

STATE OF SOUTH CAROLINA)
COUNTY OF Horry)
STATE OF SOUTH CAROLINA)
-VS-)

RULE 203 (B) (iv)
WRITTEN EXPLANATION OF
NO

RECEIVED BASIS FOR APPEAL

MICHAEL FAILE
DEFENDANT

OCT 12 2017

~~99 Court of Appeals~~

PERSONALLY appeared before me KIA WILSON, who being duly sworn,
deposes and says :

1. I represented the above named defendant before William H. Seal, Jr. on July 17, 2017 at which time the defendant enter a guilty plea to his pending Violation of Probation warrant.
2. No issues of law or fact, were raised before the Judge at that time that could be the basis for an Appeal in this matter.
3. On July 17, 2017, the defendant did not request an appeal on his behalf.
4. Subsequently Defendant filed his own appeal on September 1, 2017.

Sworn to and Subscribed before me
10th day of Oct, 2017

Lisa M. Hughes
Notary Public for South Carolina
My Commission expires: 3/21/27

Kia Wilson
Signature of Attorney for Defendant
Kia T. Wilson
Print name of Attorney for Defendant

FILED
Horry County
2017 OCT 11 AM 6:41
RENEE N. ELYS
CLERK OF COURT
Horry County, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

STATE OF SOUTH CAROLINA,)

Affidavit of Kia Wilson

-VS-

MICHAEL FAILE)

DEFENDANT)

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OCT 12 2017

SC Court of Appeals

DATE: October 11, 2017

Come now the above named Defendant, **Michael Faile** in the above entitled matter, through his attorney, **Kia Wilson**, before the Court to allow the late filing of an appeal in this matter

1. Mr. Faile has filed for an appeal without notice to me.
2. Mr. Faile did not request that I file an appeal when the probation was isolated on July 17, 2017.
3. I do not know what remedy Mr. Faile actually seeks.
4. For these reasons I am unable to explain to this court the late filing in this matter.

RENEE M. ELVIS
CLERK OF COURT
HORRY COUNTY, SC
2017 OCT 11 AM 9:08
CERTIFIED COPY

Respectfully Submitted

Kia J. Wilson, 69441

KIA WILSON
Public Defender
Of Horry County
203 Laurel Street
Conway, SC 29526
Phone 843-915-5385

RENEE M. ELVIS
CLERK OF COURT
HORRY COUNTY, SC
2017 OCT 11 AM 9:59
FILED
HORRY COUNTY

STATE OF SOUTH CAROLINA

County of Horry

STATE VS.

Michael Wixted Faile

AKA: _____

Race: W Sex: M

DOB: _____

SSN: _____

SID# _____

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

2016 - GS - 26 - 02435
Probation C/W#s: W-26-16-0143

Name of Original Offense: Metals/injury to real proper

Original A/W#: 2015 A2611000147

Date of Original Offense: 9-29-15

Conviction S.C. Code §: 16-11-0523(B)

Conviction CDR Code #: 3151615

Original Sentence: 5 yrs SS 5 yrs prob.

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 7/12/16 in the Court of General Sessions of Horry County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on _____, as set forth in the attached warrant(s) or citation(s) dated 8-17-16. 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)
1, 2, 5, 7, 9, 10 & 11

Therefore, IT IS ORDERED that:

the suspended sentence be revoked and the above named defendant be required to serve 2 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 electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first or third 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) Fines and other fees
 Restitution (and 20%) (arrearage/balance) Restitution (and 20%)

Additional Conditions ordered by the Court:

NO AM

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SC Court of Appeals

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CLERK OF COURT
Horry County
OCT 11 11 00 AM '17

The defendant is given credit for pre-arrest/pre-arrest hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

The defendant is to be given credit for pretrial detention time served (N/A if defendant has served prior SCDC time).

The defendant has served _____ days/months/years of prior revocations and/or initial SCDC time.

