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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

ORIGINAL

Appeal from Spartanburg County

Honorable R. Keith Kelly, Circuit Court Judge

RECEIVED

JUL 18 2017

SC Court of Appeals

THE STATE

RESPONDENT,

v.

KASEY MARIE GILBERT

APPELLANT.

APPELLATE CASE NO. 2016-002139

RECORD ON APPEAL

ROBERT M. DUDEK
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South Carolina Commission on Indigent
Defense
Division of Appellate Defense
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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG)	
 The State,)	
)	TRANSCRIPT OF RECORD
-vs-)	2015-GS-42-01292
)	
Kasey Marie Gilbert,)	
)	October 7, 2016
Defendant.)	Spartanburg, South Carolina

B E F O R E:

HONORABLE R. KEITH KELLY, JUDGE

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

AGENT FAHNLE
Department of Probation, Parole and Pardon Services

CHARLES W. SNYDER, III, ESQUIRE
Attorney for the Defendant

Margaret A. Woods
Circuit Court Reporter

ORIGINAL

1 THE CLERK: Please raise your right hand.

2 KASEY MARIE GILBERT, having been
3 first duly sworn, testified as follows:

4 THE COURT: Ma'am, you are Kasey Marie Gilbert?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Ms. Gilbert, have you had a chance to look at
7 the 1106 allegation?

8 THE DEFENDANT: Yes.

9 THE COURT: Are they true?

10 THE DEFENDANT: Most.

11 THE COURT: Okay which one is not true?

12 THE DEFENDANT: Um, the, I think it's the first one, the
13 failin' to report on 11, I mean, yeah, 11/4, ---

14 THE COURT: Okay.

15 THE DEFENDANT: --- that was Veterans Day and she was,
16 nobody was in the office.

17 THE COURT: Alright. What about absconding supervision?

18 THE DEFENDANT: Yes, that is true. I am on -- can I
19 talk?

20 MR. SNYDER: Judge, can I, can I ---

21 THE COURT: Let me ask your lawyer talk first.

22 MR. SNYDER: Uh, ---

23 THE DEFENDANT: Okay.

24 MR. SNYDER: --- thank you. Um, Ms. Gilbert's also on
25 probation North Carolina. She asked for permission to go back

1 to North Carolina which she got, uh, when she went back North
2 Carolina, she actually got violated there for what happened in
3 South Carolina.

4 THE COURT: Okay.

5 MR. SNYDER: She spent, um, ---

6 THE DEFENDANT: Ninety days.

7 MR. SNYDER: --- ninety days North Carolina, when she got
8 out she she never came back. Uh, she, uh, she wanted to have
9 it transferred, she tells me other than the violation for the
10 offense happened in South Carolina she's doin' well on
11 probation ---

12 THE DEFENDANT: Yeah.

13 MR. SNYDER: --- North Carolina. Uh, she's tells me she
14 has about another year of probation North Carolina, she's, uh,
15 she has four hundred twenty dollars, uh, restitution that she
16 owes, she has four hundred and five dollars of that right now.
17 Uh, Judge, we're we're asking that, she believes that she can
18 pay it, come up with extra fifteen dollars, ---

19 THE DEFENDANT: Yeah.

20 MR. SNYDER: --- uh, pretty quickly, we just ask that if
21 she pays the restitution in in full just terminate the case
22 here, just let her be off supervision North Carolina, that's
23 where she's from ---

24 (Attorney/client discussion held off the record.)

25 THE COURT: Let him talk, ma'am, I'll let you talk in a

1 minute.

2 THE DEFENDANT: Okay.

3 MR. SNYDER: --- or if Your Honor, uh, she wants to have
4 it transferred, I know you have no control over that, that
5 would be up to North Carolina to accept it, uh, I think it
6 would be easier if Your Honor would if she can pay the
7 restitution here, just terminate the case in South Carolina,
8 let her just be under supervision North Carolina.

9 THE COURT: Alright. Ma'am, you'd like to talk? You
10 you ---

11 THE DEFENDANT: When I ---

12 THE COURT: --- can speak.

13 THE DEFENDANT: Yeah. Okay, I was on, I come in front of
14 you last year, I was on probation North Carolina and you gave
15 me probation down here and you told me I could transfer it to
16 North Carolina, I told all that in court. I met with her one
17 time and she told me that yes, it would need to be
18 transferred, okay, so then I went to meet with her the second
19 time and it was Veterans Day and nobody was in the office so
20 her super, I don't know who -- what her name is but I I think
21 she was a supervisor over all of 'em, she wrote down my name,
22 that I was there and, uh, she said that she would call me and
23 make another appointment, well she never called and I never
24 called either and, uh, so all it was, all this is is I didn't
25 pay the money to transfer it to North Carolina.

