

22618

ANDERS

ORIGINAL

STATE OF SOUTH CAROLINA

No Respondent's Brief Filed

In The Court of Appeals

RECEIVED
ANDERS RESPONSE BRIEF

APPEAL FROM LEXINGTON COUNTY

MAY 06 2016

Robert E. Hood, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

Nelapold S. Daniels,

APPELLANT

APPELLATE CASE NO. 2015-001806

RECORD ON APPEAL

WANDA H. CARTER
Deputy Chief Appellate Defender

MATTHEW BUCHANAN
General Counsel
South Carolina Department of
Probation, Parole & Pardon Services
PO Box 50666
Columbia, SC 29250

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

(803) 734-9220

Attorney for Appellant

Attorney for Respondent

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STATE OF SOUTH CAROLINA)	GENERAL SESSIONS
)	
County of Richland)	Probation Revocation
)	
STATE OF SOUTH CAROLINA,)	
)	
vs:)	TRANSCRIPT OF RECORD
)	
NELAPOLD DANIELS,)	
)	
DEFENDANT,)	

July 31, 2015
Columbia, South Carolina

BEFORE:

THE HONORABLE ROBERT E. HOOD, JUDGE.

APPEARANCES:

PROBATION AGENT DUCKETT
Probation, Pardon & Parole

JOHN TATE, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 THE COURT: Okay, Ms. Duckette.

2 PROBATION AGENT: May it please the Court, Your
3 Honor. Before you we have Nelapold Daniels. He was
4 sentenced on probation by the Honorable Doniel [sic]
5 Hocker on January 14th, 2014 for the burglary second
6 degree offense. His sentence was five years suspended to
7 one-day credit and three years' probation. He has special
8 conditions of court-ordered restitution in the amount of
9 \$2,500. He was also given PTUP.

10 His current violation is Mr. Daniels has willfully
11 failed to follow the advice and instructions of the agent
12 in that he failed to make himself available for a drug
13 test, Your Honor, by leaving the office during the visit
14 after supervising agent instructed him not to leave the
15 building; failed to complete his public service conversion
16 hours given to address supervision fees arrears by being
17 terminated from public service on April 30th, 2015; and he
18 has also failed to pay his restitution, Your Honor, being
19 in arrears of his restitution and 20 percent collection
20 fee.

21 THE COURT: All right.

22 Mr. Daniels, do you agree you violated the terms and
23 conditions of your probation?

24 THE DEFENDANT: Failure to do a drug test, yes, sir.

25 THE COURT: Okay. What about public service?

1 THE DEFENDANT: No, sir.

2 MR. TATE: Your Honor, he has provided me with
3 documentation this morning. I was appointed last night
4 for this case.

5 THE COURT: Okay.

6 MR. TATE: So I haven't made copies. I will show
7 this to the Pardon, Probation and Parole folks.
8 Apparently, he was at a soup kitchen or a church kitchen
9 where he was -- got credit for 41 hours.

10 He has been over at the AIDS Council for 62 hours
11 which in my math which again is not very good, Your Honor,
12 I show him at 131 -- 103 hours, I'm sorry, and doing more,
13 six -- two more hours with the AIDS Council.

14 All this has been signed off on by somebody there who
15 has provided his telephone number. Since I was only
16 appointed late last night and found out about it this
17 morning, I obviously haven't talked with them.

18 He tells me he keeps up with his restitution as best
19 he can. He is paying something on it. He is working.

20 THE DEFENDANT: Fifty dollars a month.

21 MR. TATE: And he pays \$50 a month. He works, Your
22 Honor, at McDonald's. He is 42 years old. He has got
23 seven children, four of which live with him at home which
24 he supports.

25 He also lives with his mother and brother. His --

1 his -- he is also a caregiver for that brother who is
2 paralyzed and limited to a -- to a wheelchair. Other than
3 the drug test, Your Honor, I think he is doing pretty much
4 what he has been asked to do.

