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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County

Honorable Doyet A. Early, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANNIE VICTORIA WILSON,

APPELLANT

APPELLATE CASE NO. 2015-002028

RECORD ON APPEAL

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

MATTHEW BUCHANAN
General Counsel
South Carolina Department of
Probation, Parole & Pardon Services
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Columbia, South Carolina 29250
(803) 734-9220

ATTORNEY FOR RESPONDENT

ANDERS ORIGINAL
ANDERS RESPONSE BRIEF
RESPONDENT'S BRIEF
RECEIVED
JUL 14 2016
SC Court of Appeals

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I N D E X

WITNESS

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(No Witnesses.)

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E X H I B I T S

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

1 counseling, failing to pay your restitution. I
2 revoked 90 days. Once again, January of 2014, that
3 was for failing to pay fines and fees.

4 You're before me today -- it looks like there's
5 two warrants -- or a warrant and a citation. It's
6 alleged that you've failed to report. You were
7 instructed to report back to the probation office on
8 June 17 of this year. After she was released --
9 what was she doing in ACDC?

10 MR. FINCH: That was a driving under
11 suspension.

12 THE COURT: Tried to put you into inpatient,
13 but you never reported back since June of 2015.
14 They say you disregarded this office in every way.
15 You failed to refrain from further local charges in
16 that you were convicted and arrested on DUS, had a
17 30-day sentence after a bench warrant was issued,
18 failed to pay your fines, your DACOR fees, failed to
19 enroll in drug treatment.

20 Citation says that you've failed to pay your
21 supervision fees, fines, restitution; you haven't
22 completed your public service. She's in arrears 250
23 hours. All she had was 250 hours, so she's never
24 done any?

25 MR. FINCH: None.

1 THE COURT: Agent is recommending revocation
2 saying that you have shown a willful disregard to
3 the conditions of your probationary sentence; failed
4 to report, continues to use illegal drugs, been
5 arrested with multiple violations in the past,
6 continues to show a disregard to the Court's order
7 and the conditions of supervision, signed by
8 Mr. Ashley Finch.

9 Mr. McMillian?

10 MR. MCMILLIAN: Thank you, Your Honor.
11 Ms. Wilson is 49 years old. She grew up here in
12 Aiken County in North Augusta. Judge, she tells me
13 that she didn't get into rehab -- that Your Honor
14 actually ordered her held, nothing was found, she
15 was released, and then made several attempts to
16 enter rehab through voc rehab, but due to paperwork
17 errors on their part, she was turned away and asked
18 to come back, and when she came back, that she was
19 turned away again.

20 THE COURT: And why didn't she report? Why
21 didn't she do her public service? Why didn't she do
22 anything she was supposed to do?

23 MR. MCMILLIAN: Your Honor, with regard to the
24 reporting and the failure to do the public service,
25 she tells me, Judge, that her mother was put on

1 dialysis during that time and that she was having to
2 stay home and help take care of her mother. Judge,
3 she's notified me that her mother and her husband
4 are present in the courtroom and would like to speak
5 up for her when the Court deems appropriate.

6 In talking with her, Judge, what she would have
7 me ask you for is a chance to pay her restitution
8 current and enter the rehab.

9 THE COURT: How are you going to pay it
10 current?

11 THE DEFENDANT: My mother has the money on her
12 today, Your Honor.

13 THE COURT: How much does she owe to make it
14 current?

15 MR. FINCH: The balance is \$226, and that's how
16 many payments it is behind at this point.

17 THE COURT: Anything else? Is she going to
18 bring her public service current today? It's 250
19 hours.

20 MR. MCMILLIAN: I don't think there are enough
21 hours in the day to bring that one current, Judge.

22 THE COURT: There has been though since 2011.

23 MR. MCMILLIAN: Yes, sir.

24 THE COURT: She's not going to do probation.

25 THE DEFENDANT: Yes, I will.

1 THE COURT: She continues and continues and
2 continues to violate. I mean, I tried to help her,
3 I've given her a 90-day revocation one time. We've
4 tried to put her in drug rehab a couple times, we've
5 tried everything we know. I don't know what else to
6 do. This is four or five times. I gave her
7 probation to start off with. She's just not going
8 to do it. I'll be glad to hear from her mama if she
9 wants to say anything.

