Addy found Petitioner in willful violation of the terms or conditions of his probation, revoked his probation, and sentenced him to six years imprisonment. App. 13, ll. 5-19.

On May 17, 2012, Petitioner filed an application for post-conviction relief (PCR). App. 17-24. The state filed a return and motion to dismiss dated July 17, 2012 arguing Petitioner failed to state a claim cognizable under the Uniform Post-Conviction Procedure Act.[1] App. 25-28. The Honorable G. Edward Welmaker subsequently issued a conditional order of dismissal dated July 19,

[1] S.C. Code Ann. §§ 17-27-30 et seq. (2003)

2012. App. 29-31. Petitioner filed a response to the conditional order of dismissal dated August 1, 2012 raising the issues contained in this petition. App. 32-36. The state subsequently filed an amended return dated October 17, 2012. App. 37-41. The matter proceeded to an evidentiary hearing on October 22, 2013 before the Honorable Edward W. Miller. App. 42. Assistant Attorney General Karen C. Ratigan represented the state, and Brian P. Johnson represented Petitioner. App. 42. By order filed January 27, 2014, Judge Miller denied Petitioner relief. App. 79-87.

This petition for writ of certiorari follows.

Probation Revocation Hearing

After Petitioner's November 7, 2011 probation revocation hearing, Petitioner remained in custody until bed space was available at Morris Village, an inpatient substance abuse treatment program that is a part of the South Carolina Department of Mental Health. On February 2, 2012, bed space was finally available and Petitioner was transported to the facility. App. 72. After successfully completing the program, Petitioner was released from Morris Village on February 27, 2012. App. 72.

On March 12, 2012, Petitioner was arrested again for allegedly violating the terms and conditions of his probation. The affidavit in support of the arrest warrant alleged Petitioner was in violation of his probation because he (1) failed to report upon his release from Morris Village, (2) failed to report on March 6, 2012 as instructed by his agent, (3) failed to follow the advice of his agent by not reporting as instructed on March 6, 2012, (4) failed to successfully complete the inpatient substance abuse treatment program at Morris Village as ordered by Judge Jefferson on November 7, 2011, and (5) failed to report to Gateway on March 5, 2012 for a follow-up appointment after his completion of the inpatient substance abuse treatment program. App. 15.

Petitioner subsequently appeared before Judge Addy for a probation revocation hearing on April 3, 2012. App. 1. As noted, he was represented by probation counsel, Tara Schultz Waters, and the Department of Probation, Parole, and Pardon Services was represented by Eden Rose Castillo. App. 1.

Castillo informed Judge Addy of the procedural history of the case and explained the alleged violations contained in the arrest warrant affidavit. App. 2, l. 5 – 4, l. 5. She claimed she called Morris Village and inquired into whether Petitioner successfully completed the program. According to Castillo, an unidentified person from Morris Village told her Petitioner had asked to be released early because his sister was scheduled to have surgery on February 27, 2012, which is why they released him on that date. She said she did not discover Petitioner was released until March 5, 2012. On that date, she went to Petitioner's home to conduct a home visit and spoke to his sister. Petitioner's sister informed Castillo that while she was hospitalized for some time, she ended up not having surgery. Castillo claimed, "I left a message for the sister to tell the subject to report the next day, which is the 6th of March. The subject did not report." App. 4, l. 13 – 5, l. 4. Additionally, Castillo said Petitioner did not attend his follow-up appointment at Gateway on March 5, 2012. App. 4, ll. 4-5.

After hearing the allegations, Judge Addy asked Petitioner whether he admitted or denied he was in willful violation of the terms or conditions of his probation. Petitioner said, "I deny it." App. 6, ll. 2-4. Waters then went on to address each of the alleged violations. She explained to the court that Petitioner's sister, Janice Miller, was in the hospital from February 22, 2012 until February 28, 2012 and handed up paperwork documenting these dates. She said, "She actually was supposed to have surgery. She suffers from Hepatitis C and cirrhosis of the liver. Because her blood count was off, they could not perform the surgery. She was assigned follow-ups with doctors.

She was given medication to help stabilize the internal bleeding that she was experiencing and so this does prove that she was in the hospital and she was supposed to have surgery, but they were physically unable to perform the surgery on her without killing her." App. 6, l. 13 – 7, l. 7.

