

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County
Paul M. Burch, Circuit Court Judge

RECEIVED

AUG 01 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

THOMAS CLINTON JORDAN LOCKRIDGE,

APPELLANT

APPELLATE CASE NO. 2014-000588

ANDERS BRIEF OF APPELLANT

LANELLE CANTEY DURANT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS1

TABLE OF AUTHORITIES2

STATEMENT OF ISSUE ON APPEAL3

STATEMENT OF THE CASE4

ARGUMENT5

CONCLUSION8

PETITION TO BE RELIEVED AS COUNSEL9

TABLE OF AUTHORITIES

Cases

State v. Best, 257 S.C. 361, 186 S.E.2d 272 (1972)..... 6

Statutes

South Carolina Code Section 24-21-410..... 6

STATEMENT OF ISSUE ON APPEAL

Did the trial court err in extending Appellant Lockridge's probation to five years for his convictions for four breaking and entering motor vehicles when the original sentences were five years suspended to two years probation with each concurrent to each other?

STATEMENT OF THE CASE

On October 6, 2011, Thomas Lockridge entered guilty pleas to four counts of breaking into a motor vehicle. He was sentenced on each to five years suspended to two years probation. All ran concurrent to each other. On February 26, 2014, Lockridge appeared before the Honorable Paul M. Burch and entered a guilty plea to burglary second non-violent; criminal conspiracy, and burglary third. R. 2, ll. 1 – 11. Lockridge was represented by Mindi Lipinski, and the state was represented by Jenny Desch. R. 1. Judge Burch sentenced Lockridge to five years on each charge with credit for 217 days served, and all concurrent. Restitution was ordered in the amount of \$337.38. R. 11, ll. 21 – R. 13, ll. 4.

At the same time and as a result of Lockridge's guilty pleas, his previous probation of two years was violated. R. 3, ll. 10 – 25. Judge Burch revoked one year of the five year sentence on the previous convictions for breaking into motor vehicles, and extended the two years probation to five years. R. 13, ll. 2 – 23. Lockridge's attorney filed a notice of appeal which appealed only the probation revocation.¹ This appeal follows.

¹ Lockridge appeals only the probation revocation and not the guilty pleas for burglary and conspiracy. See Notice of Appeal dated March 10, 2014.

ARGUMENT

The trial court erred in extending Appellant Lockridge's probation to five years for his convictions for four breaking and entering motor vehicles when the original sentences were five years suspended to two years probation with each concurrent to each other.

Thomas Lockridge was charged in 2011, along with a co-defendant, with breaking and entering four vehicles. He pled guilty in 2011 and was sentenced to five years suspended to two years probation on each charge with all to run concurrent. Restitution was ordered. See Indictments 2011-GS-46-2801, 2804, 2805, 2806 and accompanying sentencing sheets.

On February 26, 2014, he pled guilty to entering the Briton Express building during the night in Rock Hill but pled guilty to burglary second degree non-violent. R. 4, ll. 18 – 25. He also pled guilty to unlawfully entering the T&M Food Mart and pled guilty to burglary third degree. He pled guilty to criminal conspiracy for uniting with Justin Scott to commit a burglary. R. 5, ll. 1 – 24.

As a result of these new convictions which occurred while he was still on probation, he was charged with violating the two years probation he had received in 2011 for breaking into the vehicles. The probation officer asked the court for a partial revocation and to extend the probation to five years in order for Lockridge to pay the restitution although he originally was ordered two years probation. R. 3, ll. 10 – 25.

Defense counsel asked the court not to extend the probation to five years but to send him to a pre-release center or to vocational rehabilitation which could help him pay the restitution. R. 2, ll. 12 – 22; R. 10, ll. 1 – 19. Counsel explained the very difficult life Lockridge had experienced in his twenty-one years. His father shot his mother when

Lockridge was very young. His father was still in prison and his mother was disabled requiring 24 hour assistance. Lockridge had no family support. R. 8, ll. 8 – R. 9, ll. 25.

Lockridge told the court that he had been on probation since he was thirteen years old. He had never had a suitable house as none of his family members wanted him. He did obtain his GED through vocational programs. He told the court he could not parole out of prison because he did not have an address. R. 10, ll. 22 – R. 11, ll. 19; R. 12, ll. 1 17.

The judge then sentenced Lockridge to five years each to run concurrent on the two burglary charges and the conspiracy. No probation was ordered for those charges. The judge said: “On the probation matter, partial revocation of his time served of one year and extend the probation for five years.” R. 11, ll. 25 – R. 13, ll. 24.

