

STATE OF SOUTH CAROLINA

In The Court of Appeals

 ORIGINAL

APPEAL FROM CHEROKEE COUNTY

R. Keith Kelly, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TERRY HALL,

APPELLANT

APPELLATE CASE NO. 2014-002066

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

-----x

STATE,

Plaintiff,

Case No.

-against-

2008-DR-11-01131

TERRY HALL,

Defendant.

-----x

September 15, 2014

Cherokee, S.C.

B E F O R E:

HONORABLE R. KEITH KELLY, Judge.

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

KIM LESKANIC, Esquire  
Assistant Solicitor.

CLAY ALLEN, Esquire  
Attorney for the Defendant

Aileen Butler

Official Court Reporter

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MS. LESKENIC: Terry Hall.

(WHEREUPON, TERRY HALL, having been duly sworn by the clerk, was examined and testified as follows)

THE COURT: Yes, sir, agent.

PROBATION OFFICER: Yes, judge, standing before you is Terry Hall. He was sentenced here in Cherokee County back in December 9, 2008 for attempted common law burglary, 2nd degree. That was before Judge Dennis. The sentence was 12 years, suspended to probation five years. He had a revocation and he served time on it. He was released September 1, 2011.

The offender's reporting habits were addressed by 1182 on June 9th 2014. The next scheduled report would have been September 20, 2014. He had a prior violation June the 9th for failing to report as instructed being \$985 dollars in arrears supervision fee. That was handled by 1182 by Supervisor Lawder (phonetics). No more missed reports. Pay supervision fee current within ninety days and he appeared before yourself back December the 9th, 2014 for failing to report, changing residence without consent of the agent, failing to pay supervision fee fine and failing to follow the advice and instruction of the agent and you just continued him straight up that day.

1                   Details of the present violation; failure to  
2                   reframe from violation of state and local laws by being  
3                   convicted of the D.U.S. charge in Cherokee County  
4                   Magistrate's Court on March 11, 2014; being convicted of  
5                   assault and battery, third degree Cherokee County  
6                   Magistrate's Court on July the 8th 2014; failing to pay  
7                   supervision fee being \$1,085 in arrears at the time of  
8                   issuance of the warrant; failing to pay Court ordered  
9                   surcharge owing a balance of one \$128.90 and failing to  
10                  reframe from possession of a firearm per affidavits  
11                  dated August 7, 2014 and August 8, 2014 in that the  
12                  offender had possessed firearms on two separate  
13                  occasions. Robert Ellis stated that on approximately  
14                  June 18, 2014 he witnessed the defendant possessing a  
15                  shotgun and asked whose shotgun it was the defendant  
16                  stated that it was it his grandfather who gave it to  
17                  him. Jeff Elmore stated on August the 5th, 2014 he saw  
18                  a pistol in the back pocket of the offender. Both the  
19                  clients stated that the defendant has made threatening  
20                  remarks to them and their family members, and number  
21                  five, failing to follow the advice and instructions of  
22                  the supervising agent.

23                         And just for information that day we arrested him  
24                         he eluded arrest that day and we finally caught him  
25                         about four hours later, but upon his arrest he had in

1 possession which he through down on the ground a  
2 quantity of marijuana and methamphetamine which was  
3 found on him and on the ground. I think that is going  
4 to be the plea that he is fixing to do here.

5 THE COURT: Is it plea or part of a motion.

6 MS. LESKANIC: It's a motion, Your Honor, for bond  
7 revocation.

8 THE COURT: Okay. Yes, sir.

9 MR. ALLEN: First of all, I have not discussed  
10 anything about pleading guilty, so the agent is not  
11 necessarily correct. I would like to pass up to the  
12 Court a number of affidavits and some police documents  
13 in connection with this case. To my left is Heather  
14 Ellis who is his girlfriend.

15 Your Honor, again, this is a situation we deny or  
16 Mr. Hall denies the firearm allegations and we also ask  
17 the Court not to use the convictions against him. Let  
18 me tell you why. As far as the assault charge goes he  
19 asked for a lawyer to represent him in Magistrate Court.  
20 He also asked for a jury trial and then he plead not  
21 guilty. And somehow he was denied his request for a  
22 lawyer, then he was told that he couldn't have a jury  
23 trial and the witnesses did not show up accept for a  
24 police officer and even though he plead not guilty  
25 somehow the Magistrate found him guilty of an assault

1 charge when the alleged victim or witness or prosecuting  
2 witness was not there and sentenced him.

