

STATE OF SOUTH CAROLINA

In The Court of Appeals

 ORIGINAL

APPEAL FROM LEXINGTON COUNTY

R. Keith Kelly, Circuit Court Judge

RECEIVED

JUL 29 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TABITHA SHEA JONES,

APPELLANT

APPELLATE CASE NO. 2015-001109

RECORD ON APPEAL

ROBERT M. PACHAK  
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South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
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(803) 734-1330

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Attorneys for Respondent

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I N D E X

WITNESSES                      DIRECT   CROSS   REDIRECT   RECROSS

(There were no witnesses.)

E X H I B I T S

NO.                              DESCRIPTION                      ID.   EVD.

(There were no exhibits.)

1                   (The following proceedings were held on May  
2                   8, 2015.)

3                   TABITHA SHEA JONES,

4                   having been duly sworn, testified as follows:

5                   **THE COURT:** Ma'am, you're Ms. Tabitha Jones?

6                   **DEFENDANT:** Yes, Your Honor.

7                   **THE COURT:** Ms. Jones, listen to the agent,  
8                   please.

9                   **PROBATION AGENT:** Your Honor, Ms. Tabitha Jones  
10                  was sentenced to YOA not to exceed six years  
11                  suspended to two years probation for unlawful  
12                  neglect of a child or helpless person. Her most  
13                  recent violation, she was taken to an administrative  
14                  hearing back in March for absconding supervision.  
15                  She was continued and placed on electronic  
16                  monitoring, locked down, not to leave the house for  
17                  anything but substance abuse counseling, parenting  
18                  skills classes and to come to the probation office.

19                  We tested her back in April. She tested  
20                  positive for cocaine. The hearing officer said zero  
21                  tolerance for any future violations, so that's why  
22                  we're here today.

23                  **THE COURT:** Ma'am, did you hear what the agent  
24                  told me?

25                  **DEFENDANT:** Yes, sir.

1           **THE COURT:** Is that true?

2           **DEFENDANT:** Yes, sir.

3           **THE COURT:** Okay. Yes, sir.

4           **MR. SHEALY:** Thank you, Your Honor. Your  
5 Honor, Tabitha's 23 years old. Her occupation or  
6 employment history is in the area of being a  
7 hostess, but, of course, she's not allowed to do  
8 that because where she would be a hostess, alcohol  
9 would be served. So she hasn't been allowed -- been  
10 able to work.

11           She tells me that she applied for -- actually  
12 took the entrance exams for Midland's Tech, but she  
13 hasn't heard back from them yet. But under this  
14 house arrest order, she would not be allowed to  
15 attend school except for as the officer outlined.

16           She does go to LRADAC, and she showed me a  
17 report and the report is favorable. And I'd like to  
18 just point out that the report does not mention any  
19 absences, and it's dated May 6. And I don't know if  
20 the absences, she just didn't fill out the rest of  
21 the form or what because there's not a zero there  
22 either, but the report itself is favorable.

23           Your Honor, she's suffers from anxiety and  
24 depression. That was diagnosed at the Lexington  
25 County Medical Center or Hospital, whatever it is

1           they have here. I live in Richland County, Your  
2 Honor. The -- last year she was on suicide watch  
3 and that's when she got diagnosed with this. She's  
4 not been seeing a doctor. Under her interpretation  
5 of this order, she felt that she was not allowed to  
6 see a doctor. I pointed out that I bet if she'd  
7 talked to the agent, that the agent would certainly  
8 allow her to do that. At any rate, she hasn't been  
9 taking her medication and there's a lot of stress on  
10 her.

11           The cocaine use was a result of the things I've  
12 just told you. She tells me it was one time, that  
13 at LRADAC -- and the reason I questioned about the  
14 number of absences and all that, there's also empty  
15 blanks about the testing, but she tells me she's  
16 been tested six times at LRADAC and the only time  
17 she came up positive for cocaine was the day after  
18 she came up positive for cocaine here.

19           She's done well. She does report now since  
20 this administrative hearing. What she would like to  
21 see is to be continued and even extend her  
22 probation, continue her on house arrest with a  
23 curfew. She would really like to get to work -- go  
24 to work and she would really like to be able to go  
25 to school and, of course, see the doctor.