The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 17 day of July 2017
Conway SC

[Signature]
Residing Judge
15th 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 other 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 certifies 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.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry VS. STATE

Michael Wixted Faile

AKA:

Race: WHITE Sex: M Age: 35

DOB: SS#:

Address:

City, State, ZIP:

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Metals/ Injury to real property, fixtures or improvements to obtain nonferrous metals, damage of \$5,000 or more (0-10)

in violation of § 16-11-0523(B) of the S.C. Code of Laws, bearing CDR Code # 3565 [X] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-45

The charge is: [X] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [X] Recommendation by the State. Probation

ATTEST: Holford, Joshua D. SCB80071 Defendant x M Faile Attorney for Defendant K. J. Wilson 69441 SC Bar# 93500

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [] County Detention Center, for a determinate term of 5 days/months/year or [] under the Youthful Offender Act not to exceed years, and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

[] CONCURRENT or [] CONSECUTIVE to sentence on: [] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. [] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-13

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: [X] RESTITUTION: [] Deferred [X] Def. Waives Hearing [] Ordered PTUP 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 \$ 25.00 beginning 8/21/16 \$ paid to Public Defender Fund Other: RECEIVED

Table with 3 columns: Description, Rate, 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/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$2325, TOTAL \$79825.740.00 = 838.25

Clerk of Court/ Deputy Clerk: Melodie Huggins-Walsh Court Reporter: Teresa Bantz

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation. Presiding Judge: Judge Code: 2152 Sentence Date: 7-12-16

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RECEIVED OCT 12 2017 SC Court of Appeals

Probation

STATE OF SOUTH CAROLINA

ARREST WARRANT

COUNTY OF HORRY

Indictment Number 16-GS-26-02435

Warrant Number W-26-16-0143

State Identification No. (SID) 01959621


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

It appearing from the attached affidavit that there are reasonable grounds to believe that MICHAEL WIXTED FAILE, did on the 17 day of August, 2016 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Violation of conditions 1, 2, 5, 7, 9, 10 and 11 ordered on Indictment 16-GS-26-02435 in the Horry County Court of General Sessions on 07/12/2016.

Now, therefore, you are empowered and directed to arrest the said defendant and bring MICHAEL WIXTED FAILE 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 CONWAY, S. C. this 17 day of August, 2016.


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

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CLERK OF COURT
HORRY COUNTY S.C.
OCT 17 AM 11:08
ENTERED COPY

County of **HORRY**

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Deanna Avignone, who, first being duly sworn, deposes and says that MICHAEL WIXTED FAILE did within this County and State on the 17 day of August, 2016, violate the criminal laws of the State of South Carolina in the following particulars:

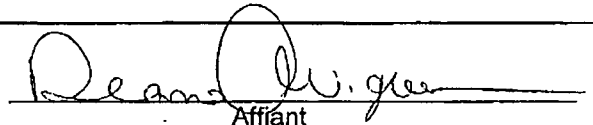
DESCRIPTION OF OFFENSE:

Violation of conditions 1, 2, 5, 7, 9, 10 and 11 ordered on Indictment 16-GS-26-02435 in the Horry County Court of General Sessions on 07/12/2016.

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:

#1- Failure to report. Offender failed to appear for his initial intake; he has never reported to the PPP office. #2- Failure to maintain residence. Case manager of New Directions Homeless Shelter states that this offender is not a resident. #5- Failure to obtain employment. Offender reported unemployment during sentencing. #7- Failure to pay supervision fee. Offender has never made a payment. #9- Failure to pay court fee. Offender has never made a payment. #11- Failure to pay restitution. Offender has an unpaid balance of \$4,200.00. #10- Failure to follow the advice and instructions of agent as shown by these present violations. These violations are deemed willful and contrary to the conditions signed on 07/12/2016.

Sworn to and Subscribed before me
this 17 day of August, 2016.


Affiant


Signature of Notary Public (L.S.)