3 Now, I have not talked to the Magistrate  
4 specifically about this case but I can tell the Court  
5 that in a conversation I had with Chief Magistrate of  
6 Cherokee County just last week when I went down there on  
7 another case where we had sent an individual to -- who  
8 had applied for a public defender and we sent him to  
9 Magistrate's Court to pay the forty dollars but we never  
10 got notification that we were appointed. Chief  
11 Magistrate told me that his impression was that except  
12 for a D.U.S and CDV where they do appoint them if he did  
13 not appoint somebody, a lawyer, on some of these other  
14 charges then he could not give him a jail sentence, nor  
15 put them in jail even for non-payment of the fine and  
16 for that reason he was not appointing lawyers to those  
17 people's cases. So in a way I think it would be wrong  
18 to deny an individual the 6th amendment right to a  
19 lawyer, with the idea that he is not going to be given a  
20 jail sentence and then try to turn around and use that  
21 very same thing against that person in a probation  
22 revocation and we ask the Court not to use that as well.

23 Furthermore, the allegations concerning the firearm  
24 are all based on statements or affidavits that were part  
25 of the case that were given to police officers. What

1 I've handed up to the Court is a series of statements.  
2 Actually 12 statements. And I got another one to hand  
3 up to the Court that Miss Ellis gave me today  
4 purportedly by Robert Ellis that communicates that he  
5 had given an incorrect or false statement against Mr.  
6 Hall saying he had seen him with a 12-gauge shotgun when  
7 he in fact he did not see Mr. Hall in possession but  
8 rather it was in his daughter's possession locked up in  
9 her utility room at her house. That's on the front page  
10 of that affidavit. The back page is part of the  
11 affidavit that I already handed up to the Court from  
12 Miss Ellis.

13 The other document that I handed up to the Court  
14 was a document from my client made a complaint against  
15 Mr. Ellis in June, on June 9th, concerning the fact that  
16 Mr. Ellis pointed a gun at him. However, no warrants  
17 were ever taken out against Mr. Ellis or anyone from  
18 that case because it was listed by the sheriff's office  
19 as being under investigation.

20 So, what we are here today on, Your Honor,  
21 unfortunately is the agent has affidavits taken in  
22 connection with an ongoing disagreement that appears  
23 between Miss Robert Ellis, who is the father of Heather  
24 Ellis with whom Mr. Hall had been dating and/or living  
25 with. And he also got statements from various neighbors

1 who know them and have actually seen how he acts and  
2 nobody has seen him with a weapon or if he had a weapon  
3 in his possession. They also -- the affidavits I handed  
4 up to the Court also talked a great deal of this other  
5 fellow, Jeff Elmore, who is a relative of Miss Ellis, a  
6 cousin I believe, that apparently he is an untrustworthy  
7 individual who is known not to tell the truth, known to  
8 use drugs and known to basically cause trouble. He  
9 happens to live next to Miss Ellis and that's why he is  
10 basically trying to do something to drive them apart.  
11 For whatever reason Mr. Ellis, Robert Ellis, and this  
12 Mr. Elmore do not like my client and are trying to get  
13 him in trouble and my client denies the allegations  
14 concerning a gun. That he did not have a shotgun. He  
15 did not have a gun in his back pocket. Was not in  
16 possession of any types of weapons which I think is  
17 really what is going on behind this particular case.  
18 And even though he was apparently convicted of an  
19 assault in Magistrate's Court we are asking the Court  
20 not to use that against him simply because he was  
21 basically denied what he tells me his rights to an  
22 attorney and his right to confront and cross examine  
23 witnesses against him which now again want to use  
24 against him in this more serious matter.

25 Your Honor, for the record we got -- she's got

1 statements, affidavits, from a Joshua Porter, herself;  
2 Heather Ellis, Margie Harvey, Montana Rose Alan, a  
3 fellow named Joshua Ty Bright, Ashley Marlow, Sharday  
4 Norris, Carly Liggin, Ronnie Owens, Charles Blackwell,  
5 Savannah Allan. And again the case number that I  
6 presented to the Court concerning Mr. Hall's complaint  
7 against Mr. Ellis for pointing a gun at him.

8 There is obviously bad blood between these  
9 individuals, between Mr. Ellis, her father, and my  
10 client, Mr. Hall; but he strenuously denies these  
11 allegations.

12 THE COURT: What about the March 14th conviction.

13 MR. ALLEN: I understand that's the D.U.S.

14 THE DEFENDANT: I was found guilty absent of the  
15 arresting officer in that case too, Your Honor.

16 MR. ALLEN: Apparently from what I am being told  
17 by several people, not just Mr. Hall, but somewhat  
18 confirmed by Mr. Thompson, who I saw him last week, that  
19 it's not unusual for people to go in to Magistrate  
20 Court, plead not guilty and are found guilty without  
21 witnesses testifying against them. I am not quite sure  
22 how that is going on.

23 THE COURT: Any appeal been taken from any of  
24 those cases?

25 MR. ALLEN: They don't have lawyers, so they

1 doesn't know about their appellant rights.

2 THE DEFENDANT: I wasn't given the option to appeal  
3 Your Honor.

4 THE COURT: Well, okay, I need to take this one  
5 under advisement, so it is continued, but do we have a  
6 motion from the State?