10 MR. MCMILLIAN: I don't know that she's able,
11 Judge. I think --

12 THE DEFENDANT: She's not able to walk. My
13 husband --

14 THE COURT: That's fine. We'll let your
15 husband come up here.

16 MR. MCMILLIAN: Mr. Toole, would you like to
17 speak?

18 MR. TOOLE: Yes, sir.

19 THE COURT: Come on up here, sir. Your name?

20 MR. TOOLE: Randy Toole, sir.

21 THE COURT: I'll be glad to hear from you.

22 MR. TOOLE: We really need her home for her
23 mother. She's -- she's disabled, you know --

24 THE COURT: I understand all of that.

25 MR. TOOLE: My sister-in-law, she had to leave

1 her home in Columbia County to come and help. So,
2 you know, we really need her home.

3 THE COURT: I understand you need her home.
4 But I gave her a sentence back in 2011, and she has
5 completely ignored everything she's supposed to do.
6 She's had four prior violations and she continues
7 not to report. She hasn't done any of her community
8 supervision. I've given her every chance I can give
9 her. I'm going to revoke her probation in full.
10 Good luck to you, ma'am.

11 MR. MCMILLIAN: Thank you, Your Honor.

12 MR. FINCH: Thank you, Your Honor.

13 THE DEFENDANT: I have a letter. I can't read
14 it to you?

15 THE COURT: Thank you.

16 -- END OF TRANSCRIPT OF RECORD --

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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, Bethanie K. Creppon, Circuit Court Reporter for the Second 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 Aiken County, South Carolina, on the 8th day of September, 2015.

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

May 23, 2016

s/Bethanie K. Creppon

Bethanie K. Creppon
Circuit Court Reporter

STATE OF SOUTH CAROLINA RECEIVED

IN THE COURT GENERAL SESSIONS

County of Aiken SEP 25 2015
STATE VB.

Indictment Number: 2009-GS-02-00981
Probation CRW#s: W-02-15-0161
C-02-14-0172

Annie Victoria Wilson
AKA: _____
Race: W Sex: F
DOB: _____
SSN: _____
SID#: 00510207

Name of Original Offense: Burglary 3rd degree 1st off
Original A/W#: 1102507
Date of Original Offense: 01/12/09
Conviction S.C. Code #: 16-11-0313
Conviction CDR Code #: 0141217
Original Sentence: 5 yrs, 55 5 yrs; P. in

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 11/11/11 in the Court of General Sessions of Aiken County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 11/07/11, as set forth in the attached warrants or citations dated 7/20/15. 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 of indicate special conditions as provided in the affidavit)
1, 3, 6, 7, 9, 10, special condition

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 5 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 (arrearsage) Civil judgment: Department fees
 Fines and other fees (arrearsage/balance) Fines and other fees
 Restitution (and 20%) (arrearsage/balance) Restitution (and 20%)
- Additional Conditions ordered by the Court: Revoke in Full + Terminate

- 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 90 ^{Days} ~~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 September 2015
Aiken 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 condition if 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: [Signature]
Signed this 3rd day of Sept, 2015 at Aiken SC
Day Month Year City

WITNESSES

Aiken County Sheriff

Greg Savell

Law Enforcement Case #: 09-002923

SK

ARREST WARRANT NUMBER

M025072

FILED June 11 2009

[Signature]
C.C.P. & G.S.

[Signature]
WITNESS

ACTION OF GRAND JURY

True Bill

[Signature]

Foreperson of Grand Jury
Date: June 11, 2009

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2009GS0200981

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

JUNE TERM 2009

THE STATE

vs.

ANNIE VICTORIA WILSON

CDR #: 0080

Indictment for

BURGLARY IN THE SECOND DEGREE

§ 16-11-0312

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
BURGLARY IN THE SECOND DEGREE
§ 16-11-0312

At a Court of General Sessions, convened on June 15, 2009, the Grand Jurors of Aiken County present upon their oath:

That ANNIE VICTORIA WILSON, along with another, did in Aiken County, South Carolina on or about January 12, 2009 knowingly and willfully enter a dwelling belonging to Michael Taylor located at ... ue, Bath, South Carolina, without consent and with the intent to commit a crime therein, in violation of § 16-11-312 (A) of the Code of Laws of South Carolina, 1976, as amended.

