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ANDERS
ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

No Respondent's Brief Filed

APPEAL FROM SUMTER COUNTY

NO DEFENDANT'S BRIEF

Howard P. King, Circuit Court Judge

RECEIVED

FEB 29 2016

SC Court of Appeals
RESPONDENT

THE STATE,

v.

April Denise Legree,

APPELLANT

APPELLATE CASE NO. 2015-002225

RECORD ON APPEAL

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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Attorneys for Respondent

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1 THE STATE OF SOUTH CAROLINA

2 County of Sumter

3

4 The State of South Carolina, Probation Violation
Plaintiffs 2010-GS-43-00471

5 vs.

6 April Denise Legree, October 16, 2015
Defendant Sumter, S.C.

7

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9

10 Before the Honorable Howard P. King,

11 Judge.

12

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

15 Mr. Maurice Tisdale,
Probation Agent

16

17 Mr. Mark James,
Attorney for Defendant

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19 Margaret T. Sullivan,
Court Reporter

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1 (Whereupon, the defendant is sworn.)

2 THE COURT: The first matter before the
3 court this morning is a probation violation on April
4 Denise Legree. The court has a copy of the 1106,
5 the Department of Probation, Parole and Pardon
6 Services Violation Report in case No. 10-GS-43-471.

7 The 1106 indicates that the defendant was
8 sentenced by Judge Young on 5/26/2010 for obtaining
9 property under false pretenses; was given a 2-year
10 sentence -- a 5-year sentence suspended on two years
11 and placed on probation for two years. The court is
12 going to give the 1106 to the Court Reporter, and
13 ask that she make it a part of the record as Court's
14 Exhibit No. 1. The court also has a copy of the
15 arrest warrant dated July 27th 2015. And served, I
16 don't have the back of the arrest warrant, so I
17 don't have the service date. When is the service
18 date?

19 PROBATION AGENT: Your Honor,
20 September 7th.

21 THE COURT: It was served on September
22 7th of 2015, and thus this court has jurisdiction of
23 the matter. Ms. Legree, by these documents the
24 department alleges and claims that you violated the
25 terms and conditions of your probation in a number

1 of situations. Specifically, that you failed to
2 report immediately upon your release from jail on
3 5/4/15 or anytime thereafter, as instructed by the
4 supervisor for a telephone conversation on May 4th
5 of 2015.

6 You failed to get consent from your
7 supervising agent prior to moving from your approved
8 residence at Street Savannah, Georgia,
9 to an unknown location. A home visit having been
10 conducted on 5/27/15 to the above listed address.
11 And the supervising agent was advised by your mother
12 that the subject no longer resided there. You
13 failed to worked to diligently at a lawful
14 occupation, having been unemployed since 12/31/10.
15 And there is probable cause to believe that you
16 failed to reframe from violating state, federal or
17 local law, by being arrested on 11/15/14 of the
18 Pauling County Sheriff's Department in Georgia for
19 robbery, kidnapping, false imprisonment, elder
20 abuse, and impersonating an officer. And you failed
21 to pay the surcharge and the restitution as you were
22 ordered to do. These are things the department said
23 you did to violate the terms and conditions.

24 Do you understand what the allegations
25 are?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand that you
3 have the right to present any testimony and evidence
4 that you wish to present, and I'll hear you from
5 you in that regard in a few minutes.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And you have the right to be
8 represented by counsel. I see you are here with
9 Mr. James. Have you had a chance to talk to
10 Mr. James about these matters?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you also have the right to
13 appeal from any decision that I make, and you must
14 do that within 10 days. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Mr. Tisdale, anything you
17 would like to add to what's in the 1106?

18 PROBATION AGENT: Yes, sir. I have a copy
19 of the actual arrest which took place in Georgia.

20 THE DEFENDANT: Yes, sir.

21 PROBATION AGENT: And also a statement
22 from the victim.

23 THE COURT: Was she ever -- what happened
24 to that charge?

25 PROBATION AGENT: It's still pending, Your

1 Honor.

2 THE COURT: Still pending?

3 PROBATION AGENT: Yes, sir. As stated the
4 in 1106, Your Honor, she was arrested back in
5 November of 2014 for those charges, Your Honor. And
6 stayed confined until she bonded out in May of 2015.

