

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

FEB 27 2017

SC Court of Appeals

Appeal from Colleton County
Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LEXIE EDWARD HOOVER,

APPELLANT

APPELLATE CASE NO 2016-002277

RECORD ON APPEAL

ROBERT M. PACHAK
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
PROBATION REVOCATION TRANSCRIPT DATED NOVEMBER 8, 2016	1
PROBATION VIOLATION ARREST WARRANT	10
ORDERS OF VIOLATION.....	12
CERTIFICATE OF COUNSEL	14

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF COLLETON) CASE NO.: 15-GS-15-758 & 970

STATE OF SOUTH CAROLINA,)
)
)
)
 v.) TRANSCRIPT OF RECORD
)
 LEXIE HOOVER,)
)
 DEFENDANT.)
)

NOVEMBER 8th, 2016
 COMMENCING AT
 COLLETON COUNTY COURTHOUSE
 WALTERBORO, SOUTH CAROLINA
 BEFORE THE HONORABLE MICHAEL NETTLES.

APPEARANCES:

AGENT LISA D. BOLTIN
 PROBATION PARDON AND PAROLE

MR. DAVID S. MATHEWS, ESQUIRE
 Attorney for the Defendant

Rebecca H. Hill
 Official Court Reporter

INDEX

PROBATION REVOCATION OF MR. HOOVER	3
CERTIFICATE OF REPORTER	9

EXHIBITS

NONE.

1 THE COURT: Probation, I'll be glad to hear on the next
2 one.

3 AGENT BOLTIN: Your Honor, this is the revocation
4 hearing on Lexie Hoover on Indictment numbers 15-GS-15-758
5 and 9-7-0 for domestic violence, third degree, and
6 possession of less than one gram of cocaine.

7 Your Honor, I'd like to add that the handwritten
8 sentence for some reason the computer didn't load the one
9 year suspended sentence on there. That's why it is
10 handwritten on there.

11 THE COURT: All right.

12 MR. MATHEWS: Your Honor, I would object to the 1106
13 being introduced into evidence and would prefer live
14 testimony like at the last hearing.

15 THE COURT: Your objection is noted.

16 AGENT BOLTIN: Your Honor, he is before you today being
17 charged with violating conditions 3, 7, 9 and 10; his
18 special condition is probation. He failed to follow the
19 advice and instructions of his agent. He failed to submit
20 to a urine test. He reported to the Colleton County office
21 intoxicated, definitely under the influence. He refused to
22 submit to a urine test. By failing to complete domestic
23 abuse counseling. He was terminated from counseling on 9-
24 20-2016. For failing to disclose having any contact with
25 the victim during June of 2016, which resulted in an arrest

1 warrant being issued for aggravated assault. This contact
2 was also a violation of a protection order. He is charged
3 with failing to pay \$450 for supervision fees. He is \$150
4 in arrears. Failing to pay \$648.90 court ordered fine by
5 being \$164 in arrears. For failing to pay his \$133.90 court
6 fine.

7 THE COURT: Would you place Mr. Hoover under oath,
8 please?

9 MR. MATHEWS: Your Honor, I would object to any direct
10 questions of my client. He still has a right not to
11 testify, and I would ask that that be honored, but just let
12 that be noted, Your Honor.

13 THE COURT: How am I going to make a determination of
14 whether or not he is in violation?

15 MR. MATHEWS: Your Honor, whether the Department proves
16 it and I object to the hearsay, that's one of the reasons at
17 the last hearing, they provided live testimony. There are a
18 number of different things that Mr. Hoover takes exception
19 to and as a result, I would object to hearsay without the
20 right to being able to cross-examine.

21 THE COURT: Your objection is noted. Mr. Hoover, raise
22 your right hand.

23 (Whereupon, the defendant, Mr. Lexie Hoover, is duly
24 sworn.)

25 THE COURT: Mr. Hoover, are you under the influence of

1 any drugs or alcohol in here today?

2 DEFENDANT: No, sir.

3 THE COURT: Are you experiencing any kind of physical
4 or mental problem that could prevent you from what is going
5 on here today?

6 DEFENDANT: No, sir.

7 THE COURT: You've heard the allegations that indicate
8 that you have not complied with the terms and conditions of
9 probations. Are those allegations true?

10 DEFENDANT: Well, the drug test was thrown on me at the
11 last minute, because I was trying to get a pass to leave out
12 of the State of South Carolina from them. I wasn't even
13 showing up to see them and at the last minute, they close at
14 5:00 and by that time they rush you out. They gave me two
15 cups of water and expected me to drink it and I can't even
16 drink one cup. By that time, she came out and was expecting
17 me -- they had a Colleton County -- they had pulled up
18 outside in the parking lot and I was still sitting out front
19 smoking a cigarette and drinking the water to take the drug
20 test, and by that time, they had done asked me to come
21 inside and they arrested me and threw me in the jail. And
22 the reason I smelled like alcohol was because I was going
23 through the scrap place also, you know, the alcohol
24 beverages in the cans, the scrap cans, to give me a little
25 extra money, because times are hard. I got two bad discs in

1 my neck and two bad discs in my back and I've tried to make
2 ends meet and get disability.

