

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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JUL 30 2014

S.C. SUPREME COURT

CHRISTOPHER ANDREA ROBINSON | CASE NO. 1998-GS-11-1203

PETITIONER |

V. | APPEAL FROM ORDER OF

STATE OF SOUTH CAROLINA | THE CHEROKEE COUNTY

RESPONDENT | COURT OF GENERAL SESSIONS

PROSEDURAL HISTORY

THE APPLICANT IS PRESENTLY CONFINED IN THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, PURSUANT TO ORDERS OF COMMITMENT OF THE CLERK OF COURT FOR CHEROKEE COUNTY. THE APPLICANT WAS INDICTED AT THE OCTOBER 1998 TERMS OF THE CHEROKEE COUNTY GRAND JURY, FOR LEAVING THE SCENE OF AN ACCIDENT (1998-GS-11-1202) AND FOR CAUSING GREAT BODILY INJURY BY OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL (FELONY D-U-I- GREAT BODILY INJURY) (1998-GS-11-1203).

HE WAS REPRESENTED ON THE CHARGE BY TREAT N. PRUETT, ESG. ON SEPTEMBER 30, 1999. THE APPLICANT PLEADED GUILTY TO THE CHARGES AS INDICTED. HE WAS SENTENCED BY THE HONORABLE FRANK EPPES TO FIFTEEN (15) YEARS FOR FELONY D-U-I AND ONE (1) YEAR FOR LEAVING THE SCENE OF AN ACCIDENT PROVIDED THAT UPON SERVICE OF THIRTY (30) DAYS THE BALANCE IS SUSPENDED WITH PROBATION FOR THREE (3) YEARS. THE SENTENCES WERE TO RUN CONCURRENTLY. THE APPLICANT DID NOT APPEAL HIS SENTENCE OR CONVICTION.

AFTER THE APPLICANT HAD BEEN RELEASED FROM THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS AND WHILE ON PROBATION HE WAS ARRESTED AND CONVICTED IN ALABAMA ON OTHER CHARGES. A WAIVER OF NOTICE AND HEARING DOCUMENT WAS MAILED TO THE APPLICANT. THE APPLICANT SIGNED THIS DOCUMENT IN MAY 2007, WHERE HE AGREED TO WAIVE NOTICE OF A HEARING AND HIS RIGHT TO APPEAR BEFORE THE SOUTH CAROLINA COURTS THE WAIVER STATES:

THIS WAIVER IS ENTERED INTO WITH THE UNDERSTANDING THAT THE COURTS WILL REVOKE HIS [APPLICANT'S] PROBATION PREVIOUSLY GRANTED... AND ORDER FIFTEEN (15) YEARS IN INDICTMENT NUMBER 98-GS-11-1203 AND ONE (1) YEAR IN INDICTMENT NUMBER 98-GS-11-1202 TO BE SERVED CONCURRENTLY WITH EACH OTHER AND WITH THE ALABAMA SENTENCE NOW BEING SERVED.

SO ON AUGUST 16, 2007, THE APPLICANT WAS SENTENCED IN HIS ABSENCE BY THE HONORABLE DOYET A. EARLY AT A PROBATION REVOCATION HEARING TO FIFTEEN (15) YEARS IMPRISONMENT TO BE SERVED WITH THE SOUTH CAROLINA DEPT. OF CORRECTIONS. THIS SENTENCE WAS TO RUN CONCURRENTLY WITH THE ALABAMA SENTENCE HE WAS SERVING AT THAT TIME. THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS BECAME AWARE THAT APPLICANT WAS RELEASED FROM PRISON IN ALABAMA AND NOTED IN A LETTER DATED MARCH 22, 2012 TO SEVENTH CIRCUIT SOLICITORS OFFICE THAT THE APPLICANT HAD NOT COMPLETED SERVICE OF HIS SOUTH CAROLINA SENTENCE OF FIFTEEN (15) YEARS AND REQUESTED A WARRANT BE ISSUED FOR HIS ARREST. THE APPLICANT WAS THEN ARRESTED AND IS CURRENTLY SERVING HIS TIME AT BROAD RIVER CORRECTIONAL INSTITUTION.

DISCUSSION

IS APPLICANTS CONCURRENT SENTENCE BEING INCORRECTLY CALCULATED?

APPLICANT INDICTMENTS 98-GS-11-1203, 98-GS-11-1202, WHICH HE WAS SENTENCED TO PROBATION WAS REVOKED BECAUSE OF HIS BEING CHARGED AND ARRESTED IN THE STATE OF ALABAMA.

APPLICANT WAS CONVICTED OF PAROLE VIOLATION IN THE STATE OF ALABAMA.

