

ORIGINAL

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

CERTIORARI FROM SPARTANBURG COUNTY

The Honorable Frank R. Addy Jr., Circuit Court Judge

Appellate Case No: 2016-002557

ALEXANDER RUIZ,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA,

PETITIONER.

APPENDIX

RECEIVED

MAY 31 2017

S.C. SUPREME COURT

LARA M. CAUDY
Appellate Defender

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

ATTORNEY FOR RESPONDENT

ALAN WILSON
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ATTORNEYS FOR PETITIONER

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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

The State,)
-vs-) TRANSCRIPT OF RECORD
Alexander Ruiz,) 2012-GS-42-6379
Defendant.) March 6, 2015
Spartanburg, South Carolina

B E F O R E :

HONORABLE J. DERHAM COLE, JUDGE

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

M. CLAIRE HALL, ESQUIRE
Attorney for the Defendant

Linda D. Moffitt
Circuit Court Reporter

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Probation hearing -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 THE COURT: You are Alexander Xavier Ruiz.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Ms. Hall is your lawyer.

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: You're here on citation 42-14-723 and 549.

6 Each of those allege you failed to comply with the
7 conditions of a probationary sentence previously imposed in
8 several particulars.

9 Did you discuss those particulars with Ms. Hall?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Ms. Hall.

12 MS. HALL: Thank you, Your Honor.

13 Mr. Ruiz acknowledges that he has failed to comply
14 with his probation.

15 He did do six months inpatient rehab before he
16 actually started reporting to probation.

17 He -- it's a little confusing in the report but he --
18 it does say he does report, did report -- excuse me -- in
19 September of 2014. It's not on here. He tells me he did
20 report in December and this past February.

21 I understand with the youthful offender Your Honor
22 only has the option of imposing a sentence if you find he
23 has been in willful violation.

24 So we have discussed the difference between him
25 getting a shock incarceration versus a regular activation,

1 and I think he wanted me to ask for the regular with the
2 understanding that he would get some better services once
3 he is placed back on supervision.

4 PROBATION AGENT: May it please the Court. If that's
5 what he's asking for, I mean, obviously we agree to impose
6 the "Y" and not impose shock. I don't believe, if that's
7 what we are doing, I need to say any more.

8 THE COURT: I find he has wilfully failed to comply.
9 Revoke it.

10 END OF REQUESTED TRANSCRIPT OF RECORD

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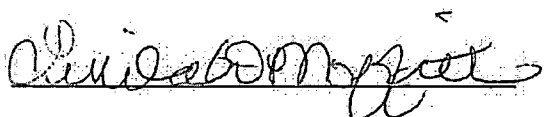
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 6th day of March 2015.

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

October 5, 2015



Linda D. Moffitt
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF *Spartanburg*)

Full name and prison number (if any) of Applicant.)

Alexander Ruiz v. 363295)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2015-CP-42-3801

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention *Tusbeville Correction's*
2. Name and location of Court which imposed sentence *Spartanburg County*
3. Name(s) of co-defendant(s) (if any) *N/A*
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) *2012A4210200190*
 - (b) *2012A4210200201*
 - (c) *N/A*
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) *12/13/12*
 - (b) *N/A*

2015 SEP -9 AM 09:18
M. HOPE BLACKLEY

CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG 28 AM 9:59
M. HOPE BLACKLEY

- (c) N/A
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty Yes
 - (b) after a plea of not guilty N/A
 - (c) after a plea of nolo contendere N/A
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?
N/A

- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - (b) the result in each such Court to which you appealed:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - (c) the date of each such result:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. N/A
 - ii. N/A
 - iii. N/A

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) Misadvise by counsel
- (b) N/A
- (c) N/A

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

2015 SEP -9 AM 10: 18
 M. HOPE BLACKLEY

2015 AUG 28 AM 9: 59
 M. HOPE BLACKLEY
 CLERK OF SUPERIOR COURT
 SPARKLAND, TEXAS
 Revised 9/2003

- (a) Ineffective Assistance
- (b) Involuntary guilty plea
- (c) N/A

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) 6 amendment
- (b) _____
- (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(b) the name and location of the Court in which each was filed:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. N/A

2015 SEP -9 AM 10: 18
 M. HOPE BLACKLEY
 2015 AUG 28 AM 9: 59
 M. HOPE BLACKLEY
 DEPARTMENT OF CORRECTIONS
 SPARTANBURG, SOUTH CAROLINA

iv. NA
(d) the date of each such disposition:

i. NA

ii. NA

iii. NA

iv. NA

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. NA

ii. NA

iii. NA

iv. NA

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NA

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. NA

ii. NA

iii. NA

(b) the proceedings in which each ground was raised:

i. NA

ii. NA

iii. NA

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) NA

(b) NA

(c) NA

17. Were you represented by an attorney at any time during the course of:

2015 SEP -9 AM 10:18
M. HOPE BLACKLEY

2015 AUG 28 AM 9:59
M. HOPE BLACKLEY
Revised 3/2003

- (a) your arraignment and plea? James Cheek
- (b) your trial, if any? N/A
- (c) your sentencing? N/A
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. James A. Cheek, 366 N. Church St, Spartanburg, SC 29503
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. James A. Cheek
 - ii. _____
 - iii. _____

19. State clearly the relief you seek in filing this application:

I ask the honorable court to grant relief & make my charge + a

20. Are you now under sentence from any other court that you have not challenge

No

CLERK OF COURT
 SPARTANBURG, SC
 2015 SEP -9 AM 10:18
 M. HOPE BLACKLEY

CLERK OF COURT
 SPARTANBURG, SC
 2015 AUG 28 AM 9:59
 M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

County of Spartanburg

VERIFICATION

I, _____, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Alexander Xavier Ruiz

SWORN to and subscribed before me this 1st day of September, 2015.

Emily White (L.S.)
Notary Public

My Commission Expires: 4-27-2016

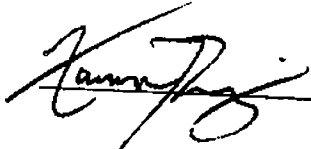
CLERK OF COURT
SPARTANBURG COUNTY
2015 SEP -9 AM 10:18
M. HOPE BLACKLEY

CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG 28 AM 9:59
M. HOPE BLACKLEY
Revised 1/2003

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

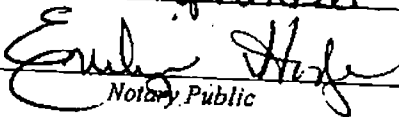
I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.



Applicant

SWORN or affirmed to and subscribed before me this
1st day of September, 2015



Notary Public

My Commission Expires: 4-27-2016

2015 SEP -9 AM 10: 18
M. HOPE BLACKLEY

2015 AUG 28 AM 9: 59
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)	
Alexander X. Ruiz, #363295,	)	Case No.: 2015-CP-42-3801
)	
Applicant,)	
	)	RETURN AND PARTIAL MOTION
v.	)	TO DISMISS AND MOTION FOR A
	)	MORE DEFINITE STATEMENT
State of South Carolina,)	
)	
Respondent.)	
)	

Respondent, making its Return to the application for post-conviction relief ("PCR") filed September 9, 2015, would respectfully show this Court:

I.

Alexander X. Ruiz ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was charged with two counts of burglary, second degree (2012-GS-42-6379 and -6380). James Cheek, Esquire, represented Applicant. On December 13, 2012, Applicant waived presentment to the Grand Jury and pleaded guilty before the Honorable J. Mark Hayes, II. Based on the State's recommendation, Judge Hayes sentenced Applicant pursuant to the Youthful Offender Act¹ to an indeterminate sentence not to exceed six years, with the sentence to be suspended to 36 months of probation. Applicant did not appeal his conviction or sentence.

Applicant was served with a probation citation issued on September 11, 2014. On March 6, 2015, Applicant appeared, along with his counsel M. Claire Hall, Esquire, at a probation revocation hearing. The Honorable J. Derham Cole revoked Applicant's probation and activated

¹ S.C. Code Ann. § 24-19-50 (2015)

his original sentence under the Youthful Offender Act. Applicant did not appeal his probation revocation.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel;
2. Involuntary guilty plea.

III.

As to Applicant's claim that his guilty plea was involuntary, Respondent submits that this and any other allegations stemming from Applicant's December 13, 2012, guilty plea, should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

S.C. Code Ann. §17-27-45(a). The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). Applicant pleaded guilty to the burglary, second degree, charges in this application on December 13, 2012. This Application was filed on September 9, 2015, which was well after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consol. Sch. Dist. of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, Respondent requests that this Court summarily dismiss Applicant's claim that his guilty plea was involuntary in addition to any other claims challenging his December 2012 conviction for failure to file within the time mandated by the Post-Conviction Procedure Act.

IV.

As to Applicant's allegations stemming for his probation revocation, Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). The applicant "must first demonstrate that counsel was deficient and then must also show the deficiency resulted in prejudice." Walker v. State, 407 S.C. 400, 404-05, 756 S.E.2d 144, 146 (2014). "The two-part test adopted in Strickland also applies to challenges

to guilty pleas based on ineffective assistance of counsel.” Holden v. State, 393 S.C. 565, 572, 713 S.E.2d 611, 615 (2011).

First, the applicant must show that counsel’s performance “fell below an objective standard of reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, he would not have [pleaded] guilty, but would have insisted on going to trial.” Thompson v. State, 340 S.C. 112, 116, 531 S.E.2d 294, 297 (2000).

Respondent submits that Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Respondent moves this Court to require Applicant to file an amended application with the clerk of court setting forth facts supporting his claims for relief. In his Application, Applicant has wholly failed to set forth any facts to “support each ground” or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure

Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Therefore, Respondent requests that Applicant file an amended application setting forth facts in support of his claims.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code Ann. § 17-27-10 *et seq.*; Rule 71.1, SCRCPP. All claims should be made well in advance of the PCR hearing. Because Applicant has been appointed an attorney, the attorney is the only individual authorized to file amendments to this application, and filings by Applicant will not be considered at the PCR hearing. See Rule 11, SCRCPP.

Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application well in advance and set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. Rule 15(a), SCRCPP.

VI.

Each and every allegation contained within the application not expressly admitted, qualified, or explained herein is denied.

[Continues onto following page]

VII.

WHEREFORE, having made its Return, Respondent requests that an evidentiary hearing be held solely on the claim of ineffective assistance of probation revocation counsel.

Respectfully submitted,

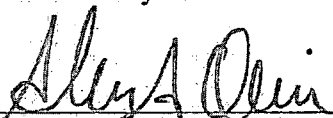
ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

ALICIA A. OLIVE
Assistant Attorney General

April 1, 2016.

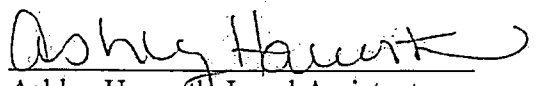
By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)	
)	
	)	2015-CP-42-3801
ALEXANDER X. RUIZ, #363295,)	
)	
Applicant,)	
)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ms. Susannah C. Ross, Esquire
Ross & Enderlin, PA
330 East Coffee St.
Greenville, SC 29601

DATED this 1st day of April, 2016.



 Ashley Haworth, Legal Assistant
 For Respondent

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STATE OF SOUTH CAROLINA)	IN THE COURT
)	OF COMMON PLEAS OF
COUNTY OF SPARTANBURG)	THE SEVENTH
	)	JUDICIAL CIRCUIT
)	
THE STATE,)	
)	
Plaintiff,	)	TRANSCRIPT OF RECORD
	)	2015-CP-42-03801
vs.)	
)	
ALEXANDER RUIZ,)	
)	
Defendant.)	
)	

November 7, 2016
Spartanburg, South Carolina

B E F O R E:
HONORABLE FRANK R. ADDY, JR., Judge.

A P P E A R A N C E S:
ALICIA A. OLIVE, ESQUIRE
 For The State
SUSANNAH C. ROSS, ESQUIRE
 For Defendant

Julie A. Ashbrook,
Circuit Court Reporter
Seventh Judicial Circuit

I N D E X

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EXHIBITS

MARKED

ENTERED

COURT'S EXHIBIT NO. 1,
E-mail Dated 10/24/2016
From Judge Cole

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THE STATE VS. ALEXANDER RUIZ

THE COURT: We'll go on the record in
2015-CP-42-3801, Alexander Ruiz; is that correct?

MR. RUIZ: It's Ruiz.

THE COURT: Ruiz. I'm sorry, Mr. Ruiz.

MR. RUIZ: You're fine.

THE COURT: This is an action for post-conviction
relief involving, I believe, a violation of probation
hearing which resulted in a YOA revocation. Apparently
the initial plea took place before Judge Hayes on
December the 13th of 2012. It was a plea to burglary
second degree. And I believe Judge Cole revoked the
probation back on March the 6th of 2015.

Ms. Ross, happy to hear from you.

MS. ROSS: Thank you, Your Honor. May it please
the Court?

THE COURT: Yes, ma'am.

MS. ROSS: This is the issue -- I sort of made a
second copy. It comes under section 24-19-10 (d)(4) of
the YOA. And I've got that to hand up. Trying to tell
if I have another copy in my file.

But it's caused a lot of trouble because it looks
to me the plain language in that was that Mr. Wile being
between the ages of 21 and 24 at the time of the plea --
Mr. Ruiz, I'm sorry, should have had a legal right-away,

1 but that's not the way SCDC interpreted it. So he is
2 now, according to the SCDC screen, serving a four year
3 day-for-day sentence, which in fact will likely end up
4 being a three year day-for-day sentence. And what's
5 your max out date?

6 MR. RUIZ: 2019.

7 MS. ROSS: His max out date is 2019. And it is
8 just clear to me, having done many of these, that the
9 transcript is reflecting an understanding by all parties
10 that Mr. Ruiz was looking at, you know, your six month
11 to a year YOA, the normal YOA sentence. And that's at
12 the bottom of Page 3.

13 Ms. Paul says: (Reading.) We discussed the
14 difference between him getting the Shock incarceration
15 versus the regular application, and I think he wanted me
16 to ask for the waiver with the understanding he would
17 get some better services. (Ends reading.)

18 While it's brief, that tells me that she wasn't
19 making the decision between 90 days and 900 or 1,000
20 days, it was a decision between 90 days and the regular
21 active "Y", which was at that time I believe it was
22 about six months to a year. This has happened before.
23 Generally it can be corrected.

24 I made an attempt with Judge Cole to correct it
25 and he felt that he didn't have jurisdiction and didn't

DIRECT EXAMINATION OF ALEXANDER RUIZ BY MS. ROSS

1 do an amended sentence. I think it's a due process
2 violation and an injustice to Mr. Ruiz to have to do
3 that much time for a non-violent burglary second that he
4 was originally given probation on.

5 Also, we allege ineffective assistance of counsel
6 for failing to assure that Mr. Ruiz received the
7 sentence that everyone intended. And that would be our
8 case. And we would call Mr. Ruiz at this time.

9 THE COURT: Mr. Ruiz, come on up, please, and
10 just raise your right hand the best you can.

11 (Complies.)

12 Do you swear or affirm the testimony you're about
13 to give is the truth?

14 THE WITNESS: Yes.

15 THE COURT: Go ahead, please.

16 ALEXANDER RUIZ,
17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. MOSS:

20 Q. All right. So you understand if you prevail at
21 this PCR you'll be put back into the position you were
22 in before this probation violation?

23 A. Correct.

24 Q. Okay. And you still wish to go forward?

25 A. Yes.

1 Q. Okay. Now, what kind of prior record do you
2 have, just briefly?

3 A. I mean, I have a couple -- let's see. Let's see.
4 It's ---

5 Q. That's okay. If it's ---

6 A. I mean, I can't really remember. I do have a
7 record. I do have a prior record.

8 Q. Well I want to take you back to this probation
9 revocation.

10 A. Okay.

11 Q. Do you recall that day that your probation was
12 revoked?

13 A. Yes, ma'am.

14 Q. And do you recall your understanding of what was
15 gonna happen?

16 A. My understanding was that I was gonna do six to
17 ten months.

18 Q. And what was that understanding based on?

19 A. My attorney had told me that. That's what I
20 thought the judge had said. And it wasn't until I got
21 to Kirkland when everybody was kind of talking about 36
22 month -- I mean, towards three for burglary seconds.
23 But it wasn't until I got to Turbeville whenever my
24 counselors told me you have to do this other. And,
25 no ---

1 Q. Were you ever warned that you could get a three
2 or four-year active day-for-day sentence for that?

3 A. No, ma'am.

4 Q. Okay. And you talked to your lawyer before going
5 up to the probation revocation?

6 A. Yes, ma'am.

7 Q. And there was part of it that I just read out
8 where she says you don't want Shock, you want the
9 regular.

10 A. Well she had told me that, you know, I could have
11 done Shock, but if I did I might would be better off if
12 I took the regular "Y", which would be six to nine
13 months, ten months. You know, just going -- and there's
14 different, like, categories on, on what you fall under.
15 And so...

16 But she told me it might be best if I did it that
17 way because I would have a new probation officer, at
18 which she was talking about an ISO officer.

19 Q. Okay. And so all that time you weren't talking
20 between 90 days and a 1,000 days, you were talking
21 between 90 days and ---

22 A. Six months.

23 Q. --- six months.

24 A. Ten months.

25 Q. All right. Okay. I've got no further questions.

1 THE COURT: Ms. Olive.

2 MS. OLIVE: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. OLIVE:

5 Q. Mr. Ruiz, do you recall what, what your probation
6 violations were?

7 A. Um, yes, ma'am.

8 Q. Okay. You had a number of them?

9 A. Yes, ma'am.

10 Q. Failure to report, failure to notify change of
11 address, failure to notify of law enforcement contact,
12 failure to notify immediately after an arrest that
13 occurred on September 6th, 2014, right?

14 A. Yes, ma'am.

15 Q. In addition to failing to pay fines and failing
16 to complete substance abuse counseling, right?

17 A. Yes, ma'am.

18 Q. Okay. And your attorney acknowledged at your
19 probation revocation hearing that, that you discussed
20 this with her, right?

21 A. Yes, ma'am.

22 Q. And you acknowledge that you failed to comply
23 with the conditions of your probations -- probation?

24 A. Yes, ma'am.

25 Q. Okay. And do you recall the judge revoked your

1 YOA? He sentenced you to a YOA not to exceed five years
2 and after that your probation would be terminated after
3 you finished serving?

4 A. Yes. But my understanding was I was doing six,
5 ten months, something of that nature, not the mandatory
6 36.

7 Q. Did you ever state that to the judge?

8 A. Um, no because nobody ever brought it to my
9 attention.

10 Q. Okay. But you're aware of what he was gonna do
11 to you?

12 A. I mean, I ---

13 Q. You violated not to exceed five years?

14 A. I mean, I mean, that could mean anything. I
15 mean, I didn't understand, fully understand what -- I
16 didn't fully understand that.

17 Q. And your attorney didn't tell the judge that you
18 wanted a regular "Y" and not Shock incarceration.

19 A. Yes, ma'am. She asked me which one I wanted to
20 do and she had told me that I would have been better off
21 doing the regular YOA sentence, so her being my attorney
22 I went with what she said.

23 Q. Okay. Did you have a choice of whether or not
24 your probation was gonna be revoked?

25 A. I don't recall if I had a choice or not.

1 Q. Okay. But you had failed to comply with these
2 conditions and you've admitted that you have failed to
3 comply with these conditions.

4 A. I did. I did fail them.

5 Q. Okay, thank you.

6 REDIRECT EXAMINATION

7 BY MS. ROSS:

8 Q. Now, what was your understanding of a revocation
9 of a YOA?

10 A. My ---

11 Q. What does it mean? What does it mean?

12 A. My understanding was that, okay, when I first,
13 when I first got sentenced to probation back in 2012,
14 the way James Cheek had broke it down to me was that I'm
15 going to be on probation but if I violate it I would
16 have to do ten months.