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


J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF Aiken)
 STATE)
 VS.)
Annie Victoria Wilson)
 AKA: Ann V Manning, Annie V Key)
 Race: _____ Sex: _____ Age: 45)
 DOB: _____ SS#: _____)
 Address: _____)
 City, State, Zip: BATH, SC 29816)
 DL# _____ SID# SC00510207)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS0200981
 A/W#: M025072
 Date of Offense: 1/12/2009
 S.C. Code §: 16-11-0312
 CDR Code #: 0080

SENTENCE SHEET 0 to 5 yrs

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS Alford
 TO: Burglary - Third degree - 1st offense
 In violation of § 16-11-0313 of the S.C. Code of Laws, bearing CDR Code # 0427
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
 (CSC w/ minor 1st or Lawd Act)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 74983 X Annie Wilson Walter Alford 605401
 Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

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 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 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
 Total: \$ 355. plus 20% fee: \$ _____ 250 days/hours Public Service Employment

Payment Terms: _____ Obtain GED
 Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. _____

Recipient: [Signature]

*Fine:	\$	
\$14-1-208 (Assessments 107.5%)	\$	
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-288 (DUI Breath Test)	\$25	\$
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 80.8 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 18.90

TOTAL \$ 648.90
 Clerk of Court/Deputy Clerk Shannon A. Fountain
 Court Reporter: Risa A. Lavenport
 SCCA217 (03/2011)

May serve WE 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 w/
Victim or Cases,
Maria includes the
son
 Appointed PD or appointed other counsel,
 \$47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge [Signature]
 Judge Code: 0236
 Sentence Date Nov 19, 2011

Form 18.1-Arrest Warrant
Form Approved by
SC Attorney General
Section 17-13-180
March 15, 1978

Probation

STATE OF SOUTH CAROLINA

ARREST WARRANT

COUNTY OF AIKEN

Indictment Number 09-GS-02-00981

Warrant Number W-02-15-0161

State Identification No. (SID) 00510207

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

It appearing from the attached affidavit that there are reasonable grounds to believe that ANNIE VICTORIA WILSON, did on the 20 day of July, 2015 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Probation Violation as ordered by Judge Doyet Early at November 14, 2011 term of General Sessions Court, Aiken, SC.

Now, therefore, you are empowered and directed to arrest the said defendant and bring ANNIE VICTORIA WILSON 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 AIKEN, S. C. this 20 day of July, 2015.

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

County of AIKEN

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Ashley Finch, who, first being duly sworn, deposes and says that ANNIE VICTORIA WILSON did within this County and State on the 20 day of July, 2015, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

Probation Violation as ordered by Judge Doyet Early at November 14, 2011 term of General Sessions Court, Aiken, 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:

Annie Victoria Wilson has failed to report as instructed. She was instructed to report back to the probation office on June 17, 2015 after she was just released from the ACDC on 6/12/15. Efforts were in place to get her into inpatient treatment but to no avail as she has never reported back to the probation office. She has disregarded this office in every way. Subject has failed to refrain from any further local charges/convictions in that she was arrested and convicted of DUS, receiving a sentence of 30 days in Magistrate Court, after a Bench Warrant had been issued for her arrest; Subject has failed to pay her Court Fine as ordered in that she is \$506.00 in arrears, having paid -0-, Subject has failed to pay DACOR in that she is 2,905 in arrears, having paid a total of \$1,187.00, she has only paid \$155.00 in the year 2015, Subject has failed to enroll in drug treatment after the Supervising Supervisor, Charles Finch has tried to no avail to get her into treatment and by failing to follow the advice and instructions of her agent, which constitutes a violation of Sections 1, 6,

Sworn to and Subscribed before me
this 20 day of July, 2015.

Cashley Finch
Affiant

Mavis Bault (L.S.)
Signature of Notary Public

Address: P.O. BOX 2194
AIKEN, SC 29802-2194
AIKEN
USA

9/22/2024
My Commission Expires

(803) 641-7690

Addendum

9, 10, 11 and the Special Conditions of her probation agreement.

[Empty rectangular box for addendum content]

Sworn to and Subscribed before me
this 20 day of July, 2015.

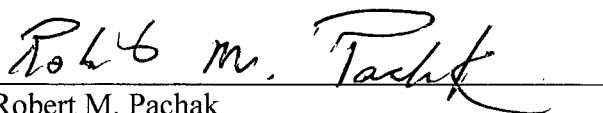
Cashley Jewel
Affiant

[Signature]
Signature of Notary Public
9/22/2024
My Commission Expires

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 South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully submitted,

A handwritten signature in black ink that reads "Robt M. Pachak". The signature is written in a cursive style and is positioned above a horizontal line.

Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 14th day of July, 2016.