ON NOVEMBER 30, 1999, APPLICANT WAS SENTENCED TO THREE (3) YEARS PROBATION ON THE AFORE MENTIONED INDICTMENTS. ON DECEMBER 2, 1999 APPLICANT RETURNED TO THE STATE OF ALABAMA, REPORTED TO HIS PAROLE OFFICER MS. VIOLET PHILLIP. APPLICANT TOLD MS. PHILLIP OF HIS SOUTH CAROLINA CHARGES AND ARREST. APPLICANT WAS ARRESTED ON DECEMBER 2, 1999 FOR VIOLATING HIS ALABAMA PAROLE, ON FEBRUARY 3, 2000 THAT PAROLE WAS REVOKED! FROM DECEMBER 2, 1999 UNTIL SEPTEMBER 28, 2008, APPLICANT WAS INCARCERATED IN THE DEPT OF CORRECTION IN THE STATE OF ALABAMA.

THE ONLY ARREST AND CONVICTION IN THE STATE OF ALABAMA, THAT THE APPLICANT HAS WHILE ON PROBATION FROM SOUTH CAROLINA, IS THE ARREST AND CONVICTION FOR VIOLATION OF HIS ALABAMA PAROLE. THIS DECEMBER

2, 1999 ARREST IS THE ONLY BASIS FOR VIOLATING THE PROBATION. SINCE THE ORDER OF THE HONORABLE DOYET A. EARLY ORDERED THAT THE FIFTEEN (15) YEARS BE SERVED CONCURRENTLY WITH THE ALABAMA SENTENCE APPLICANT WAS SERVING. THE WAIVER THAT WAS SIGNED ON MAY 2007, STATED THE SAME THAT THE FIFTEEN (15) YEARS TO BE SERVED CONCURRENTLY WITH THE ALABAMA SENTENCE NOW BEING SERVED. APPLICANT SOUTH CAROLINA PROBATION VIOLATION REVOCATION MUST START FROM THE DATE OF THE VIOLATION NOT THE DATE THEY DISCOVERED IT. APPLICANT DID NOTHING TO CONCEAL THIS VIOLATION. IN FACT HE SIGNED A WAIVER IN 2007 IN AN EFFORT TO RESOLVE THE SOUTH CAROLINA VIOLATION AND WAS FORTHER CONVINCED THAT IT WAS RESOLVED WHEN IN 2008 HE WAS RELEASED FROM PRISON IN THE STATE OF ALABAMA WITH NO DETAINERS, WARRANTS, HOLDS OR NOTICES.

ACCORDINGLY SINCE THE ONLY CHANGE AND ARREST THE APPLICANT HAD SINCE BEING PLACED ON PROBATION IN SOUTH CAROLINA IS THE ALABAMA PAROLE VIOLATION. THE DATE OF THAT ARREST MUST BE THE DATE VIOLATED HIS SOUTH CAROLINA PROBATION AND HIS CONCURRENT SENTENCE STARTS FROM THAT DATE.

CONCLUSION

SEE ATTACHED EXHIBITS

LOWER COURT ERRED IN THEIR DECISION THAT S.C.R.C.P. RULE 59(F) IS THE INCORRECT MOTION TO FILE UNDER, SEE JUDGE COLE ORDER DATED 6-30-2014, SEE ALSO MARLAR V. STATE 653 S.E.2d 266, PROPER PROCEDURE FOR CORRECTING FACTUAL ERRORS IS TO FILE TO ELTER OR AMEND PURSUANT TO RULES OF CIVIL PROCEDURE DOE V. DOE 478 S.E.2d 854.

APPLICANT MUST RECEIVE CONCURRENT SENTENCE CREDIT AS ORDERED BY JUDGE EARLY AND AGREED UPON IN THE WAIVER FROM DECEMBER 2, 1999 SEPTEMBER 28, 2008.

STATE OF SOUTH CAROLINA | STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE | IN THE SUPREME COURT

CHRISTOPHER ANDREA ROBINSON | CASE NOS. 1998-65-11-1203

PLAINTIFF

2013 CP1100315

V.

AFFADIVIT OF SERVICE

STATE OF SOUTH CAROLINA

RESPONDENT

CHRISTOPHER ANDREA ROBINSON, DECLARES UNDER THE PENALTY
OF PERJURY THAT HE MAILED A COPY OF HIS APPEAL TO
THE PARTIES LISTED BELOW, BY PLACING IN THE U.S. MAIL.