5 THE COURT: What's the problem with the drug test?

6 THE DEFENDANT: Just didn't take it. I just took it,
7 one a month before.

8 PROBATION AGENT: May I?

9 THE COURT: Sure.

10 PROBATION AGENT: Your Honor, I've only had -- I've
11 seen Mr. Daniels, Your Honor, three times, and the first
12 time I saw him, Your Honor, was on April 16th.

13 From that very first report just talking to him and
14 asking him was he going to get caught up on his
15 restitution, I explained to him the importance of his
16 restitution.

17 He told me that -- he stated in his own words he
18 doesn't care what any judge says about paying restitution.
19 He is always going to be behind on his restitution.

20 From that day on, Mr. Daniels has refused to ask any
21 questions, and on that day when I asked him about -- I
22 asked him, "Were you using any drugs?" He said, "I don't
23 know."

24 That's when I said, "Sir, I'm going to drug test
25 you." He got up out of the chair, and he started -- began

1 to use profanity. He walked out of the building.

2 On the day when I served a warrant for him leaving
3 asking him not to leave, he has called up there. He was
4 at the jail. He has cursed the staff out, the HHF staff
5 out, Ms. Sarah on the phone. She told me. She came back
6 and told me.

7 Your Honor, I've only seen him three times, and every
8 single time I've seen him, he won't answer any questions.
9 He has refused to comply with what I asked him to do. A
10 supervisor has to stay in the room just to monitor and
11 make sure he answers the question.

12 THE DEFENDANT: That's because I asked for a
13 supervisor.

14 PROBATION AGENT: No, he didn't, Your Honor.

15 THE DEFENDANT: My mother -- I took my mother down
16 there one time with me, and I take her with me every time
17 I go. Because like I said, when I walked in the door,
18 there was a problem. I asked for a supervisor.

19 THE COURT: Why is taking a drug test a problem?

20 THE DEFENDANT: It wasn't a problem at the time. I
21 just didn't take a drug test that day.

22 THE COURT: Why?

23 THE DEFENDANT: I had worked all day. I just took
24 one for the month before, sir.

25 THE COURT: So?

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Okay. Anything else you want to tell me?

THE DEFENDANT: No, sir.

THE COURT: Okay. Revoke in full.

PROBATION AGENT: Thank you, Your Honor. I appreciate it.

MR. TATE: Your Honor, he tells me had seven days pretrial.

THE COURT: Very well. Credit for time served.

(Whereupon, the proceedings were concluded.)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

Y-Wynn
Def.

COUNTY OF Lexington
STATE VS.

INDICTMENT/CASE#: 2012GS3203322

Nelapold Stinson Daniels

A/W#: 2012A3221100194

AKA: _____

Date of Offense: 9/19/2012

Race: Black Sex: M Age: 40

S.C. Code § : 16-11-0312

DOB: _____

CDR Code #: 0080

Address: _____

City, State, Zip: _____

DL#: _____ SID#: _____

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was

CONVICTED OF or PLEADS

TO: Burglary / Burglary (Non-Violent) - Second degree

in violation of § 16-11-0312 of the S.C. Code of Laws, bearing CDR Code # 0080

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Amel Okubor Solicitor SC Bar# _____ Defendant _____ Attorney for Defendant SC Bar# 12216

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 5 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 3 years

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. 1 Day Credit

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS: RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP Restitution paid debt was

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment before

Payment Terms: See Restitution Order Obtain GED 2 year

Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) _____ Random Drug/Alcohol testing

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ beginning _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ paid to Public Defender Fund

§ 56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso 47.9 (Public Def/Prob) \$500 \$ 500.00

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ _____

TOTAL \$ 623.00 + rest Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Beth Carrig Presiding Judge _____