17 Q. Okay.

18 A. That was my understanding.

19 Q. Okay.

20 A. And so that's why, okay, why I signed that, when
21 I signed that plea.

22 Q. And when you said under -- when you said that
23 before your probation revocation that you'd get a
24 different agent, you understood that you were gonna do
25 the six to ten months at that point and then be released

1 under YOA parole; is that correct?

2 A. Yes, ma'am.

3 Q. Okay. No further questions.

4 THE COURT: All right, sir, you can step down.

5 (Whereupon, witness left witness stand.)

6 Any other witnesses from the applicant on this?

7 MS. ROSS: No, Your Honor.

8 THE COURT: Any from the State?

9 MS. OLIVE: Yes, Your Honor. The State would
10 call Claire Hall.

11 THE COURT: If you'll come on up, please. Do you
12 swear or affirm the testimony you're about to give is
13 the truth?

14 THE WITNESS: Yes, sir.

15 M. CLAIRE HALL,

16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. OLIVE:

19 Q. Good afternoon, Ms. Hall. Thank you for being
20 here with us today. I know you had to drive up from
21 Charleston, so we appreciate it. You just heard Mr.
22 Ruiz testify?

23 A. Uh-huh, yes.

24 Q. What was your understanding going into this
25 probation revocation in terms of -- well, excuse me.

1 Let me ask you this. Was there an agreement regarding
2 what sentence Mr. Ruiz was going to receive as a result
3 of this probation revocation?

4 A. Well, I don't remember a whole lot. I'm gonna be
5 honest. And I did look at the file you sent me and Mr.
6 Ruiz's testimony refreshed my memory a little bit. I
7 remember that -- I remember there was a discussion
8 between what type of revocation or how the sentence
9 would be activated, if that's what you're asking.

10 Q. Yes. Did you know, I guess, was there any sort
11 of agreement prior to entering this plea whether this
12 probation was gonna be revoked in full or in partial?

13 A. Well, my recollection of a YOA probation sentence
14 is when you are brought to court on violation either the
15 sentence has activated your time in willful violation by
16 the judge and he has to activate the sentence and that's
17 the only choice, or the judge finds you aren't in
18 willful violation and you'll continue.

19 Q. Okay. So what was your understanding going into
20 this probation revocation in terms of -- excuse me.
21 What was your advice to Mr. Ruiz concerning the amount
22 of time he was going to actually serve if his YOA was
23 revoked -- or, excuse me, if his probation was revoked?

24 A. I don't have an independent recollection of any
25 conversation. You know, I can tell you what I think

1 maybe we talked about based on what I read about this
2 matter and what I remember about YOA sentences. You
3 know, I mean, I -- so, I mean, I'm kind of speculating
4 and I think -- can you repeat your question?

5 Q. I'll actually withdraw the question. Did you
6 discuss with Mr. Ruiz these alleged violations?

7 A. I believe I did.

8 Q. Okay. Did you feel he had any defense to these
9 violations?

10 A. I was typical and he may have had a defense to
11 some, but not others and so, you know, if the agent
12 listed ten violations and maybe we have legitimate
13 arguments about some of them there would still be some
14 that we didn't have a defense to.

15 Q. Okay. And just for clarification, have you -- do
16 you have your file from this case?

17 A. No. I was employed at the Public Defender at the
18 time, so the file would have remained with them. And I
19 requested that they retrieve it so I could look at it
20 before this and there was some kind of issue with the
21 storage facility not being able to find anything.

22 Q. Okay. So what -- so was the file found?

23 A. No.

24 Q. Okay. Thank you, I just wanted to clarify.

25 A. Uh-huh.

1 Q. Do you believe it makes a difference whether you
2 told Mr. Ruiz that he would be serving ten months versus
3 the three years on the revocation as to whether his
4 probation would have been revoked on this day?

5 A. As to whether or not the judge would have found
6 him in violation?

7 Q. Correct.

8 A. Any conversation between he and I, no, that would
9 not have been a part of the judge's decision.

10 Q. Okay. So and, again, was there an agreement?
11 Did you have any sort of agreement concerning the
12 probation revocation going into this?

13 A. The only thing, and I don't know if it's an
14 independent memory or if it's just from reading the
15 materials that you sent me and the transcript, would be
16 whether or not the judge imposed a Shock incarceration
17 or recommended that to the Department of Corrections.

18 Q. Okay. And if you had requested -- if you had
19 asked for a Shock incarceration, is there a guarantee
20 the judge would have ordered Shock incarceration?

21 A. Um, I don't remember if that's something they
22 have discretion on or not.

23 Q. But, again, Mr. Ruiz did not want Shock
24 incarceration. Is that your testimony?

25 A. That's, I mean, the only thing I know from the

1 transcript that I read.

2 MS. OLIVE: Thank you. That's all the question I
3 have.

4 THE COURT: Cross?

5 MS. ROSS: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. ROSS:

8 Q. Going back to the time of the plea, just thinking
9 back, isn't it true that it's -- that an active "Y"
10 usually meant six months to 13 months and then released
11 on YOA parole?

12 A. I couldn't tell you. I'm sorry.

13 Q. You don't recall --

14 A. I don't. It's been ---

15 Q. -- what an active "Y" was?

16 A. I haven't practiced criminal law in like a year
17 and a half.

18 Q. And what was, what was Shock incarceration then?

19 A. My recollection is that was kind of like a for
20 younger offenders, like a boot camp type program only a
21 couple of months long.

22 Q. All right. Three months, correct?

23 A. Yeah.

24 Q. Or 90 days. And you wouldn't have asked -- you
25 wouldn't have said, no, I don't want 90 days, I want a

1 1,000 days, would you?

2 A. Can you tell me how many years is a 1,000 days?

3 Q. Well, approximately three. I just made up a
4 thousand. I think you can do the math, but he says a
5 1,095, approximately three years at the end of the day.

6 A. Um, if someone were to put that to me 90 days
7 versus three years I can't imagine why I'd ask for three
8 years.

9 Q. I have no further questions. Oh, just one. If
10 -- no. No further questions.

11 THE COURT: Nothing on redirect?

12 MS. OLIVE: No, Your Honor.

13 THE COURT: All right. Ms. Hall, thank you very
14 much for coming up here.

15 THE WITNESS: Thank you.

16 THE COURT: Sorry to inconvenience you.

17 THE WITNESS: It worked out with my schedule.

18 Can I -- may I be excused?

19 THE COURT: You are excused.

20 THE WITNESS: Thank you.

21 THE COURT: Thank you very much, take care. Be
22 sure to bill the State for your mileage.

23 THE WITNESS: Okay.

24 (Whereupon, witness leaves witness stand and
25 courtroom.)

1 THE COURT: Nothing further from the State on
2 this issue?

3 MS. OLIVE: Um, no, Your Honor. I mean, I have
4 argument. I imagine Ms. Ross does as well.

5 THE COURT: Sure, go ahead. Let me, let me hear
6 from you.

7 MS. ROSS: Judge, I don't have any case law that
8 I can hand up to you. I've talked to Ms. Bigelow at
9 SCDC about this and why it's this way. I think the
10 statute is terribly written and unclear. And my
11 understanding it's been corrected, so that was in effect
12 from 2010, I think, to 2016 the way it was.

13 This, I would argue, is just a due process
14 violation. It's unconscionable, especially after
15 burglary second was changed. Non-violent was changed
16 from a max of 15 to a max of 10, so it doesn't even come
17 in. There used to be some issue of whether burglaries
18 were legal for YOA's because they're a class, they could
19 be seen as a class D felony or something like that,
20 counting the 15. That was changed when the rule boards
21 were changed to carrying up to ten.

22 Mr. Ruiz had no understanding that he was turning
23 down a request for Shock 90 days and would end up with
24 this, you know, three-year harsh sentence that he did
25 receive on a burglary second non-violent. I also point

1 out I had a number of things that are so unfair. The
2 original not to exceed five years it would be done in
3 five years for a burglary non-violent. As an adult he'd
4 end up doing well less time than he's now doing as a
5 youth for the same crime. And I do not think it was
6 anyone's intent that you be treated more partially than
7 adults under the YOA act.

8 For what it's worth, I asked him to put in for
9 administrative complaints. That takes a very long time.
10 They can take years. He's not maxing out until 2019,
11 did you say?

12 MR. RUIZ: Yes.

13 MS. ROSS: So I would argue that either counsel
14 was ineffective for failing to fix this situation or
15 there were two cross violations per -- due process
16 violations, excuse me, that led to this, this unfair
17 outcome and breakdown in the adversarial process, or
18 what have you, that this outcome is certainly unfair.

19 THE COURT: All right. Go ahead.

20 MS. OLIVE: Thank you, Your Honor. May it please
21 the Court. I'm not sure -- well, as an adult, I mean,
22 the range of sentencing for burglary second non-violent
23 is up to ten years. And he received a YOA not to exceed
24 six years, suspended to 36 months of probation. He had
25 probation, he violated the conditions of probation and

1 he had to go back before a judge and explain himself.

2 Your Honor, it's our position that regardless of
3 counsel seems to, to not fully recollect her advice to
4 Mr. Ruiz, according to her testimony, but it's our
5 position that regardless of what advice she gave to him,
6 it's the judge's decision whether or not to revoke
7 probation.

8 The facts were what they were. He was in
9 violation of the conditions of his probation. He had an
10 opportunity to be, you know, to comply with the
11 conditions of his probation. One of his violations was
12 that he was arrested on another charge. And the judge
13 -- I mean, the record is clear, Your Honor, as to --
14 there appears to be no ambiguity between what is stated
15 in the probation revocation transcript and the order
16 that the judge signed revoking Mr. Ruiz's probation.

17 It's our position there's no due process
18 violation. The sentence for burglary second non-violent
19 under YOA is what it is. You had to serve a minimum of
20 36 months and ---

21 THE COURT: And that was -- let's go ahead and
22 address that. Not to interrupt you, but there's this
23 weird thing that has happened with burglary second
24 degree, whether it's violent or non-violent, under the
25 Youthful Offender Act. My understanding was pretty much

1 that SCDC treated it as a three year day-for-day if you
2 were to activate a YOA sentence for burglary second
3 degree, regardless of the violent nature of it. And
4 that's from they changed the law, I think, in 2010 when
5 they rewrote a lot of the criminal code. But if you
6 actually look at the law it indicates that that
7 three-year sentence is only supposed to apply for
8 someone who I think is 21 or less, 17 to 21, for
9 burglary second conviction.

