

MARCH 27, 2018

The South CAROLINA Court of Appeals
JENNY ABBOTT KITCHINGS, clerk of court
Post Office Box 11629
Columbia, S.C. 29211

Re: George Cleveland, ~~III~~ vs. S.C.A.P.P.S.;
Emergency Motion to STAY JAIL sentence

RECEIVED


APR 02 2018

SC Court of Appeals

1. DEAR Ms. Kitchings,

CAN you please file the Attached
Emergency Motion to stay the 90-day
JAIL sentence, AND Probation pending
the outcome of this Appeal, AND FORWARD
to the chief Judge for a decision?

cc: file
S.C.A.P.P.S.

Respectfully submitted,

George Cleveland, ~~III~~

APPELLANT'S EMERGENCY MOTION
TO STAY PROBATION AND 90 DAY
JAIL SENTENCE PENDING THE
OUTCOME OF THIS INSTANT
APPEAL

RECEIVED

APR 02 2018

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY
COURT OF GENERAL SESSIONS

R. LAWTON MCINTOSH; CIRCUIT COURT JUDGE
PROBATION CITATION No. C-37-17-0059

A/W No. (S) 2012A2330200168; N201731

ORIGINAL SENTENCE IN GREENVILLE COUNTY
COURT OF GENERAL SESSIONS

GEORGE CLEVELAND III, . . . Appellant,

vs.

SOUTH CAROLINA DEPARTMENT OF
PROBATION, PAROLE, AND PARDON
SERVICES (SCD.P.P.S.), AND SOUTH CAROLINA, . . . RESPONDENTS.

APPELLANT'S EMERGENCY MOTION
TO STAY PROBATION AND 90-DAY
JAIL SENTENCE PENDING THE
OUTCOME OF THIS INSTANT
APPEAL

MAY IT PLEASE THE COURT, George
Cleveland, III, proceeding pro se in the
Above captioned case request that this
STAY the Probation supervised out of the
WALHALLA, S.C. office AND the REMAINDER
of my 90 DAY JAIL sentence pending
the outcome of this instant Appeal on
the following grounds:

ART 1 § 19 OF THE S.C. CONST. BARRED CIRCUIT
COURT JUDGE LAWTON MCINTOSH FROM SENTENCING

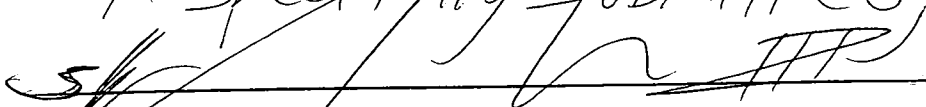
Me to 90-days in JAIL for falling behind
on my restitution because it's a debt:
("No person shall be imprisoned for
debt.") S.C. CONST. ART. 1 § 19. Repeal.

Restitution is a "debt" is that
which is due from one person to
another whether money, goods, or
services, and whether payable at
present or at a future time." Ex parte
HOLLMAN 79 S.C. 9, 60 S.E. 19, 14 (1908).

I submit, there is a substantial chance
this court will agree with my argument
that my 90 day jail sentence for
owing restitution is unconstitutional

under Art. 1 § 19 of the S.C. Const.
id. because Art. 1 § 19 of the S.C.
Const. prohibits the jail sentence
for the restitution. ~~#~~ BID.

WHEREFORE; GRANT MY ~~IN~~ INSTANT MOTION
AND STAY the remainder of my
probation sentence, AND the remainder
of my 90 day jail sentence in the
Anderson County, S.C. Detention
Center; 1009 DAVID Lee COFFEE PLACE;
Anderson, S.C. 29625 pending the
outcome of this instant Appeal. R.P. 2-3-5.
ORDER ANY ADDITIONAL RELIEF THIS COURT SEEMS
JUST, PROPER, AND/OR IMPARTIAL.

Respectfully submitted,


George Cleveland, III
Anderson County Courthouse
1009 DAVID Lee Coffee place;
Anderson, S.C. 29625

DATED: MARCH 27, 2018

4.

Section 19

Text of Section 19: Imprisonment for Debt

No person shall be imprisoned for debt except in cases of fraud.

(1970 (56) 2684; 1971 (57) 315.)

Section 20

Text of Section 20: Right to Keep and Bear Arms; Armies; Military Power Subordinate to Civil Authority; How Soldiers Quartered

A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed. As, in times of peace, armies are dangerous to liberty, they shall not be maintained without the consent of the General Assembly. The military power of the State shall always be held in subordination to the civil authority and be governed by it. No soldier shall in time of peace be quartered in any house without the consent of the owner nor in time of war but in the manner prescribed by law.

(1970 (56) 2684; 1971 (57) 315.)

Section 21

Text of Section 21: Martial Law

No person shall in any case be subject to martial law or to any pains or penalties by virtue of that law, except those employed in the armed forces of the United States, and except the militia in actual service, but by the authority of the General Assembly.

(1970 (56) 2684; 1971 (57) 315.)