3 THE COURT: All right. Why didn't you complete
4 domestic abuse counseling?

5 DEFENDANT: Domestic abuse? I was doing everything I
6 was supposed to do. I was showing up. I even called them
7 that same day and told them -- that same day I seen my
8 doctor; I see a doctor every month. And I told -- I called
9 Columbia and told them what the deal was, that I had a
10 doctor's excuse for me, but they done went ahead and
11 canceled the meeting, did all that, without me having the
12 chance to finish it and all that. I was going to class. I
13 was reporting. I was taking drug tests. I was doing
14 everything I was supposed to do. I was a little bit behind
15 on money. Like I said, times is hard for me. And my mother
16 even took me to the probation.

17 MR. MATHEWS: She is here, Your Honor, in the second
18 row, nodding her head.

19 DEFENDANT: Yes, sir. And I've been in jail. I've
20 never been in jail this long. This is my first time --
21 first time violating probation. Just have mercy on my soul.
22 I just want -- I just want to do right. I'm 35 years old
23 and I'm not getting no younger.

24 THE COURT: How about having contact with the victim;
25 did you have contact with the victim?

1 DEFENDANT: Well, see, this is the thing, she was
2 contacting me; and my mother will even vouch for me. She
3 would come back to my house -- my property where I lived at,
4 was going to move back in with me. I thought it was okay.
5 I didn't understand. I didn't know what the circumstances
6 was behind all of that. Well, me and her got into it. She
7 hailed a taxi and went to a motel room. We still was talking
8 and everything like that, but what she should have done was
9 drop the oath -- the order of protection against me, then
10 you know, she wants to get back with me and everything like
11 that, and then we got into an argument and this is it.
12 Then, she brought it to their attention, my probation
13 office, you know, this is why I'm here.

14 THE COURT: All right. Well, based on your testimony
15 and the testimony of the probation officer, I find there is
16 indeed a substantial and willful violation. I'll be glad to
17 hear from you and your lawyer.

18 MR. MATHEWS: Your Honor, briefly, he had a cousin --
19 who was it? You said you had somebody.

20 DEFENDANT: Yeah.

21 MR. MATHEWS: Tell the judge that.

22 DEFENDANT: He went to prison and got murdered.

23 MR. MATHEWS: So he is terrified of going to prison
24 because of that.

25 DEFENDANT: Yes, sir.

1 MR. MATHEWS: And ---

2 DEFENDANT: I'm the only child of my mother and father
3 and ---

4 MR. MATHEWS: Your Honor, we are hoping for him to have
5 no contact. I'd ask the Court to consider a 90-day sentence
6 so that he won't have to go to prison. He can stay in jail.

7 DEFENDANT: I'm done with her. I -- I -- she done put
8 me in jail; this is the -- I don't want -- I'm done. I will
9 do whatever it is I need to do, but I don't want nothing to
10 do with her.

11 THE COURT: You're fearful of going to jail, so number
12 one, you ought not to commit a crime. Number two, you ought
13 to do what probation tells you to do.

14 DEFENDANT: I know, sir.

15 THE COURT: All right. So I'm going to revoke one
16 year. Terminate probation in all respects. Any financial
17 obligations that have not been met be reduced to a civil
18 judgment. Give him credit for time served; however much
19 time he has served.

20

21

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26

1

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON) CERTIFICATE

I, REBECCA H. HILL, Official Court Reporter for the
Judicial Department of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had in the
hearing of the captioned case, in the Court of General
Sessions for Colleton County, South Carolina, on the 8th day
of November 2016.

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

December 12, 2016

Rebecca H. Hill
Rebecca H. Hill,
Official Court Reporter

RETURN

Constable or Law Enforcement Officer

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

Lexie Hoover

on the 20 day of Sept. 2016

Johnnie O'Jester
Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

Signature of Judge

(L.S.)

Sentence

Co-Defendants

STATE OF SOUTH CAROLINA

COUNTY OF

COLLETON

THE STATE
against

LEXIE EDWARD HOOVER

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 9/20/2016

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

Lisa H. Boltin

Disposition

INFORMATION ON DEFENDANT

Name LEXIE EDWARD HOOVER

Address COTTAGEVILLE, SC 29435

Phone

Sex Male Race White Height 509

Weight 140 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

on

with

Attorney for the Defendant

Decision

BAIL

Date Set

Magistrate

Amount

Surety

Form 16.1-Arrest Warrant
Form Approved by
SC Attorney General
Section 17-13-150
March 15, 1976

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

Probation

ARREST WARRANT

Indictment Number 15-GS-15-00758, 15-GS-15-00970

Warrant Number W-15-16-0088

State Identification No. (SID) 01209926

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

It appearing from the attached affidavit that there are reasonable grounds to believe that LEXIE EDWARD HOOVER, did on the 20 day of September, 2016 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Subject violated condition numbers 3, 7, 9, 10, and special conditions of his probation as ordered in Cause Number 15-GS-15-00758 and 15-GS-15-00970 by the Colleton County Court of General Sessions.