10 In this case this gentleman was 22 at the time of
11 his conviction, which means that that three-year
12 mandatory section should not even come into play. As a
13 practical matter, though, I realize SCDC treats that as
14 a three year regardless of whether you're 17 or 25. I
15 may be mistaken in that regard.

16 Recently when I revoked -- when I've been faced
17 with this kind of a situation my understanding is that
18 SCDC will still allow an individual to be screened for
19 Shock. And this has happened kind of at the last year,
20 but they'll still allow someone to be screened for Shock
21 even though it's a burglary second degree conviction if
22 the Court specifically makes allowance or specifically
23 orders that. I have no idea where that's coming from in
24 terms of the law, but that's, as a practical matter, the
25 way ACDC treats it.

1 I've had that situation arise recently out of
2 Lexington County where I revoked a "Y" on a burglary
3 second that orally said screen them for Shock, but never
4 made it to the sentencing sheet. I checked my notes.
5 My notes clearly reflected that I wanted to have Shock.
6 It was a simple matter of scanning a copy of my notes.
7 We didn't even have to order the transcript. We scanned
8 a copy of my notes, everybody agreed, amended sentencing
9 order in place. I'm assuming the guy's being screened
10 as we speak.

11 Ms. Hall didn't specifically recall this
12 probation hearing. That's not at all surprising because
13 these hearings often take place very, very quickly. But
14 if she was under the impression that it would be better
15 to turn away or turn down or argue against Shock in
16 favor of the regular "Y" involving, you know, 13 months,
17 10 to 13 months in SCDC as opposed to a three year
18 day-for-day, I mean, counsel's right this is kind of
19 clear.

20 This is about as clear as mud because you've got
21 SCDC reading the law one way. The law specifically
22 saying, okay, he's got to be younger than 21 at the time
23 of the conviction. He was 22 at the time of his
24 conviction, so that section shouldn't even come into
25 play here. And then at the time of the violation this

1 counsel's saying well we prefer not to have Shock
2 because she's under the impression that it would be a
3 regular YOA where he would be out in 13 months because
4 according to the explicit definitions in 24-19-10 he's
5 22 at the time of conviction so she doesn't have to
6 worry about the three year day-for-day even though under
7 my experience SCDC did treat it as a three year day-for
8 day regardless of whether you were 25 -- or, sorry,
9 regardless -- they treated it as day-for-day three years
10 if you're 17 to 25.

11 Correct my thinking on any of that, any of you,
12 but it's just messy. I understand your position, he's
13 clearly in violation. There's no doubt he was going to
14 prison, but I could see where Ms. Hall, if she was privy
15 to how SCDC treated this, I could see where she would
16 perhaps suggest, hey look, maybe Shock is a better
17 option for you because you're looking at three to four
18 months instead of three years day-for-day.

19 I'm not putting this entirely on her shoulders,
20 and it is a little bit awkward that this is having to
21 arise in the context of a post-conviction relief
22 hearing. Did you have anything further that you wanted
23 to put out there or educate me further on how this is
24 dealt with or treated?

25 MS. OLIVE: Your Honor, I will admit as far as

1 YOA goes, they are about as clear as mud. And as Ms.
2 Ross pointed out, we have had this come up in another, a
3 little bit of a different context, but I mean it was
4 still a PCR.

5 Your Honor, I would just argue that he still has
6 to show prejudice if we're looking at -- first of all, I
7 don't think there's due process violation. It's our
8 position the judge was fully within his power to
9 sentence him to what -- or to fully revoke his
10 probation, activate the YOA.

11 So that leaves us with ineffective assistance of
12 counsel argument. And it's unclear what Ms. Hall's
13 thoughts were regarding the Shock and it's unclear what
14 she thought he was gonna receive when his YOA was
15 activated, but it's still our position that Mr. Ruiz
16 can't show prejudice because there's no way to know from
17 the record and the testimony today whether the judge
18 would have ordered Shock incarceration if it had been
19 requested.

20 THE COURT: All right, fair enough. Anything
21 else or anything you can do to help me straighten this
22 out in my mind or am I wrong or am I ---

23 MS. ROSS: I think you're correct. Maybe that
24 has been changed. I know SCDC will quickly change these
25 with the order to alter or amend the sentence. They

1 will correct this or what is my opinion correct this.
2 And you've heard, just addressing Ms. Olive's argument,
3 you heard Mr. Ruiz talk about the prejudice. He was
4 thinking he was essentially consenting to 10 months and
5 at 21 in this probation revocation and instead he's got
6 three years, so that's the prejudice. He went along,
7 didn't even, you know, or his attorney didn't even make
8 any argument, which I think clearly they were expecting
9 that some argument would be made.

10 THE COURT: All right.

11 MS. ROSS: And, Judge, I wish there was a case or
12 something.

13 THE COURT: Oh, you're not gonna find it because
14 this is one of those situations where, as you correctly
15 point out, you can't get this in front of the Supreme
16 Courts or the Appellate Courts because typically a
17 person is gonna max out the amount of time that they
18 do --

19 MS. ROSS: Right.

20 THE COURT: -- before it could ever appear or get
21 to the Court of Appeals regardless of whether you take a
22 direct appeal route or post-conviction relief route.
23 The whole thing would be rendered moot.

24 MS. OLIVE: And, Your Honor?

25 THE COURT: Sure.

ORDER OF THE COURT

1 MS. OLIVE: I would just like to point out that,
2 I don't recall if Ms. Ross pointed this out or not, but
3 she did approach the probation revocation judge and
4 presented him with an order to change the sentence and
5 he responded that he did not have jurisdiction to change
6 the sentence and that he did not see -- that he didn't
7 see any further intention reflected in the transcript
8 regarding anything other than what was written on the
9 sentencing sheet. I just wanted to make that clear on
10 the record that it has, this has been addressed with
11 the ---

12 MS. ROSS: I've got the e-mail if you'd like to
13 see it. It's got reflections on the paper.

14 THE COURT: Okay.

15 MS. ROSS: It's on the other side, but ignore
16 that. And that's true.

17 THE COURT: The Court will allow this as an
18 exhibit just for purposes of the record. Basically
19 Judge Cole takes a -- or took the position in this
20 e-mail that he really doesn't have any control over the
21 situation. And, of course, the whole question of YOA
22 Shock and whether that's even a potential outcome or
23 recommendation from the court, that's, Judge Cole is
24 silent on that as well.

25 I understand your position, Attorney General, I

1 really do, but at the very least I think that Ms. Hall
2 had the obligation to have an understanding of how SCDC
3 would treat this. And even though SCDC is treating
4 this, in my opinion, incorrectly because in this case
5 the applicant was 22 at the time of the plea, he should
6 under the law be entitled to a regular "Y" with a 10 to
7 13-month sentence, as opposed to the three year
8 day-for-day.

9 I do feel like this is touching upon something
10 that's affecting fundamental fairness basic due process.
11 Procedurally, how I put my finger on that, I really have
12 no idea, but I know unfair when I see it and this isn't
13 fair and that's what it boils down to. He was under the
14 impression, and apparently everyone was under the
15 impression, that YOA was, or YOA Shock, was something
16 that they would be entitled to. My understanding is
17 SCDC will or at least in the last year, or so since the
18 time of this plea or about the time of this plea, SCDC
19 will allow for a Youthful Offender Act Shock sentence to
20 be imposed for burglary second degree non-violent. And
21 clearly under the law that's right because he was 22 at
22 the time of the conviction.

23 So I'm granting him relief and I'll grant him a
24 new probation hearing in this matter at a future point
25 in time. If the -- if for some reason, I understand the

ORDER OF THE COURT

1 State may desire to get further clarification on this
2 question from the Supreme Court of South Carolina, from
3 the Court of Appeals so for the purposes of any appeal
4 bond I'll retain jurisdiction since I'm already privy to
5 this. So if the State chooses to appeal or elects to
6 appeal, I'll retain jurisdiction for purposes of issuing
7 an appeal bond on this question and we can address that.
8 We can find some time for me to address that. I'll be
9 somewhere and we'll get together on that, if that even
10 takes place. I'm granting relief.

11 MS. ROSS: Thank you, Judge.

12 MS. OLIVE: Thank you, Your Honor.

13 THE COURT: Thank you.

14 MS. ROSS: And do you want me to prepare an order
15 just to do for you?

16 THE COURT: Sure. Good luck with that.

17 MS. ROSS: Yeah.

18 (Whereupon, Court's Exhibit Number, E-mail Dated
19 October 24, 2016, from Judge Cole, was marked for
20 identification.)

21 (Whereupon, Court's Exhibit Number 1 was entered
22 into the record.)

23 (Whereupon, hearing ended at 12:28 p.m.)

24

25 --- THIS ENDS REQUESTED TRANSCRIPT ---

1 COURT REPORTER CERTIFICATE

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I, the undersigned Julie A. Ashbrook, Court Reporter for the Seventh Judicial Circuit Court 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 and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Court Of Common Pleas for Spartanburg County, South Carolina, on the 7th day of November, 2016.