7 MS. LESKANIC: Yes, Your Honor, if the defense has  
8 no objection I had this motion set for two o'clock today  
9 or soon thereafter as is convenient to the Court, but  
10 since Mr. Hall had this probation matter I would like to  
11 take it up at this time if there is no objection.

12 THE COURT: Sure.

13 MS. LESKANIC: Mr. Hall, we have three charges on  
14 him, Your Honor. He was arrested and charged with  
15 trafficking methamphetamine August 27th of 2013.  
16 Following that he was arrested September 17th of 2013,  
17 for failure to stop for blue light that was while he was  
18 out on bond for the tracking methamphetamine. He then  
19 made bond on failure to stop case on the September 17,  
20 2013 and has now been arrested again for an incident  
21 date of August 8th of 2014, which is the incident that  
22 Mr. Panther referred to. Probation and parole had an  
23 outstanding warrant for him. Went to place him under  
24 arrest. When they saw him he had a cigarette pack in  
25 his hand. They told him to drop what was in his hand.

1 Inside the cigarette pack they found marijuana and  
2 methamphetamine. Placed him under arrest. It appears  
3 he then fled from the vehicle and eluded capture from  
4 probation and parole and the Cherokee County sheriff's  
5 tracking team for a period of time until he was later  
6 apprehended.

7 THE COURT: Mr. Allen, do you want to address  
8 those?

9 MR. ALLEN: Yes, Your Honor. I don't know if we  
10 have been assigned on the most recent General Sessions  
11 allegations. I am pretty sure I don't have Discovery on  
12 those cases as well, so again, this situation where  
13 they're asking the Court to revoke probation based on  
14 statements made in the course of another case in which  
15 he is pleading not guilty and I think minimal due  
16 process requires that we at least have some sort of  
17 hearing in front of witnesses who make these claims that  
18 he has violated his bond.

19 THE COURT: I'm not addressing probation. What  
20 about that bond?

21 MR. ALLEN: That's what I'm talking about.  
22 Minimal due process require that they bring witnesses in  
23 to make -- to allow us to ask questions so the Court can  
24 get a better idea of what was really going on to  
25 determine if he indeed violated bond. Again, I guess

1 the frustration I have as a defense attorney is the  
2 courts are being asked to revoke bonds on the basis of  
3 additional charges. We know very little about and the  
4 Court knows nothing more about it then I don't think  
5 other than what the solicitor just indicated. There has  
6 been no affidavit presented to Court on those basis. We  
7 are essentially letting people who make claims that he  
8 violated bond to write something and get a warrant  
9 issued, which as I tell a lot of my clients if they  
10 want, all it takes in this State to get a warrant issued  
11 is for somebody to go down to the police station and say  
12 somebody else did something wrong. And so now we are  
13 here. They are asking you to deprive him of liberty on  
14 this bond based on somebody saying he did something  
15 wrong.

16 THE COURT: Okay. All right. Watch your e-mail.

17 MS. LESKANIC: Thank you, Your Honor.

18 (End of proceeding on September 15, 2014).  
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C E R T I F I C A T E

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I, the undersigned Aileen Butler, Official Court Reporter for the 16th 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 in the captioned case, in the Circuit Court for Cherokee County, South Carolina, on the 15th day of September 2014.

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

October 20, 2014

Aileen Butler

1 STATE OF SOUTH CAROLINA.

2 -----x

3 STATE,

4 Plaintiff,

5 Case No.

6 -against-

2008-DR-11-01131

7 TERRY HALL,

8 Defendant.

9 -----x

10 September 17, 2014

11 Cherokee, S.C.

12

13 B E F O R E:

14 HONORABLE R. KEITH KELLY, Judge.

15

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

17 KIM LESKANIC, Esquire

18 Assistant Solicitor

19

20 CLAY ALLEN, Esquire

21 Attorney for the Defendant

22

23

24 Aileen Butler

25 Official Court Reporter

1 THE COURT: Okay. We are back on the record with  
2 the matter of a probation violation in the matter of  
3 Terry Hall.

4 Yes, sir agent.

5 PROBATION OFFICER: Yes, sir. Judge, there seems  
6 to be some question about the truthfulness of the signed  
7 statements against Mr. Hall. I have those witnesses  
8 right here present.

9 THE COURT: Okay. I had a concern about an  
10 affidavit and I am looking for it right now. An  
11 affidavit of -- is it Mr. Ellis?

12 MR. ELLIS: Yes, sir.

13 THE COURT: I have it right here. Thank you. I  
14 have an affidavit. Who is Mr. Ellis?

15 MR. ELLIS: I am.

16 THE COURT: How about swearing him madame clerk.

17 (WHEREUPON, Mr. Ellis was sworn in by the Clerk of  
18 Court.)

19 THE COURT: Now, Mr. Ellis, we are on the record  
20 here, you have sworn. I have an affidavit which is a  
21 sworn statement. It is purportedly from you. I don't  
22 know if you wrote it or not. Did you write an  
23 affidavit?