7 THE COURT: Did you all have a hold on
8 her?

9 PROBATION AGENT: What happened was, it
10 was an interstate, we transferred the case back in
11 December of 2013---

12 THE COURT: Yes.

13 PROBATION AGENT: ---to Georgia. And
14 that's where she's been up until she absconded
15 supervision and went to the State of Alabama, where
16 she was picked up and held to be brought here to
17 South Carolina. Once she got released from jail,
18 she spoke with her supervising agent in Georgia.
19 And they tried to get her to report to the office
20 once she got released. That never happened, Your
21 Honor. And a home visit was done on May 27th 2015.
22 And at that time, they released that she had
23 absconded supervision, once they spoke with her
24 mother as to what her whereabouts were.

25 Once she got arrested in Alabama, she was

1 held and brought back to South Carolina. I believe
2 she got back here on September the 6th. And we
3 served that warrant on her on September 7th, Your
4 Honor.

5 THE COURT: Okay. Mr. James.

6 MR. JAMES: Yes, sir, Your Honor. I've
7 been speaking with Ms. Legree and some of the
8 family, and I would like to point out that two of
9 the uncles are in the presence of the courtroom
10 today. They came from Atlanta, Georgia this
11 morning to support Ms. Legree. I also have a letter
12 from her sister, Ms. Paris. She wrote to me, I can
13 pass it up to the court if you would like to read
14 it.

15 THE COURT: Yes, sir. If you want to show
16 it to me, I'll be glad to take it.

17 MR. JAMES: It's addressed to me, but I
18 think it's more appropriately addressed to you.

19 THE COURT: Mr. James, go ahead.

20 MR. JAMES: Ms. Legree does have four
21 children, and she has been working, cleaning houses
22 with her sister I believe, in Georgia. The
23 situation with her mother's house, she tells me she
24 was -- her mother kicked her out of the house. And
25 I don't know for what reason. But then she was

1 living with her sister.

2 THE COURT: Did she report that address to
3 the probation department?

4 MR. JAMES: I don't believe she did, Your
5 Honor. And she understands that that wasn't the
6 right thing to do, but she did -- she was
7 responsible for doing that. I believe the charge in
8 Georgia, obviously I don't any information on that,
9 any evidence. I am not sure exactly what happened.
10 They sound like serious charges, and something she
11 needs to address in Georgia.

12 THE COURT: Well no question about that.
13 And I guess she's out on bond on those charges. I
14 don't know.

15 MR. JAMES: Yes, sir.

16 THE COURT: But that's something, I see
17 what Mr. Tisdale is saying and I know that under the
18 probation department's rules, they have the right to
19 consider arrest for charges, and I to some degree
20 consider arrest while on probation. But that is not
21 the key thing for me, because if it's just a
22 probable cause to believe that they committed a
23 law -- a violation of the law, I usually don't use
24 that as the basis for a revocation because of the
25 presumption of innocence of those charges. I'm

1 really more concerned about the absconding from
2 supervision.

3 MR. JAMES: Yes, sir. I will say, Your
4 Honor, I'm sorry to stay on point, but it was a
5 situation where the judge felt a bond was necessary
6 in that situation even knowing she was on probation.
7 But she tells me that her husband was killed at some
8 point. She did enter into a depression. And I
9 believe when her mother kicked her out of the house,
10 it didn't -- she didn't handle it correctly, Your
11 Honor. And she knows it's a problem with probation.
12 And she does have some restitution available. And
13 I've been talking to her family, and they're been
14 trying to help her out with the money.

15 Her uncles who came from Atlanta today, do
16 have a \$1,000 that are prepared to pay to the court.
17 I told them that wasn't the full amount. And they
18 understand that, but they say they have it
19 available. In this situation, Your Honor, we just
20 ask that you maybe allow her to post the money.
21 Maybe a short revocation and termination, and allow
22 her to go to Georgia to handle these serious
23 charges. It seems like it's been extended multiple
24 times since the 2010 charge. A lot of the
25 extensions were fines and restitution, Your Honor.

1 And I don't think she has a great deal of
2 restitution, but she does has \$1,000 that her family
3 is willing to post on her behalf today.