Waters went on to say, "Your Honor, because Ms. Miller [Petitioner's sister] suffers from Hepatitis C and cirrhosis and in my preliminary research, one of the symptoms of both these diseases is memory loss. I've asked Ms. Miller point blank if she remembers the agent asking her to have her brother report on March 6th. She doesn't remember. I don't believe that it's fair to hold by client to a report date that he, himself, was not notified of. There was no letter that was left. There was nothing in writing. It was just a verbal message from one family member to another and, Your Honor, within families you sometimes forget to tell people things and that's further exacerbated by the conditions that she suffers from that, you know, cause her to have memory problems even on a good day." App. 7, ll. 8-21.

Additionally, Waters presented the court with a letter from Carlton Andrews, an addictions specialist at Morris Village, indicating Petitioner successfully completed the inpatient program at Morris Village and that his "participation was excellent." App. 64. Waters argued the letter "would undercut the allegation that [Petitioner] did not complete the program as required by Judge Jefferson." App. 8, ll. 2-25. Furthermore, Waters told Judge Addy that Petitioner does not have a driver's license and thus relies on his father for transportation. She explained that Petitioner's father was unable to drive Petitioner to Gateway on March 5, 2012, but she "call[ed] Gateway and they verified for me that Mr. Miller called in and re-scheduled his appointment from March 5th to March 23rd." However, she noted Petitioner "was locked up prior to that day and so he was not able to make that appointment." App. 8, ll. 16-24.

Lastly, Waters argued Petitioner "was never asked to report upon release from the Morris Village Facility. He reported on March 12th as the agent did tell the Court and that would have been his normal report day [the second Monday of every month]. So he did come on his normal report date the first time that it came up after he was released from Morris Village." App. 8, l. 25 – 9, l. 5.

Water concluded that she addressed all of the alleged violations and provided sufficient evidence to prove Petitioner was not in willful violation of his probation. App. 9, ll. 6-10.

The court ultimately ruled, "I do find that Mr. Miller is in willful violation of his probationary terms and that he failed to report when instructed, he did not follow up with Gateway when he was supposed to have followed up with them and I am not convinced that he completed the program at Morris Village despite what has been provided to me by counsel for the defendant and so I do find that he is in willful violation of his probation and he should not have left when he left. He should have stuck around, he should have gotten a certificate, he should have graduated and he definitely should have followed up with Gateway . . . Revoke six years and terminate. Mr. Miller, be glad it's not seven." App. 13, ll. 5-19.

ARGUMENT

1.

The PCR court erred in finding probation counsel was not ineffective for failing to subpoena Carlton Andrews, an addictions specialist at Morris Village, to testify at Petitioner's probation revocation hearing to prove Petitioner successfully completed the inpatient program at Morris Village, which was a condition of his probation, where Petitioner had requested counsel subpoena Andrews before his hearing and counsel instead relied on a letter containing inadmissible hearsay.

PCR Hearing

Petitioner testified at the PCR hearing that before his probation revocation hearing on April 3, 2012, he asked probation counsel "to subpoena Carlton Andrews," the counselor who sent him the letter of completion, and his records. App. 48, l. 3-23; App. 51, ll. 9-17. He explained that after he was arrested on March 12, 2012 for allegedly not completing the program at Morris Village, he wrote to Andrews, told him that he was in jail, and asked him to send him a letter indicating he successfully completed the program. App. 50, l. 20 – 51, l. 8. The letter probation counsel presented to Judge Addy was the letter Petitioner ultimately received from Andrews.

Petitioner testified that he showed the letter he received from Andrews to probation counsel when she came to see him before his hearing and that this was when he asked counsel to subpoena Mr. Andrews. However, Petitioner explained that probation counsel told him, "We don't have to do that." App. 51, ll. 9-17. Petitioner maintained that it was important for Mr. Andrews to be present at his probation revocation hearing "[s]o he could tell Judge Addy that I did complete the program [at Morris Village] successfully," that "I attended all meetings," and that "I had excellent attendance." App. 51, ll. 18-25.

Petitioner testified Judge Addy read the letter from Carlton Andrews that he had given to probation counsel, but that Judge Addy "didn't accept it. He said, I'm readin' what it says but I'm not sure that you did complete this program so therefore the sentence of this court is 6-years." App. 52, ll. 5-11.

Probation counsel, Tara Waters, testified that she met with Petitioner on March 30, 2012, which was a few days before his hearing. App. 59, ll. 12-15. She could not specifically recall whether or not Petitioner had requested she subpoena Carlton Andrews, but she said, "having a letter that . . . stated that he successfully completed the program I felt was solid enough evidence, uh, so if we had had any discussions about subpoenaing any witnesses, um, I prob[ably] would have just opted to go with the letter because I I didn't see how the evidence could get much more clear at that point." App. 59, ll. 19 – 60, l. 3.