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

s/Julie A Ashbrook.
Julie A. Ashbrook
Circuit Court Reporter
Seventh Judicial Circuit

X-Gm-Message-State: ABUngvftLFtpppWPJa2B5KynGolIWt7rVZwE3k33dQqBPulbHVYGeUWtyk2
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X-Received: by 10.31.223.1 with SMTP id w1mr6585811vkg.34.1477237882836; Sun,
23 Oct 2016 08:51:22 -0700 (PDT)

MIME-Version: 1.0

Received: by 10.31.159.2 with HTTP; Sun, 23 Oct 2016 08:51:21 -0700 (PDT)

In-Reply-To: <5e6d4c6cf701491b93c9f12e3f1b4af9@scag.gov>

References: <5A06AE98AAF081408F153D8CF41CA1EBBEADFB5C@MB1.scag.gov>

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<5e6d4c6cf701491b93c9f12e3f1b4af9@scag.gov>

From: Susannah Ross <susannah@rossenderlin.com>

Date: Sun, 23 Oct 2016 11:51:21 -0400

Message-ID: <CAKbNq16OnSek9b-y3Hmw+b0Jms1sR+AvPsk5x1qqEn+xskf0xA@mail.gmail.com>

Subject: Re: Alexander Ruiz - PCR - 2015-CP-42-3801

To: "Cole, J. Derham" <JColeJ@sccourts.org>

Cc: "Cole, J. Derham Law Clerk ()" <JColeLC@sccourts.org>,

"Barnette, Barry" <bbarnette@spartanburgcounty.org>, "chall@hnblaw.com" <chall@hnblaw.com>,

"susan.crocker@ppp.dc.gov" <susan.crocker@ppp.dc.gov>, Alicia Olive <AOlive@scag.gov>

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— Message truncated —

Cole, J. Derham <JColeJ@sccourts.org>

Mon, Oct 24, 2016 at 11:58 AM

To: Susannah Ross <susannah@rossenderlin.com>

Cc: "Cole, J. Derham Law Clerk (Richardson Russell)" <JColeLC@sccourts.org>, "Barnette, Barry"

<bbarnette@spartanburgcounty.org>, "chall@hnblaw.com" <chall@hnblaw.com>, "susan.crocker@ppp.dc.gov"

<susan.crocker@ppp.dc.gov>, Alicia Olive <AOlive@scag.gov>

I have no authority to sign the proposed order. There is no "intention" reflected in the transcript. I simply revoked his probationary sentence and imposed the original sentence which I understood to be under the YOA. The sentence is an "indeterminate" one "until discharged by the division, the period of custody not to exceed six years". I have no control over the actual release date, that discretion being in the hands of the division. I am unable to understand how I have jurisdiction to address this matter since there is no case before me and the question is not simply "what do the words 'revoke it' mean". It would seem that an administrative proceeding and/or a PCR would be necessary in order to correct any perceived defect or incorrect application of the law. jdc

From: Susannah Ross [mailto:susannah@rossenderlin.com]

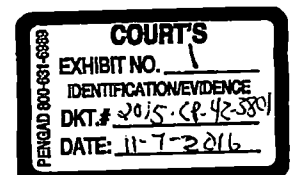
Sent: Sunday, October 23, 2016 11:51 AM

To: Cole, J. Derham

Cc: Cole, J. Derham Law Clerk (Richardson Russell); Barnette, Barry; chall@hnblaw.com; susan.crocker@ppp.dc.gov; Alicia Olive

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[Quoted text hidden]



STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2015-CP-42-3801

Alexander X. Ruiz

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: COURT	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
---------------------	--

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: The above referenced case is continued.

This matter came before the Court on November 7, 2016. Applicant was present with counsel. Having reviewed the pleadings, considered the applicable law, and reflected upon the testimony at trial, the Court grants Applicant's request for post-conviction relief for the reasons stated at the hearing and grants Applicant a new probation revocation hearing.

The Court finds the testimony of Applicant credible on the question of what his options were concerning not being advised of the three (3) year sentence for a YOA Burglary 2nd revocation. The transcript of the revocation hearing also supports Applicant's version of events. The Court also notes that, per Section 24-19-10 (d)(iv), because Applicant was 22 years of age at the time of his plea, he should not be serving the three (3) year sentence under the YOA. Counsel should have clarified this for the record at the time of the revocation hearing.

Accordingly, the Court grants Applicant's request for relief only as it relates to the probation violation hearing. The underlying plea of guilty, however, is not affected by this order, and any allegations concerning the underlying plea are dismissed because they were not timely raised.

Finally, should the State file any appeal, this judge shall retain jurisdiction on the question of Applicant's appeal bond.

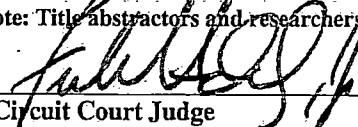
Within thirty (30) days, counsel for Applicant shall prepare a more formal order which memorializes the Court's ruling.

ORDER INFORMATION

This order ends does not end the case.

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.


2159 11/22/2016

 Circuit Court Judge Judge Code Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Susannah Ross, Esq.

Assistant Attorney General Alicia Olive

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Alexander Ruiz, #363295)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

2015-CP-42-3801

**ORDER GRANTING PETITION FOR
 POST-CONVICTION RELIEF**

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 2016 NOV 29 AM 8:49
 M. HOPE BLACKLEY

This matter is before me by way of Application for post-conviction relief (PCR) filed August 25, 2015. A hearing was held November 7, 2016. Susannah Ross represented Mr. Ruiz and Alicia Olive was present on behalf of the State. Testimony was presented by the Applicant, Alexander Ruiz, and defense counsel for his probation revocation hearing, Claire Hall, Esq. Before me was the transcript of the March 6, 2015, probation violation hearing, court documents, revocation documents and sentencing sheets.

Mr. Ruiz pled guilty to burglary second degree, non-violent, on December 13, 2012, and received a Youthful Offender Act (YOA) sentence not to exceed five years, suspended on service of ninety-seven (97) days and three years of probation. The sentencing sheet also reflects that the judge also ordered a suspended shock incarceration. At that time, Mr. Ruiz was twenty-two (22) years old. On March 6, 2015, Ms. Hall represented Mr. Ruiz at a probation revocation hearing before Judge Derham Cole. It is readily apparent from the testimony and the hearing transcript that Ms. Hall specifically requested an active YOA sentence rather than shock incarceration, and Judge Cole obliged revoking the suspended YOA sentence. Mr. Ruiz testified that Ms. Hall told him he would serve a six to twelve month sentence. Ms. Hall did not contest his assertion, agreeing that though she had no independent recollection of the representation, she

1


may have misadvised Mr. Ruiz of the sentence he would receive. Ms. Hall did not appeal or request the sentence be amended.

According to the South Carolina Department of Corrections Classification Report and Mr. Ruiz's testimony, Mr. Ruiz is serving a three to four years imprisonment with a projected parole date of March 15, 2018, and a projected max-out date of March 6, 2019. Rather than serving the ninety days required through the shock incarceration program that was ordered by the plea judge or the six to nine months of the normal active YOA sentence, Mr. Ruiz received a three to four year sentence. Reading the plain meaning of the YOA statute, it looks that Mr. Ruiz would not fall under Sec. 24-19-10(d)(iv) and was legally sentenced as a youthful offender under Sec. 24-19-10(d)(ii) being over seventeen and under twenty-five at the time of his conviction of a non-violent, class D offense carrying under fifteen years. However, SCDC categorized a YOA sentence for burglary second, non-violent, as an illegal one from 2010 when the statutory definition of Youthful Offender was amended until April of 2016 when the statute was again amended specifically allowing non-violent burglary second degree under the YOA Sec. 24-19-10(d)(iii) & (iv). By Mr. Ruiz's 2015 probation violation hearing date it was known that the South Carolina Department of Corrections classified a YOA for the charge of burglary second degree as an illegal sentence under Sec. 24-19-10 of the South Carolina Code triggering the three to four year mandatory sentence.

As appointed counsel for his probation violation hearing, Ms. Hall was under an obligation to understand the law and how SCDC was interpreting the sentence for YOA revocations with burglary second charges. She should have been aware of the dangers of revoking a suspended YOA on a burglary charge and made the sentencing judge aware of the outcome of a revocation. She was obligated to correctly advise her client of the sentence he

faced. Ms. Hall did not ask for the shock incarceration that would be likely for a revocation of a suspended shock sentence, and instead unwittingly requested a sentence that would trigger the three to four year mandatory sentence. Then she misadvised her client on the sentence he would receive. In South Carolina all persons charged with probation violations have a right to effective assistance of counsel. Barlet v. State, 288 S.C. 481, 483, 343 S.E.2d 620, 621 (1986). I find that counsel's conduct in this matter was deficient resulting in substantially greater term of imprisonment clearly prejudicial to Mr. Ruiz.

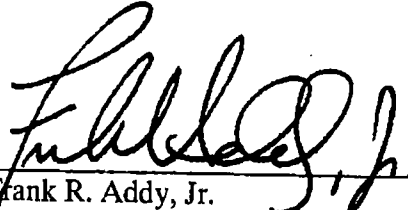
I further find Mr. Ruiz's sentence was unjust and fundamentally unfair in violation of the Due Process Clause of the V and XIV Amendments of the United States Constitution and Article I, Section III of the South Carolina Constitution. Under the plain meaning of the YOA statute, Mr. Ruiz would not fall under Sec. 24-19-10(d)(iv) and was legally sentenced as a youthful offender under Sec. 24-19-10(d)(ii) being over seventeen and under twenty-five at the time of his plea to a non-violent, class D offense carrying under fifteen years. SCDC's interpretation of Sec. 24-19-10 giving Mr. Ruiz a mandatory three to four year, day for day sentence, for burglary second, non-violent, is fundamentally unfair and arbitrary. A penal statute must be strictly construed against the State and in favor of the defendant. State v. Blackmon, 304 S.C. 270, 273, 403 S.E.2d 660, 662 (1991). Such interpretation would require Mr. Ruiz receive the normal sentence for a YOA revocation. Furthermore, the 2016 amendment allowing non-violent burglary second degree under the YOA Sec. 24-19-10(d)(iii) & (iv) suggests an effort on the part of legislature to correct an unintended result. Given that statutory construction should ascertain and give effect to the intent of the legislature, this again supports that Mr. Ruiz was the recipient of an unintended sentence and should receive the normal sentence for a YOA revocation. See Bryant v. State, 384 S.C. 525, 529, 683 S.E.2d 280, 282 (2009). I find that Mr. Ruiz is entitled

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F. HOPE BRACKLEY

to another probation revocation with consideration of the above.

