

STATE OF SOUTH CAROLINA )  
)  
)  
IN THE COURT OF APPEALS )  
)  
State of South Carolina )  
)  
vs- )  
)  
KEVIN BOYTER, )  
)  
Appellant. )  
\_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS  
OF THE SIXTEENTH JUDICIAL CIRCUIT

WARRANT # W-44-16-0046  
(Probation Violation)

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NOV 28 2016  
SC Court of Appeals

**RULE 203(B) EXPLANATION**

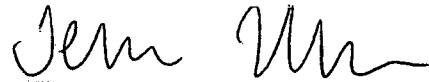
Pursuant to Rule 203(B)(iv), the issue to be raised on appeal is whether the trial court abused its discretion when it imposed a sentence of four and one-half (4.5) years and terminated the Appellant's Probation.

The undersigned does not have a good faith basis to believe that this issue is properly before the Court of Appeals, and the undersigned did not object to the sentence or file a motion to reconsider the sentence. Nevertheless, the undersigned consulted with the Appellant about his right to appeal, and after consultation, the undersigned has filed the instant appeal at the request of the Appellant because the Sixth Amendment requires counsel to follow the Appellant's request. *See Frazer v. South Carolina*, 430 F.3d 696, 705 (4<sup>th</sup> Cir. 2005) ("A defendant has a right to pursue a direct appeal, even if frivolous, which counsel must assist as 'an active advocate on behalf of his client.'") (quoting *Anders v. California*, 386 U.S. 738, 744 (1967)).

After sentencing by the Honorable John C. Hayes, III Mr. Boyter caused a disturbance in Court by flipping a table over, yelling at the judge, and resisting court securities' attempt to restrain him.

Mr. Boyter requests an appeal due to his belief that the judge misunderstood the issue of whether or not Mr. Boyter was at his listed residence when probation did a home visit. This issue was only one of probation's listed violations.

Respectfully submitted,



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Jennifer N. Williams,  
Public Defender  
P.O. Box 1  
Union, South Carolina 29379  
(864-429-1687)  
Attorney for Kevin Boyter

Union, South Carolina

November 21, 2016

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

*In jail*

Offender's Name: **KEVIN BOYTER,**  
State of South Carolina, County of: **UNION**  
SID#: **01400024**

Warrant#: **W-44-16-0046**  
Date of Birth: **12/23/1984**  
SCDC#:

**Indictment Numbers:**  
**10-GS-44-01199, 10-GS-44-01200, 12-GS-44-01094, 12-GS-44-01095**

**Offense and Offense Code:**  
**2367 - Property offense, 3rd or subsequent conviction, enhancement to Felony E (no longer used); 428 - Burglary (After June 20, 1985) - Third degree - 2nd offense; 80 - Burglary (Non - Violent) (After June 20, 1985) - Second degree; 3587 - Grand Larceny, value more than \$2,000 but less than \$10,000 (Enhancement per 16-1-57)**

Supervision Program: **Probation**  
Supervision Level: **Standard Supervision**  
Sentencing Judge: **113 - Alford, Lee**  
Sentencing Date: **5/12/2011**  
Location (Bold Response): **Jail**

Begin Date: **11/1/2011** End Date: **10/31/2016**  
Potential End Date: Adjusted End Date:

Sentencing County: **UNION**

**Sentence:**  
10-GS-44-1199, 1200: 10 years suspended to 1 year and 5 years probation.....  
12-GS-44-1094, 1095: 7 yrs, sdp; 3 yrs, sdp

*P-16-042  
DD# 44A16-4154*

**Special Conditions:**

10-GS-44-1199: Restitution in the amount of \$4950 to Kenneth Edens. \$648.90 to the Clerk of Court. PTUP.

**Current Address and Summary of Residence:**

297 SWEETWATER DR., BUFFALO, SC 29321, UNION, USA,

297 SWEETWATER DRIVE, BUFFALO, SC 29321, UNION, USA, ; 937 MAIN ST., #15 CRISP TRAILER PARK, BUFFALO, SC 29321, UNION, USA, ;  
127 SOUTH STREET, BUFFALO, SC 29321, UNION, USA,

The defendant's last reported residence was 297 Sweetwater Drive, Buffalo, SC.....however, a home visit was conducted on 10/27/2016 and it was determined that the defendant had not been at that residence in three months.

