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STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CLARENDON COUNTY

George C. James, Jr., Circuit Court Judge

RECEIVED

OCT 20 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

GREG JACKSON FLOYD

APPELLANT

APPELLATE CASE NO. 2014-000143

RECORD ON APPEAL

LARA M. CAUDY
Appellate Defender

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

Attorney for Appellant

TOMMY EVANS, JR.
Assistant General Counsel

South Carolina Department of
Probation, Parole & Pardon Services
PO Box 50666
Columbia, SC 29250
(803) 734-9220

Attorney for Respondent

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Form 16.1-Arrest Warrant
Form Approved by
SC Attorney General
Section 17-13-160
March 16, 1978

Probation

STATE OF SOUTH CAROLINA

ARREST WARRANT

COUNTY OF CLARENDON

Indictment Number 03-GS-14-00207

Warrant Number W-14-09-0078

State Identification No. (SID) 01495966

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

It appearing from the attached affidavit that there are reasonable grounds to believe that GREG JACKSON FLOYD, did on the 1 day of December, 2009 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

By violating conditions number 6 In Cause Number 03-GS-14-0207 by the Clarendon County Court of General Sessions dated May 19, 2004.

Now, therefore, you are empowered and directed to arrest the said defendant and bring GREG JACKSON FLOYD 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 MANNING, S. C. this 1 day of December, 2009.

Susan Rucker (L.S.)
Signature of Probation and Parole Agent

County of CLARENDON

AFFIDAVIT

STATE OF SOUTH CAROLINA

Personally appeared before me, one Susan Rucker, who, first being duly sworn, deposes and says that GREG JACKSON FLOYD did within this County and State on the 1 day of December, 2009, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

By violating conditions number 6 In Cause Number 03-GS-14-0207 by the Clarendon County Court of General Sessions dated May 19, 2004.

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:

#6) By failing to refrain from violating any Federal, State or Local Laws. As evidence by warrant M-083655 dated November 27, 2009 received from the Clarendon County Sheriff's Office, there is good, substantial and probable cause to believe that Greg Floyd did violate the law in that he was arrested on November 30, 2009 by the Clarendon County Sheriff's Office committing a Lewd Act upon a child under the age of 16.

Sworn to and Subscribed before me
this 1 day of December, 2009.

Susan Rucker
Affiant

Debra L. Ayfe (L.S.)
Signature of Notary Public

Address: P.O. BOX 1287
MANNING, SC 29102
CLARENDON
USA
(803) 435-8885

12 72 -2016
My Commission Expires

RETURN

STATE OF SOUTH CAROLINA
COUNTY OF
CLARENDON

THE STATE
against

GREG JACKSON FLOYD

INFORMATION ON DEFENDANT

Name GREG JACKSON FLOYD
Address [REDACTED]
Phone [REDACTED]
Sex Male Race White Height [REDACTED]
Social Security Number [REDACTED]

Constable or Law Enforcement Officer

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

Greg Floyd

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 12/1/2009

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

Susan Rucker

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 _____

on the 1st day of Dec 2009
Katherine Rucker
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 deal with according to law.

Disposition _____

Sentence _____

Co-Defendants _____

Signature of Judge

(L.S.)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Clarendon
STATE VS.

INDICTMENT#:
03-GS-14-207
Probation CW#: W-14-09-0076

AKA: Greg Floyd
Race: W Sex: M
DOB: [REDACTED]
SSN: [REDACTED]
SID#: _____

Name of Original Offense: Lewd Act w/child
Original A/W#: 14-430335
Date of Original Offense: 6-21-03
Conviction S.C. Code §: 16-15-140
Conviction CDR Code #: 2141618
Original Sentence: 10 yrs 55 days & 5 yrs prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 5/19/04 in the Court of General Sessions of Clarendon County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 9-18-08, as set forth in the attached warrant(s) or citation(s) dated 12-1-09. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)
No violations at this time.

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve _____ months/years, the remainder of the original sentence, and/or pay \$ _____.
- the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- Additional Conditions ordered by the Court: DUE TO THE ALLEGED COMMUNITY SAFETY ISSUES OF THE ALLEGATIONS OF NOVEMBER 27, 2009, THE DEFENDANT IS HEREBY PLACED ON GPS MONITORING DURING ADJUDICATION OF THOSE CHARGES; UPON MOTION OF THE HEARING OFFICER.

I so move: [Signature]

- The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- The defendant has previously served _____ months/years on this sentence.
(split sentence time and/or prior partial revocation time)
- The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 11 day of JAN, 2010
[Signature] SC

[Signature]
Presiding Judge
[Signature] Judicial Circuit

2010 JAN 28 AM
CLERK OF COURT
EQUITY

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature [Signature]

Witnessed by [Signature]

Signed this 11 day of JANUARY, 2010 at MANWING SC
Day Month Year City

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

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

Probation
ARREST WARRANT

Indictment Number 03-GS-14-00207

Warrant Number W-14-11-0012

State Identification No. (SID) 01495966

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

It appearing from the attached affidavit that there are reasonable grounds to believe that GREG JACKSON FLOYD, did on the 11 day of April, 2011 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Violation of Condition #10 and additional conditions of the supervision agreement imposed by the releasing authority or the Department under authority given by the South Carolina Code in cause number(s) 03-GS-14-00207, in the CLARENDON County Court of Gen

Now, therefore, you are empowered and directed to arrest the said defendant and bring GREG JACKSON FLOYD 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 MANNING, S. C. this 11 day of April, 2011.

County of CLARENDON

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

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Holly Price, who, first being duly sworn, deposes and says that GREG JACKSON FLOYD did within this County and State on the 11 day of April, 2011, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

Violation of Condition #10 and additional conditions of the supervision agreement imposed by the releasing authority or the Department under authority given by the South Carolina Code in cause number(s) 03-GS-14-00207, in the CLARENDON County Court of General Sessions

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:

By failing to comply with the terms of the Department's Global Positioning Satellite System (GPS) Monitoring Program in that the defendant committed the following violation(s): Inclusion Zone; by leaving his home at 7:31:37 am on 4/9/11 and again on 4/10/11 at 4:52:18 am and being found asleep in the TravelHouse Inn Room 108 at I-95 and Hwy 52, Florence, SC after being told he is not to leave the residence on Saturday and Sunday until 8:00 am, and by failing to follow the advice and instructions of the Agent. Such actions constitute a condition #10 and additional conditions of the supervision agreement ordered in cause number(s) 03-GS-14-00207 and specifically agreed to by the defendant on January 11, 2010.

Sworn to and Subscribed before me
this 11 day of April, 2011.


Affiant

 (L.S.)
Signature of Notary Public

Address: P.O. BOX 1287
MANNING, SC 29102
CLARENDON
USA

(803) 435-8885

6-28-2015
My Commission Expires

RETURN

STATE OF SOUTH CAROLINA
COUNTY OF
CLARENDON

THE STATE
against

GREG JACKSON FLOYD

INFORMATION ON DEFENDANT

Name GREG JACKSON FLOYD
Address [REDACTED]
Phone [REDACTED]
Sex Male Race White Height 604
Weight 200 Birth date [REDACTED]
Social Security Number [REDACTED]

Constable or Law Enforcement Officer

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

Greg Floyd

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 4/11/2011

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

Holly Price

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 _____

Disposition _____

Sentence _____

Co-Defendants _____

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

(L.S.)

Signature of Judge

South Carolina Department of Probation, Parole and Pardon Service
Violation Report

A++
COPY

Offender's Name: **GREG JACKSON FLOYD**
 State of South Carolina, County of: **CLARENDON**
 SID#: **01495966**

Warrant#: **W-14-11-0012**
 Date of Birth: [REDACTED]
 SCDC#: **NONE**

Indictment Numbers:
03-G5-14-00207

Offense and Offense Code:
2468 - Lewd Act, committing or attempting
lewd act upon child under 16 (after 6/4/96)
(Violent as of 6/2/10)

GPS MANDATORY

Supervision Program: **Probation**
 Supervision Level: **Institutionalized**

Begin Date: **3/30/2007** End Date: **3/29/2012**

Sentencing Judge: **136 - Early, III, Doyet**
 Sentencing Date: **5/19/2004**
 Location (Bold Response): **Jail**

Sentencing County: **CLARENDON**

Sentence:

10 yrs. ss upon serv. of 6 yrs. & 5 yrs. prob.

Special Conditions:

Fine - \$128.25; Other1 - Credit for T/S. Sexual offender treatment or counseling.

Current Address and Summary of Residence:

SAME, SAME, SC, USA, ; [REDACTED] TURBEVILLE, SC 29162, CLARENDON, USA,

[REDACTED] LAKE CITY, SC 29560, USA, [REDACTED] HWY, TURBEVILLE, SC 29162, CLARENDON, USA, ; [REDACTED]
 DARLINGTON, SC 29532, DARLINGTON, USA, ; [REDACTED] TURBEVILLE, SC 29162, CLARENDON, USA, ; [REDACTED]
 DARLINGTON, SC 29532, DARLINGTON, USA, ; [REDACTED] TURBEVILLE, SC 29162, CLARENDON, USA,

Reporting:

The offender is not being charged with a reporting violation at this time.