4 THE COURT: Ms. Legree, what do you want
5 to tell me?

6 THE DEFENDANT: First of all, I want to
7 tell you, what happened was, I was staying with my
8 mom, and after the death of my husband, I did kind
9 of shut down. I had to pay for his funeral bills.
10 And when I got the money to pay for the funeral
11 bill, and then my granddaughter died right after
12 him. And I just couldn't give her what she wanted
13 me to give her back then, because I had to pay the
14 funeral bill, two funeral bills. And when she told
15 me I had to leave, I went to my daughter's house.
16 And then I went to my brother's house, and to my
17 sister's house. I couldn't give her no money,
18 because I didn't have no money, not right at the
19 time. And I explained that to her. The whole time
20 I was living there when I was on probation, I was
21 giving her money. I was getting her jobs. And I
22 was doing. And all of a sudden after all that, she
23 just put me out because I couldn't give her no
24 money. I told her I couldn't give her what I
25 didn't have. Because I had to pay two funeral

1 bills after I got the---

2 THE COURT: Why didn't you report that to
3 the probation department? See that's the thing that
4 concerns me. It's been my experience that the
5 probation department will work with you in almost
6 any way they can, if you report. And if tell them
7 what your problems are.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: But you didn't do that. You
10 just didn't report, and that's something this court
11 can't overlook. As much as I'd like to try to get
12 the money for the victims, it's almost -- it's a
13 situation it's not all the money. And it's too
14 little, too late. Here we are at the end of a
15 5-year probation period, and your probation is
16 scheduled to expire in 2 months, December 30th. And
17 you've just absconded from supervision and put the
18 probation department in a situation where they
19 couldn't supervise you. You may have had very good
20 reasons, I don't know. But I'm sure the probation
21 department would liked to have known those reasons
22 before coming in to court today.

23 The same thing with the money. You know,
24 you've got family that's willing to come up with
25 some money now, but you've had 5 years to pay this

1 \$3,000 worth of restitution. \$1,000 has been paid
2 over 4 years and 9 months. I tell defendant's every
3 day when I put them on probation, Ms. Legree, that
4 the most important thing they do, and the easiest
5 thing you have to do on probation, is report.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And if you don't report, there
8 is not a thing in the world the probation department
9 can do. I think you've run this -- probation has
10 run it's course. And you really haven't been
11 successful. You've put the court in a position
12 where I have no other choice. The court does
13 understand that the defendant understands the nature
14 of these proceedings. He is represented by
15 competent counsel. The court is in violation of the
16 terms and conditions of her probation by failing to
17 report as she was ordered to do, and thereby being
18 absconded from supervision. She also changed her
19 address without the permission of the supervising
20 agent, regardless of what that reason was, she could
21 have reported to the supervising agent.

22 There has been no -- I'm not considering
23 the Georgia arrest because I don't know if that's
24 any kind of a conviction yet. Neither am I making
25 for the grounds for the revocation, the financial

1 obligations, because that requires the finding of
2 willfulness under Spare -- under the Spare case.
3 But she is in violation from absconding supervision
4 and failing -- and changing her address without
5 permission.

6 Under the Hayes case, she has what left
7 Mr. -- 3 years?

8 PROBATION AGENT: Two and a half years,
9 Your Honor.

10 THE COURT: Two and a half?

11 PROBATION AGENT: Yes, sir.

12 THE COURT: The court is going to revoke
13 the probation previously imposed, and revoke in
14 full. And required you to serve the balance of the
15 sentence. Give her credit for the time served since
16 the warrant was served. Ms. Legree, I'm sorry, but
17 you've had your chances and you've come to the end
18 of the line. It's time to pay the piper. Good
19 luck. Mr. James, will explain it to you.

20 MR. JAMES: Thank you very much, Your
21 Honor.

22 --End of Requested Transcript of Record--

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced on October 16, 2015, in General Sessions Court for Sumter County, Sumter, South Carolina.