24 MR. ELLIS: No, sir, I did not.

25 THE COURT: You did not?

1 MR. ELLIS: No, sir.

2 THE COURT: Show that to him. Because in there it  
3 contradicts what apparently you told this officer.

4 MR. ELLIS: No, sir.

5 THE COURT: You didn't write that?

6 MR. ELLIS: That is not my handwriting.

7 THE COURT: Not evening your handwriting?

8 MR. ELLIS: No, sir.

9 All right. Let's go one step further. It is  
10 reported to me that you told him, being the agent here,  
11 that you saw Mr. Hall with a -- let's see -- Robert  
12 Ellis states on approximately June 18, 2014 he witnessed  
13 the offender possess a shotgun; is that true?

14 MR. ELLIS: It was June the 11th.

15 THE COURT: And he had it?

16 MR. ELLIS: Yes sir.

17 THE COURT: And sir, are you Mr. Elmore?

18 MR. ELMORE: Yes, sir.

19 THE COURT: How about placing him under oath  
20 madame clerk.

21 (WHEREUPON, the witness was sworn by the Clerk of  
22 Court.)

23 THE COURT: Mr. Elmore, did you tell the agent that  
24 on or about August the 5th of 2014 you saw a pistol in  
25 the back pocket of Mr. Terry Hall.

1 MR. ELMORE: Yes, sir. He was getting in a truck  
2 down at his house, yes sir.

3 THE COURT: And he had a firearm with him?

4 MR. ELMORE: Yes, sir.

5 THE COURT: Mr. Allen, any questions of these two  
6 gentleman?

7 MR. ALLEN: Well, Your Honor, I was told we  
8 weren't going to do this hearing until I got to court.  
9 I don't have my file with me nor do I have the people  
10 that were here earlier with me. I didn't have a chance  
11 to tell them this hearing was coming up. I will do the  
12 best I can.

13 THE COURT: No. No. Do you have any questions of  
14 these fine folks.

15 MR. ALLEN: Yes, sir, Your Honor.

16 THE COURT: Okay.

17 MR. ALLEN: Mr. Ellis.

18 MR. ELLIS: Yes, sir.

19 MR. ALLEN: Does your signature appear on this  
20 document at all and by this document I am looking at  
21 what has been handed to the judge as your affidavit.

22 MR. ELLIS: It's not my signature. It's my name.

23 MR. ALLEN: Is this your signature?

24 MR. ELLIS: No, sir, it is not.

25 MR. ALLEN: Down here, is this your signature?

1 MR. ELLIS: No, sir.

2 MR. ALLEN: Okay. Do you know Tina Allison  
3 Davenport?

4 MR. ALLEN: I know Tina Allen.

5 Mr. Allen: Did you swear that the information  
6 contained in this affidavit is correct in front of Miss  
7 Davenport?

8 MR. ELLIS: No, sir, I did not.

9 MR. ALLEN: You have been -- now the shotgun you  
10 turned in is actually your daughter's shotgun.

11 MR. ELLIS: What now, sir?

12 MR. ALLEN: The shotgun that you turned in or that  
13 you were talking about was actually your daughter's?

14 MR. ELLIS: No, sir, it was his. He said his  
15 grandfather gave it to him. It was in the utility room.

16 MR. ALLEN: Of your daughter's house.

17 MR. ELLIS: In the utility room, yes, sir.

18 MR. ALLEN: I am sorry.

19 MR. ELLIS: In the utility room, yes, sir.

20 MR. ALLEN: You didn't see it in Mr. Hall's  
21 possession?

22 MR. ELLIS: He had it. Yes, sir, he had it in  
23 his possession. I told him to get it out of utility  
24 room there are kids in and out.

25 MR. ALLEN: You saw it in the utility room?

1 MR. ELLIS: Yes, sir.

2 MR. ALLEN: You didn't see it in his hands?

3 MR. ELLIS: I didn't see it in the hands. I asked  
4 him whose shotgun it was and he said it's his. His  
5 grandfather gave it to him.

6 MR. ALLEN: It was your daughter's house?

7 MR. ELLIS: Yes, sir.

8 MR. ALLEN: Did he live with your daughter at the  
9 time?

10 MR. ELLIS: Yes, he was staying there at the time.

11 MR. ALLEN: You are kind of mad at Mr. Hall,  
12 right?

13 MR. ELLIS: No, sir.

14 MR. ALLEN: You are trying to break them up; your  
15 daughter and him?

16 MR. ELLIS: He has caused nothing but trouble  
17 since he has been in my daughter's life.

18 MR. ALLEN: So you have been trying to break them  
19 up?

20 MR. ELLIS: No, they already broken up. He has  
21 caused my family nothing but misery.

22 MR. ALLEN: The gun you saw was on June 18th -- I  
23 believe, you saw it on June 18th.

24 MR. ELLIS: No, I turned it in to Tracy Fowler and  
25 his -- the father's daughter called me and asked me to

1 return the gun to her and Tracy Fowler said if they want  
2 it they can come get it. I turned it in on the 6-11-14.