Court Reporter: B Patterson Judge Code: 2167

SCCA/217 (03/2011) Sentence Date: 1/3/14

STATE OF SOUTH CAROLINA
COUNTY OF Lexington

IN THE COURT OF GENERAL SESSIONS

12 -GS- 32-3322

Count

STATE

-VS-

STANDARD CONDITIONS OF PROBATION

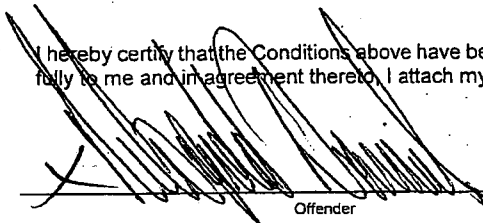
Nelapold Daniels

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)
12. Unless I was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year, I shall be subject to a search or seizure, without a search warrant, based on reasonable suspicions, of my person; any vehicle I own or am driving, and any of my possessions by: (1) any probation agent employed by the Department; or (2) any other law enforcement officer.

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 13th day of January, 2014



Offender

Michelle Whitlock

Agent

Offender=s Address

605 W Main Street, Ste#104, Lexington, SC 29072

Agent=s Address

Offender=s Address

(803) 359-2551

Agent=s Phone Number

201-5001

Offender=s Phone Number

PROBATION CITATION

No. C-40-14-0750

SOUTH CAROLINA V. NELAPOLD S DANIELS	COUNTY: RICHLAND	
	SCDC #	SID # 00858505

TO: NELAPOLD S DANIELS

YOU ARE HEREBY NOTIFIED to appear in the above named case at the time, date and place specified below.

Place TBA	Room TBA
	Date and Time

YOU ARE HEREBY NOTIFIED that you are charged with violating the conditions of your supervision as stated below.

Violations Charged
Nelapold Daniels has violated conditions # 7, 9, 10, 11 and Special Conditions as ordered in Cause Number 12-GS-40-03322 by the Richland County Court of General Sessions on 01/14/14.

YOU ARE HEREBY NOTIFIED that you have the rights listed below.

List of Rights:
You have the right at the hearing to question any person who appears as a witness against you and to have witnesses appear on your behalf. You may present evidence on your behalf. You may have an attorney represent you. If you cannot afford an attorney, an attorney will be appointed for you. You must advise the agent or the court in writing of your desire for an attorney. It is your responsibility to make arrangements for your witnesses and your attorney to appear at the hearing.

IF YOU FAIL TO APPEAR AT THE TIME, DATE AND PLACE SHOWN ABOVE, THE HEARING WILL BE HELD IN YOUR ABSENCE AND YOU MAY BE INCARCERATED.

COLUMBIA , South Carolina	Probation and Parole Agent Rachael Stanforth	Agent # 0531
Date 11/6/2014		

A copy of the citation was served by the undersigned and given to the individual named therein at the time, date, and place indicated below.

Place Richland Co. PIP office	Date and Time 11/20/14 @ 9:36 AM
	Serving Officer's Signature <i>Rachael Stanforth</i>

Sworn to and subscribed before me this 20th day of November, 2024

Nikeshha Daniels
Signature of Notary Public

My Commission Expires 08-07-2024

STATE OF SOUTH CAROLINA

AFFIDAVIT

County of RICHLAND

Personally appeared before me, Rachael Stanforth, who first being duly sworn, deposes and says that NELAPOLD S DANIELS did within this county and State on the 6 day of November, 2014, violate certain conditions of release in the following particulars:

DESCRIPTION OF VIOLATION

Nelapold Daniels has violated conditions # 7, 9, 10, 11 and Special Conditions as ordered in Cause Number 12-GS-40-03322 by the Richland County Court of General Sessions on 01/14/14.

The Affiant states that there is probable cause to believe the defendant named committed the violations set forth and that such probable cause is based on the following facts:

Nelapold Daniels has failed to pay Supervision Fee to the Department, currently being \$450 in arrears with an unpaid balance of \$1,580; failed to pay Fine to the Richland County Clerk of Court, currently being \$180 in arrears with an unpaid balance of \$648.90; failed to pay Restitution and Statutory Collection Fee, currently being \$745 in arrears with an unpaid balance of \$2,800; failed to pay Drug Testing Fee to the Department, currently being in arrears the total balance of \$20. The violations noted above constitute a failure to follow the advice and instructions of the Agent. These violations are contrary to the agreed conditions of supervision signed by Nelapold Daniels.

