

Court of General  
Sessions

Circuit Court Judge  
Judge John C. Hayes III

County of Union, SC

Docket # / Case #  
2014-GS-44-0300

Court Date 10-8-2014

Sentence: 30 months concurrent with 1 year

Defendant/Appellant: John Russell Thomas

Public Defender / Lawyer info

Erik D. Delaney

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Appellant / Defendant info

John R Thomas

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South Carolina Court of Appeals

Po Box 11629

Columbia, SC 29211

Appellant

RE: John R. Thomas <sup>Appellant</sup>

VS  
State of SC

Indictment No: 2014-GS-44-0300

To whom it may concern:

I John Russell Thomas am writing the court regarding my sentencing imposed on 10-8-14 By Judge John C Hayes III Circuit court Judge, 16 Judicial Court. On 10-12-14 I asked my lawyer Jennifer Williams about my right of appeal due to the fact that my lawyer Erik D. Delaney told my family I could not file a motion of reconsideration. On 10-20-14 I recieved from them the attached document #1 stating that I must reply to you in writing within 20 days of the 14<sup>th</sup> of October to continue the appeal process. I was given a full Revocation sentence of 30 months for probation violation, and also a sentence of 1 yr ran concurrent with my probation violation. My lawyers request for a partial revocation and continuance of probation was denied. I was promised that by my admittance of my addiction of marijuana, and my activism in drug and alcohol rehabilitation class pleading guilty to the possession of marijuana would most likely only partial revocation and a sentence that will allow me to continue my rehabilitation would be imposed. A sentence, such as house arrest, weekend time and/or some type of fines with my probation continued. That is what led me to pleading to the poss 2nd offense. I was not to receive my sentence for the possession until I plead to the violation of probation. I was told that if I were to have a bench warrant issued for not coming to court I could receive the maximum of 30 months and 1 yr for the probation and possession. The same as I recieved. On my way to court that morning I was shot by stray gunfire and ended up hospitalized. I personally notified my lawyer, and the solicitor of my situation. I also led the ER worker to call them and also the investigating police officer of my shooting. called and verified the incident. I was hospitalized and kept at Wallace Thompson Hospital for treatment. Two days later I was notified by the investigating officer that it was an active bench warrant on me and that the courts are requesting that I be taken to the court house for sentencing. My surgeon advised me that if I left the hospital I would be denying medical assistance and could not be readmitted. I advised my lawyer of that and he told me I would have to sit in the county jail upon release until court that following month because the judge was going to leave that afternoon. He then suggested we commence court at the Hospital and we did.

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Moments later the court officials arrived and I was taken out of my bed and wheeled to the conference room. I tried to get my family and my drug counselor to come speak on my behalf but they told me it was not enough time or room to do so. So I only was allowed to have my minister/counselor to come in and speak on my behalf. I spoke for myself also as well as my lawyer who really just asked for the partial revocation. I tried to stand and speak but the judge noticed the I.V.'s in my arm and said I didn't have to. The man from the probation office stood and stated that the office recommendation was full revocation which was totally different from what my probation officer had been telling me throughout the previous months leading to that date. She had told me that nothing was recommended and that she was alright with the concurrent sentence, stated to me that I could look forward to a maximum of 1yr because usually in situations like mine the judge would only give me what I plead to and terminate my probation. Because the man was less than my probation sentence. But she was off and I could not verify that statement. My lawyer stated to my family that the judge had left the court house with the probation representative and that they most likely negotiated the sentence with out his input so now he was expecting the high end of the sentence. Then the judge signed his name and sentenced me. I became agitated with my lawyer because he waited til the judge was signing the sentencing sheet before the thought occurred to tell me that. The judge then told me any questions should be referred to my lawyer. Attached are documents and arguable bases and issues I feel are preserved for this appeal.

1. I was under the influence of doctor prescribed medication during my being sentenced on Oct 8, 2014. Because of my being shot on Oct 6 2014. Morphine and Norco pain medication  
Interventions and pill form
- 2 I was sentenced in Wallace Thompson Hospital conference room while in a wheelchair with I.V. attached in my arm.
3. My probation officer Jena Floyd was not present but on a signed affidavit she states I appeared before her on that date. Signature of notary public. \* Form Attached \*
- 4 I was advised not to pay my supervision or court cost by my probation officer Jena Floyd because of the pending violation

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4. (continued) But part of my violation was due to the arrearage of fees and fines \* attached forms
5. I asked for the motion to reconsider and was advised that my only option was to appeal. But Rule 29(0) states otherwise
6. I had not read or had read to me the attached document about probation violations.
7. I was told I was sentenced to 30 mths concurrent with 1 yr but when I got my sentencing sheet it stated that, The suspended sentence be revoked and I was to be required to serve 2 yrs 345 days. The remainder of the original sentence when my original sentence was only 48 mths suspended to 18 mths sode time and 30 mths probation. I pled to a cap of 3 yrs.
8. My right to have witnesses appear and testify on my behalf was denied, when the revocation hearing began. They said it wasn't enough room in the conference room. Only got to allow my mother, my minister and myself in the conference room. Only my Minister in myself spoke on my behalf. The councillor from drug and alcohol wasn't allowed in neither was the anger management councillor or my friends or family.
9. I was shot on Oct 6 2014 in route to court. I went to the E.R and I personally notified my lawyer and the solicitor and the clerk of Court of my location and why. Also they were notified by the EX Nurses and the investigating officer before court began. And still a bench warrant was issued.

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10. My CDR code on my sentencing sheet reads 180 but on my court docket sheet it reads CDR code 182.
11. My calculation of the remainder of my sentence is 2yrs 5mth 10 days or 2yrs 160 days but on my sentence 2yrs 345 was calculated as my remainder of my sentence.
12. ineffective council  
My lawyer never advised me of my right to a motion of reconsideration only told me I couldn't do so and I could only appeal the judges decision. which is incorrect
13. I made efforts to pay fines but was advised by my probation officer to not pay because of the pending violation. (14<sup>th</sup> amendment) states or precludes state court from automatically revoking probation & imposing prison term, without finding the probationer made bona fide effort to pay or alternative terms of punishment are adequate
14. I asked to have some public service attached to catch my mes up and was denied
15. lawyer coerced me into pleading without providing documentation of a drug test proving Indeed the substance was marijuana which I asked for.  
(Ineffective council)