Employment Records While Under Supervision:

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
METAL MASTER	4/5/2010 -		\$4,000.00
	5/19/2004 - 4/5/2007		\$0.00
	3/30/2007 - 7/19/2007		
DORCHESTER DIRT	4/5/2007 - 4/6/2007		\$2,800.00
RTC TRUCKING	7/19/2007 - 10/8/2007		
PRO-LAGISTICS	10/8/2007 - 11/19/2007		
DILMAR OIL-COMPANY	11/19/2007 - 3/25/2008		\$2,612.00
MODERN MAINTENENCE	3/25/2008 - 6/9/2008		\$1,600.00
3 D MACHINERY	6/9/2008 - 8/20/2008		\$1,800.00
FLUOR DANIEL CORP	8/20/2008 - 9/1/2009		\$4,000.00
TELSTAR	9/1/2009 - 10/12/2009	Current Charge	

Violation Report
Y9103

Offender's Name: GREG JACKSON FLOYD

Financial Conditions:

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Fees						
GPS Active	\$2,600.00	\$40.00/W	\$2,145.00	4/14/2011	\$455.00	\$455.0

Prior Violation Dates	Prior Violations	Prior Violation Disposition
	Failure to pay Tracking fee as instructed	WRITTEN WARNING HAVE FEES CURRENT BY 2/25/10
1/11/2010	By failing to refrain from violating federal, state, or local law by being arrested for Lewd Act on a minor on November 30, 2009, per warrant M083655.	Continued. Due to the alleged community safety issues of the allegations of 11-27-2009, the defendant is hereby placed on GPS monitoring pending adjudication of those charges; upon motion of the HO Coleman.
9/18/2008	BY VIOLATING CONDITIONS OF PROBATION # 1, 3, 7, 10, SPECIAL CONDITIONS AND 1401 SEX OFFENDER CONDITIONS # 8 AND # 10 ORDERED IN CAUSE NUMBER 03-GS-14-207 BY THE CLARENDON COUNTY COURT OF GENERAL SESSIONS.	Continued. No violation found this date. Defendant previously served 6 years. Judge Hyman
4/6/2008	FAILURE TO PAY SUPERVISION FEES - 55.00 ARREARS FAILURE TO FOLLOW ADVICE AND INSTRUCTIONS OF AGENT.	Supervision fees to be paid up to date within 7 days.

Details of the Present Violation:

Violation of Condition #10 and additional conditions of the supervision agreement imposed by the releasing authority or the Department under authority given by the South Carolina Code in cause number(s) 03-GS-14-00207, in the CLARENDON County Court of Gen - By failing to comply with the terms of the Department's Global Positioning Satellite System (GPS) Monitoring Program in that the defendant committed the following violation(s): Inclusion Zone; by leaving his home at 7:31:37 am on 4/9/11 and again on 4/10/11 at 4:52:18 am and being found asleep in the TravelHouse Inn Room 108 at I-95 and Hwy 52, Florence, SC after being told he is not to leave the residence on Saturday and Sunday until 8:00 am, and by failing to follow the advice and instructions of the Agent. Such actions constitute a condition #10 and additional conditions of the supervision agreement ordered in cause number(s) 03-GS-14-00207 and specifically agreed to by the defendant on January 11, 2010.

Agent's Recommendation:

Revocation

Agent's Justification:

The offender is currently on for a sex offense and has a pending sex offense and failure to register as a sex offender. The offender was given his schedule in writing on 4/7/11 and failed to comply with that schedule and the agent was unable to get the offender by phone.

Holly Price

Agent

Date: 5/3/2011

Supervisor's Signature

Holly Price

Date:

May 3, 2011

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

COURT OF GENERAL SESSIONS
2003-GS-14-00207

STATE OF SOUTH CAROLINA

-vs-

GREG FLOYD

:
:
: TRANSCRIPT OF RECORD
: PROBATION VIOLATION HEARING
:

THURSDAY, MAY 12, 2011
MANNING, SOUTH CAROLINA

B E F O R E:

THE HONORABLE HOWARD P. KING, JUDGE.

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

JACK SWERLING, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DIANNE A. RUTLEDGE
CIRCUIT COURT REPORTER

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I N D E X

CERTIFICATE OF COURT REPORTER 16

E X H I B I T S

NO.		ID.	IN EV.
C-1	Form 1106, 1 page	3	

1 THE COURT: All right. The matter before The Court
2 this afternoon is a probation violation hearing of Greg
3 Jackson Floyd. The Court has a copy of the 1106 Department
4 of Probation, Parole, and Pardon Services Violation Report
5 in case no. 03-GS-14-0207. The 1106 indicates that the
6 defendant was sentenced by Judge Earley on May 19th of
7 2004, was given a 10-year sentence suspended upon service
8 of 6 years and 5 years probation.

9 The Court has marked the 1106 as Court's Exhibit No. 1
10 and made it a part of the record.

11 (Form 1106 marked as Court's Exhibit No. 1.)

12 THE COURT: Mr. Floyd, this matter is before The Court
13 on an arrest warrant dated April the 11th of 2011 and
14 served on April the 11th of 2011. Thus this court has
15 jurisdiction in the matter.

16 By this arrest warrant, the department alleges and
17 claims that you violated the terms and conditions of your
18 probation by failing to comply with the terms of the
19 department's global positioning satellite system, the GPS
20 monitoring program, in that you committed the following
21 violations, the inclusions of by leaving your home at 7:31
22 in the a.m. on 4/9/11 and again on 4/10/11 at 4:52 a.m.,
23 and being found asleep at the Travel House Inn in room 108
24 on I-95 and Highway 52 in Florence after being told that
25 you're not to leave your residence on Saturday and Sunday

1 until 8:00 a.m., and by failing to follow the advice and
2 instructions of the agent; that's what constitutes a
3 violation of your probation.

4 In other words, basically what they're saying is that
5 you violated the terms and conditions of your probation by
6 not doing what you were supposed to be doing under the GPS
7 monitoring system.

8 Do you understand what the charges are?

9 MR. FLOYD: Yes, sir.

10 THE COURT: Do you understand that you have the right
11 to present any testimony and evidence to me that you wish
12 to present and I'll hear from you in that regard in a few
13 minutes. Do you understand that?

14 MR. FLOYD: Yes, sir.

15 THE COURT: And you have the right to be represented
16 by an attorney. I see you are here with Mr. Swerling.
17 Have you had a chance to talk with Mr. Swerling about these
18 matters?

19 MR. FLOYD: Have I?

20 THE COURT: Yes.

21 MR. FLOYD: Yes, sir.

22 THE COURT: And, Mr. Swerling, you are retained to
23 represent him in this matter; is that correct?

24 MR. SWERLING: Yes, Your Honor.

25 THE COURT: All right. And you have the right to

1 appeal from any decision that I make, and you must do that
2 within 10 days. Do you understand that?

3 MR. FLOYD: Yes, sir.

4 THE COURT: All right. Ms. Price, what would you like
5 to add to what's in the 1106?

6 PROBATION OFFICER: Yes, sir, Your Honor. On several
7 occasions we've had telephone calls from Mr. Floyd at 2:00
8 o'clock in the morning, 3:00 o'clock in the morning needing
9 to leave the residence. A lot of times we have been able
10 to accommodate him. And at this point on the night in
11 question, actually the warrant that was originally issued
12 did not have a warrant number on it, so we had to reissue
13 it on the 11th.

14 I made the arrest on 4/10 2011 at the Travel House
15 Inn. The reason ---

16 THE COURT: Let me see if I understand. And you all
17 may need to clear this up.

18 PROBATION OFFICER: Okay.

19 THE COURT: But as I understand it, under his GPS
20 monitoring requirements that Monday through Friday he can
21 leave at 4:00 a.m., but on weekends he's not supposed to
22 leave until 8:00 a.m. -- leave the house until 8:00 a.m.;
23 is that right?

24 PROBATION OFFICER: Correct.

25 THE COURT: Okay.

1 PROBATION OFFICER: Correct, Your Honor.

2 THE COURT: And he is supposed to on all days return
3 home by 10:00 p.m.

4 PROBATION OFFICER: Correct, Your Honor.

5 THE COURT: All right. All 7 days of the week?

6 PROBATION OFFICER: Yes, sir.

7 THE COURT: And that he's supposed to charge his GPS
8 monitoring from 10:00 p.m. until 12:00 a.m.?

9 PROBATION OFFICER: Correct.

10 THE COURT: And what we have are 2 dates, the 9th of
11 April when he apparently left at 7:31 in the morning, and
12 then on the 10th when he left or was not being monitored at
13 4:52 a.m. that day?

14 PROBATION OFFICER: Correct. Your Honor, the reason
15 that I even went out and attempted to locate Mr. Floyd was
16 because I could not get him on a phone. Normally, if he
17 left his residence a little bit early or -- you know, a few
18 minutes early, we could contact him. He would answer his
19 phone. We'd tell him to get back or, you know, charge or
20 do whatever he needed to do, and he would do that. That
21 day -- in particular Thursday when he came in to report to
22 me, I gave him his schedule, wrote it down, gave him a copy
23 of it. And then on Saturday he left at 7:30 and on Sunday
24 he left at 4:00, and I couldn't reach him on his phone.