3 MR. ALLEN: You turn it in 6-11.

4 MR. ELLIS: That's right.

5 MR. ALLEN: Now, Mr. Hall was already on trespass  
6 notice at your daughter's house?

7 MR. ELLIS: That's right.

8 MR. ALLEN: Okay. So he wasn't there at the time?

9 MR. ELLIS: Yeah, he had a trespass notice here  
10 that everybody signed. After he was put on trespass  
11 notice he was still coming back.

12 MR. ALLEN: Sir, I am sorry. I didn't hear the  
13 last part of your answer.

14 MR. ELLIS: He was put on trespass notice from my  
15 ex-wife. She's the one that owns the house. After he  
16 was on trespass notice he still come back as soon as he  
17 got out.

18 MR. ALLEN: All right. He was put on trespass  
19 notice on what date?

20 MR. ELLIS: Well -- 6-10 and then my daughter put  
21 him on trespass notice -- started eviction notice.  
22 Forty-five days to do that.

23 MR. ALLEN: Your daughter was here on Monday  
24 standing beside me on on the other side of the  
25 courtroom, right?

1 MR. ELLIS: I don't know who all was here sir.

2 MR. ALLEN: You were not here on Monday?

3 MR. ELLIS: No, sir, I have been sick with a virus.

4 MR. ALLEN: No further questions of Mr. Ellis.

5 Could I ask questions of Mr. Elmore.

6 THE COURT: Yes, sir.

7 MR. ALLEN: You live next to Heather Ellis?

8 MR. ELMORE: Yes, sir.

9 MR. ALLEN: And you don't like Mr. Hall?

10 MR. ELMORE: I got nothing against Mr. Hall. He's  
11 making it personal though.

12 MR. ALLEN: Where were you when you say you saw  
13 this gun?

14 MR. ELMORE: I was on my front porch.

15 MR. ALLEN: And where was he?

16 MR. ELMORE: He was about as far as from here to  
17 that door away from me getting in a car.

18 MR. ALLEN: A car where?

19 MR. ELMORE: He was getting in it was a vehicle.

20 I don't know. All I seen it's like I had in my  
21 statement all I seen the butt end of a gun in his pocket  
22 is all I seen.

23 MR. ALLEN: Where was the car?

24 MR. ELMORE: The car was sitting in their  
25 driveway.

1 MR. ALLEN: Whose driveway?

2 MR. ELMORE: Mrs. Ellis's driveway. My next door  
3 neighbor.

4 MR. ALLEN: What kind of gun was it that you say  
5 you saw?

6 MR. ELMORE: I'm not exactly sure what kind of gun  
7 it was. It looked like some kind of revolver. I'm not  
8 sure. It could have been a BB gun. I'm not sure. All  
9 I saw was the butt end of it. It was some type of gun.

10 MR. ALLEN: It may not have been a firearm?

11 MR. ELMORE: It's possible. It's what I put in my  
12 statement, I seen the butt end of a gun. Yes, sir,  
13 that's all I knew.

14 MR. ALLEN: Was Mr. Hall getting in the car to  
15 drive?

16 MR. ELMORE: No, he was getting in the passenger  
17 side.

18 MR. ALLEN: In the passenger side?

19 MR. ELMORE: Yes, sir.

20 MR. ALLEN: The car was parked facing away from  
21 the roadway or toward the roadway.

22 MR. ELMORE: Facing the house?

23 MR. ALLEN: Facing the house.

24 MR. ELMORE: Yes, sir.

25 MR. ALLEN: And you are on your front porch?

1 MR. ELMORE: Yes, sir.

2 MR. ALLEN: And the house was on the the left or  
3 the right?

4 MR. ELMORE: The house is on the right.

5 MR. ALLEN: Did you call the law at that time?

6 MR. ELMORE: No, sir, not that day, no. They was  
7 called several other occasions, not that day.

8 MR. ALLEN: Not that day.

9 MR. ELMORE: No, sir.

10 MR. ALLEN: No other questions.

11 THE COURT: All right. Thank you all so much for  
12 coming down here.

13 MR. ELLIS: We're dismissed?

14 THE COURT: Yes, sir. I will be happy to hear  
15 from you, sir.

16 THE DEFENDANT: May I ask them a few questions,  
17 sir?

18 THE COURT: No, sir, you have you to talk to your  
19 lawyer.

20 THE DEFENDANT: There is a few questions that I  
21 asked him to ask that he didn't ask them.

22 THE COURT: Well, he makes decisions about these  
23 questions from a legal stand point to ask or not ask.

24 THE DEFENDANT: Can I speak freely sir?

25 THE COURT: Yes.

1 THE DEFENDANT: Well, on June 11th, he  
2 contradicted what he said cause if he returned the gun  
3 on the June 11th there is no way he could see me with  
4 the gun on June 18th seven days later. I didn't get out  
5 of jail -- I didn't make bond until June the 12th.