Order of Dismissal

The PCR court stated, "This Court notes that Court's Exhibit 1 [attached to the order of dismissal] indicates the Applicant did complete treatment at Morris Village. This Court, however, does not find counsel was deficient in failing to have Andrews present at the revocation hearing. First, this Court agrees with counsel that the letter she handed up to the judge (Applicant's Exhibit 1) appeared to be sufficient proof of completion on its face. This Court finds counsel was not deficient in failing to anticipate the judge would not give more credence to that letter." App. 83.

The court also found Petitioner "failed to demonstrate any prejudice from Andrews' failure to testify at the revocation hearing" because, while the issue of whether Petitioner completed the program at Morris Village was a basis for the revocation, Petitioner had numerous other violations. App. 83-84. The court indicated it could not "speculate" whether "Andrews' testimony at the probation violation hearing would have yielded a different result." App. 84.

Discussion

The PCR court erred in finding probation counsel was not ineffective for failing to subpoena Carlton Andrews, the addictions specialist from Morris Village, to testify under oath at Petitioner's probation revocation hearing.

While a probationer does not have a Sixth Amendment right to counsel, he has an absolute right to counsel under our state law. Turner v. State, 384 S.C. 451, 454, 682 S.E.2d 792, 793 (2009) (citing Barlet v. State, 288 S.C. 481, 483, 343 S.E.2d 620, 621 (1986) and Rule 602(a), SCACR). Despite not having a Sixth Amendment right to counsel, this Court has held that "the same analysis for ineffectiveness that applies in other PCR proceedings involving claims against counsel . . . apply in PCR proceedings involving claims against probation counsel." Id. at 455, 682 S.E.2d at 794.

In order to show ineffective assistance of counsel as a ground for relief, Petitioner must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686 (1984); see also Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Strickland, 466 U.S. at 687-688.

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. Petitioner must prove that counsel's performance was deficient and fell below reasonable professional norms; and there is a reasonable probability that, but for counsel's unprofessional errors, the result would have been different. Cherry v. State, 300 S.C. 115, 117-118, 386 S.E.2d 624, 625 (1989). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997).

In this case, probation counsel's performance was deficient, as it clearly fell below an objective standard of reasonableness. See Strickland, 466 U.S. at 687-688. Probation counsel should have subpoenaed Carlton Andrews to testify at Petitioner's probation revocation hearing to prove Petitioner was not in violation of his probation for failing to complete the inpatient substance abuse treatment program at Morris Village. Probation counsel was ineffective for instead relying on a letter containing inadmissible hearsay, especially since Petitioner was facing seven years imprisonment if he was found in violation.

Petitioner was clearly prejudiced by probation counsel's deficient performance because Judge Addy found the letter presented by counsel was insufficient proof Petitioner had completed the program at Morris Village. He said, "I am not convinced that he [Petitioner] completed the program at Morris Village despite what has been provided to me by counsel for the defendant and so I do find that he is in willful violation of his probation and he should not have left when he left." App. 13, ll. 9-13. If Carlton Andrews had been present at the hearing and testified about Petitioner's "excellent" and "active" participation in the program, it is likely Judge Addy would not have found Petitioner in willful violation of his probation, especially considering the meritorious arguments raised by probation counsel regarding the other alleged violations.

Therefore, the PCR court erred in finding probation counsel provided effective assistance of counsel because "there is a reasonable probability that, but for [trial] counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 118, 386 S.E.2d at 625 (internal citations omitted); See Strickland, 466 U.S. 668.

2.

The PCR court erred in finding probation counsel was not ineffective for failing to advise Petitioner of his right to a direct appeal from his probation revocation where extraordinary circumstances existed, namely Petitioner had a non-frivolous ground for an appeal, and where Petitioner suffered prejudice since if he would have been advised of his right to appeal, he would have appealed, and likely would have been granted relief on appeal since the trial court abused its discretion in finding Petitioner willfully violated the conditions of his probation.

PCR Hearing

Petitioner testified at the PCR hearing that probation counsel never discussed with him his right to appeal Judge Addy's finding that he was in willful violation of the terms and conditions of his probation. He said that he tried to talk to counsel after his hearing, but she told him she had to go and just left. App. 52, ll. 18-22. He explained, "The day that I got sentenced to 6 years she [counsel] turn[ed] around and left and I hadn't saw her or spoke to her since." App. 53, ll. 7-10.