THUS, IT IS THE ORDER OF THIS COURT that Mr. Ruiz's case remanded for re-hearing on his probation revocation matter within thirty days. If the State chooses to appeal this Order, I retain jurisdiction to address the appeal bond.

IT IS SO ORDERED.



 Frank R. Addy, Jr.
 Circuit Judge, Seventh Judicial Circuit

November 22, 2016
Greenwood, South Carolina.

CLERK OF COURT
 STATEMENT
 2016 NOV 29 AM 8:49
 M. HOPE BLACKLEY

Spartanburg County

Spartanburg County Court House
180 Magnolia Street
P. O. Box 3483
Spartanburg, SC 29304-3483

Phone (864) 596-2591
Fax (864) 596-2239



M. Hope Blackley
Clerk of Court

November 29, 2016

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Alexander V. Ruiz
Applicant # *363295*

7TH JUDICIAL CIRCUIT

CASE# *2015CPA-3801*

Shree VS
Respondent

CERTIFICATE OF SERVICE

I certify that, on this date, I served a copy of the *Form-4 & Order*
in this action dated *11-22-2016* on *11-29-16*

By mailing to him/her, at his/her last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

- Ashley Harewood*
- Alicia Alice*
- Sherman Ross*

11-29-16
(Date)

Debbie Seif
(Signature)

WITNESSES

Sheriffs Office

DEFENDED

FILED

FILED

FILED W/ POINTS

FILED SIGNATURE

ARREST WARRANT NUMBER

2012A4210200190

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

12-GS-42-6379

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

DEC 14 2012

TERM

THE STATE

vs.

Alexander Ruiz

Indictment for

BURGLARY, SECOND DEGREE

(Dwelling)

SC Code: 16-11-0312

CDR Code: 80

Class FEL-D

SC 12-14-12

COUNTY OF SPARTANBURG
STATE VS.
Alexander Xavier Ruiz
AKA:
Race: WHITE Sex: M Age: 22
DOB: SS#:
Address: 185 Main Street
City, State, Zip: Mayo, SC 29368
DL#: SID#:

INDICTMENT/CASE#: 12-65-42-6379
A/W#: 2012A4210200190
Date of Offense: 9/5/2012
S.C. Code §: 16-11-0312
CDR Code #: 0080

SENTENCE SHEET

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []
In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (Non-Violent) - Second degree (Up to 10yr)

[] CONVICTED OF or [X] PLEADS

in violation of § 16-11-0312 of the S.C. Code of Laws, bearing CDR Code # 0080
[X] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC § 17-25-45
w/minor 1st or Lewd Act)

The charge is: [] As Indicted, [] Lesser Included Offense, [X] Defendant Waives Presentment to Grand Jury.
The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [X] Recommendation by the State.

ATTEST: BLOUIN, HUNTER C SC Bar# 80145 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 days/months/years or X; under the Youthful Offender Act not to exceed 5 years
and/or to pay a fine of \$ 97; provided that upon the service of 97 days/months/years and/or payment
of \$ 36; plus costs and assessments as applicable*; the balance is suspended with probation for 36

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

[X] 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 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
Total: \$ plus 20% fee: \$
Payment Terms:
[] Set by SCDPPPS

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ca, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$3.90, TOTAL \$133.90

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E 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: Help for Transport Rehab for months

Clerk of Court/ Deputy Clerk B Boemlert
Court Reporter: mwatts
SCCA/217 (03/2011)

[] Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.
Presiding Judge
Judge Code: 2132
Sentence Date: 12-13-12

ARREST WARRANT 4-11-12

2012A4210200190 Jail

STATE OF SOUTH CAROLINA

County/ Municipality of

Spartanburg

THE STATE
against

Alexander Xavier Ruiz

Address: Homeless

Phone: _____ SSN: _____
Sex: M Race: W Height: 6 Weight: 190

DL State: SC DL #: _____

DOB: _____ Agency ORI #: SC0420000

Prosecuting Agency: Spartanburg County Sheriff

Prosecuting Officer: Bryan Wilkins - 0982

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

Offense Code: 0080

Code/Ordinance Sec. 16-11-0312

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant on _____

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
180 Magnolia Street
P O Box 3483
Spartanburg, SC 29304

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

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ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)

County/ Municipality of)

Spartanburg)

Personally appeared before me the affiant Bryan Wilkins who

being duly sworn deposes and says that defendant Alexander Xavier Ruiz did within this county and state on or about 9/5/2012 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Spartanburg) in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on September 5, 2012, in the city/county of Spartanburg, the defendant did enter a dwelling located at _____, Mayo, SC without consent and with intent to commit a crime therein.

AFFIANTS BELIEF BASED ON POLICE INVESTIGATION

SEP 12 2012

Signature of Affiant

STATE OF SOUTH CAROLINA)

County/ Municipality of)

Spartanburg)

Affiant's Address 8045 Howard Street
Spartanburg, SC 29303-

Affiant's Telephone (864)503-4500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/5/2012 defendant Alexander Xavier Ruiz

did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Spartanburg) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her 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 his execution or soon thereafter as is practicable

Sworn to and subscribed before me

on 9/6/2012

Signature of Issuing Judge (L.S.)

Vicki Rae Morgan Smith

Judge Code: 5744

Judge's Address

Woodruff, SC 29388

Judge's Telephone

(864)476-2281

Issuing Court. Magistrate

Municipality

A CERTIFIED
M. Hope Blankley
CLERK OF COURT
SPARTANBURG COUNTY
D.C.

BY
DATED 9/12/12

59

County of Spartanburg
STATE VS.

AKA: Alexander Xavier Ruiz
Race: W Sex: M
DOB: _____
SSN: _____
SID#: _____

Indictment Number: 12 -GS- 42 - 06379
Probation C/W#: 0-42-14-0723

Name of Original Offense: Burglary 2nd
Original A/W#: 2012 A42 P0206190
Date of Original Offense: 9-5-12
Conviction S.C. Code §: 16-11-0312
Conviction CDR Code #: 0 / 0 / 8 / 0
Original Sentence: YOA ntc 5yrs sus on 97 days
ORDER 36 mos Probation

The above named defendant has been charged with violating the conditions of probation ordered on 12/13/12 in the Court of General Sessions of Spartanburg County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 6/19/14, as set forth in the attached warrant(s) or citation(s) dated 9/11/14 and 12/16/14. 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)

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve YOA ntc 5yrs 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%)
- Additional Conditions ordered by the Court:

Terminate Probation

- 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 97 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 6 day of March, 2015,
Spartanburg, SC

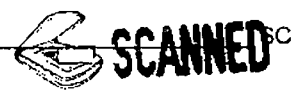
[Signature]
Presiding Judge
1st Judicial Circuit

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 _____ City



PROBATION CITATION

No. C-42-14-0549

SOUTH CAROLINA V. ALEXANDER XAVIER RUIZ	COUNTY: SPARTANBURG	
	SCDC #	SID # 01762318

TO: ALEXANDER XAVIER RUIZ

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

Place As Notified	Room
	Date and Time

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

Violations Charged
Willfully violating probation conditions 1, 2, 6, 7, 9 and 10 as ordered in cause numbers 12-GS-42-06379 and 12-GS-42-06380 by the Spartanburg County Court of General Sessions.

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.

SPARTANBURG , South Carolina	Probation and Parole Agent Tara Marie Tyler	Agent # 0427
Date 9/11/2014		

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	Date and Time 9-11-14 4:00p
	Serving Officer's Signature <i>Tara Marie Tyler</i>

Sworn to and subscribed before me this 11 day of September 2014

[Signature]
Signature of Notary Public

My Commission Expires 5/14/2024

STATE OF SOUTH CAROLINA

AFFIDAVIT

County of SPARTANBURG

Personally appeared before me, Tara Marie Tyler, who first being duly sworn, deposes and says that ALEXANDER XAVIER RUIZ did within this county and State on the 11 day of September, 2014, violate certain conditions of release in the following particulars:

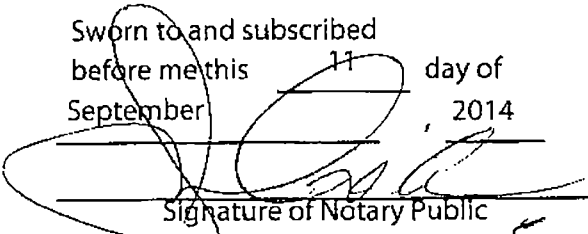
DESCRIPTION OF VIOLATION

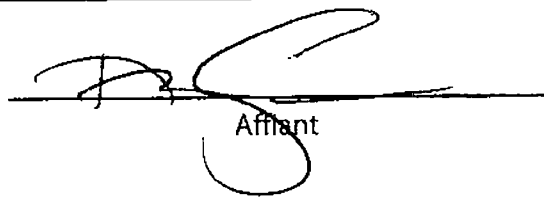
Willfully violating probation conditions 1, 2, 6, 7, 9 and 10 as ordered in cause numbers 12-GS-42-06379 and 12-GS-42-06380 by the Spartanburg County Court of General Sessions.

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:

Failure to report to the supervising agent on 4/23/14, 6/18/14 or any time after that date and failing to attend scheduled DNA appointment on 8/7/14.
Failure to notify agent of a change in address, as verified during a telephone conversation with his mother on 9/11/14 where she informed me that he had not been staying there with her since the police came out in July and that he had just been in and out since then.
Failure to immediately notify agent of law enforcement contact, in that the police responded to the offender's home on 7/29/14 to address the concern that he was stealing from the home, and the offender never notified his agent of said contact.
Failure to immediately notify agent of law enforcement contact, in that the offender was arrested on 9/6/14 in Greenville, SC for shoplifting and has not informed his agent of the arrest.