South Carolina Code Section 24-21-410 concerns the power to suspend sentence and impose probation. It provides:

After conviction or plea for any offense, except a crime punishable by death or life imprisonment, the judge of a court of record with criminal jurisdiction at the time of sentence may suspend the imposition of the execution of the sentence and place the defendant on probation or may impose a fine and place the defendant on probation.

In State v. Best, 257 S.C. 361, 186 S.E.2d 272 (1972), the Supreme Court ruled that “when a trial judge has imposed a sentence and the term of court at which such was done has terminated, or when the trial judge has completed his service in a circuit, the previous sentence should not be altered, amended, modified, or changed.”

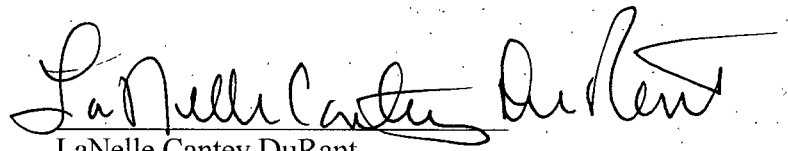
The judge in Lockridge’s probation revocation case should not have amended the period of probation. The two years probation was part of the sentence and the judge did not have the authority to extend it to five years. Probation was not ordered on the record for the

other offenses, so it was clear the five year extension of probation applied to the previous offenses from 2011.

CONCLUSION

Based on the above, the order extending the probation to five years should be revoked and the case remanded for the entry of an order returning the probation to its original two years.

Respectfully submitted,

A handwritten signature in black ink, reading "LaNelle Cantey DuRant". The signature is written in a cursive style with a long horizontal flourish extending to the right.

LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT

This 1st day of August, 2014.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County
Paul M. Burch, Circuit Court Judge

RECEIVED

AUG 01 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

THOMAS CLINTON JORDAN LOCKRIDGE,

APPELLANT

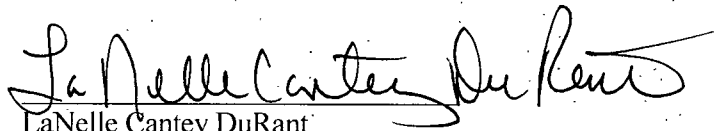
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Thomas Lockridge states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Paul M. Burch, which was held on February 26, 2014, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Thomas Lockridge.

Respectfully submitted,


LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT

This 1st day of August, 2014.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

AUG 01 2014

Appeal from York County
Paul M. Burch, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

THOMAS CLINTON JORDAN LOCKRIDGE,

APPELLANT

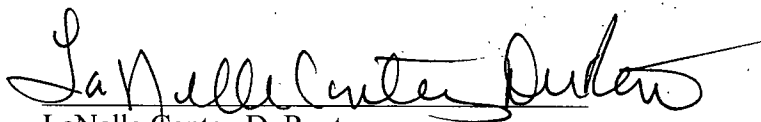
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s) for 2011-GS-46-2802, 2804, 2805, 2806.
- (2) Notice of Appeal
- (3) Sentencing sheets for Indictments 2011-GS-46-2802, 2804, 2805, 2806
- (4) Probation citation No. CC-46-14-20
- (5) Probation Revocation Forms for indictments 2011-GS-46-2802, 2804, 2805, 2806
- (6) Trial Transcript February 26, 2014

I certify that this designation contains no matter which is irrelevant to this appeal.

August 1st, 2014.



LaNelle Cantey DuRant
Appellate Defender

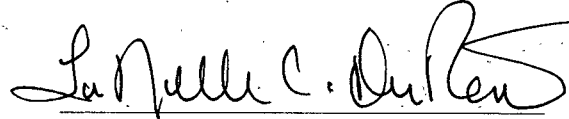
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

Attorney for Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and 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."

August 1st, 2014



LaNelle C. DuRant
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

RECEIVED

AUG 01 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

AUG 01 2014

Appeal from York County

Paul M. Burch, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

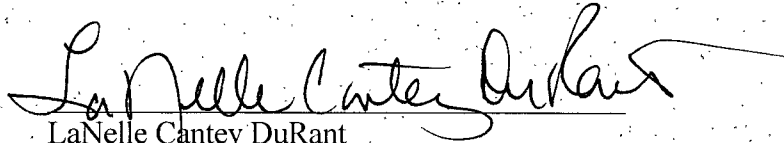
V.

THOMAS CLINTON JORDAN LOCKRIDGE,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal in the above referenced case has been served upon Matthew Buchanan, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Thomas Lockridge, #348119 at Wateree River Correctional Institution, PO Box 189, Rembert, SC 29128-0189; this 1st day of August, 2014.



LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 1st day of August, 2014.



(L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.