Probation counsel, Tara Waters, testified that she could not specifically recall whether she had spoken to Petitioner after his revocation hearing. However, she said, "I did do some research on filing a motion to reconsider following the hearing but based on the case law that I had found, um, I did not believe that it was . . . something that, uh, would go anywhere." She explained that the case law she found indicated "the judge has great discretion in, uh, violating someone on probation and imposing a suspended sentence and according to the case law as long as there was any basis for the judge to find [a] violation he could do so, um, and it's up to the judge to weigh the evidence and . . . assess credibility at that point." Probation counsel admitted that she did not discuss her research or this case law with Petitioner. App. 63, ll. 2-25.

Order of Dismissal

The PCR court found Petitioner failed to meet his burden of proving probation counsel was ineffective for failing to file a notice of appeal. The court noted probation revocation counsel is not required to discuss with a probationer the right to appeal. Moreover, the court found Petitioner "failed to demonstrate either that he told counsel that he wanted to appeal or that there were any appealable issues from his revocation hearing." App. 84.

Discussion

The PCR court erred in finding probation counsel was not ineffective for failing to advise Petitioner of his right to a direct appeal from his probation revocation where extraordinary circumstances existed, namely Petitioner had a non-frivolous ground for an appeal. See Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008) (In the context of guilty pleas, extraordinary circumstances exist "when there is a reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing."); see also Roe v. Flores-Ortega, 528 U.S. 470 (2000). Petitioner suffered prejudice because if probation counsel would have advised him of his right to appeal, he would have appealed, and likely would have been granted relief since the trial judge abused his discretion by finding Petitioner willfully violated the conditions of his probation.

While a probationer does not have a Sixth Amendment right to counsel, he has an absolute right to counsel under our state law. Turner, 384 S.C. at 454, 682 S.E.2d at 793 (citing Barlet, 288 S.C. at 483, 343 S.E.2d at 621 and Rule 602(a), SCACR). Despite not having a Sixth Amendment right to counsel, this Court has held that "the same analysis for ineffectiveness that applies in other PCR proceedings involving claims against counsel . . . apply in PCR proceedings involving claims against probation counsel." Id. at 455, 682 S.E.2d at 794.

In order to show ineffective assistance of counsel as a ground for relief, Petitioner must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland, 466 U.S. at 686; see also Butler, 286 S.C. at 442, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Strickland, 466 U.S. at 687-688.

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. Petitioner must prove that counsel's performance was deficient and fell below reasonable professional norms; and there is a reasonable probability that, but for counsel's unprofessional errors, the result would have been different. Cherry, 300 S.C. at 117-118, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson, 325 S.C.at 186, 480 S.E.2d at 735.

"[P]robation counsel is not required to inform a probationer of his right to an appeal absent extraordinary circumstances." Turner, 384 S.C. at 456-457, 682 S.E.2d at 795. Extraordinary circumstances existed in this case because Petitioner had a non-frivolous issue that could have been raised on direct appeal, specifically whether Judge Addy had abused his discretion by finding Petitioner was in willful violation of the terms and conditions of his probation. See Turner, 380 S.C. at 224, 670 S.E.2d at 374. Therefore, probation counsel was ineffective by failing to advise Petitioner of his right to appeal.

Petitioner was prejudiced by probation counsel's deficient performance because if counsel would have advised Petitioner of his right to appeal, Petitioner would have appealed and it is likely Petitioner would have been granted relief on appeal because Judge Addy abused his discretion by finding Petitioner in willful violation of the terms and conditions of his probation.

"The decision to revoke probation is addressed to the sound discretion of the trial court." State v. Spare, 374 S.C. 264, 647 S.E.2d 706, (Ct. App. 2007) (citing State v. Allen, 370 S.C. 88, 94, 634 S.E.2d 653, 655 (2006) and S.C. Code Ann. § 24-21-460 (2007)). An appellate "court's authority to review such a decision is confined to correcting errors of law unless the lack of a legal or evidentiary basis indicates the circuit judge's decision was arbitrary and capricious." Id. (citing State v. Hamilton, 333 S.C. 642, 647, 511 S.E.2d 94, 96 (Ct. App. 1999)).

"In deciding whether to revoke probation, '[t]he trial court must determine whether the State has presented sufficient evidence to establish that a probationer has violated the conditions of his probation.'" Id. (quoting Allen, 370 S.C. at 94, 634 S.E.2d at 655) (alternations in original). "'Probation is a matter of grace; revocation is the means to enforce the conditions of probation.'" Id. (quoting Hamilton, 333 S.C. at 648, 511 S.E.2d at 97). "'However, the authority of the revoking court should always be predicated upon an evidentiary showing of fact tending to establish a violation of the conditions.'" Id. (quoting Hamilton, 333 S.C. at 648, 511 S.E.2d at 97).