Sworn to and subscribed
before me this 11 day of
September, 2014


Signature of Notary Public

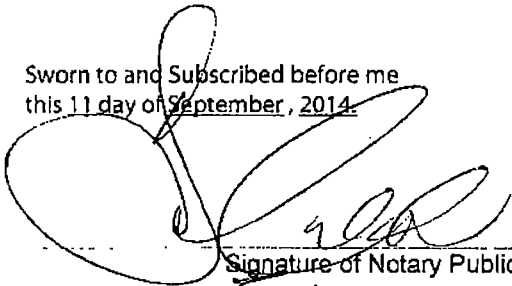

Affiant

My Commission Expires: 5.14.2021

Addendum

Failure to pay supervision fee as instructed, by being \$400 in arrears.
Failure to pay fine as instructed, by being \$275 in arrears.
Failure to pay \$20 drug test fee as instructed.
Failure to complete substance abuse counseling as instructed or show proof thereof.
Failure to follow the advice and instructions of the supervising agent.

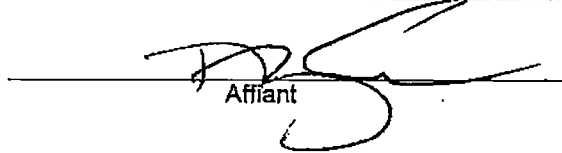
Sworn to and Subscribed before me
this 11 day of September, 2014.



Signature of Notary Public

5.14.2014

My Commission Expires



_____ Affiant

WITNESSES

Sheriff's Office

3. CARD PULL

4. INDEXED

5. CHECKED

6. CHECKED

7. ASSESSMENT
FINE CALENDAR

Handwritten notes and signatures:
211
[Signature]
[Signature]
[Signature]

ARREST WARRANT NUMBER

2012A4210200201

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

12-GS-42-6380

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

DEC 10 2012

TERM

THE STATE
vs.

Alexander Ruiz

Indictment for

BURGLARY, SECOND DEGREE
(Dwelling)

SC Code: 16-11-0312
CDR Code: 80
Class FEL-D

Handwritten mark: 30

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

DEC 06 2012

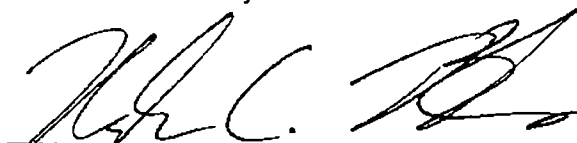
At a Court of General Sessions, convened on _____, the

Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, SECOND DEGREE
(Dwelling)

That the defendant, Alexander Ruiz, did in Spartanburg County, on or about September 6, 2012, willfully and unlawfully enter without consent and with intent to commit a crime therein, the dwelling belonging to Gayle Lawrence located at _____ Cowpens, South Carolina, in violation of §16-11-312, *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.


 ASSISTANT SOLICITOR

2012A4210200201

STATE OF SOUTH CAROLINA

County/ Municipality of

Spartanburg

THE STATE
against

Alexander Xavier Ruiz

Address: 185 Main Street

Mayo, SC 29368-

Phone: (864)398-3261

SSN:

Sex: M Race: W Height: 6 Weight: 170

DL State: SC DL#:

DOB: Agency ORI # SC0420000

Prosecuting Agency: Spartanburg County Sheriff

Prosecuting Officer: Stephen Law - 0776

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

Offense Code: 0080

Code/Ordinance Sec. 16-11-0312

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant on Alexander Xavier Ruiz
9-7-12

Burns
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
180 Magnolia Street
P O Box 3483
Spartanburg, SC 29304

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Spartanburg

Personally appeared before me the affiant Stephen Law

being duly sworn deposes and says that defendant Alexander Xavier Ruiz

did within this county and state on or about 9/6/2012 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Spartanburg)

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on September 6, 2012, in the county of Spartanburg, one Alexander Xavier Ruiz did enter the dwelling of Gayle Lawrence located at Cowpens without consent and with intent to commit a crime therein. Affiant's belief is based upon police investigation.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Spartanburg

Affiant's Address 8045 Howard Street

Spartanburg 29303-

Affiant's Telephone (864)503-4500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/6/2012 defendant Alexander Xavier Ruiz

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Spartanburg) as set forth below

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her 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

Sworn to and subscribed before me

on 9/7/2012

Eber Charles Gowan Jr.
Signature of Issuing Judge (L.S.)

Eber Charles Gowan Jr.

Judge Code: 5674

Judge's Address Spartanburg County Judicial Center

Spartanburg, SC 29306-2335

Judge's Telephone (864)596-3424

Issuing Court. Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Computer

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 SEP 11 PM 12:42
M. HOPE BLACKLEY

Eber Charles Gowan Jr.
Signature of Issuing Judge (L.S.)

me

COUNTY OF SPARTANBURG
STATE VS. Alexander Xavier Ruiz
AKA:
Race: WHITE Sex: M Age: 22
DOB: SS#:
Address: 185 Main Street
City, State, Zip: Mayo, SC 29368
DL#: SID#:

INDICTMENT/CASE#: 12-65-42-6380
A/W#: 2012A4210200201
Date of Offense: 9/6/2012
S.C. Code §: 16-11-0312
CDR Code #: 0080

SENTENCE SHEET

*CDI. Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []
In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (Non-Violent) - Second degree (Up 10 years)

[] CONVICTED OF or [X] PLEADS

in violation of § 16-11-0312 of the S.C. Code of Laws, bearing CDR Code # 0080
[X] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC [] §17-25-45

The charge is: [] As Indicted, [] Lesser Included Offense, [X] Defendant Waives Presentment to Grand Jury.
The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence
ATTEST: BLOUIN, HUNTER C SC Bar# 86145 Defendant
Attorney for Defendant SC Bar# 12027

WHEREFORE, the Defendant is committed to the [] State Department of Corrections, [] County Detention Center
for a determinate term of days/months/years or [X] under the Youthful Offender Act not to exceed 5 years
and/or to pay a fine of \$; provided that upon the service of 97 days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for 36

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
[X] CONCURRENT or [] CONSECUTIVE to sentence on:
[X] 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. 97 days
[] 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
Total: \$ plus 20% fee: \$
Payment Terms:
[] Set by SCDPPPS

Table with columns for Recipient, *Fine, and amounts. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (DUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$648.90

days/hours Public Service Employment
Obtain GED []
Attend Voc. Rehab. or Job Corp.
May serve W/E 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: Hold for Inpatient Retreat for 6 months.

[] Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk B. Brumfield
Court Reporter: M. Watts
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 2132
Sentence Date: 12-13-12

County of Spartanburg
STATE VS.

Indictment Number: 12 -GS- 42 - 06380
Probation C/W#s: 6-42-14-0123

Alexander Xavier Ruiz
AKA: _____
Race: W Sex: M
DOB: _____
SSN: _____
SID#: _____

Name of Original Offense: Burglary 2nd
Original A/W#: 2012A4270200201
Date of Original Offense: 9-6-12
Conviction S.C. Code §: 16-11-0312
Conviction CDR Code #: 0 1 0 1 8 1 0
Original Sentence: YOA ntc 5yrs sis on 97 days
ORDER 36 mos Probation

The above named defendant has been charged with violating the conditions of probation ordered on 12/13/12 in the Court of General Sessions of Spartanburg County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 6/19/14, as set forth in the attached warrant(s) citation(s) dated 9/11/14 & 12/16/14. 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)

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve YOA ntc 5yrs 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 (arrears) Civil judgment: Department fees
 Fines and other fees (arrears/balance) Fines and other fees
 Restitution (and 20%) (arrears/balance) Restitution (and 20%)

Additional Conditions ordered by the Court:

Terminate Probation

- 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 97 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 6 day of March, 2015,
Spartanburg, SC

[Signature]
Presiding Judge
Anthony Cole 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 _____ SC



PROBATION CITATION

No. C-42-14-0549

SOUTH CAROLINA V. ALEXANDER XAVIER RUIZ	COUNTY: SPARTANBURG	
	SCDC #	SID # 01762318

TO: ALEXANDER XAVIER RUIZ

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

Place As Notified	Room
	Date and Time

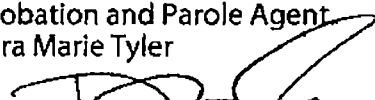
YOU ARE HEREBY NOTIFIED that you are charged with violating the conditions of your supervision as stated below.

Violations Charged
 Willfully violating probation conditions 1, 2, 6, 7, 9 and 10 as ordered in cause numbers 12-GS-42-06379 and 12-GS-42-06380 by the Spartanburg County Court of General Sessions.


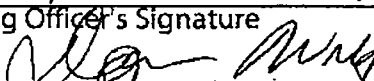
YOU ARE HEREBY NOTIFIED that you have the rights listed below.

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.

SPARTANBURG , South Carolina	Probation and Parole Agent Tara Marie Tyler	Agent # 0427
Date 9/11/2014		

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 	Date and Time 9-11-14 4:00p
	Serving Officer's Signature 

Sworn to and subscribed before me this 11 day of September 2014

Signature of Notary Public _____ My Commission Expires 5-14-2024

STATE OF SOUTH CAROLINA

AFFIDAVIT

County of SPARTANBURG

Personally appeared before me, Tara Marie Tyler, who first being duly sworn, deposes and says that ALEXANDER XAVIER RUIZ did within this county and State on the 11 day of September, 2014, violate certain conditions of release in the following particulars:

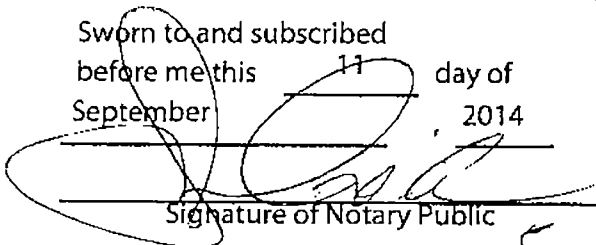
DESCRIPTION OF VIOLATION

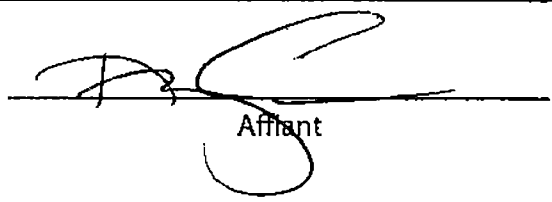
Willfully violating probation conditions 1, 2, 6, 7, 9 and 10 as ordered in cause numbers 12-GS-42-06379 and 12-GS-42-06380 by the Spartanburg County Court of General Sessions.