07/07/2020
My Commission Expires

Address: P.O. BOX 1736
CONWAY, SC 29528
HORRY
USA
(843) 381-0373

RETURN

STATE OF SOUTH CAROLINA

COUNTY OF

HORRY

THE STATE

against

MICHAEL WIXTED FAILE

INFORMATION ON DEFENDANT

Name MICHAEL WIXTED FAILE
Address 1400 OSCEOLA STREET... DIRECTION SHELTER
MYRTLE BEACH, SC 29577
Phone (843) 777-1858
Sex Male Race White Height
Weight Birth date 6/4/1981
Social Security Number 104-68-7480

Constable or Law Enforcement Officer

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

Michael Faile

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 8/17/2016

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

INFORMATION ON WITNESSES

Name
Address
Phone
Name
Address
Phone
Name
Address
Phone
Name
Address
Phone

on the 21 day of February 2017
[Signature]
Constable or Law Enforcement Officer

Deanna Avignone

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

Disposition

Sentence

PRELIMINARY HEARING held by

Magistrate
on
with
Attorney for the Defendant.

Decision

BAIL

Date Set
Magistrate
Amount
Surety

Co-Defendants:
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC
2017 OCT 11 AM 10:08
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SC Court of Appeals

Signature of Judge

(L.S.)

WITNESSES

Trip Anderson Santee Cooper Dept Of Law
Enforcement

ARREST WARRANT NUMBER

2015A2611000147
CDR: 3565 16-11-0523(B), (C)(2)
DOA: 10/8/2015

ACTION OF GRAND JURY

TRUE BILL

person of Grand Jury

Date: **MAY 26 2016**

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-26- 02435

The State of South Carolina

2017 OCT 11 AM 10:08
County of Horry

Joshua D. Holford **GENEE N. ELVIS** 15H04725

CLERK OF COURT
HORRY COUNTY, SC
COURT OF GENERAL SESSIONS

MAY, 2016 TERM

THE STATE

vs.

Michael Wixted Faile
W/ M
2005 Greens Blvd Apt F 404
Myrtle Beach, SC 29577
DOB: 1981-06-04
SSN: 134687480

ATTORNEY: Kia T. Wilson

Indictment for

**MALICIOUS INJURY TO
PERSONAL/REAL PROPERTY
TO OBTAIN NONFERROUS METALS
(DAMAGE \$5,000 OR MORE)**

Jimmy A. Richardson, II, Solicitor

**FILED
HORRY COUNTY**

2016 JUN -2 PM 4:07

**MELANIE HUGGINS-WARD
CLERK OF COURT**

**DATE RECEIVED FROM
GRAND JURY**

RECEIVED
OCT 12 2017
SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on May 26, 2016, the Grand Jurors of Horry County present upon their oath:

**MALICIOUS INJURY TO PERSONAL/REAL PROPERTY
TO OBTAIN NONFERROUS METALS
(DAMAGE \$5,000 OR MORE)**

CDR: 3565 16-11-0523(B), (C)(2)

That [DEFENDANT] did in Horry County on or about [DATE] willfully and maliciously cut, mutilate, deface, or otherwise injure any personal or real property, including fixtures or improvements, for the purpose of obtaining nonferrous metals, and that such injury did cause a loss in value to the property, or cause an amount of repairs necessary to return the property to its original condition, or the property loss itself, was five thousand dollars or more, in violation of Section 16-11-0523(B) and (C)(2), S.C. Code of Laws, 1976, as amended.


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

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

16-11-0523(B), (C)(2)

CERTIFIED COPY
JUL 12 11 AM 10/08
JIMMY A. RICHARDSON, II
CLERK OF COURT
HORRY COUNTY, SC

FILED
HORRY COUNTY
2016 JUL 12 PM 4:06
MELANIE H. RICHARDSON
CLERK OF COURT
COURT DATE
PLED GUILTY/TRIAL


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

CERTIFICATE OF REPRESENTATION
(APPOINTING AS COUNSEL)

-VS-

MICHAEL FAILE

VOPWILSON

DEFENDANT)

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OCT 12 2017
SC Court of Appeals

FILE NO: 26A17-00001240

TO: Clerk of Court of General Sessions of the Fifteenth Judicial Circuit
Office of the Solicitor
Appointed Counsel
Defendant