Judge Addy abused his discretion in finding Petitioner in willful violation of the terms and conditions of his probation because the state presented insufficient evidence to establish a violation.

Probation counsel presented Judge Addy with a letter from Carlton Andrews, an addictions specialist at Morris Village, indicating Petitioner was enrolled in the inpatient substance abuse treatment program from February 2, 2012 until February 27, 2012, that he successfully completed the program, and that his participation in the program was "excellent." Notably, the PCR court found this letter was "sufficient proof" Petitioner had successfully completed the program. See App. 83. However, despite this letter, Judge Addy arbitrarily determined Petitioner did not successfully complete the program at Morris Village. See App. 13, ll. 9-13.

Additionally, the state presented insufficient evidence that Petitioner was instructed to report immediately upon his release from Morris Village. The only evidence of this was Castillo's *unsworn* statement that "he [Petitioner] was instructed, Your Honor, after he was released that he needs to report to my office." App. 9, ll. 16-18. Notably, the order signed by Judge Jefferson ordering Petitioner to complete an inpatient substance abuse treatment program does not indicate Petitioner must immediately report upon his release from the program. App. 75.

Probation counsel also informed Judge Addy she had called and confirmed that Petitioner had rescheduled his follow-up appointment at Gateway from March 5, 2012 until March 23, 2012 because Petitioner did not have transportation to the appointment that was originally scheduled for March 5, 2012. App. 8, ll. 16-24. Petitioner could not have been in violation of his probation for failing to show up to an appointment that had been rescheduled. Furthermore, the order signed by Judge Jefferson ordering Petitioner to complete an inpatient substance abuse treatment program does not indicate Petitioner must attend a follow-up appointment after completion of the program. App. 75.

Furthermore, as probation counsel argued at the revocation hearing, Petitioner should not have been held to a report date on March 6, 2012 that he was not personally notified of by his agent. <u>See</u> App. 7, ll. 8-21. Petitioner's agent, Castillo, told Judge Addy that she had merely told Petitioner's sister on March 5, 2012 to tell Petitioner to report the next day, March 6, 2012. <u>See</u> App. 4, l. 20 – 5, l. 4. This was insufficient notice to Petitioner that he needed to report that day and thus Petitioner could not have been found to be in violation of his probation for failing to report on March 6, 2012. Petitioner ultimately reported on his usual report date, March 12, 2012, which was the second Monday of the month. <u>See</u> App. 9, ll. 1-5; <u>see also</u> App. 20.

Respectfully, it is clear Judge Addy abused his discretion by finding Petitioner was in willful violation of the conditions of his probation, revoking his probation, and sentencing him to six years imprisonment. See App. 13, ll. 5-19.

Because Petitioner had a non-frivolous issue that could have been raised on direct appeal, probation counsel was ineffective for failing to advise Petitioner of his right to appeal. Furthermore, Petitioner suffered prejudice by counsel's deficient performance because if counsel would have advised Petitioner of his right to appeal, Petitioner would have appeal, and likely would have been granted relief on the direct appeal issue that follows.

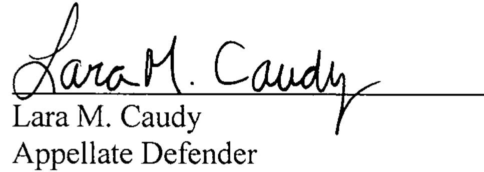
STATEMENT OF ISSUE ON APPEAL

Did the trial court abuse its discretion by arbitrarily finding Petitioner willfully violated the terms and conditions of his probation where the state failed to present sufficient evidence to establish a violation?

CONCLUSION

Petitioner respectfully requests this Court grant the petition for writ of certiorari and permit full briefing on the issues presented.

Respectfully submitted,



Lara M. Caudy
Appellate Defender

ATTORNEY FOR PETITIONER

This 28th day of July, 2014.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Greenville County
Edward W. Miller, Circuit Court Judge

JAMES FREDDIE MILLER,

PETITIONER,

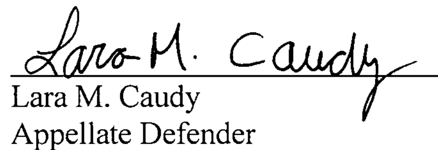
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

I certify that a true copy of the petition for writ of certiorari and a copy of the appendix in this case have been served on Karen Ratigan, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 28th day of July, 2014.



Lara M. Caudy
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 28th day of July, 2014.

______________________(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022