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:

Failure to report to the supervising agent on 4/23/14, 6/18/14 or any time after that date and failing to attend scheduled DNA appointment on 8/7/14.
Failure to notify agent of a change in address, as verified during a telephone conversation with his mother on 9/11/14 where she informed me that he had not been staying there with her since the police came out in July and that he had just been in and out since then.
Failure to immediately notify agent of law enforcement contact, in that the police responded to the offender's home on 7/29/14 to address the concern that he was stealing from the home, and the offender never notified his agent of said contact.
Failure to immediately notify agent of law enforcement contact, in that the offender was arrested on 9/6/14 in Greenville, SC for shoplifting and has not informed his agent of the arrest.

Sworn to and subscribed
before me this 11 day of
September, 2014


Signature of Notary Public

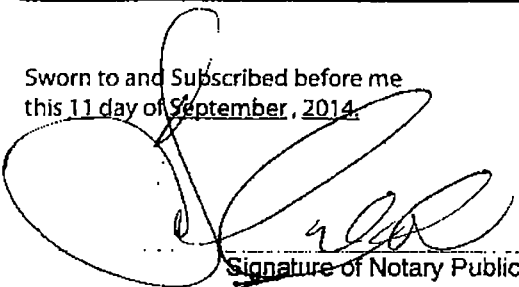

Affiant

My Commission Expires: 5.14.2021

Addendum

Failure to pay supervision fee as instructed, by being \$400 in arrears.
 Failure to pay fine as instructed, by being \$275 in arrears.
 Failure to pay \$20 drug test fee as instructed.
 Failure to complete substance abuse counseling as instructed or show proof thereof.
 Failure to follow the advice and instructions of the supervising agent.

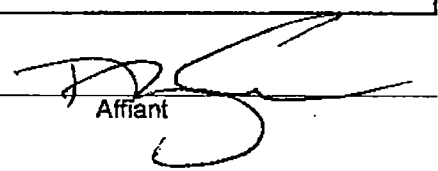
Sworn to and Subscribed before me
 this 11 day of ~~September~~, 2014.



Signature of Notary Public

S. M. 2014

My Commission Expires



Affiant

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 10/13/15
 OMCOMITA RELEASE DATE SCREEN C056368
 SCDC# > 363295 LOC: TRENTON
 RUIZ, ALEXANDER XAVIER SCDC CLASSIFICATION...: NON-VIOLENT
 OFFENDER TYPE...: YOA5C-INDETERMINATE SENT SEXUAL REGISTRY...: N
 SEXUAL PREDATOR...: NOT APP
 DNA STATUS.....: COMPLETED
 GPS REQUIREMENT...: N
 PREA DECISION....:
 CURRENT SENTENCE: CONSECUTIVE SENTENCE ..: N
 004-00-000 CURRENT SENT START DATE: 03/06/2015
 PROJECTED COMPLETION DATES
 MAXOUT DATE: 03/06/2019 CURRENT EWC ..: NOT CURRENTLY EARNING EWC
 YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
 INITIAL PAROLE DATE: 03/15/2018 NEXT PAROLE HEARING DATE: 03/15/2018

TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROG DATE: 03/11/2015
 TOTAL EARNED WORK CREDITS ..: 000000 LABOR CREW DISQ REASON:
 TOTAL EDUCATION CREDITS: 000000
 TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00
 TOTAL SERVICE TIME EARNED ..: 000217 ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

South Carolina Department of Corrections

Classification Summary Reports

Date: Tuesday, October 13, 2015

Classification Summary Reports	
Inmate Number <input style="width: 150px;" type="text" value="363295"/>	<input type="button" value="Submit"/>

Classification Summary Report for RUIZ, ALEXANDER XAVIER :

CLASSIFICATION SUMMARY REPORT DATED 10/13/2015

SCDC# 00363295

RUIZ, ALEXANDER XAVIER

FBI# 792316RC0

OFFENDER TYPE: YOAS5-
INDETERMINATE
SENTE



RESIDENT STABILITY: NA

INSTITUTION: TRENTON

DORMROOMBUNK_CODE: 1B 0009 A

SECURITY/CUST: 1B MINIMUM
OUT

PROJ MAXOUT DATE: 03/06/2019

CURR INCARC SENT: 4 YRS 0 MOS 0
DAYS

PROJ PAROLE DATE: 03/15/2018

VICTIM WITNESS: [REDACTED] SEPREQ: N

EWC JOB: NO CURRENT JOB

MED CLASS: [REDACTED]

ASSIGNMENT:

EWC LEVEL: 0 EEC LEVEL:-

INST RESTRICT: NO RESTRICTION

EDUC PGM: NO CURR EDUC PROGRAM

MENTAL CLASS: [REDACTED]

CURRENT PROGRAM: NO CURRENT
PROGRAM

SEX REGISTRY: N

DNA: C

AGE: 25

PREVIOUS NUMBERS:

NO PREVIOUS NUMBERS

CURRENT OFFENSES	SENTENCE YRS MOS DYS COUNTY	START	SENTENCE V/NV CAT INDICT

BURGLARY-2ND DEG/NON-VIO	4	0	0	SPARTANBURG	03/06/2015	N	3	12GS4206380
BURGLARY-2ND DEG/NON-VIO	4	0	0	SPARTANBURG	03/06/2015	N	3	12GS4206379

COMPLETED OFFENSES

NO COMPLETED OFFENSES

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

OFFENSES UNDER PREVIOUS NUMBER:

NO PREVIOUS OFFENSES

DETAINERS (HOLD,WANTED,NOTIFY):

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

PREVIOUS ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

NO NON-ASSAULTIVE DISCIPLINARIES HISTORY

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

10/12/2015	TRENTON	INCARCERATED	ADMINISTRATIVE
07/24/2015	TURBEVILLE	INCARCERATED	RETURN FROM COURT
07/17/2015	SPARTANBURG CO	AUTH ABSENCE (AWL)	TO COURT
04/11/2015	TURBEVILLE	INCARCERATED	ADMINISTRATIVE
04/10/2015	TUOMEY REGIONAL	AUTH ABSENCE (AWL)	MEDICAL
03/31/2015	TURBEVILLE	INCARCERATED	ADMINISTRATIVE
03/11/2015	KIRKLAND	INCARCERATED	R&E PROCESSING
03/11/2015	PERRY	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
LITTER CONTROL PROGRAM	09/16/2015	10/12/2015	INSTIT TRANSFER	2F7
LITTER CONTROL PROGRAM	08/24/2015	09/15/2015	PROMOTION	2F5
LANDSCAPE LABORER	04/21/2015	08/23/2015	INMATE REQUEST	2F5
WARDKEEPER ASSISTANT	04/03/2015	04/10/2015	PLACED IN ST/SP CUSTODY	2F5
WARDKEEPER ASSISTANT	04/01/2015	04/02/2015	MI ELIGIBLE FOR LEVEL 2	3F5

HISTORY OF EARNED EDUCATION CREDITS:

NO SCHOOL ASSIGNMENTS

***** END OF REPORT *****

Create PDF

Source : SummaryReport.jsp

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[Version: 1.4.12 Bullt: 02/03/2015 11:57:23 AM Time: 09:35:58 AM]

STATE OF SOUTH CAROLINA

County of Spartanburg
STATE VS.

Alexander Xavier Ruiz
AKA:
Race: W Sex: M
DOB:
SSN:
SID#:

IN THE COURT OF GENERAL SESSIONS

Indictment Number: 112 -GS- 42 - 06380
Probation C/W#s: (-42-14-0123)

Name of Original Offense: Burglary 2nd
Original A/W#: 2012A42702010201
Date of Original Offense: 9-6-12
Conviction S.C. Code §: 16-11-0312
Conviction CDR Code #: 0101810
Original Sentence: YOA ntc 5yrs sus on 97 day
ORDER 36 mos Probation

The above named defendant has been charged with violating the conditions of probation ordered on 12/13/12 in the Court of General Sessions of Spartanburg County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 6/19/14, as set forth in the attached warrant(s) of citation(s) dated 9/11/14 and 12/16/14. 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)

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve YOA ntc 5yrs 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 (arrears/balance) Civil judgment Department fees
 Fines and other fees (arrears/balance) Fines and other fees
 Restitution (and 20%) (arrears/balance) Restitution (and 20%)

Terminate Probation

- 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 97 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 6 day of March, 2015, at Spartanburg, SC

[Signature]
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 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 probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature _____
Signed this _____ day of _____, at _____
Day Month Year

Witnessed by M. Hope Blackley
CLERK OF COURT
SPARTANBURG COUNTY
BY: KG McKinney D.C.

STATE OF SOUTH CAROLINA

County of Spartanburg
STATE VS.

AKA: Alexander Xavier Ruiz
Race: W Sex: M
DOB: _____
SSN: _____
SID#: _____

IN THE COURT OF GENERAL SESSIONS

Indictment Number: 12 -GS- 42 - 06379
Probation C/W#: C-42-14-0723

Name of Original Offense: Burglary 2nd
Original A/W#: 2012 A42-P0206190
Date of Original Offense: 9-5-12
Conviction S.C. Code §: 16-11-6312
Conviction CDR Code #: 0101810
Original Sentence: YOA ntc 5yrs sus on 97 days
ORDER 36 mos Probation

The above named defendant has been charged with violating the conditions of probation ordered on 12/13/12 in the Court of General Sessions of Spartanburg County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 6/19/14, as set forth in the attached warrant(s) or citation(s) dated 9/11/14. 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)

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve YOA NTC 5yrs 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)
- Additional Conditions ordered by the Court:

M. HOPE BLACKLEY
2015 MAR 10 PM 5:05
CLERK OF COURT

Terminate Probation

- 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 97 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 6 day of March, 2015, at Spartanburg, SC

[Signature]
Presiding Judge
17th 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 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 M. Hope Blackley

Signed this _____ day of _____, 2015, at _____ City
CLERK OF COURT
SPARTANBURG COUNTY
BY: KG McKinney D.C.
DATE: 2-10-15