1           This was a poor decision. She understands  
2 she's under a lot of scrutiny and pressure and this  
3 was the exact wrong thing to do.

4           Your Honor, in the event that you do not feel  
5 that she -- what we're asking for is possible, what  
6 I wanted and I am asking for, because I don't know  
7 if you can do it or not and nobody here seems to  
8 know if you can do it or not, but rather than  
9 revoking her and sending her to the full YOA of ten  
10 months and then back into parole, if you'd consider  
11 shock incarceration. And we took sort of a straw  
12 vote here and no one knows for sure if that's  
13 possible with a woman, which if it's not, then I  
14 guess there's some equal protection problems SCDC  
15 needs to take a look at, but the general belief is  
16 is that it's not possible for a woman.

17           **THE COURT:** Ma'am, anything you would like to  
18 say?

19           **DEFENDANT:** Yes, sir. I've been under  
20 supervision for Ms. Doyle for about two months now.  
21 She's kind of fairly new to my case as long as -- as  
22 far as any kind of progression that I've made. I  
23 feel that she only is able to see the bad things  
24 that have happened, which I believe that's probably  
25 a detail of her job.

1           But as he stated, I do have paperwork from my  
2 counselor that I'm doing very well in LRADAC. I  
3 understand that what I did was a slip up. I have  
4 only failed one drug test while under supervision of  
5 Lexington County once and since I have started at  
6 probation.

7           I'm doing very well in counseling as I've  
8 stated and I take this very seriously. I'm not just  
9 trying to get better for myself, but also for my  
10 children. And I have a family that cares about me  
11 and is a very strong support system.

12           **THE COURT:** Well, tell me where you were from  
13 August 14, 2014, to February.

14           **DEFENDANT:** Something happened and I was more  
15 or less kind of scared about the outcome of that  
16 situation. I didn't want to be an adult and face my  
17 consequences, so I tried to avoid that, which was  
18 the wrong thing to do as well. But since then, I'm  
19 on electric {sic} monitoring. I have not left. I  
20 don't go anywhere I'm not supposed to go. And most  
21 of the time I'm the one that has to call and  
22 reassure my agent of where I'm going and making sure  
23 that they have that schedule for me to go to my  
24 classes and to report to probation.

25           I'm doing what I'm supposed to do. I'm doing

1 -- I'm trying my best, I really am, especially under  
2 as much stress and, you know, the stipulations that  
3 I'm under right now, I can't see my family, I can't  
4 do things with my children, I can't further my  
5 education. I'm just doing the best that I can do.  
6 I have not missed not one of my classes at all and I  
7 don't plan on it. I'm enjoying counseling. It's  
8 working very well for me.

9 **THE COURT:** You've got these other drug tests?  
10 It references some drug tests, but they're not  
11 attached.

12 **DEFENDANT:** Also, she was not able to -- my  
13 counselor was not able to receive those drug tests.  
14 They switched up the testing system at the facility,  
15 so she's waiting for those screens to come back.  
16 But if it is necessary, I'll be glad to have her fax  
17 those over or e-mail them straight to Ms. Doyle.

18 **MR. SHEALY:** Your Honor, I picked up this case  
19 the day before yesterday and actually got the report  
20 yesterday and we felt we had enough to go forward.

21 **THE COURT:** Sure.

22 **PROBATION AGENT:** Your Honor, let it just be  
23 known that the way she started off her statement by  
24 talking about me, that's just how -- reflects her  
25 attitude in the probation office period. She never

1 takes any responsibility for her actions. She lied  
2 about the tests to begin with and it was sent off to  
3 the lab. And she's made it really hard to supervise  
4 her.

5 **THE COURT:** I understand.

6 Ma'am, you're revoked on this. You can go do  
7 the Y sentence.

8 **PROBATION AGENT:** Thank you, Your Honor.

9

10 END OF PROCEEDINGS

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh 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 the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 8th of May, 2015.

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

May 30, 2015

s/Stacy L. Sheppard

Stacy L. Sheppard, RPR  
Circuit Court Reporter

WITNESSES

Lexington County Sheriffs Department

Shawn Spivey

Law Enforcement Case #: 13000480

LSM

ARREST WARRANT NUMBER

2013A3210200065

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2013GS3201255

The State of South Carolina  
County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2013

THE STATE  
vs.