25 THE COURT: Okay. All right.

1 PROBATION OFFICER: And so I had to address that
2 issue.

3 THE COURT: I understand.

4 PROBATION OFFICER: I do have the victim in the
5 courtroom.

6 THE COURT: All right. Let me address the victim or
7 family of the victim at this time. In connection with any
8 proceeding in connection with this case -- as I'm sure
9 you've known over the years that this has gone on -- you
10 have a right to be kept advised of everything that is going
11 on and have the right to be present at all times when there
12 is any kind of a hearing on it. And I'm sure that the
13 probation department, as the solicitor before them, kept
14 you advised of everything. But you also have the right to
15 address The Court. So if there is anything you would like
16 to tell me, I'll be glad to hear from you. Is there
17 anything you wish to say, just give me your name, I'll be
18 glad to hear from you.

19 LISA FLOYD: I am ---

20 THE COURT: Come on up please. Come over here by Ms.
21 Price.

22 (Pause.)

23 THE COURT: Yes, ma'am. Give me your name.

24 LISA FLOYD: I'm Lisa Floyd.

25 THE COURT: Yes, ma'am.

1 LISA FLOYD: I'm the mother of his first victim, who
2 was 5 years old at the time. We've dealt with this for 8
3 years, and I don't know if there is anything that can make
4 this go away. No amount of time served. Do I think he
5 needs to be behind bars? Yes, of course. And that's what
6 I would suggest for him, to go back and finish out his term
7 for whenever he was let out from her sentence.

8 THE COURT: Okay. Let me ask you one thing. Since he
9 has been out on probation, has there been any contact with
10 you or ---

11 LISA FLOYD: Oh, no, sir.

12 THE COURT: --- the child? Okay. All right. Thank
13 you.

14 LISA FLOYD: You're welcome.

15 THE COURT: All right. Mr. Swerling.

16 MR. SWERLING: Judge, as to the alleged violation on
17 the 9th at 7:31. He tells me that he was actually in the
18 back yard. He had called the police because he thought
19 there was a break-in. So he was not in range from when,
20 you know, he was called. But it was 7:31, and he says he
21 was in the yard.

22 I guess the more serious violation is the one on the
23 10th where he left at 4:00 o'clock in the morning. And he
24 admits that, Your Honor.

25 THE COURT: Almost 5:00 o'clock. 4:52; yes.

1 MR. SWERLING: He admits that.

2 THE COURT: Okay.

3 MR. SWERLING: Judge, what happened in this situation
4 -- of course, I'm sympathetic to the victim's mother. But
5 as The Court pointed out when you asked her that question,
6 this has actually nothing to do with him coming around the
7 victim or bothering the victim or the family.

8 He's been on probation for almost 4 -- actually, over
9 4 years. March was 4 years. And as Your Honor can see, he
10 has tried to even -- with a record, he has tried to
11 maintain employment. There's a whole history here of the
12 employment. And, of course, he's had difficulty getting
13 employment and maintaining employment because of the
14 restrictions. But the probation office has worked with him
15 to the extent that they can and allowing him travel time to
16 get to and from work. So we don't have any problem there.

17 When I first got involved in the case -- I'm
18 representing him on the case in which he is charged now.
19 There's a pending charge. He was married. And, basically,
20 his wife, Pricilla, was his rock. I mean, that was the
21 strength that he had to get through this whole situation.

22 His parents are here and also some family friends who
23 can verify this. But -- and I think his probation agent
24 actually can verify it. It was kind of an on-again, off-
25 again situation where they were living together, not living

1 together. As the case wore on, there was more stress
2 involved, and Ms. Floyd eventually -- the ultimate
3 separation took place around this time where they were
4 separated. She was living at that motel. It was not just
5 some random meeting in a motel. She was actually living
6 there and they had separated.

7 THE COURT: What's the charge that he has pending
8 against him now?

9 MR. SWERLING: It's criminal sexual assault.

10 THE COURT: Against the then second wife?

11 MR. SWERLING: No. It's somebody totally unrelated.

12 THE COURT: Somebody totally unrelated?

13 MR. SWERLING: Yeah. I mean, actually a lewd act. I
14 said criminal sexual assault. It's a lewd act.

15 THE COURT: Lewd act. Okay.

16 MR. SWERLING: And he's charged with that, and that's
17 what I'm representing him on.

18 THE COURT: Okay.

19 MR. SWERLING: Now, what's happened now is Pricilla
20 has left and she's in Mississippi now working. And I had
21 spoken to her. You know, she obviously is still supportive
22 of him, but, you know, the marriage wasn't working out and
23 just had its stress.

24 On this particular morning -- the reason why he left
25 the house at that time -- and he did know that he was not

1 supposed to. I mean, he admits that. He got a call from
2 her. She was pregnant. She was bleeding, I think. He was
3 afraid -- or she was afraid she was losing the baby. She
4 was upset. And he made a bad mistake in judgment in going
5 over to the motel.

6 And when he went over there, sure enough, he got
7 caught. The agents found him there.

8 And, Judge, I would submit. He's tried to do
9 everything he can. He has not bothered the victim. He's
10 been working. He's been trying to work. He's paying his
11 fees. He is not -- this is the violation as far as 5:00
12 o'clock in the morning. And I don't minimize in any way --
13 but, I think there were some extenuating circumstances that
14 caused him to go over there.

15 Now, his wife is not here. She has -- as I said, she
16 is in Mississippi. But I would ask The Court to consider
17 that we are going to have a trial coming up at some point.
18 We just got ---

19 THE COURT: Where is that pending? What county?

20 MR. SWERLING: It's here.

21 THE COURT: It's here?

22 MR. SWERLING: Yes. And we actually -- we had a
23 hearing -- not before a judge, but we had a preliminary
24 hearing I think some time ago and he was placed -- he was
25 actually placed on the GPS monitoring -- a more stricter

1 form of GPS monitoring on January 11, 2010. I was there
2 because of the pending charges.

3 THE COURT: On his bond?

4 MR. SWERLING: Correct.

5 THE COURT: Okay. His bond.

6 MR. SWERLING: Actually, at the probation office. And
7 they added additional GPS requirements ---

8 THE COURT: I got it.

9 MR. SWERLING: --- because he's been charged.

10 THE COURT: I got you.

11 MR. SWERLING: So, Judge, I would ask you to consider
12 his release. I mean, you may want to tighten it up a
13 little bit. He would like to work. He's going to have to
14 be living with his parents who are right here. His mother
15 is a teacher. His dad is disabled. Life-long residents of
16 the county. They're going to have him live at the house.
17 If Your Honor deems it advisable, tighten it up. They will
18 honor that. He will honor that.

19 As I said, he would like to work. But if you feel
20 like that is not in the interest of the community, then he
21 will stay at the house.

22 THE COURT: Is the GPS monitoring done through a
23 private source or is that your office?

24 PROBATION OFFICER: No, sir. It's done through the
25 probation and parole office. We have a monitoring center

1 in Columbia, South Carolina that does the monitoring of the
2 comings and goings.

3 Your Honor, I'd also like to add something. That
4 night -- the morning that I arrested him on the 10th, when
5 we got into room 108, he was asleep and she was asleep.
6 And they had the dog there also. No mention of any issues
7 with miscarriage or bleeding or anything like that.

8 THE COURT: I understand. Okay. All right. I find
9 that the defendant does understand the nature of these
10 proceedings. Before we get that far, Mr. Swerling, I told
11 Mr. Floyd I'd give him a chance to tell me anything he
12 wanted to tell me if there's anything he wanted to tell me.

13 Is there anything you'd like to say?

14 MR. FLOYD: Yes, Your Honor. I want to say I'm sorry
15 I left. Like I say, my wife called me. I just shot out
16 and took out to her. And that is the truth. I mean, I put
17 my hand on the Bible on that.

18 THE COURT: All right. Thank you. I find the
19 defendant does understand the nature of these proceedings.
20 He's represented by competent counsel. I further find that
21 by his own admission he's in violation of the terms and
22 conditions of his probation by not following the GPS
23 monitoring requirements.

24 I do have some issue in my mind, Mr. Swerling, I think
25 you can appreciate this as well as to whether that is a

1 court-ordered requirement by that written thing. There is
2 some authority for the fact that even PSC imposed by the
3 probation department is not a violation if you violate the
4 PSC if it's not implemented by The Court.

5 But in any event, I think there is a violation here.
6 The main violation, of course, is the one of that
7 particular morning at 4:52, which is considerably earlier
8 than the time that he was supposed to leave some 3 hours.

9 The other one was only about a half hour difference.

10 But what I'm going to -- and I agree the violations
11 apparently have nothing to do with the protection of the
12 victim in this case. And I am going to therefore revoke 90
13 days, give him credit for the time that he's served. I
14 think he does need to understand that he can't just take
15 off and he is going to have some consequences if he
16 violates the terms and conditions of his probation.