CERTIFIED COPY
2017 OCT 11 AM 10:08
RENEE E. WEST
CLERK OF COURT
HORRY COUNTY, SC

This certifies that the above captioned Defendant is eligible for the services of the Public Defender, such determination having been made on, 16th day of March, 2017, regarding the charge(s) of:

26-16-0143 Probation / violation of terms of probation, parole or other supervisory program (not used for DJJ-see 2555)

The Defendant's Counsel is **VOPWILSON**. The office of the Public Defender requests on the Defendant's behalf any and all evidence in the possession of you and or your agents pursuant to S.C. Criminal Practice Rule 5, and Brady v. Maryland 373 U.S. 383 (1963). The formal Motion for Discovery is attached.

CONWAY, SC
DATED: March 16, 2017


ORRIE E. WEST
FIFTEENTH CIRCUIT
PUBLIC DEFENDER

South Carolina court of Appeals

I want to appeal my sentencing for an Amended Sentence!

I was sentenced on 7-17-17 on a negotiated 24 months with 365 days time served.

The boxes on my sentencing sheet were checked off by judge Brown. A fill in judge from Marion / Florence County. The judge clearly states this in my transcripts, from sentencing.

That I need an amended sentencing sheet revised sentencing sheet. I've written to my Attorney Kim Wilson 4-times with NO response. I've also written to a lawyer out of Columbia, Plus the clerk of courts (Harry Co) and too my probation officer. The judge checked the box that I was to receive all pre-trial detention time and the judge verbally said credit for 365 days time served credit forwards my 24 months sentence. I was pre-trial from Oct. 6 8, 2015 - July 12th 2016. Please help me receive my time served credit. Please

2017 OCT 11 AM 10:08
CERTIFIED COPY
SAYS
GENERAL CLERK
CLERK OF COURT
HARRY COUNTY, SC

Oct. 6 8, 2015 - July 12th 2016. Please help me receive my time served credit. Please

Michael W. Hied FAIR

SCDC# 348257

SS# 134-68-7488

DOB

6-4-81

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SEP 01 2017

SC Court of Appeals

~~Sentence - Probation Violation~~
4 months (365 days time served)

Public Defender

Kia Wilson

BAR# 69441

Date sentenced

7-17-17

MORRY County

Please Let me know what I'm supposed to do next I want to write too. Please help me
GOT back too
RENEEN FAVIS
CLERK OF COURT
MORRY COUNTY, SC
AM10:08
Sentencing sheet. The copy of my sentencing sheet I received doesn't even have my signature on it. Or was it witnessed by anyone. I believe they sent the wrong one to prison with me! Thank you!

3

Michael Ball 348257

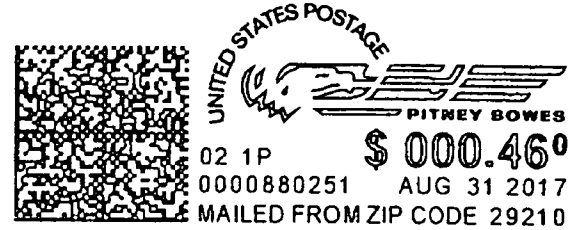
A-1-42

Mailroom

Kirkland Correctional Institution

4344 Broad River Road

Columbia, S.C. 29210



RECEIVED

AUG 31 2017

LEGAL
MAIL
ONLY

KIRKLAND R&E CENTER
MAILROOM

South Carolina Court of Appeals

P.O. Box 116 29

Columbia, SC 29211

RECEIVED

SEP 01 2017

SC Court of Appeals

29211\$1629 8012

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

2017 OCT 11 AM 10:08

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CERTIFIED COPY

2017 OCT 11 AM 10:08

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

THE DEPARTMENT OF CORRECTIONS HAS NOT
INSPECTED OR CENSORED THIS ITEM. THEREFORE, THE
DEPARTMENT DOES NOT ASSUME RESPONSIBILITY FOR
ITS CONTENTS.