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SC Court of Appeals

November 17, 2016

The South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Reference: The State of South Carolina vs Willia J Flowers
Appellate Case : 2016-02239

I do not believe there is a legal basis to appeal the guilty plea entered in this case. However, please contact my client as she may believe there is an issue that should be appealed in this case. Furthermore, I believe there is a ground to appeal her probation revocation, which is detailed below.

FACTS

The Defendant appeals her probation revocation because it violated her Due Process rights. On September 13, 2016, the Defendant pled guilty to Shoplifting - Property Crime Enhancement in Charleston County in front of the Honorable Kristi Lea Harrington. Judge Harrington imposed on the Defendant a time served sentence. At the time of her guilty plea, the Defendant was on probation in Dorchester County for Shoplifting - Property Crime Enhancement. She was facing a ten year suspended sentence for the Dorchester County probation. Following the guilty plea hearing, Judge Harrington conducted a probation violation hearing for the Defendant, found that the Defendant had willfully violated her probation, and revoked her in full. The

Defendant is now serving a ten-year sentence in the South Carolina Department of Corrections.

Prior to the Defendant's probation violation hearing, neither the Defendant nor her attorney had an opportunity to review her violation report. The probation violation report and the probation violation arrest warrant were served on the Defendant immediately following the Defendant's guilty plea hearing, and mere seconds before the commencement of her probation violation hearing. As a result, the Defendant was unable to develop a defense to the allegations in the probation violation report. The Defendant filed a Motion to Reconsider and in the Alternative to Withdraw her Guilty Plea following her hearings, which was denied. This appeal followed.

I. The Defendant Was Denied Her Minimal Due Process Rights During The Probation Violation Hearing Because She Was Not Given Adequate Written Notice of the Alleged Violations.

The South Carolina Supreme Court addressed the due process rights a probationer faces during a probation violation hearing in State v. Hill 368 S.C. 649, 630 S.E.2d 274 (2006). There, the court determined that a probationer facing a probation violation must be given minimal due process. Hill, 368 S.C. at 657 (citing Morrissey v. Brewer 408 U.S. 471 (1972); Gagnon v. Scarpelli 411 U.S. 778 (1973)). During a probation violation hearing a probationer is subject only to a deprivation of "limited liberty," but is still entitled to receive notice of the alleged violations and disclosure of the evidence against him. *Id.* at 660. The court fails to mention if a probationer should receive their written violation report in a certain time period

prior to their probation violation hearing. However, it is axiomatic that due process considerations of fairness dictate a probationer should be given some time after receiving notice of a probation violation to develop a defense. Because the Defendant here was served with her probation violation hearing immediately prior to her probation hearing her due process rights were violated. Therefore, we ask the court to overturn her probation revocation.

Very Respectfully,

A handwritten signature in black ink, appearing to read 'P. Shahid', with a long horizontal stroke extending to the right.

Albert Peter Shahid III