17 So I'm going to revoke 90 days. Give him credit for
18 the time that he has served since his arrest. And I am
19 going to adopt the conditions that have been imposed by the
20 department on this written sheet attached to -- that he has
21 acknowledged receipt of. And those now become a part of
22 the court order. The conditions imposed by the
23 instructions by the Department of Probation, Parole, and
24 Pardon Services now become a part of the court order. And
25 if he violates them, then he has violated a court order and

1 the matter can be brought back before The Court.

2 But 90 days for his leaving those 2 mornings early.

3 Okay.

4 PROBATION OFFICER: Reinstate the GPS and all the
5 other ---

6 THE COURT: Oh, yes, reinstate the GPS.

7 PROBATION OFFICER: Okay.

8 --- End of transcript of record ---

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1 I, the undersigned, Dianne A. Rutledge, official Court
2 Reporter for the Fifth Judicial Circuit of the State of
3 South Carolina, do hereby certify that the foregoing is a
4 true, accurate, and complete Transcript of Record of all
5 the testimony had and evidence introduced in the hearing of
6 the captioned case, relative to appeal, in the General
7 Sessions Court for Clarendon County, South Carolina, on the
8 12th day of May 2011.

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

11

12

April 10, 2014

13

14

15

16

Court Reporter

17

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STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Clarendon
STATE VS.

INDICTMENT#: 03-GS-14-207
Probation CW#: W-14-11-0012

AKA: Greg J. Floyd
Race: W Sex: M
DOB: [REDACTED]
SSN: [REDACTED]
SID#: [REDACTED]

Name of Original Offense: Lewd Act on child
Original A/W#: H430335
Date of Original Offense: 6-21-03
Conviction S.C. Code §: 16-15-140
Conviction CDR Code #: 2141618
Original Sentence: 10 yrs 55 yrs 9.5 yrs
prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 5/19/04 in the Court of General Sessions of Clarendon County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 9-18-08 1-11-10, as set forth in the attached warrant(s) or citation(s) dated 4-11-11. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)
10

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve _____ months/years, the remainder of the original sentence, and/or pay \$ _____.
- the suspended sentence be revoked and the above named defendant be required to serve 90 DAYS months/years of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- Additional Conditions ordered by the Court: Reinstate GPS Adopt conditions imposed by Probation

- The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- The defendant has previously served 6 months/years on this sentence.
(split sentence time and/or prior partial revocation time)
- The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 12 day of MAY, 2011.
MANNING, SC

[Signature]
Presiding Judge
[Signature] Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper, or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature
[Signature]

Witnessed by
[Signature]

Signed this 12 day of MAY, 2011, at MANNING, SC

COPY

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)
STATE OF SOUTH CAROLINA,)
vs.)
GREG JACKSON FLOYD,)
Defendant.)

THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT

Indictment No.: 03-GS-14-00207

**MOTION TO REMOVE GPS
MONITORING**

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE: 6/21/13
Bonnie N. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

2013 JUN 21 PM 11:24
CLARENCE COURT CLERK'S OFFICE
BEULAH, SOUTH CAROLINA

COMES NOW the Defendant, Greg Floyd, by and through his undersigned counsel, and moves for an Order from this Court terminating GPS monitoring of the Defendant.

I. HISTORY OF THE CASE

The Defendant plead guilty to Lewd Act on a Minor (Warrant No.: H-430335) in front of Judge Doyet Early, III, on May 19, 2004. Mr. Floyd was sentenced to 10 years, suspended to six (6) years, followed by five (5) years probation. (Exhibit A) Mr. Floyd was released from custody and began his probation on March 30, 2007. (Exhibit B)

On November 30, 2009, Mr. Floyd was charged with Lewd Act on a Minor pursuant to warrant number M-083655 ["2009 charge"]. Mr. Floyd was charged with a probation violation on January 11, 2010, due to the allegations of the 2009 charge. The Probation Violation Report stated that Mr. Floyd be placed on GPS monitoring "pending adjudication of [the 2009 charge]." (Exhibit C)

While the 2009 charge was pending, Mr. Floyd was charged with another probation violation and on May 12, 2011, the Court ordered that GPS monitoring be reinstated. (Exhibit D) Mr. Floyd's five (5) year probation ended on March 29, 2012; (Exhibit B) however, he remained on GPS monitoring pending adjudication of the 2009 charge.

RECEIVED

JAN 30 2014

RECEIVED JUN 25 2013

Mr. Floyd proceeded to trial for the 2009 charge (Indictment: 2010-GS-14-0008). On November 7, 2012, Mr. Floyd was acquitted of the 2009 charge. (Exhibit E)

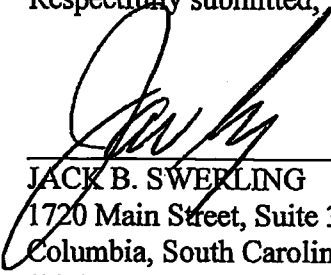
II. ARGUMENT

Mr. Floyd was placed on GPS monitoring for violating the conditions of his probation because of the new charge that arose November 27, 2009. The Order of January 11, 2010, for GPS monitoring was to continue pending adjudication of the November 27, 2009, charge. On May 12, 2011, the Order for GPS monitoring was reinstated. The 2009 charge was disposed of by way of a not guilty verdict on November 7, 2012. Mr. Floyd's probation ended on March 29, 2012. The Defendant submits that the GPS monitoring Order should be vacated.

CONCLUSION

The Defendant hereby requests that this Court issue an Order terminating his GPS monitoring due to the completion of his probationary sentence as well as adjudication of the November 27, 2009, allegations.

Respectfully submitted,



JACK B. SWERLING
1720 Main Street, Suite 301
Columbia, South Carolina 29201
(803) 765-2626

Attorney for the Defendant

Columbia, South Carolina
June 18, 2013

EXHIBIT

A

FD 1

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Clarendon
 STATE vs.
Greg Jackson Floyd
 AKA: _____
 Race: W Sex: M Age: 26
 DOB: [REDACTED] SS#: _____
 Address: _____
 City, State, Zip Lake City, SC
 DL# _____ SID# _____

INDICTMENT/CASE#: _____
2003 -GS- 14 - 207
 A/W#: H 430335
 Date of Offense: 6-21-03
 S.C. Code §: 16-15-140
 CDR Code #: 2141618
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS.

TO: Fewd Act on a Minor

In violation of § 16-15-140 of the S.C. Code of Laws, bearing CDR Code # 2141618

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

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

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 6 days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5 (five) 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.

SPECIAL CONDITIONS:

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

PTUP _____ days/hours Public Service Employment
 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: Special offender treatment or counseling

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) (DUJ Surcharge)	\$100 \$ _____
\$56-5-2995 (DUI Assessment)	\$12 \$ _____
§ 35.13 (Public Def/Prob)	\$500 \$ _____
\$73.3, 1B TP (Law Enforce. Funding)	\$25 \$ <u>25.00</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)	\$ <u>395.395</u>
TOTAL	\$ <u>1287.25</u>

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

Clerk of Court/Deputy Clerk: [Signature]
 Court Reporter: Virginia Island

PRESIDING JUDGE: [Signature]
 Judge Code: 01101316
 Sentence Date: 5/19/04

EXHIBIT
B

30
 South Carolina Department of Probation, Parole and Pardon Service
 Violation Report

Att.

Offender's Name: **GREG JACKSON FLOYD**
 State of South Carolina, County of: **CLARENDON**
 ID#: **01495966**

Warrant#: **W-14-11-0012**
 Date of Birth: [REDACTED]
 SCDC#: **NONE**

Indictment Numbers:
03-GS-14-00207

Offense and Offense Code:
**2468 - Lewd Act, committing or attempting
 lewd act upon child under 16 (after 6/4/96)
 (Violent as of 6/2/10)**

GPS MANDATORY

Begin Date: **3/30/2007** End Date: **3/29/2012**

Supervision Program: **Probation**
 Supervision Level: **Institutionalized**

Sentencing Judge: **136 - Early, III, Doyet**
 Sentencing Date: **5/19/2004**
 Location (Bold Response): **Jail**

Sentencing County: **CLARENDON**

Sentence:

10 yrs. ss upon serv. of 6 yrs. & 5 yrs. prob.

Special Conditions:

Fine - \$128.25; Other1 - Credit for T/S. Sexual offender treatment or counseling.

Current Address and Summary of Residence:

SAME, SAME, SC, USA, ; [REDACTED] TURBEVILLE, SC 29162, CLARENDON, USA,
 [REDACTED] LAKE CITY, SC 29560, USA, ; [REDACTED] TURBEVILLE, SC 29162, CLARENDON, USA, ;
 [REDACTED] DARLINGTON, SC 29532, DARLINGTON, USA, ; [REDACTED] HWY, TURBEVILLE, SC 29162, CLARENDON, USA, ;
 [REDACTED] DARLINGTON, SC 29532, DARLINGTON, USA, ; [REDACTED] HWY, TURBEVILLE, SC 29162, CLARENDON, USA,

Reporting:

The offender is not being charged with a reporting violation at this time.

