

THE STATE OF SOUTH CAROLINA
In the Appellate Court

APPEAL FROM PICKENS COUNTY
Court of General Sessions

Perry H. Gravely, Circuit Court Judge

Indict #: 2014-GS-39-02373
Indict #: 2014-GS-39-02374
C.A. #: 2017-CP-39-1504
Appellate No.: 2017-002599

The State,

Respondent,

vs.

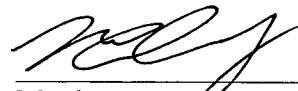
Ronnie Carrol Tucker,

Defendant,

Bail Out Bonding (Surety)

Appellant.

BRIEF OF THE APPELLANT



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TABLE OF CONTENTS

Table of Authorities..... ii

Statement of Issues on Appeal..... 1

Statement of the Case..... 1

Facts..... 1

Arguments..... 2

 1. BECAUSE PRE-TRIAL INTERVENTION IS A DEFERRED
 DISPOSITION, THE TRIAL COURT ERRED IN ESTREATING THE
 BOND..... 2

Conclusion..... 3

TABLE OF AUTHORITIES

STATUTES

SC Code Ann. § 17-15-20 (2013)..... 2

SC Code Ann. § 17-22-90 (2016)..... 2

SC Code Ann. § 44-53-450 (2012)..... 2

STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR IN FAILING TO FIND THAT PRE-TRIAL INTERVENTION IS A DEFERRED DISPOSITION?

STATEMENT OF THE CASE

On August 30, 2014, Ronnie Carroll Tucker was arrested for two counts of Unlawful Neglect of a Child. On September 29, 2014, Bail Out Bonding posted a \$10,000 surety bond for Mr. Tucker.

Subsequently, Mr. Tucker was referred to the Pre-Trial Intervention program. After failing to comply with the terms of the program, Mr. Tucker was terminated from the program.

Mr. Tucker failed to appear in court on February 16, 2016. A bench warrant for his arrest was issued on February 26, 2016.

On November 3, 2017, Bail Out Bonding was mailed a Conditional Order to Estreat. After a hearing on December 15, 2017, Judge Perry H. Gravely ordered the estreatment of the bond.

FACTS

On Page 6 Line 18 of the Transcript, Judge Gravely says that, "But I think deferred disposition is when you're – deferred sentencing, and those kind of things. So – or possibly a conditional discharge."

ARGUMENTS

I. BECAUSE PRE-TRIAL INTERVENTION IS A DEFERRED DISPOSITION, THE TRIAL COURT ERRED IN ESTREATING THE BOND.

Section 17-15-20(B) of the South Carolina Code of Law provides that, “Unless a bench warrant is issued, an appearance recognizance or an appearance bond is discharged upon adjudication, a finding of guilt, a deferred disposition, or as otherwise provided by law.” (SC Code Ann. 2013). However, there is no specific definition in the Code or any prior case law of what constitutes a deferred disposition.

In his ruling, Judge Gravely suggests that deferred sentencing or a conditional discharge would qualify as a deferred disposition. Pursuant to 44-53-450(A) when placing a defendant on a conditional discharge, “the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires.” (SC Code Ann. 2012) Clearly marking that a conditional discharge is a deferred disposition. However, pursuant to 17-22-90 when enrolling in the Pre-Trial Intervention program, a defendant must waive his or her right to a speedy trial and “agree, in writing, to the tolling while in the program of all periods of limitation established by statutes or rules of court.” (SC Code Ann. 2016) This indicates that participation in the Pre-Trial Intervention program is also a deferred disposition. Under either a conditional discharge or Pre-Trial Intervention, the effect of participation is similar. Once enrolled, regular court proceedings are delayed.

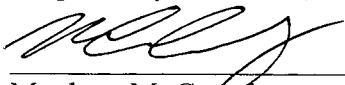
To go by plain language alone, a deferred disposition is a postponed or delayed disposition. There are many court programs that postpone or delay the disposition of a case. Under the Pre-Trial Intervention program, a conditional discharge, Drug Court, or several other similar programs, the prosecution of a case is stopped until a defendant either completes the program or fails to comply with its requirements. In all of those cases, the disposition of the case is effectively delayed until one of those two eventualities occur. During the course of participation in any of those programs regular prosecution and court dates are postponed, delaying the progress of the case towards any disposition.

Therefore, under a plain reading of 17-15-20, any program that delays or postpones the disposition of a criminal case should relieve the surety of their obligations.

CONCLUSION

For the reasons stated above, this court should reverse the ruling of the circuit court.

Respectfully submitted,



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PROOF OF SERVICE


PERSONALLY appeared before me, Matthew M. Canady, who on oath states that he is the Attorney for Appellant, Bail Out Bonding. That he has served a copy of the Brief of Appellant and Designation of Matter to be included in the Record on Appeal, along with this Proof of Service and Certification of Counsel, on the following by mailing same, postage prepaid, in the United States Mail, on the 16th day of March, 2018, to the following at the following mailing addresses listed below:

John Baker Cleveland, III, Assistant Solicitor
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Pickens, SC 29671

Alan M. Wilson, Esq. Bail Out Bonding
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P.O. Box 11549 Suite 104
Columbia, SC 29211 Greenville, SC 29607


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SWORN to before me this the
16th day of March, 2018.


NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 2-13-25

ROBERT E. IANUARIO P.C.

ATTORNEY & COUNSELOR

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March 16, 2018

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VIA REGULAR MAIL

The Honorable Jenny A. Kitchings
Clerk, The SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: State vs. Ronnie Carrol Tucker (Defendant) and Bail Out Bonding
(Surety)
Indictment Nos.: 2014-GS-39-02373 and 2014-GS-39-02374
C.A. No.: 2017-CP-39-1504
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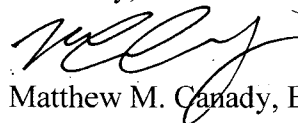
Dear Ms. Kitchings:

Please find enclosed original Brief of Appellant and Designation of Matter to be included in the Record of Appeal along with Proof of Service and Certification of Counsel.

Please file enclosed and return clocked copies to me in the self-addressed stamped envelope enclosed.

Thank you for your cooperation in this matter.

Sincerely,



Matthew M. Canady, Esquire

MMC/dm
Enclosures

cc: John Baker Cleveland, III, Assistant Solicitor (with enclosures)
Alan M. Wilson, Esquire, Attorney General (with enclosures)
Bail Out Bonding (with enclosures)

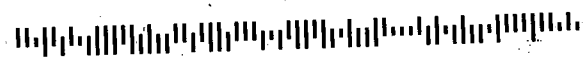
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