Tabitha Shea Jones

I DO HEREBY WAIVE MY RIGHT  
TO GRAND JURY PRESENTMENT

*Tabitha Shea Jones*  
DEFENDANT

4/11/13  
DATE

*Shawn Spivey*  
WITNESS

CDR #: 2481

Indictment for

Unlawful conduct towards a child

§ 63-05-0070

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )

INDICTMENT FOR  
Unlawful conduct towards a child

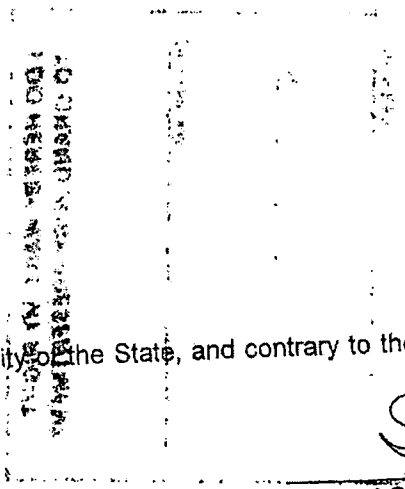
§ 63-05-0070

At a Court of General Sessions, convened on MAY 2013, the Grand Jurors of Lexington County present upon their oath:

That Tabitha Shea Jones in Lexington County, South Carolina, on or about January 8, 2013, while having charge or custody, or being the parent or guardian, or being a person responsible for the welfare, care, and support of the minor child, Minor

Minor , unlawfully, place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety, to wit: left 2 year old son home alone and unattended for an extended amount of time, furthermore there was evidence of marijuan use and activity in plain view and within the environment of the child, such violation as defined Section 63-5-70 South Carolina Code of Laws (1976, as amended).

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



*Suzanne Mayes*  
ASSISTANT SOLICITOR

RETURN

\_\_\_\_\_  
\_\_\_\_\_  
Constable or Law Enforcement Officer

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

\_\_\_\_\_  
\_\_\_\_\_

on the 9<sup>th</sup> day of Feb 2015.  
Landra Young  
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.

\_\_\_\_\_  
Signature of Judge (L.S.)

STATE OF SOUTH CAROLINA  
COUNTY OF  
LEXINGTON

THE STATE  
against

TABITHA S JONES

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 8/21/2014

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

Monica Thomas

Disposition \_\_\_\_\_

Sentence \_\_\_\_\_

Co-Defendants  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

INFORMATION ON DEFENDANT

Name TABITHA S JONES  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Sex Female Race Other Height \_\_\_\_\_  
Weight \_\_\_\_\_ Birth date \_\_\_\_\_  
Social Security Number \_\_\_\_\_

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 \_\_\_\_\_

Form 16.1- Arrest Warrant  
Form Approved by  
SC Attorney General  
Section 17-13-160  
March 15, 1976

**STATE OF SOUTH CAROLINA**  
COUNTY OF LEXINGTON

Probation  
**ARREST WARRANT**

Indictment Number 13-GS-32-01255

Warrant Number W-32-14-0217

State Identification No. (SID) 02062909

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

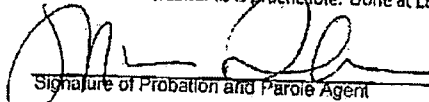
It appearing from the attached affidavit that there are reasonable grounds to believe that TABITHA S JONES, did on the 21 day of August, 2014 violate the criminal laws of the State of South Carolina as set forth below:

**DESCRIPTION OF OFFENSE:**

Violation of probation concurrent to Section 24-21-430 in that the defendant has violated the conditions of her supervision as imposed by Judge Newman at the April 11, 2013 term of General Sessions Court holden in Lexington County, Lexington, SC.

Now, therefore, you are empowered and directed to arrest the said defendant and bring TABITHA S JONES 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 LEXINGTON, S. C. this 21 day of August, 2014.

County of LEXINGTON

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

**STATE OF SOUTH CAROLINA**

**AFFIDAVIT**

Personally appeared before me, one Monica Thomas, who, first being duly sworn, deposes and says that TABITHA S JONES did within this County and State on the 21 day of August, 2014, violate the criminal laws of the State of South Carolina in the following particulars:

**DESCRIPTION OF OFFENSE:**


Violation of probation concurrent to Section 24-21-430 in that the defendant has violated the conditions of her supervision as imposed by Judge Newman at the April 11, 2013 term of General Sessions Court holden in Lexington County, Lexington, SC.