Employment Records While Under Supervision:

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
METAL MASTER	4/5/2010 -		\$4,000.00
	5/19/2004 - 4/5/2007		\$0.00
	3/30/2007 - 7/19/2007		
DORCHESTER DIRT	4/5/2007 - 4/6/2007		\$2,800.00
RTC TRUCKING	7/19/2007 - 10/8/2007		
PRO-LAGISTICS	10/8/2007 - 11/19/2007		
DILMAR OIL-COMPANY:	11/19/2007 - 3/25/2008		\$2,612.00
MODERN MAINTENENCE	3/25/2008 - 6/9/2008		\$1,600.00
3 D MACHINERY	6/9/2008 - 8/20/2008		\$1,800.00
FLUOR DANIEL CORP	8/20/2008 - 9/1/2009		\$4,000.00
STAR	9/1/2009 - 10/12/2009	Current Charge	

EXHIBIT
C

IN THE COURT OF GENERAL SESSIONS

County of Clarendon
STATE VS.

INDICTMENT#: 03 GS 14 - 207
Probation CW#: W-14-09-0076

AKA: Greg Floyd
Race: W Sex: M
DOB: [REDACTED]
SSN: [REDACTED]
SID#: _____

Name of Original Offense: Lewd Act Under 16
Original A/W#: 14-430335
Date of Original Offense: 6-21-03
Conviction S.C. Code §: 16-15-140
Conviction CDR Code #: 2141618
Original Sentence: 10 yrs 55 days & 5 yrs prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 5/19/04 in the Court of General Sessions of Clarendon County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 9-18-08, as set forth in the attached warrant(s) or citation(s) dated 12-7-09. After ~~hearing~~ ^{reviewing} the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)
No violations at this time.

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve _____ months/years, the remainder of the original sentence, and/or pay \$ _____.
- the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- Additional Conditions ordered by the Court: DUE TO THE ALLEGED COMMUNITY SAFETY ISSUES OF THE VIOLATIONS OF NOVEMBER 27, 2009, THE DEFENDANT IS HEREBY PLACED ON GPS MONITORING PENDING ADJUDICATION OF THOSE CHARGES; UPON MOTION OF THE HEARING OFFICER.

I so move: [Signature]

- The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- The defendant has previously served _____ months/years on this sentence. (split sentence time and/or prior partial revocation time)
- The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 11 day of JAN, 2010
[Signature], SC

[Signature]
Presiding Judge
[Signature] Judicial Circuit

2010 JAN 28 AM
CLERK OF COURT

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper, or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature [Signature]

Witnessed by [Signature]

Signed this 11 day of JANUARY, 2010 at MANNING SC

EXHIBIT

D

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Clarendon
STATE VS.

INDICTMENT#: 03-GS-14-207
Probation C/W#: W-14-11-0012

Greg J. Floyd
AKA: _____
Race: W Sex: M
DOB: _____
SSN: _____
SID#: _____

Name of Original Offense: Lewd Act on child
Original AWW#: H430335
Date of Original Offense: 6-21-03
Conviction S.C. Code §: 16-15-140
Conviction CDR Code #: 2141618
Original Sentence: 10 yrs 55 hrs 4 surr
prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 5/19/04 in the Court of General Sessions of Clarendon County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 9-18-08 1-11-10, as set forth in the attached warrant(s) or citation(s) dated 4-11-11. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)
10

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve _____ months/years, the remainder of the original sentence, and/or pay \$_____.
- the suspended sentence be revoked and the above named defendant be required to serve 90 DAYS months/years of the original sentence and/or pay \$_____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).

Additional Conditions ordered by the Court: Reinstate GPS Adopt conditions imposed by Probation

REULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC
MAY 16 4:59

The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated as provided by the SC Department of Corrections.

The defendant has previously served 6 months/years on this sentence.
(split sentence time and/or prior partial revocation time)

The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 12 day of MAY, 2011
MANNING, SC

Howard P. King
Presiding Judge
Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

I hereby certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature
Greg J. Floyd

Witnessed by
Holly Prince

Signed this 12 day of MAY, 2011 at MANNING, SC

EXHIBIT

E

Clarendon County Third Judicial Circuit Public Index

[Clarendon County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View					
The State of South Carolina VS Greg Jackson Floyd					
Case Number:	M083655	Court Agency:	General Sessions	Filed Date:	12/10/2009
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Young, W Jeffrey
Disposition:	Trial Not Guilty				
Disposition Date:	11/07/2012	Date Received:	12/10/2009	Arrest Date:	12/01/2009
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2010GS1400008	Waiver Date:	
Probation Case:					

Case Parties	Charges	Sentencing	Associated Cases	Actions	Financials	Bonds
Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date			
Floyd, Greg Jackson	2468-Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)	2468-Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)	11/07/2012			

CMSWeb 6.1
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STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)
)
 STATE OF SOUTH CAROLINA,)
)
 vs.)
)
 GREG JACKSON FLOYD,)
)
 Defendant.)

THE COURT OF GENERAL SESSIONS
 THIRD JUDICIAL CIRCUIT

Indictment No.: 03-GS-14-00207

CERTIFICATE OF SERVICE

I, Kellie A. Switzer, being first duly sworn, says that she is an employee for the attorney for the Defendant, with offices at 1720 Main Street, Suite 301, Columbia, South Carolina; that on the 20 day of June, 2013, she mailed a copy of the MOTION TO REMOVE GPS, in the above referenced case to the following named persons at his/her address, to wit:

Tommy Evans, Jr., Esquire
 SC Department of Probation, Parole & Pardon Services
 Post Office Box 50666
 Columbia, South Carolina 29250

Holly Price, Probation Officer
 SC Department of Probation, Parole & Pardon Services
 Post Office Box 1287
 Manning, South Carolina 29102

CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE
 DATE 6/21/13
Beverly S. Roberts
 CLERK OF COURT
 CLARENDON COUNTY, SC

Kellie A. Switzer

Kellie A. Switzer

BEVERLY S. ROBERTS
 CLERK OF COURT
 CLARENDON COUNTY, SC
 2013 JUN 21 PM 4:24

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 20th DAY OF JUNE, 2013

Tommy S. English
 NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 04/27/2017

STATE OF SOUTH CAROLINA)	COURT OF GENERAL SESSIONS
)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON)	CASE NO. 2003-GS-14-00207
)	
STATE OF SOUTH CAROLINA,)	
)	
Plaintiff,)	
)	
- vs -)	TRANSCRIPT OF RECORD
)	
)	
GREG J. FLOYD,)	
)	
Defendant.)	
)	

November 20, 2013
Manning, South Carolina

B E F O R E:

THE HONORABLE GEORGE C. JAMES, JR., Judge

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

TOMMY EVANS, Esquire
HOLLY PRICE, Probation Officer
Department of Probation, Pardon and Parole

JACK SWERLING, Esquire
Attorney for the Defendant

KRYSTAL J. SMITH
Court Reporter

I N D E X

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

1 NOVEMBER 20, 2013

2 (WHEREAS this matter was scheduled for a probation motion
3 hearing, the defendant appeared along with his counsel of
4 record. The hearing began at 2:23 p.m.)

5 THE COURT: Mr. Swerling, you represent the defendant?

6 MR. SWERLING: Yes, sir. That's correct, Your Honor.

7 It's State versus Greg Floyd.

8 THE COURT: Mr. Evans?

9 MR. EVANS: Yes, sir. I represent the Probation, Parole
10 and Pardon Services.

11 THE COURT: Okay. All right. It's your motion, Mr.
12 Swerling?

13 MR. SWERLING: Yes, sir.

14 THE COURT: All right. I'd be glad to hear from you.

15 MR. SWERLING: Thank you for scheduling this and hearing
16 from us on it. I don't think there's a whole lot of dispute
17 about any of the facts here and I'll state them and see if
18 there is, but essentially what happened was May 19, 2004, Greg
19 Floyd over here was sentenced to ten years on a lewd act and
20 served until March 30th, 2007, I believe. He was put on
21 probation in Clarendon County. So he served approximately
22 three years.

23 THE COURT: He was released on probation?

24 MR. SWERLING: He was. In other words, he served a
25 period of time and then was on probation afterwards.

1 THE COURT: Okay.

2 MR. SWERLING: It was a suspended part. The sentence was
3 suspended on probation.

4 THE COURT: All right.

5 MR. SWERLING: And so his probation began on March 30th,
6 2007, and he was being supervised by Clarendon County. On
7 January 11th -- well, let me go back. In November of 2009,
8 November 30th I think would be exact, he was arrested again in
9 Clarendon County on a lewd act. As a result of that, we went
10 down to Holly's office sometime between -- after November 30th
11 and as a result of his being arrested, he was placed on GPS
12 monitoring and that was reduced to an order. First of all,
13 let me hand you up -- this is the original sentencing sheet.
14 This is the sentencing sheet from 2004.