6 Mr. Elmore he has made several bogus calls on me  
7 before. I brought a truck from him. He gave me a bill  
8 of sale for it and he told his wife that he didn't sell  
9 it to me. We're right now in a court battle over a  
10 truck that he sold me and -- cause he's hooked on drugs  
11 and he's scared. He wouldn't tell his wife that he sold  
12 me the truck but he gave me a bill of sale for it. I  
13 take a jury trial for it in court.

14 Mr. Ellis said I've been nothing but trouble for  
15 his daughter ever since we've been together. She's  
16 standing here to testified for me. I remodeled her  
17 house. I've done nothing by good things and I never  
18 possessed a firearm, Your Honor. I got three children  
19 of my own. I take care of their grandchildren like  
20 they're my own. I know what's at stake here. I've been  
21 to prison before. I wouldn't take that chance and mess  
22 it up. I love my freedom. I like to see my kids  
23 graduate. I got a daughter that's 16. I got a son who  
24 is 15. I got a little five year old boy. I want to see  
25 them graduate. I wouldn't mess up my life over no

1 firearm.

2 Like I say, the dates they are claiming they put me  
3 on trespass notice on June the 9th. I never went back  
4 up there. A couple officers in here, that Kevin Wilson  
5 right there, that house -- I mean, it was a drug area.  
6 I straightened it up. I did a lot of things to the  
7 house. I never caused a problem. Mr. Ellis he don't  
8 like me for whatever reason. Like I said we remodeled  
9 the house an accident occurred and his daughter got hurt  
10 and he thinks I'm the one that hurt her. You know, like  
11 I say, I never would hurt her because I love her. We  
12 are still together. I talk to her every night on the  
13 telephone, you know, and Mr. Ellis I forgive him. I  
14 forgive then all for what they've done to me because  
15 it's in the good book it says forgive the devil so he  
16 can forgive you, so I forgive them for everything they  
17 do to me, but it's not right. Mr. Panther, he did an  
18 evaluation on the June the 9th. He gave a behavioral  
19 evaluation so I could keep reporting for three months.  
20 I passed it. He gave me verbal reprimand and he told me  
21 if I had my money paid up -- a portion of it paid up by  
22 the next report date in September, the the first week in  
23 September, that -- you know, he would waive my bond  
24 hearing. Well, he locked me up on August 8th. Mr.  
25 Ellis is a former law enforcement officer. If he seen

1 me with this gun on June 18th after he know I was on  
2 this trespass notice on June the 9th why not call law  
3 right then. Why wait sixty days later to come in and  
4 report me to my probation officer. If what he says is  
5 true, Your Honor, I mean, it just don't add up and like  
6 I say I'm scared to death for my life. When I'm sitting  
7 here fighting for my life for something I didn't do,  
8 Your Honor. Like I said, it it's something I did I  
9 would be a man about it and say I did it just like I  
10 plead guilty to the charge back in '08 because I did it,  
11 you know. Today I put everything I love under oath, I  
12 didn't possess no firearm, Your Honor.

13 THE COURT: All right. Anything further?

14 THE DEFENDANT: No, sir.

15 THE COURT: Sir, you were convicted of two  
16 offenses since you have been on probation. You have  
17 been arrested on another one. You were if possession of  
18 firearm on two different occasions. You're revoked if  
19 full.

20 PROBATION OFFICER: Thank you, judge.

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C E R T I F I C A T E

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I, the undersigned Aileen Butler, Official Court Reporter for the 16th 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 in the captioned case, in the Circuit Court for Cherokee County, South Carolina, on the 17th day of September, 2014.

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

October 19, 2014

Aileen Butler

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHEROKEE )

INDICTMENT

DEC. 08 2008

At a Court of General Sessions, convened on \_\_\_\_\_ the  
Grand Jurors of Cherokee County present upon their oath:

**ATTEMPTED BURGLARY, SECOND DEGREE**  
(DWELLING)

That Terry Ray Hall did in Cherokee County on or about May 13, 2006, willfully and unlawfully attempt to enter the residence of one Henry Stansel at [REDACTED], Blacksburg, SC, without consent and with the intent to commit a crime therein, in violation of §C/L, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

ATTEST COPY  
*Bandy M. McBe*  
CLERK OF COURT  
CHEROKEE COUNTY, S.C.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

*[Signature]*  
\_\_\_\_\_  
ASSISTANT SOLICITOR

WITNESSES

Cherokee County Sheriff's Office

ARREST WARRANT NUMBER

Direct Indictment

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

28

DOC 08-06-11-1131

The State of South Carolina

County of Cherokee

TREY GOWDY, Solicitor

COURT OF GENERAL SESSIONS

DEC 08 2008

TERM

THE STATE  
vs.

Terry Ray Hall

Indictment for

ATTEMPTED BURGLARY, SECOND DEGREE  
(DWELLING)

SC Code: C/L  
CDR Code: 0019  
Class UNC

Handwritten signatures and stamps, including "Trey Gowdy" and "CDR".