**Reporting:**

The defendant last reported in June of 2016.

**Employment Records While Under Supervision:**

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
Unemploy	5/9/2016 -		
DAVIS HOME REPAIR	12/6/2013 - 10/10/2014		\$800.00
OUTSOURCE - RENFRO BROS.	10/10/2014 - 12/1/2015		\$900.00
BETTER BUILT HOME REPAIR	3/1/2016 - 5/9/2016		

**Financial Conditions:**

Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due

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

Offender's Name: **KEVIN BOYTER,**

Fines						
Public Defender Fund	\$782.80	\$0.00/M	\$0.00		\$0.00	\$782.80
Surcharge	\$133.90	\$5.00/M	\$0.00		\$133.90	\$133.90
Surcharge	\$133.90	\$5.00/M	\$0.00		\$133.90	\$133.90
Restitutions						
Dept. Admin. Ct. Ordered Re	\$5,940.00	\$170.00/M	\$225.00	10/10/2014	\$5,715.00	\$5,715.00

Prior Violation Dates	Prior Violations	Prior Violation Disposition
1/6/2014	1. \$220 fine arrearage; 2. \$1380 DACOR arrearage; 3. \$600 fee arrearage; 4. Advice/instructions of agent.	Order signed by Judge John C. Hayes, III: Continue on probation. Exempt supervision fee arrearage and all future fees. Convert fine balance to a civil judgment. Restructure restitution payments accordingly.
2/8/2013	1. PDF arrearage of \$140.00 2. DACOR arrearage of \$940.00 3. Fee arrearage of \$400.00 4. Advice/instructions of agent.	Consent Order signed by Judge John C. Hayes, III: Restructure DACOR payments to begin March of 2013. Restructure fine payments to begin March of 2013. Exempt fee arrearage to date.
8/8/2012	1. \$45 PDF arrearage; 2. \$380 DACOR arrearage; 3. \$450 fee arrearage; 4. Advice/instructions of the agent.	Consent Order signed by Judge Lee Alford: Continue on probation. Restructure DACOR payments to begin September of 2012. Restructure fine payments to begin October of 2012. Exempt supervision fee arrearage to date.
2/7/2012	1. \$375 DACOR arrearage; 2. \$45 PDF arrearage; 3. \$150 fee arrearage; 4. \$20 drug testing fee arrearage; 5. Advice/instructions of agent.	Per 1182: Restructure DACOR payments to begin April of 2012. Fine payments to begin April of 2012. Fee to be current no later than March 31, 2012. \$20 drug test fee to be paid in full by March 1, 2012.

**Details of the Present Violation:**

1. Failing to report as instructed having last reported in June of 2016;
2. Failing to pay DACOR by being \$5550 in arrears;
3. Failing to pay surcharges under Indictment 12-GS-44-1094 by being \$133.90 in arrears;
4. Failing to pay surcharges under Indictment 12-GS-44-1095 by being \$133.90 in arrears;
5. Failing to refrain from changing residences w/out the consent of the agent. Per home visit conducted on 10/27/2016, it was determined that the offender was no longer living at that residence.
6. Failing to follow the advice/instructions of the agent.

**Agent's Recommendation:**

REVOCATION.....

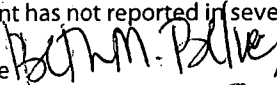
**Agent's Justification:**

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

Offender's Name: **KEVIN BOYTER,**

The defendant has not reported in several months and the agent feels that a revocation is warranted.....

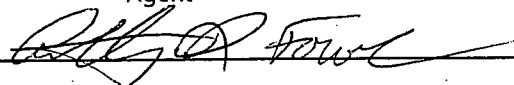
Beth M. Belue



Agent

Date: 11/8/2016

Supervisor's Signature



Date:

11-8-16