15 THE COURT: Okay. Who was the judge?

16 MR. SWERLING: I believe it was Judge King.

17 MR. EVANS: No, it was Judge Early ---

18 THE COURT: Judge Early?

19 MR. EVANS: --- on the original sentence.

20 MR. SWERLING: Okay. On the original sentence. I'm
21 sorry. Probation was Judge King.

22 MR. EVANS: Yeah.

23 THE COURT: Okay.

24 MR. EVANS: It was Judge King for the probation.

25 THE COURT: So it's ten provided upon the service of six,

1 the balance would be suspended and he'd be on probation ---

2 MR. SWERLING: Right.

3 THE COURT: --- for five years.

4 MR. SWERLING: And he was on probation being supervised.

5 This is the date his probation started. It was 2007.

6 THE COURT: Okay.

7 MR. SWERLING: That's a -- this is the order of January
8 11th, 2010, which said that there were no violations at the
9 time, but due to the alleged community safety issues of the
10 allegations of November 27th, 2009, the defendant is hereby
11 placed on GPS monitoring pending adjudication of those charges
12 upon motion of the hearing officers.

13 THE COURT: Okay. Got it.

14 MR. SWERLING: That's that order right there.

15 THE COURT: That's Judge King's order?

16 MR. SWERLING: I believe -- I believe it was Judge King,
17 yes.

18 THE COURT: No. This is mine. That's my signature.

19 MR. SWERLING: Well, I'm sorry. I'm just ---

20 MR. EVANS: Judge King did the revocation ---

21 MR. SWERLING: Oh, Your Honor, I remember that case now.

22 MR. EVANS: --- after you ordered the GPS monitoring,
23 Your Honor.

24 THE COURT: Judge King did what?

25 MR. EVANS: The revocation.

1 THE COURT: Okay.

2 MR. EVANS: There was a revocation afterwards.

3 THE COURT: All right.

4 MR. EVANS: That's yours, yes.

5 THE COURT: So I did the -- I signed this Form 9 on
6 January 11, 2010, and typically -- I don't recall whether I
7 had a -- actually had a hearing.

8 MR. SWERLING: That's why I'm not -- that's why I don't
9 -- didn't remember that.

10 THE COURT: Okay. Typically, I would sign these after
11 the agent, Ms. Price, and the probationer would sign the
12 bottom and then if they both signed the bottom, then I sign
13 right above that.

14 MR. SWERLING: And that's exactly what happened. Judge
15 King came in after the violation and that's -- and that's -- I
16 was here for that hearing and that's what I was thinking of.

17 THE COURT: Okay.

18 MR. SWERLING: He was arrested as we said in November of
19 2009 and while he was out on this GPS monitoring that you
20 ordered in January of 2010 ---

21 THE COURT: Okay.

22 MR. SWERLING: --- he was charged with a probation
23 violation which essentially said he was out of place. If I
24 recall correctly, what happened was that he -- his wife was
25 working for the railroad up in Florence and she was -- she's a

1 ticket agent and she was living -- she was staying at a motel
2 closer to where her work was instead of living with him. They
3 got married back in 2009. I've got the exact date, but I
4 don't know if that's relevant. At any rate, what happened was
5 he went over to the motel and he was out of place on his GPS
6 monitoring on two occasions according to the allegations of
7 the probation violation, and as a result of that, he was given
8 90 days.

9 THE COURT: Partial revocation?

10 MR. SWERLING: Partial revocation.

11 THE COURT: And that was per a GPS violation?

12 MR. SWERLING: GPS violation and it was essentially going
13 to stay with his wife at this motel on two different
14 occasions. I think he was caught at the motel in the morning
15 hours and that's what happened.

16 THE COURT: Okay.

17 MR. SWERLING: And again, relevant to the extent that it
18 is -- was his wife and they wanted to spend some time
19 together, he shouldn't have done it and he knows he shouldn't
20 have done it, but he did go over there and he was out of
21 place. He wasn't where he was supposed to be under the GPS
22 monitoring order. He served a period of time on that
23 revocation and then he went back in front of Judge King as I
24 recall on May 12th, 2011, and Judge King reinstated GPS
25 monitoring because it had to be taken off while he was in

1 custody for that probation violation.

2 THE COURT: When -- when was the date of the order that
3 revoked 90 days?

4 MR. SWERLING: It would have been ---

5 MR. EVANS: The 12th, May 12th, 2011.

6 MR. SWERLING: May 12th.

7 THE COURT: May 12, 2011?

8 MR. SWERLING: 2011.

9 THE COURT: Oh, I thought that was when GPS was
10 reinstated.

11 MR. SWERLING: Well, that's what this says.

12 MR. EVANS: Well, he did a 90-day revocation.

13 THE COURT: All at the same time?

14 MR. EVANS: Yes, sir.

15 MR. SWERLING: All done at one -- okay. It was all done
16 at one time. So he got -- on that date, he got 90 days and
17 the Court ordered that the GPS be reinstated once he got out
18 and it was.

19 THE COURT: Okay.

20 MR. SWERLING: Okay. There were no further charges or
21 violations regarding that and on November 7th, 2012, we tried
22 the case here over in the courthouse and he was found not
23 guilty of the original charges which brought about the GPS
24 monitoring in the first place. If you recall again, the GPS
25 monitoring that was signed was based upon community safety,

1 not a violation.

2 THE COURT: Well, it says the defendant is hereby placed
3 on GPS monitoring pending adjudication of those charges.

4 MR. SWERLING: Correct.

5 THE COURT: Okay. And those are the charges that you say
6 the order refers to?

7 MR. SWERLING: That's correct.

8 THE COURT: And those have been adjudicated?

9 MR. SWERLING: Those have been adjudicated in his favor.
10 So what we have -- what we have here now is we have an
11 infraction that resulted in the May 12th, 2011, order and I
12 think it's the State's position that the -- that he should be
13 on lifetime monitoring as a result of that, and we think the
14 equities of that just don't -- just do not swear. I mean the
15 man is married. He's working. He and his wife are both
16 working. They've been gainfully employed. He is off
17 probation. I believe he got off probation in May of 2012.

18 MR. EVANS: April.

19 MR. SWERLING: April. Okay. They -- as I said, they're
20 both working and they now have a five-month-old child, and my
21 argument is basically the equity of the situation since he was
22 placed on GPS monitoring as a result of an arrest, not a
23 violation, that the fact now that that has been adjudicated in
24 his favor, we're asking the Court as far as the equity of the
25 situation to go ahead and allow him to remove the GPS

1 monitoring.

2 THE COURT: Okay. All right. Mr. Evans?

3 MR. EVANS: Thank you, Your Honor. First of all, I
4 understand Mr. Swerling's argument, but the problem is is that
5 the crux of this whole thing is the actual violation in May of
6 2011. Pursuant to Section 23-3-540(b) ---

7 THE COURT: 23-3?

8 MR. EVANS: 540(b). An individual being on supervision
9 for a lewd act or CSC with a minor in the first degree, upon
10 any violation of probation must be placed on GPS monitoring.

11 THE COURT: For the rest of their life?

12 MR. EVANS: Yes, sir. Now, according to the Dykes case,
13 that person can petition the Court after being on ten years
14 for removal, but up until that time that person must be placed
15 on GPS monitoring. If Mr. Floyd never violated in May, the
16 monitor would be off in April once the supervision ended. He
17 wouldn't have to even wait until the actual exoneration of the
18 case. The supervision ended in May -- I mean April 2011. It
19 would have been removed then, but since he violated his
20 probation ---

21 THE COURT: But the condition he violated was -- was the
22 GPS positional violation?

23 MR. EVANS: Yes, sir. That was the violation, Your
24 Honor.

25 THE COURT: All right.

1 MR. EVANS: And it's unfortunate that it was -- it might
2 have been a minor violation, but the statute doesn't say minor
3 or major. It says a violation and once that violation occurs,
4 under statute you must be placed on GPS monitoring. I don't
5 think there's no way around that charge. If he had abided to
6 the GPS order that this Court gave him, which was a valid
7 condition placed upon him -- that was an extra condition
8 placed upon him by this Court and he abided to it, then he
9 wouldn't be on GPS now, but he did not do that. He decided to
10 violate probation. Therefore, under the statute there was no
11 choice but to be placed on GPS monitoring.

12 THE COURT: What's the cite on the Dykes case? Is that
13 the one that came out real, real recently?

14 MR. EVANS: Yes. I actually ordered the case. It's a
15 2013 case and I cannot tell you the cite.

16 THE COURT: That's when -- that's when the Court did
17 curtail some of the GPS.

18 MR. EVANS: Yeah. Before Dykes, basically if you were on
19 GPS monitoring due to lewd act or CSC first, you had no
20 remedies. You had to stay on it for life. The Court ruled
21 that placement on a GPS for violation of probation is
22 constitutional, but a lifetime placement without any petition
23 to the courts was a violation of due process and equal
24 protection because the other sex offenses with minors you can
25 do so. So therefore, they ordered that a person on GPS --

1 lifetime GPS for lewd act or CSC first with a minor can
2 petition the Court after being placed for ten years as the
3 other minor sexual charges against children.

4 THE COURT: And the Court just came up with ten years?

5 MR. EVANS: That's in the statute charge.

6 THE COURT: That's in the statute?

7 MR. EVANS: That's in the statute for the other --

8 THE COURT: Sex offenses.

9 MR. EVANS: --- other offenses, but it did not apply to
10 lewd act and CSC with a minor until Dykes, until the Court
11 determined that that was unconstitutional not to allow those
12 two offenses also to be applied to that portion of the statute
13 charge.