ALAN WILSON ATTORNEY GENERAL

P.O. BOX 11549

COLUMBIA, SOUTH CAROLINA

29211-1549

CHRISTOPHER A. ROBINSON

SCDC # 222938

B.R.C.I. MOULTRIE 1043

4460 BROAD RIVER ROAD

COLUMBIA, SOUTH CAROLINA

29210

CLERK, STATE SUPREME COURT

DANIEL E. SHEAROUSE, CLERK OF COURT

JULY 28, 2014

P.O. BOX 11330

COLUMBIA, SOUTH CAROLINA

29211

Responding to Christopher Robinson's attorney, Ms. Mitchell stated, that Christopher, her son, suffers from blood clot problems and that he has had operations for this condition. Further, she stated the subject does have high blood pressure problems and has "Shakes" when not taking the medication. Attorney Mr. Hanle, pointed out that the subject was having "Shakes" at this hearing as evidence by the trembling of his hands and this was observed also by this hearing officer. Under further questioning, Ms. Mitchell stated that the subject has worked hard at his employment and has live with her off-and-on. She states that Robinson has a "Nice attitude" and does keep a job. Finally, Ms. Mitchell stated that Christopher would be very welcomed to reside with her in Birmingham.

A second witness was heard, Adrian Stinson, subject's fiancée. Ms. Stinson resides at 7306 Division Avenue, Birmingham. Ms. Stinson was sworn in and testified that she has had a relationship with Christopher for over one year and a half. She stated that Christopher has had a positive affect on her children and that he has helped her with the children. She stated that her children see Christopher as a father figure in their lives. Ms. Stinson stated she has son age seven and a daughter age thirteen. Further testimony, Ms. Stinson stated subject works and brings home a pay check and that they maintain a normal relationship. Stinson stated that she plans to marry Christopher in February 2000. It was described by Ms. Stinson that the subject has done more for her and her children then the children's own father.

Under questioning from Mr. Robinson's attorney, Ms. Stinson stated that this subject has had surgery for blood clots on his leg and was using a walker for a while. She stated that she knew subject to be on six separate blood pressure pills and was also taking the pain medicine Lortab. She believed the subject to take between sixteen and seventeen pills a day. She testified the subject has kidney, blood pressure problems. Ms. Stinson recalls that the medicine the subject takes sometime makes him drowsy and that he needs to eat before taking the medicine. Finally, Ms. Stinson testified that she would very much like to see the subject reinstated on parole as soon as possible.

Mr. Michael Hanle, attorney, wanted the Parole Board to know that his client understands that he made a mistake in leaving the State of Alabama without permission of his parole officer, but he felt that this was a decision that was right for him to make considering all the circumstances at the time. Mr. Hanle also wish to point out that the South Carolina Court saw fit to grant Robinson probation instead of incarcerating him in jail for these offenses. Mr. Hanle stated that we had heard testimony today from his family, stating that they very much want him to be returned to parole status just as soon as possible. The attorney brought out that witnesses verified that Robinson was a faithful bread winner for his family and that the children of Ms. Stinson looked up to Christopher as a father figure. Mr. Hanle stated that the subject would work and lead a stable lifestyle, if the Parole Board could see fit to reinstate him on parole. In conclusion, Mr. Hanle stated that Mr. Robinson did make a mistake, but felt like the subject has learned from this unfortunate event and would now abide by all parole rules, if reinstated on parole.

Original - Board
Copy - File
Copy - Parolee

5
State of South Carolina
Department of Probation, Parole and Pardon Services

MARK SANFORD
Governor



SAMUEL B. GLOVER
Director

2221 DEVINE STREET, SUITE 600
POST OFFICE BOX 50666
COLUMBIA, SOUTH CAROLINA 29250
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.dppps.sc.gov/

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MAR 20 2012

GENERAL COUNSEL

10-08-07

St. Clair Correctional Institution
1000 St. Clair Road
Springville, Alabama 35146

RE: Christopher Robinson, # 123103

Dear Administrator,

Please be advised that the above referenced offender's probation / parole has been revoked. Citation number C-11-00-0021, issued by this agency, can be withdrawn upon receipt of the S.C. Department of Corrections detainer for this offense. Following receipt of the SCDC detainer, the case will be closed by our agency and we will have no further involvement. Thanks for your help.

Sincerely,

Tim Bright
Probation / Parole Agent
Cherokee County Probation and Parole Office
312 E. Frederick Street
Post Office Box 46
Gaffney, S.C. 29342
Phone - 864-489-4568

SOUTH CAROLINA		No. C-11-10-002	
v.		COUNTY: <u>Clarendon</u>	
TO: <u>Christopher Andrew Robinson</u>		SCDC #	SID # <u>C1284113</u>

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

Place	Room
<u>Clarendon County Courthouse</u>	<u>General Session Courtroom</u>
	Date and Time
	<u>3-6-00 9:00 am</u>

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

Violations Charged
<u>Offender has violated sections 1, 9, and 10 of the conditions of Probation.</u>

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

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

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

Date <u>6/1/00</u>	South Carolina	Probation and Parole Agent
		<u>Janita Perry</u> Agent # <u>812</u>

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

Place	Time and Date
<u>Christopher A. Robinson, 2-15001B</u>	<u>5:45 PM 5/5/00</u>
<u>1000 ST MARK Rd Springville</u>	Serving Officer's Signature
	<u>Christopher A. Robinson 123103</u>

Subscribed before me this 13th day of July, 192000

Notary Public
 Keith Parker Mayo
 My Commission Expires 9-27-2009

STATE OF SOUTH CAROLINA)

COURT OF GENERAL SESSIONS)

COUNTY OF CHEROKEE)

Case Nos: 98-GS-11-1203;1202)

State of South Carolina,)
Plaintiff,)

v.)
Christopher Robinson,)
Defendant.)