Sworn to and subscribed
before me this 6 day of
November, 2014

[Signature]
Signature of Notary Public

[Signature]
Affiant

My Commission Expires: 08/24/2022

County of Richland
STATE VS.

Harold Daniels
AKA:
Race: Black Sex: Male
DOB: _____
SSN: _____
SID#: 0088875

Indictment Number: 12 GS-32-03377
Probation C/W#: C-40-14-0750

Name of Original Offense: Burglary 2nd Degree
Original A/W#: 2012 A322103194
Date of Original Offense: 9/17/2012
Conviction S.C. Code §: 11-11-0312
Conviction CDR Code #: 01 01 81 0
Original Sentence: 5 yrs 30 days probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 1/15/14 in the Court of General Sessions of Richland County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 1/15/14, as set forth in the attached warrant(s) or citation(s) dated 1/15/14. 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)
7, 9, 10, 11, special conditions

Therefore, IT IS ORDERED that:

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

JAN 21 2014 8:00 PM REC-8 PM 1 2014

Additional Conditions ordered by the Court: continue supervision, restructure fines and arrears, pay drug test fee current with 30 days, convert supervision fee arrears to public service employment, convert back to months if offender costs to pay.

- 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 1 day 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.

12/31/14

This 4 day of December, 2014
Columbia, SC

Ketwood
Presiding Judge S Wood
5th 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: Nancy S. Gouffert

Signed this 20th day of November, 2014 at _____

Columbia SC

10/15/14

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

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Probation
ARREST WARRANT

Indictment Number 12-GS-32-03322.

Warrant Number W-40-15-0211

State Identification No. (SID) 00858505

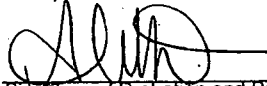
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF COLUMBIA, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that NELAPOLD S DANIELS, did on the 21 day of May, 2015 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Nelapold S. has violated conditions 3,7,9, 10 and 11 and any special conditions of probation as ordered in cause number 12-GS-32-03322 by the Lexington County General Sessions court.

Now, therefore, you are empowered and directed to arrest the said defendant and bring NELAPOLD S DANIELS 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 21 day of May, 2015.



Signature of Probation and Parole Agent

(L.S.)

County of RICHLAND

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Shree Duckett, who, first being duly sworn, deposes and says that NELAPOLD S DANIELS did within this County and State on the 21 day of May, 2015, violate the criminal laws of the State of South Carolina in the following particulars:

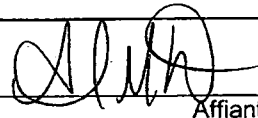
DESCRIPTION OF OFFENSE:

Nelapold S. has violated conditions 3,7,9, 10 and 11 and any special conditions of probation as ordered in cause number 12-GS-32-03322 by the Lexington County General Sessions court.

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:

Nelapold S. Daniels has willfully failed to follow the advice and instructions of the Agent in that he: failed to make himself available for a drug test by leaving the office during office visit after supervising Agent instructed him not to leave the building; failed to complete PSE conversion hrs given to address supervision fee arrears by being terminated from PSE site on 04-30-15 having only completed 41 of 76 hrs; failed to pay court ordered Restitution plus the 20% collection fee by being in arrears \$425 at the issuance of process; failed to pay court fine by being in arrears of \$125.

Sworn to and Subscribed before me
this 21 day of May, 2015.


Affiant
Signature of Notary Public

(L.S.)

Address: 1221 GREGG STREET
COLUMBIA, SC 29201
RICHLAND
USA

(803) 734-6320

08-07-2024
My Commission Expires

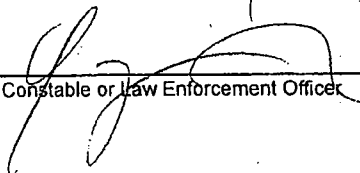
RETURN

Constable or Law Enforcement Officer

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

Nelapold Daniels

on the 22 day of May 2015


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 dealt with according to law.