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

12/31/15
DATE

Margaret T. Sullivan
COURT REPORTER
My Commission expires: 9/7/2021

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

Probation
ARREST WARRANT

Indictment Number 10-GS-43-00471
Warrant Number W-47-15-0058
State Identification No. (SID) 01945404

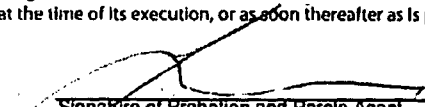
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF COLUMBIA, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that APRIL DENISE LEGREE, APRIL LEGREE, did on the 27 day of July, 2015 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

April Legree willfully violated conditions of Probation 1, 2, 5, 6, 9, 10, & 11 in Cause Number 10-GS-43-00471 as ordered by the Sumer County Court of General Sessions on 5/26/10 and the Order of Continuation dated 4/13/12.

Now, therefore, you are empowered and directed to arrest the said defendant and bring APRIL DENISE LEGREE, APRIL LEGREE 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 COLUMBIA, S. C. this 27 day of July, 2015.



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

County of SUMTER

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Lloyd Anson Turner, who, first being duly sworn, deposes and says that APRIL DENISE LEGREE, APRIL LEGREE did within this County and State on the 27 day of July, 2015, violate the criminal laws of the State of South Carolina in the following particulars:

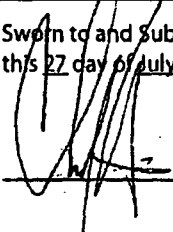
DESCRIPTION OF OFFENSE:

April Legree willfully violated conditions of Probation 1, 2, 5, 6, 9, 10, & 11 in Cause Number 10-GS-43-00471 as ordered by the Sumer County Court of General Sessions on 5/26/10 and the Order of Continuation dated 4/13/12.

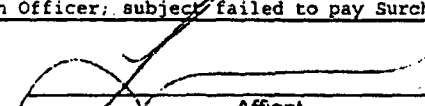
The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

As evidenced by Violation Report(s) dated 12/10/14 and 7/25/15 prepared by Georgia: Ms. April Legree has failed to report immediately upon her release from jail on 5/4/15 or anytime thereafter, as instructed by GA Supervisor, per a telephone conversation with the subject on 5/4/15; subject failed to gain consent/permission from her Supervising Agent prior to moving from her approved residence of _____ Street, Savannah, GA 31415 to an unknown location, having conducted a Home Visit on 5/27/15 to the above listed address, the subject's Supervising Agent was advised by the subject's mother that the subject no longer resides at the residence; the subject failed to work diligently at a lawful occupation, having reported being unemployed since 12/31/10; there is probable cause to believe that the subject failed to refrain from violating state and or local law having been arrested on 11/5/14 by the Paulding County Sheriff's Department (GA) for Robbery; Kidnapping; False Imprisonment; Elder Abuse; & Impersonating an Officer; subject failed to pay Surcharge and

Sworn to and Subscribed before me
this 27 day of July, 2015.



(L.S.)
Signature of Notary Public
July 22, 2018
My Commission Expires



Affiant
Address: P. O. Box 50666
2221 Devine Street
COLUMBIA, SC 29250
RICHLAND
USA
(803) 734-9325

RETURN

STATE OF SOUTH CAROLINA
COUNTY OF
SUMTER

THE STATE
against

APRIL DENISE LEGREE, APRIL LEGREE

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 7/27/2015

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

Lloyd Anson Turner

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name APRIL DENISE LEGREE
Address SAVANNAH, GA 31415
Phone
Sex Female Race Black Height 506
Weight 145 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

Constable or Law Enforcement Officer

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

* *April D Legree*

on the 7 day of September 2015

[Signature]
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.

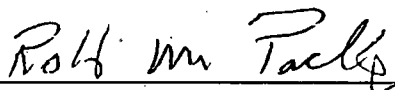
(L.S.)

Signature of Judge

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."

February 29, 2016



Robert M. Pachak
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

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."

February 29, 2016

Robert M. Pachak

Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
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ATTORNEY FOR APPELLANT

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

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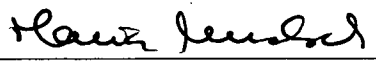
APPELLATE CASE NO. 2015-002225

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Matthew Buchanan, Esquire, at the South Carolina Department of Probation, Parole & Pardon Services, PO Box 50666, Columbia, SC 29250, and April Legree at Leath Correctional Institution 2809 Airport Road Greenwood, SC 29649, this the 29th day of February, 2016.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this the 29th day of Febraury, 2016

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023