Now, therefore, you are empowered and directed to arrest the said defendant and bring LEXIE EDWARD HOOVER before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Done at WALTERBORO, S. C. this 20 day of September, 2016.

County of COLLETON


Signature of Probation and Parole Agent

(L.S.)

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Lisa H. Boltin, who, first being duly sworn, deposes and says that LEXIE EDWARD HOOVER did within this County and State on the 20 day of September, 2016, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

Subject violated condition numbers 3, 7, 9, 10, and special conditions of his probation as ordered in Cause Number 15-GS-15-00758 and 15-GS-15-00970 by the Colleton County Court of General Sessions.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

Subject violated his probation based on the following facts: By failing to submit to a urine test (Subject reported to the Colleton County office intoxicated and heavily under the influence. He refused to submit to a urine test.); By failing to complete Domestic Abuse Counseling (Subject was terminated from counseling on 09/20/2016 for failing to disclose he had contact with the victim during June 2016 which resulted in an arrest warrant being issued for Aggravated Assault. This contact is also in violation of a Protection Order.) By failing to pay \$450 in supervision fees by being \$150 in arrears; By failing to pay his \$648.90 court ordered fine by being \$164.00 in arrears; and By failing to pay his \$133.90 court surcharge by being \$34.00 in arrears.

Sworn to and Subscribed before me
this 20 day of September, 2016.


Affiant


Signature of Notary Public

(L.S.)

3-11-19

My Commission Expires

Address: 115 BENSON STREET
WALTERBORO, SC 29488
COLLETON
USA

(843) 549-5333

12
County of Colleton
STATE VS.

2015 -GS- 15 - 758
Indictment Number:
Probation C/W#s: W-15-16-0088
Name of Original Offense: Domestic Violence 3rd
Original AWE: 6182364
Date of Original Offense: 9-17-2015
Conviction S.C. Code §: 16-25-20(c)
Conviction CDR Code #: 3181112
Original Sentence: 90 days susp 1yr Prob
ORDER

Lexie Edward Hoover
AKA: _____
Race: W Sex: M
DOB: _____
SSN: _____
SID#: _____

The above named defendant has been charged with violating the conditions of probation ordered on 02/22/16 in the Court of General Sessions of Colleton County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 9/20/16 as set forth in the attached warrant(s) or citation(s) dated 9/20/16. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)
3, 7, 9, 10 + Special Conditions

Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 90 days 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) Civil judgment: ☐ Department fees
☐ Fines and other fees (arrearage/balance) ☒ Fines and other fees
☐ Restitution (and 20%) (arrearage/balance) ☐ Restitution (and 20%)
- ☒ Additional Conditions ordered by the Court:

Not to be placed on Admin Monitoring.
Concurrent w/ 15-GS-15-970

- ☒ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- ☒ The defendant has previously served 1 day months/years on this sentence.
(split sentence time and/or prior partial revocation time)
- ☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 8th day of November, 2016
Walterboro, SC

Michael Little
Presiding Judge 14th 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
Day Month Year City

County of Colleton
 STATE VS.

Indi 15 ant Number 970 13
 2015 -GS-
 Probation C/W#s: W-15-16-0088

Lexie Edward Hoover
 AKA: _____
 Race: W Sex: M
 DOB: _____
 SSN: _____
 SID#: _____

Name of Original Offense: Poss of another's prop. with force
 Original A/W#: 2015A1510100748
 Date of Original Offense: 11-30-2015
 Conviction S.C. Code §: 44-053-0375 (A)
 Conviction CDR Code #: 3 10 10 19
 Original Sentence: 1yr susp 1yr Probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 2/22/16 in the Court of General Sessions of Colleton County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 9/20/16, as set forth in the attached warrant(s) or citation(s) dated 9/20/16. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)

3, 7, 9, 10 + Special Conditions

Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 1 month/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) Civil judgment: ☐ Department fees
☐ Fines and other fees (arrearage/balance) ☒ Fines and other fees
☐ Restitution (and 20%) (arrearage/balance) ☐ Restitution (and 20%)

☒ Additional Conditions ordered by the Court:

Not to be placed on Admin Monitoring
Concurrent w/ 15-GS-1558

- ☒ The defendant is given credit for pre-arrest hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- ☒ The defendant has previously served 1 day months/years on this sentence.
 (split sentence time and/or prior partial revocation time)
- ☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 8th day of November, 2016,
Walterboro, SC

Michael H. Hester
 Presiding Judge 94th 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
 Day Month Year City

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 27th day of February, 2017.

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FEB 27 2017

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

Robert M. Pachak

Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 27th day of February, 2017.

RECEIVED

FEB 27 2017

SC Court of Appeals