County of Cherokee  
STATE VS.

Indictment Number: 08 -GS- 11 - 01131  
Probation C/W#s: W-11-14-0107

AKA: Terry Hall  
Race: W Sex: M  
DOB: [Redacted]  
SSN: [Redacted]  
SID#: 01120518

Name of Original Offense: Attempted Burglary 2nd degree  
Original A/W#: Direct Inv  
Date of Original Offense: 5/13/06  
Conviction S.C. Code §: C/L 16-01-0  
Conviction CDR Code #: 1 1 1 5 1 8  
Original Sentence: 12 yrs ss to 5 yrs prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 12/9/08 in the Court of General Sessions of Cherokee County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 12/9/13, as set forth in the attached warrant(s) or citation(s) dated 8/8/14. 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)  
Violation of Sections # 4, 6, 7, 9, & 10

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 12 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).
- Financial Obligations: Order satisfies:
  - Department fees (arrearage)
  - Fines and other fees (arrearage/balance)
  - Restitution (and 20%) (arrearage/balance)
- Civil judgment:
  - Department fees
  - Fines and other fees
  - Restitution (and 20%)
- Additional Conditions ordered by the Court:

- 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 0 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.

ATTN: COPY  
Bundy  
CLERK OF COURT  
CHEROKEE COUNTY, S.C.

This 17 day of September, 2014.  
Buffroy, SC

R. Keith Kelly  
Presiding Judge  
7th 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 \_\_\_\_\_ Witnessed by \_\_\_\_\_  
Signed this \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ SC  
Day Month Year City

STATE OF SOUTH CAROLINA

30 COUNTY OF Cherokee STATE VS. Terry Hall AKA: Race: W Sex: M Age: 31 DOB: SS# Address: Gaffney, SC 29340 DL#: SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 08-65-11-1131 A/W#: 11852676 - Direct Indictment Date of Offense: 5/13/2006 S.C. Code §: C/L 16-01-0 CDR Code #: 1151

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Attempted Burglary 2nd Degree

in violation of § C/L, 16-01-0 of the S.C. Code of Laws, bearing CDR Code # 1151 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

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: LESKANIC, KIM Defendant Attorney for Defendant SC Bar# 6082

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 12 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 days/months/years and/or payment of \$; plus costs and assessments as applicable\*, the balance is suspended with probation for 5 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. The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code: § 26-29-10.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP Total: \$ 154.74 plus 20% fee: \$ Payment Terms: set by SCDPPPS

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 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, § 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) \$ 36.23, § 90.11 TP (SCCJA Surcharge) \$5. TOTAL \$ 133.90

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: No contact with victims, Divahn is told until the sentence is present sentence on Burg 2nd Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Deborah Garrison Court Reporter: Deborah Garrison

PRESIDING JUDGE Judge Code: 21 Sentence Date: 12/9/08 SCCA/217 (07/2008)

Form 16.1-Arrest Warrant  
Form Approved by  
SC Attorney General  
Section 17-13-150  
March 15, 1979

**STATE OF SOUTH CAROLINA**  
COUNTY OF CHEROKEE

Probation  
**ARREST WARRANT**

Indictment Number 08-GS-11-01131

Warrant Number W-11-14-0107

State Identification No. (SID) 01120518

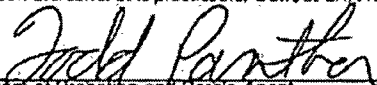
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF GAFFNEY, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that TERRY HALL, did on the 8 day of August, 2014 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Violation of sections # 4, 6, 7, 9, and 10.

Now, therefore, you are empowered and directed to arrest the said defendant and bring TERRY HALL 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 GAFFNEY, S. C. this 8 day of August, 2014.

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

County of CHEROKEE

**STATE OF SOUTH CAROLINA**

**AFFIDAVIT**

Personally appeared before me, one Todd W. Panther, who, first being duly sworn, deposes and says that TERRY HALL did within this County and State on the 8 day of August, 2014, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

Violation of sections # 4, 6, 7, 9, and 10.

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:

1. Failing to refrain from violation of state or Local Law by being convicted of DUS 1st charge in Cherokee Co. Magistrate's Court on 3/11/14 and being convicted of Assault and Battery 3rd degree in Cherokee Co. Magistrate's Court on 7/8/14.
2. Failing to pay the supervision fee by being \$1,085.69 in arrears at issuance of the warrant.
3. Failing to pay the court ordered surcharge by owing a balance of \$128.90.
4. Failing to refrain from possession of a firearm per affidavits dated 8/7/14 and 8/8/14 in that the offender had possessed firearms on two separate occasions. Robert Ellis stated that on approx 6/18/14 he witnessed the offender possessing a shotgun. When asked who's shotgun it was, the offender stated his grandfather gave it to him. Jeff Elmore stated that on 8/5/14 he saw a pistol in the back pocket of the offender. Both affiants state the defendant has made threatening remarks to them and/ or their family members.