_____ (L.S.)

Signature of Judge

STATE OF SOUTH CAROLINA

COUNTY OF

RICHLAND

THE STATE

against

NELAPOLD S DANIELS

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 5/21/2015

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

Shree Duckett

Disposition _____

Sentence _____

Co-Defendants _____

INFORMATION ON DEFENDANT

Name NELAPOLD S DANIELS

Address: _____

COLUMBIA

Phone _____

Sex Male Race Black Height 602

Weight 180 Birth dat _____

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 _____

County of Richland
STATE VS.

12 GS 32 03322
Indictment Number
Probation C/W #: W 40-15-0211

AKA: Nicopolis S. Daniels
Race: B Sex: M
DOB: _____
SSN: _____
SID#: 00858505

Name of Original Offense: Burglary 2nd
Original A/W #: 2012A 322 1100174
Date of Original Offense: 9/19/2012
Conviction S.C. Code §: 16-11-0312
Conviction CDR Code #: 0 / 0 / 8 / 0
Original Sentence: 3yr 3m Probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 1/19/11 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 11/17/2011 as set forth in the attached warrant(s) or citation(s) dated status. 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, 7, 9, 10, 11

Therefore, IT IS ORDERED that:

4 & 364 DAYS

- the suspended sentence be revoked and the above named defendant be required to serve 4 & 364 DAYS months/years, the remainder of the original sentence, and/or pay \$ Terminate Probation
- 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)
- Additional Conditions ordered by the Court:

AND IT IS ORDERED
5 JUL 31 PM 3:57
COURT CLERK

No Administrative Monitor

- 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 1 day 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.

ENTERED OIS 8/18/15
BY _____

This 31 day of July 2015
Columbia, SC

Re Hood
Presiding Judge
SHAD
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 Columbia SC
Day Month Year City

512
15115

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

Offender's Name: **NELAPOLD S DANIELS**
 State of South Carolina, County of: **RICHLAND**
 SID#: **00858505**

Warrant#: **W-40-15-0211**
 Date of Birth:
 SCDC#:

Indictment Numbers:
12-GS-32-03322

Offense and Offense Code:
80 - Burglary (Non - Violent) (After June 20, 1985) - Second degree

Supervision Program: **Probation**
 Supervision Level: **High Supervision**

Begin Date: **1/14/2014** End Date: **1/13/2017**
 Potential End Date: **6/2/2016** Adjusted End Date: **1/13/2017**

Sentencing Judge: **2167 - Hocker, Donald**
 Sentencing Date: **1/14/2014**
 Location (Bold Response): **Community**

Sentencing County: **LEXINGTON**

Sentence:

5 YRS SSP 1 DAY CREDIT AND 3 YRS PROBATION.

Special Conditions:

Department Administered Court Ordered Restitution in the amount of \$2,500.; Fine - \$630.; PTUP / Case to end upon Certification by the Clerk of Court that all monies have been paid. (Sec. 24-21-550).RESTITUTION PAID BUT NOT BEFORE 2 YRS.

Current Address and Summary of Residence:

, COLUMBIA, SC 29205, LEXINGTON, USA,

Reporting:

Mr. Daniels Reports as instructed, but he refuses to see Supervising Agent when he reports or answer any of the required questions.

Employment Records While Under Supervision:

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
MCDONALDS	5/1/2015 -		
UNEMPLOYED	6/21/2000 - 5/1/2015		\$0.00
	1/16/2014 - 5/1/2015		

Financial Conditions:

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Fees						
Regular Supervision	\$1,850.00	\$50.00/M	\$550.00	12/31/2014	\$350.00	\$1,300.00
Fines						
Court Ordered Fines	\$648.90	\$25.00/M	\$0.00		\$175.00	\$648.90
Restitutions						
Dept. Admin. Ct. Ordered Re	\$3,000.00	\$145.00/M	\$550.00	5/21/2015	\$715.00	\$2,450.00