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:

Tabitha Jones has violated the condition of her probation by there being probable cause to believe that she committed the offense of Criminal Domestic Violence on or about the date of 7/10/2014 against Justin Hilley as evident in the Lexington County Sheriff's Department incident report dated 7/10/2014. By failing to notify the supervising agent of her contact with law enforcement. On 04/04/2014 she was arrested by the City of Columbia Police Department for Assault and Battery 3rd Degree and Drinking in Public Conveyance Unlawful. Additionally, she made contact with Lexington County Sheriff's Deputies on or about the date of 7/10/2014 regarding a Criminal Domestic Violence incident. On 4/11/2013 she was advised in writing that she shall notify the supervising agent of any contact with law enforcement for any reason whatsoever. By failing to notify agent of a change of address from 215 Gardner's Terrace Road, West Columbia, SC to 4057 Charleston Highway, West Columbia, SC 29172. By failing to provide agent with information or documentation regarding compliance with

Sworn to and Subscribed before me  
this 21 day of August, 2014.

  
Affiant

 (L.S.)  
Signature of Notary Public

Address: 605 West Main Street  
Suite 104  
LEXINGTON, SC 29072  
USA  
(803) 359-2551

May 29, 2018  
My Commission Expires

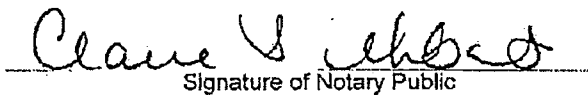
# Addendum

DSS Parenting Skill Program. By failing to attend Court Ordered Substance Abuse Counseling. By failing to report on 8/11/2014 or anything thereafter. Such actions constitute a violation of conditions 1, 2, 6, 10 and Special Conditions of the original Probation Order dated 4/11/2013 and Continuation Order dated 3/21/2014.

[Empty rectangular box for content]

Sworn to and Subscribed before me  
this 21 day of August, 2014.

  
Affiant

  
Signature of Notary Public

May 29, 2018  
My Commission Expires

County of LEXINGTON  
STATE VS.

RECEIVED 13

Indictment Number: 32-01255

Probation C/W#: C-32-15-0077

TABITHA JONES

MAY 20 2015

AKA: \_\_\_\_\_  
Race: \_\_\_\_\_ Sex: F  
DOB: \_\_\_\_\_  
SSN: \_\_\_\_\_  
SID#: \_\_\_\_\_

SC Court of Appeals

Name of Original Offense: UNLAWFUL NEGLECT OF CHILD  
Original A/W#: 2013A3210200065  
Date of Original Offense: 1/5/2013  
Conviction S.C. Code §: 63-05-0070  
Conviction CDR Code #: 2-4-8-1  
Original Sentence: YOA NIE 6 YRS SSP 2 YRS PROB

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 4/11/13 in the Court of General Sessions of LEXINGTON County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 3/19/2014, 3/13/2015, as set forth in the attached warrant(s) or citation(s) dated 4/22/15. 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)  
3.10 + SPECIAL

Therefore, IT IS ORDERED that:

YOA NIE 6 YEARS

- 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).
- Financial Obligations: Order satisfies:
  - Department fees (arrears)
  - Fines and other fees (arrears/balance)
  - Restitution (and 20%) (arrears/balance)
- Civil Judgment:
  - Department fees
  - Fines and other fees
  - Restitution (and 20%)
- Additional Conditions ordered by the Court:

ENTERED

- 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.

This 8 day of MAY, 2015  
LEXINGTON, SC

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 \_\_\_\_\_

Witnessed by \_\_\_\_\_

A TRUE COPY

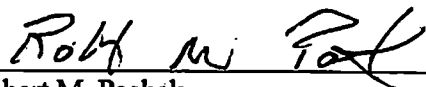
Signed this \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_

Lex. Co. O.C.P. G.P. & P.C.

## 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."

July 29th, 2015



Robert M. Pachak  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
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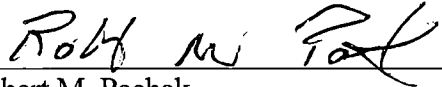
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SC Court of Appeals

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ATTORNEY FOR APPELLANT