1 THE COURT: Well why'd ya not do that?

2 THE DEFENDANT: Because I had to go do my ninety days up
3 there and, I mean, ---

4 THE COURT: Well why'd ya not pay your restitution?

5 THE DEFENDANT: Huh?

6 THE COURT: Why did you not pay the restitution?

7 THE DEFENDANT: Because I th -- I thought that my
8 probation was already transferred up there, I thought I was
9 doin' South Carolina and North Carolina up there.

10 THE COURT: Why would ya think that if you admit that you
11 didn't ma -- pay the fees?

12 THE DEFENDANT: Well, I mean, I didn't know to begin with
13 I had to pay the fees.

14 THE COURT: Agent.

15 AGENT FAHNLE: Yes, sir, they just confirmed Veterans Day
16 last year was November the 11th, um, the clerk just confirmed
17 that so I don't know why she thinks we were closed on November
18 the 4th and if we were closed there woulda been no supervisor
19 in our office to take a message ---

20 THE COURT: I know that.

21 AGENT FAHNLE: --- so, uh, we just wanna put that on the
22 record. Your Honor, she has constant excuses. She was given
23 a courtesy 7-day travel permit per Interstate Compact to come
24 back and have it transferred, we never heard anything from her
25 after that and we do spe -- respectfully request the

1 revocation.

2 THE COURT: Okay. Anything further?7

3 (No response.)

4 THE COURT: She's revoked in full.

5 AGENT FAHNLE: Your Honor, can we have a civil judgment?

6 THE COURT: Yes.

7 AGENT FAHNLE: Thank you.

8 THE DEFENDANT: Um, I'd like to appeal this.

9 THE COURT: Okay, talk to your lawyer.

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CERTIFICATE OF REPORTER

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I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on October 7, 2016 at the time and place heretofore set forth; and that the foregoing pages numbered from 2 through 6, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

December 7, 2016

Margaret A. Woods

Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

1. PRESENCE MAINTAINED

2. REPORT ENDED **WITNESSES**

3. CARD PULLED
Spartanburg County Sheriff's Office

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND FINE/ASD MADE

8. TRAFFIC VIOLATION CODE

DOCKET NO. **15-GS-42-1292**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 16 2015

TERM

ARREST WARRANT NUMBER

2014A4210101990

THE STATE

vs.

ACTION OF GRAND JURY

True Bill

Kasey Marie Gilbert

[Signature]
MAR 12 2015

Foreperson of Grand Jury
Date:

VERDICT

Indictment for

GRAND LARCENY

SC Code: 16-13-30 (B) (1)
CDR Code: 3420
Class FEL-F

Foreperson of Petit Jury
Date:

FILED
2015 MAR 18 PM 4:01
M. HOPE BUCKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAR 12 2015 the
Grand Jurors of Spartanburg County present upon their oath:

GRAND LARCENY

That Kasey Marie Gilbert, did in Spartanburg County on or about the date of May 5, 2014, feloniously take and carry away the goods of Linda McGregor, valued at more than Two Thousand Dollars, but less than Ten Thousand Dollars, described as follows: jewelry, with the intent to deprive the owner permanently of such property, all in violation of Section 16-13-30 (B) (1), *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 *Megan Monck*

10

STATE OF SOUTH CAROLINA

County of Spartanburg
STATE VS.

Francine Marie Gilbert
AKA: _____
Race: W Sex: F
DOB: _____
SSN: _____
SID#: 02165668

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

2015 - GS - 42 - 01393
Probation C/W#: 10-42-15-0532

Name of Original Offense: 304A43101990
Original AW#: Grand Larceny \$2000, LA 10,000
Date of Original Offense: 05/05/2014
Conviction S.C. Code §: 16-13-0030(B)
Conviction CDR Code #: 3 / 4 / 2 / 0
Original Sentence: 2 1/2 years time served (no days)

ORDER # 2015 PROTECTION

The above named defendant has been charged with violating the conditions of probation ordered on 10 / 27 / 15 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 11/9, as set forth in the attached warrant(s) or citation(s) dated 12/10/2015. 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, 8, 9, 10

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 3 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)
 - 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:

- 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 46 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 7th day of October, 2016, 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 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.

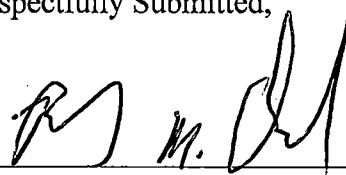
Offender's Signature _____ Witnessed by _____

Signed this _____ day of _____ at _____ City _____ SC

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. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 18th day of July, 2017.

RECEIVED

JUL 18 2017

SC Court of Appeals