Prior Violation Dates	Prior Violations	Prior Violation Disposition

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

Offender's Name: **NELAPOLD S DANIELS**

3/5/2015	Failed to report for PSE intake on 02/19/2015 by leaving before intake could be completed; failed to refrain from using controlled substances by testing (+) for THC 03/05/2015.	Notice of Violation and Response: Continue Supervision; any further positive drug test for THC will result in referral to New Beginnings for Marijuana Education Class; zero tolerance for future missed reports.
12/4/2014	Failed to pay supervision fees, fine drug testing fee and restitution; failed to follow the advice and instructions of her Agent.	Paperwork Review: Restructure Fine and Restitution. Pay Drug Testing Fee current within 30 days. Convert Supervision Fee arrearage to Public Service Employment, covert back to monies if the offender opts to pay.

Details of the Present Violation:

Nelapold S. has violated conditions 3,7,9, 10 and 11 and any special conditions of probation as ordered in cause number 12-GS-32-03322 by the Lexington County General Sessions court.

Nelapold S. Daniels has willfully failed to follow the advice and instructions of the Agent in that he: failed to make himself available for a drug test by leaving the office during office visit after supervising Agent instructed him not to leave the building; failed to complete PSE conversion hrs given to address supervision fee arrears by being terminated from PSE site on 04-30-15 having only completed 41 of 76 hrs; failed to pay court ordered Restitution plus the 20% collection fee by being in arrears \$425 at the issuance of process; failed to pay court fine by being in arrears of \$125.

Agent's Recommendation:

Revoke and Terminate

Agent's Justification:

Nelapold Daniels has failed to comply with the conditions of his probation by being very uncooperative with his Supervising Agent. He has cursed out his Supervising Agent, along with other staff members at Probation. Mr. Daniels has the worst attitude and refuses to do anything he is asked from Supervising Agent. He has to monitored on office visits by a Supervisor due to his demeanor and his refusal to answer any of the questions he is required to ask. He refuses to make himself available for drug test, by getting up and walking out in the middle of a Report cursing his Supervising Agent out stating he is not taking a drug test after being told not to leave. On 04-16-2015 on the very first report that Supervising Agent had with Mr. Daniels, when he was advised that he needed to remain current on his Restitution Fees and other fees and the importance of paying them, Mr. Daniel stated that, he doesn't care what the Judge says about paying, he is going to always be behind. Mr. Daniels has proven through his own negative behavior and actions that he will never comply with his conditions of probation. Supervising Agent is requesting for Full Revocation.

Shree Duckett

Agent

Date: 7/10/2015

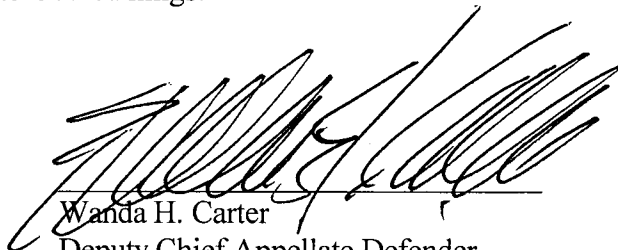
Supervisor's Signature _____

Date: _____

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."

May 6, 2016



Wanda H. Carter
Deputy 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

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL
RECEIVED
MAY 06 2016
SC Court of Appeals

Appeal from Lexington County
Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

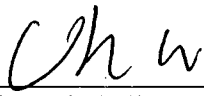
NELAPOLD DANIELS,

APPELLANT

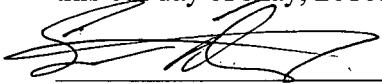
APPELLATE CASE NO. 2015-001806

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 and Pardon Services, at 2221 Devine Street, Suite 600, P.O. Box 50666, Columbia, SC 29250 and Mr. Nelapold Daniels #301149, at Trenton Correctional Institution, 84 Greenhouse Road, Trenton, SC 29847, this 6th day of May, 2016.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 6th day of May, 2016.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: October 30, 2022.