Sworn to and Subscribed before me  
this 8 day of August, 2014.

  
\_\_\_\_\_  
Affiant

  
\_\_\_\_\_  
Signature of Notary Public (L.S.)

Address: P.O. BOX 46  
GAFFNEY, SC 29342  
CHEROKEE  
USA

4/30/2020  
\_\_\_\_\_  
My Commission Expires

(864) 489-4568

STATE  
-vs-

STANDARD CONDITIONS OF PROBATION

Terry Hall

1. I shall report in person to the South Carolina Department of Probation, Parole and Pardon Services' office on the day of my sentencing or release, and as instructed by the Department; and I shall make complete and truthful reports to the Agent.
2. I shall not change my residence or employment without the consent of my Agent. Further, I shall allow my Agent to visit me in my home, at my place of employment, or elsewhere, at any time.
3. I shall not use controlled substances, except when properly prescribed by a licensed physician, nor consume alcoholic beverages to excess, nor enter establishments whose primary business is the sale and drinking of alcoholic beverages. Further, I shall submit to a urinalysis, blood test or provide forensic evidence when instructed by Agents of the Department, and I agree that any of these test results may be used as evidence in any hearing for the violation of the conditions of my supervision.
4. I shall not possess or purchase any firearms or other dangerous weapons, and I shall not associate with any person who has a criminal record, or any other person whom my Agent has instructed me to avoid.
5. I shall work diligently at a lawful occupation. Further, I shall notify my Agent if I become unemployed.
6. I shall not violate any Federal, State, or Local Law, and I shall immediately contact my Agent if I am ever arrested or questioned by a law enforcement official for any reason whatsoever.
7. I shall pay a supervision fee and any other fees as determined by the Department.
8. I shall not leave the State without permission from my Agent. Further, if I am ever arrested in another state for violating these conditions, I hereby irrevocably waive all extradition rights I may otherwise have been entitled to and agree to return to South Carolina when directed by my Agent, the Court or by a warrant.
9. I shall obey all conditions of supervision set forth in this order including the payment of fines, restitution or other payments, and the service of any period of incarceration.
10. I shall follow the advice and instructions of my Agent and I agree to comply with any further conditions imposed by the Department or its Agents.
11. I agree to pay restitution and a statutory collection fee payable to the Department of Probation, Parole, and Pardon Services as directed by Agents of the Department. (20% collection fee charged)

I hereby certify that this statement of Conditions has been read and explained to the Probationer listed above and he/she has agreed to them.

I hereby certify that the Conditions above have been explained fully to me and in agreement thereto, I attach my signature:

This 9 day of December

x Terry Hall  
Offender

Collis Edwards  
Agent

[Redacted]  
Offender's Address

312 E. FREDERICK STREET, Gaffney, South Carolina 29340  
Agent's Address

[Redacted]  
Offender's Address

864-489-4568  
Agent's Phone Number

[Redacted]  
Offender's Phone Number

I understand that I must report to the Probation Office on the below listed date or within 48 hours of my release from jail or prison.

x Terry Hall

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Cherokee  
STATE VS.

INDICTMENT#: 05 -GS- 11 - 052  
Probation C/W#: W-11-06-0021

AKA: Terry Hall

Name of Original Offense: Burglary 2nd (NV)

Race: W Sex: M

Original A/W#: H-519459

DOB: [REDACTED]

Date of Original Offense: 10-13-04

SSN: [REDACTED]

Conviction S.C. Code §: 16-11-312

SID#: [REDACTED]

Conviction CDR Code #: 0101810

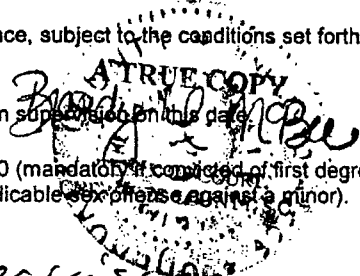
Original Sentence: 15 yrs now on 4 days, bal.

**ORDER** SS with 5yrs prob.

The above named defendant has been charged with violating the conditions of probation ordered on 3-12-05 in the Court of General Sessions of Cherokee County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 6-12-06, as set forth in the attached warrant(s) or citation(s) dated 2-9-06. 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)  
Section 4.7, 10

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 6 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:  
Terminate the balance of supervision,  
Credit time served since 9-7-08.



- 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 4 days 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 9th day of December, 2008  
Gathey SC

[Signature]  
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.

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.

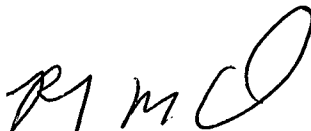
Offender's Signature \_\_\_\_\_ Witnessed by \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ SC

## 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."

August 24, 2015



Robert M. Dudek  
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

**RECEIVED**

AUG 24 2015

SC Court of Appeals