14 THE COURT: All right.

15 MR. SWERLING: Judge, can I respond just briefly?

16 THE COURT: Sure. Are you finished, Mr. Evans?

17 MR. EVANS: Yes, yes.

18 THE COURT: Okay.

19 MR. SWERLING: I think what -- this can be distinguished
20 from what the situation is Mr. Evans is talking about. He was
21 not placed on GPS monitoring because he violated his
22 probation. He was placed on GPS monitoring as a condition of
23 -- or as a result of his arrest and I think that that takes it
24 outside the scope of what Mr. Evans is talking about.

25 THE COURT: So you think there's a question of

1 interpreting the statute?

2 MR. SWERLING: Correct.

3 THE COURT: I don't have the statutes. Do either of you
4 have a copy? Do either of you have a copy of it?

5 MR. SWERLING: I don't have it.

6 THE COURT: If you don't, I can easily print one.

7 MR. SWERLING: But that's what -- that's why I think it
8 takes it outside of that because he's not under G -- he was
9 not under GPS monitoring because he had violated his probation
10 on the lewd act. He was -- he was put on GPS monitoring as a
11 result of safety concerns to the community because he was re-
12 arrested. It would seem inequitable and it wouldn't seem that
13 the statute was referring to what a Court would be referring
14 to. Keeping him on GPS monitoring for the rest of his life
15 because he was out of place on occasion on -- when the GPS
16 monitoring that he was ordered to be on was as a result of his
17 -- not a violation of his probation, but the arrest itself.
18 And I think ---

19 THE COURT: Well, one of the things I'm thinking of is he
20 consented to it. He was -- did anybody to your knowledge
21 explain to him that once he agreed to this GPS condition and
22 that if he violated probation in any way, he was stuck with
23 that for -- for perhaps his life? Do you know if that
24 happened?

25 MR. EVANS: I cannot answer that question.

1 THE COURT: I'm not saying they had an obligation to do
2 that, but it just strikes me that he consented to it and he
3 was consenting perhaps to a lifetime restriction. Do you --
4 do you know, Ms. Price?

5 MS. PRICE: Yes, sir. It was told to him that it would
6 be a lifetime registry if he failed to comply with the
7 conditions. He was given the conditions for -- notice of sex
8 offender conditions, the notice of sex offender registry
9 conditions, and I did instruct him that it would be a lifetime
10 registry if he failed to ---

11 THE COURT: Okay.

12 MS. PRICE: If he violated in any way.

13 THE COURT: Whatever -- for whatever that adds, I just
14 wanted to find that information out.

15 MR. SWERLING: Judge, I think -- of course, remember -- I
16 guess we need to remember at that time why he was placed on
17 GPS, not for a violation, but because he had been arrested and
18 he was later acquitted of that charge.

19 MR. EVANS: Your Honor, may I be heard on that?

20 THE COURT: Yeah. I'm going to go back and forth, but I
21 don't want to turn it into a -- I guess a cross-fire thing.
22 I'm going to get him to say everything he wants to. Do you
23 think ---

24 MR. SWERLING: Yes, sir. I have.

25 THE COURT: Okay. Yes, sir?

1 MR. EVANS: I don't think it matters why the condition
2 was placed on him. I think it matters that there was a
3 condition placed on him by this Court.

4 THE COURT: Yes, sir.

5 MR. EVANS: A valid condition placed on him and he
6 violated it. Why that condition was placed on him I don't
7 think that matters. I don't think that has anything to do
8 with this matter. It's the fact that I think the -- like I
9 said earlier, the crux of this whole thing was a condition of
10 probation was placed upon him and he violated that condition
11 and it was ---

12 THE COURT: Whether or not it was consensual or
13 involuntary, it's a condition?

14 MR. EVANS: I don't think that matters. I think what
15 matters is is that, you know, he had a condition placed upon
16 him by this Court and he violated that condition. So under
17 the statute, he must be placed on lifetime GPS monitoring.

18 THE COURT: Regardless of the severity of the violation?

19 MR. EVANS: I think it's regardless.

20 THE COURT: I think he was in a room -- a hotel where he
21 shouldn't have been with his wife.

22 MR. EVANS: I think regardless of that. I think
23 regardless of it. I mean I think the Court found that the
24 violation was willful. I mean the Court could have always
25 said, you know what, I'm not going to find it willful and I'm

1 not going to do anything. I'm going to remain him on
2 probation. But that did not happen in this case.

3 THE COURT: Okay.

4 MR. EVANS: So therefore, once the Court found his
5 violation was willful, they treat it as a lifetime GPS
6 monitoring.

7 THE COURT: All right. Yes, sir, Mr. Swerling?

8 MR. SWERLING: Judge, I just think that you have under
9 the facts of this -- which is a very unusual situation. Under
10 the facts of the case, the statute does not prohibit you from
11 taking him off GPS monitoring when the situation is not that
12 -- he was not placed on GPS monitoring as a result of a
13 violation of the -- of the probation -- of the lewd act
14 probation. He was merely placed on GPS at that time because
15 as a condition of the bond and that's why he was on GPS. He
16 didn't violate because -- he didn't violate -- the lewd act
17 arrest could not have violated his probation.

18 Now, if he had been on GPS monitoring because of the lewd
19 act and that would have been ordered because of the lewd act,
20 then I would agree with Mr. Evans. I mean if he violated that
21 probation and he's on GPS monitoring, then, you know, it could
22 be revoked, but that's not what happened here.

23 THE COURT: Okay. Do you have a copy of Judge King's
24 order ---

25 MR. SWERLING: Yes, sir.

1 THE COURT: --- revoking the 90 days? And, Mr. Evans, is
2 23-3-540 the only applicable statute here?

3 MR. EVANS: That I know of. Yes, sir.

4 THE COURT: Okay. Do you need these back?

5 MR. SWERLING: No, Your Honor. We have other copies of
6 it.

7 THE COURT: Okay. All right. Mr. Evans, does the
8 Department have anything else?

9 MR. EVANS: No, Your Honor.

10 THE COURT: Mr. Swerling?

11 MR. SWERLING: No, Your Honor. Just I just wanted you to
12 know that -- and I think I've already stated that he's -- in
13 addition to his having been married March 6th, 2009, he is a
14 truck driver. He's a licensed truck driver. He does long-
15 haul and short-haul transports with a tractor trailer for
16 Service Transportation Freight Company out of Cheraw. His
17 wife is an agent with Amtrak. They have a five-month-old
18 child. He had three years of college for civil engineering at
19 Central Carolina Technical College.

20 And I would ask you to take those matters into
21 consideration. It's a financial burden. They are having a
22 difficult time meeting their other obligations and those of
23 paying for the GPS monitor. That's just an additional factor
24 I'd ask the Court to consider.

25 THE COURT: What concerns me about the original order

1 that I signed, Mr. Evans -- and, of course, I'm going to read
2 all this and try to get it down to brass tacks. I ordered him
3 to be placed on GPS monitoring pending adjudication of those
4 crimes and it refers to the November 2009 allegations. So
5 that's what my order said. I know you say I need to go right
6 by the statute, but somebody needs to explain how I can't go
7 right by my order.

8 He was placed -- if he's a sex offender and he's a
9 predator, he ought to be on GPS monitoring, you know, but
10 that's just me saying what I think. But if my order said he's
11 placed on GPS monitoring pending adjudication of those crimes
12 or of those charges, then how can I go outside of the order?
13 Does the statute jump in and void my order?

14 MR. EVANS: Well, Your Honor, our position is that if he
15 didn't violate that he wouldn't be on it. Once his probation
16 ended, we'd have to take it off. However, he didn't do that.
17 He violated. He violated the condition you gave him. I mean
18 I don't think it would be any different from any other
19 condition somebody gave him pending a certain -- a certain act
20 of occurrence. If he violated that condition applied by any
21 Circuit Court judge and they're on supervision for that, that
22 triggers the lifetime GPS monitoring.

23 THE COURT: All right. Okay. I'll just have to digest
24 all of this and see.

25 MR. EVANS: Okay.

1 THE COURT: Could I -- could I get -- I believe I have
2 Mr. Swerling's email address. I don't know if I have a card
3 from you.

4 MR. EVANS: I do not have a card.

5 THE COURT: Give me -- you can give me your email
6 address.

7 MR. SWERLING: Judge, if I can just say ---

8 THE COURT: It's got a lot of dots in it. Dot SC dot ---

9 MR. EVANS: Yes. That's the state -- state email
10 address.

11 MR. SWERLING: Can I just add one thing to what ---

12 THE COURT: Yes.

13 MR. SWERLING: --- Mr. Evans just said? Judge King
14 reinstated the GPS monitoring based upon your order and I'm
15 ---

16 THE COURT: And I'm sure he did. I read that. He
17 reinstated. It just says reinstate GPS, adopt conditions
18 imposed by probation. I take that to be he just reinstated
19 what I had ordered a year before.