WAIVER OF NOTICE AND HEARING

The above named defendant after having read the citation issued on the 3rd day of February, 2000, hereby waives notice of a hearing and waives his right to appear before the Court in the cases identified above. This waiver is entered into with the understanding that the Court will revoke his probation previously granted in the cases identified above and order fifteen (15) years in indictment number 98-GS-11-1203 and one (1) year in indictment number 98-GS-11-1202 to be served concurrently with each other and with the Alabama sentence now being served. The defendant will not be reinstated on probation. The defendant is to receive credit on his South Carolina sentences starting on the date the Judge revokes the probation. The defendant understands that the South Carolina Department of Corrections will file a detainer against the defendant until the South Carolina sentences are satisfied. If the South Carolina sentences are not satisfied prior to the Alabama sentence, the defendant will be transported to South Carolina to finish the sentence.

The defendant, based upon the representations above, waives any defect in the service of the citation and voluntarily submits himself to the jurisdiction of the Court in his absence and without counsel at the hearing.

Witness

Date

Keith Parker Mayo

January 27, 2009

Christopher A. Robinson 123103

C.A.R.

Christopher Robinson

S.C. SID #01284903

STATE OF SOUTH CAROLINA) IN THE GENERAL SESSIONS COURT

COUNTY OF CHEROKEE) 1998-GS-11-1203

State of South Carolina,)

Plaintiff)

Christopher Andrew Robinson)

Defendant.)

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2012 APR 19 PM 3 27

ORDER

BRADY W. MCBEE

On September 30, 1999, the Defendant was convicted of Felony DUI with great bodily injury on the above referenced Indictment and sentenced to a probationary sentence. While on probation, Mr. Robinson was convicted in Alabama on other charges.

On August 16, 2007, the Defendant, Christopher Andrew Robinson was sentenced in his absence on a Probation Revocation by the Honorable Doyet A. (Early Jack) to 15 years to be served at the South Carolina Department of Corrections. His sentence also stated the following:

The South Carolina time is to run concurrently with the Alabama Sentence now serving. No Credit for Jail time, other than shown below, prior to the date of this Order.

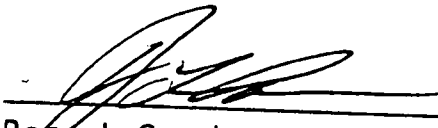
Judge Early gave the Defendant 30 days for credit for time served and the Revocation Order was signed on August 16, 2007.

It has now come to the Court's attention that the Defendant was granted parole and released by the Alabama Department of Corrections.

It is, therefore

ORDERED, that the Cherokee County Clerk of Court issue a Bench Warrant for the arrest of Christopher Andrew Robinson for failing to satisfy the sentence of the Court imposed August 16, 2007.

In the event, the Defendant disputes this incarceration, he may petition the Court for a hearing within 30 days of his arrest, or as soon as a hearing maybe held.

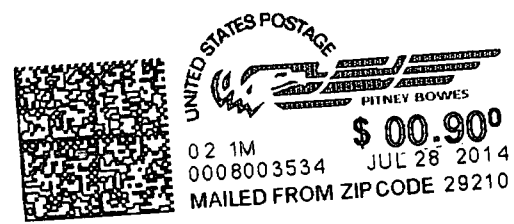


Roger L. Couch
7th Circuit Court Judge

April 19 2012

Gaffney, South Carolina

CHRISTOPHER A. ROBINSON
S.C.D.C. # 222938
B.R.C.I. MOULTRIE 1043
4460 Broad River Road
COLUMBIA, SOUTH CAROLINA



REGISTERED

JUL 28 2014

THE SUPREME COURT OF SOUTH CAROLINA
DANIEL E. SHEAROUSE, CLERK OF COURT
POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

M 100M

LEGAL MAIL

THE DEPARTMENT OF CORRECTIONS HAS NOT CENSORED
THIS ITEM. THEREFORE, THE DEPARTMENT DOES NOT
ASSUME RESPONSIBILITY FOR ITS WRITTEN CONTENTS.

WARDEN
BROAD RIVER CORRECTIONAL INSTITUTION
& C. DEPARTMENT OF CORRECTIONS