20 MR. SWERLING: Correct. Not because of any other
21 concerns at that time.

22 THE COURT: I think Mr. Evans agrees with that. What's
23 your email address, Mr. Swerling?

24 MR. SWERLING: Jacklaw@aol.com.

25 MR. EVANS: I wish mine was that short.

1 THE COURT: Okay. Thank you. All right. Anything else?
2 MR. EVANS: Nothing. Nothing from the State, Your Honor.
3 MR. SWERLING: Nothing, Your Honor.
4 THE COURT: All right. I'll have something to you very
5 shortly.
6 MR. EVANS: Thank you.
7 THE COURT: Thank you.
8 (Whereupon, the proceedings end at 2:44 p.m.)
9
10 --- END REQUESTED TRANSCRIPT ---
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STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

CERTIFICATE

I, the undersigned, Krystal J. Smith, Official Court Reporter for the Twelfth 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 evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Clarendon County, South Carolina, on the 20th day of November, 2013.

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

Krystal J. Smith

Court Reporter

Florence, South Carolina

April 23, 2014

COPY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF CLARENDON) THIRD JUDICIAL CIRCUIT
2003-GS-14-0207

State of South Carolina,)
Plaintiff,)
vs)
Greg Jackson Floyd,)
Defendant,)

BEULAH REPORTS
CLERK OF COURT
CLARENDON COUNTY, SC
JAN 13 AM 10:21

ORDER

This matter was before the court on November 20, 2013 for hearing of the defendant's motion to be relieved from active electronic monitoring (GPS). Jack B. Swerling, Esquire, represents the defendant and Tommy Evans, Jr., Esquire represents the South Carolina Department of Probation, Parole and Pardon Services ("the Department"). For the reasons set forth herein, the motion is denied.

PROCEDURAL HISTORY

Mr. Floyd was convicted of lewd act on a minor on May 19, 2004 for an offense that occurred on June 21, 2003. He was sentenced to ten years in prison, provided upon the service of six years, the balance was suspended and he was to be on probation for five years. At that time, S.C. Code Section 23-3-540 did not require Mr. Floyd to be placed on GPS monitoring. However, he was required to register as a sex offender. Mr. Floyd was released from prison and began his probation on March 30, 2007. His probation

ended March 29, 2012.

RECEIVED

JAN 30 2014

SC OFFICE OF APPELLATE DEFENSE

[Handwritten signature]
[Handwritten initials]

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 1/13/14
Beulah B. Colton
CLERK OF COURT
CLARENDON COUNTY, SC

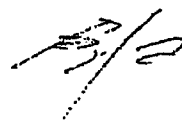
On November 30, 2009, Mr. Floyd was arrested on another charge of lewd act on a minor. He was still on probation at the time. By Form 9 order dated January 11, 2010, the undersigned noted "no violations" at this time, but, upon motion of the Department, added as a condition of probation that Mr. Floyd "be placed on GPS monitoring pending adjudication of [the new lewd act charge]." The order noted the condition was based on community safety concerns.

On May 12, 2011, the Honorable Howard P. King found Mr. Floyd to be in violation of the GPS condition. There is no real dispute that the violation was a "positional violation"; it appears that Mr. Floyd was with his wife at a hotel but that he did not have clearance from the Department to be in that particular location. Judge King revoked ninety days, continued Mr. Floyd on probation, and ordered that the GPS condition remain in place as a condition of probation.

Mr. Floyd's probation ended March 29, 2012. The GPS violation was his only probation violation. On November 11, 2012, he was acquitted by a jury of the new lewd act charge. Mr. Floyd has remained on GPS monitoring. The Department contends that S.C. Code Section 23-3-540(B) (2005), adopted after Mr. Floyd's offense date of June 21, 2003, requires Mr. Floyd to be monitored.

DISCUSSION

Section 23-3-540 was amended in 2006 and the provisions of (B) are now found in 23-3-540(C). The pertinent language of both (B) and (C) is the same and provides that a person who was required to register as a sex offender after being convicted of lewd act on a minor (now known CSC with a minor, third degree) and "who violates a term of



probation, parole, community supervision, or a community supervision program must be ordered by the court" to be placed on active GPS monitoring.

There is no dispute that Mr. Floyd violated a term of probation, as found by Judge King. The Department argues that GPS monitoring is therefore required, as the statute plainly requires such monitoring when an offender violates any condition of probation, no matter how slight or serious the violation. Mr. Floyd points to the fact that the condition he violated was a condition placed upon him by the court solely because he had been arrested on another lewd act charge, and claims that since he was acquitted of that charge, the GPS condition should be lifted. Mr. Floyd argues that the legislature could not have intended for GPS monitoring to be required in situations such as this. He further claims that since the probation to which the GPS condition was attached has expired, the GPS condition has also expired.

The court concludes that the motion to lift the GPS requirement must be denied. Sections 23-3-540(B) (2005) and 23-3-540(C) (2006),- whichever applies here, both plainly state that a person who is required to register as a sex offender after having been convicted of lewd act on a minor and "who violates a term of probation" must be placed on active electronic monitoring. The statute does not distinguish between minor or serious violations. The statute does not provide an exception for instances where the condition violated was put in place by a court because of a new charge of which the probationer is eventually found not guilty. By its plain terms, the statute requires GPS monitoring because Mr. Floyd violated a term of probation.

Section 23-3-400 sets forth the legislature's intent in adopting the statutory scheme of which 23-3-540 is a part. While the factual and procedural history in this case

is certainly unusual, the fact remains that Mr. Floyd fits within the category of those offenders contemplated by 23-3-540. The court concludes that the legislature's intent is upheld by this ruling.

Mr. Floyd is of course free to petition the circuit court at the appropriate time pursuant to Section 23-3-540(H) for relief from the monitoring requirement. See State v Dykes, 403 S.C. 499, 744 S.E. 2d 505 (2013), in which our Supreme Court upheld the constitutionality of Section 23-3-540(C) (2006) but held unconstitutional the provision of subsection (H) denying the right of judicial review for those convicted of lewd act on a minor. This court will not undertake to determine at this time when the time period contemplated by subsection (H) began to run for Mr. Floyd.

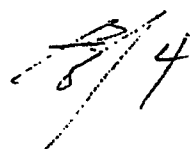
AND IT IS SO ORDERED.



George C. James, Jr.
Judge, Third Judicial Circuit

Sumter, South Carolina

January 9, 2014



WITNESSES

CLARENDON COUNTY SHERIFF'S OFFICE

P. Avant

No. 0462

ARREST WARRANT NUMBER

H430335

DIA: 7/1/03

ACTION OF GRAND JURY

J. True Bill

John W. Baker

Foreperson of Grand Jury

Date: 10-09-03

VERDICT

DOCKET NO. 2003-GS-14- 207

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

OCTOBER TERM 2003

THE STATE

vs.

GREG JACKSON FLOYD

Indictment for

LEWD ACT ON A MINOR

C. KELLY JACKSON, SOLICITOR

Oct. 16. 2014 10:37AM

Foreperson of Petit Jury

Date:

101

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Clarendon
 STATE vs
Greg Jackson Floyd
 AKA:
 Race: W Sex: M Age: 26
 DOB: [REDACTED] SS#: [REDACTED]
 Address: [REDACTED]
 City, State, Zip: Lake City, SC
 DL# _____ SID# _____

INDICTMENT/CASE#: 2803 -GS- 14 - 207
 A/W#: H 430335
 Date of Offense: 6-21-03
 S.C. Code §: 16-15-140
 CDR Code #: 2141618
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Lewd Act on a Minor
 in violation of § 16-15-140 of the S.C. Code of Laws, bearing CDR Code # 2141618
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST:
[Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant

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 6 days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5 (five)
 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.

SPECIAL CONDITIONS:

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

PTUP _____ days/hours Public Service Employment
 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
 prmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: Special offender treatment or counseling

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>25.00</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)	\$ <u>395.395</u>
TOTAL	\$ <u>128.75</u>

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

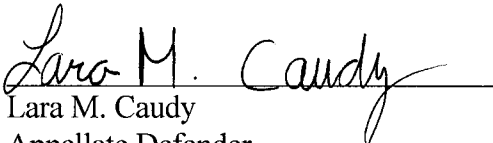
[Signature]
 Clerk of Court/ Deputy Clerk
 Court Reporter: Virginia Kiland

PRESIDING JUDGE [Signature]
 Judge Code: 01101316
 Sentence Date: 5/19/04

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."

October 20, 2014


Lara M. Caudy
Appellate Defender

RECEIVED

OCT 20 2014

SC Court of Appeals

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Clarendon County

George C. James, Jr., Circuit Court Judge

RECEIVED

OCT 20 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

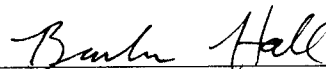
GREG J. FLOYD,

APPELLANT

APPELLATE CASE NO. 2014-000143


CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Tommy Evans, Jr., Esquire, at South Carolina Department of Probation, Parole & Pardon Services, PO Box 50666, Columbia, SC 29250, this 20th day of October, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 20th day of October, 2014.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: July 24, 2022.