Section 22

Exhibit - 1

County of OCONEE

STATE VS

2012 - GS - 73 - 07604

Probation C/W#s C-37-7-0059

GEORGE CLEVELAND III

AKA _____

Race: Black Sex: Male

DOB: 11/03/1978

SSN: 251397475

SID#: 01068002

Name of Original Offense: POSS OF STOLEN VEH

Original A/W#: 2012A2330200168

Date of Original Offense: 05/07/2012

Conviction S C Code #: 16-21-0080

Conviction CDR Code #: 3 / 4 / 5 / 8

Original Sentence: 10 YRS. SUSP. 6YRS+5YRS PROB

Exhibit-2

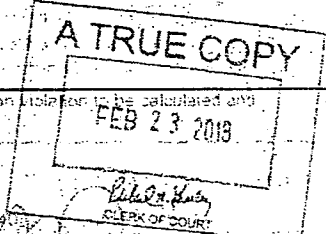
ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 11/05/2013 in the Court of General Sessions of GREENVILLE 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) and probation order(s) dated 10/05/2017. 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: 7, 9, 10 AND 11

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve _____ 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 90 days 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(s), 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 §29-3-543 (mandatory if convicted of first degree or 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 Civil judgment Department fees
 Fines and other fees Fines and other fees
 Restitution (and 20%) Restitution (and 20%)
- Additional Conditions ordered by the Court:
- Toll while Incarcerated
- Restrictive Monitoring

- The defendant is given credit for pre-revocation hearing detention time on current probation (to be calculated and applied by the SC Department of Corrections).
- The defendant has previously served 6 month(s)/year(s) on this sentence.
- The defendant was previously placed on active electronic monitoring pursuant to §29-3-543.



This 23 day of July 2018 at WALHALLA SC
Presiding Judge [Signature] Judicial Circuit 10TH

You are hereby advised that under the law the Court may at any time revoke or modify any condition of probation, impose any other conditions it deems proper, or extend the period of probation but 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. It is to certify that I have read, or have had read to me, the order and the conditions set out herein. I agree to comply with such conditions and the terms of the attached probation order during the period of my probation. I have received a copy of this Court's order and its attachments.

Offender's Signature [Signature] Witnessed by [Signature]

Signed this 23 day of July 2018 at WALHALLA SC

County of OCONEE
STATE VS

2012 - GS 22 - 07507
Probation C/W#s. C-37-17-0059

GEORGE CLEVELAND III
AKA. _____
Race Black Sex: Male
DOB 11/03/1978
SSN: 251397475
SID# 01065002

Name of Original Offense: FALSIFYING VIN NUMBER
Original A/W#: N201731
Date of Original Offense: 06/21/2012
Conviction S.C. Code § 16-21-0040(A)(2)
Conviction ODR Code #: 0 / 5 / 3 / 5
Original Sentence: 5 YRS. SDP

Exhibit 3

ORDER

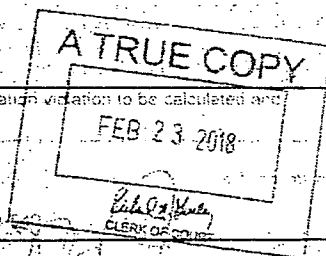
The above named defendant has been charged with violating the conditions of probation ordered on 11/05/2013 in the Court of General Sessions of GREENVILLE County, and the additional conditions ordered by the Court in probation continuation order(s) issued on _____ as set forth in the attached warrants, or if success date 10/05/2017. 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: 7, 9, 10, AND 11

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve _____ 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 90 d-ys months/years of the original sentence and/or pay \$ 0; 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 warrants; 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 §2315-040 (mandatory if convicted of first degree criminal sexual conduct with a minor or law as discretionary if convicted of any other applicable sex offense against a minor).
- Financial Obligations: Order satisfies:
 - Department fees
 - Fines and other fees
 - Restitution (and 20% interest)
 - Civil judgment
 - Department fees
 - Fines and other fees
 - Restitution (and 20%)

Additional Conditions ordered by the Court:
- Toll White License
- Restitution Monies

- 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 13 DAYS months/years on this sentence.
- The defendant was previously placed on active electronic monitoring pursuant to §2315-040.



This 23 day of Feb, 2018 at WALHALLA, SC.
Presiding Judge: _____
10TH Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of any probation, impose any lawful conditions, a detainer, order, 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 said conditions and the provisions 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 Sign: Refused
Signed this 23 day of Feb, 18 at WALHALLA

Financial PROBATION CITATION

Exhibit - 51

Indictment Number: 12-GS-23-07504, 12-GS-23-07507

Citation #: C-37-17-0059

SOUTH CAROLINA V. GEORGE CLEVELAND III	COUNTY: OCONEE
	SID # 01068002
	SCDC #

TO: GEORGE CLEVELAND III

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

Place	Room
	Date and Time:

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

Violations Charged
The above named defendant has failed to comply with the Court's probation order and the defendant's agreement to pay a fine, restitution and supervision fees.

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.

WALHALLA, South Carolina	Probation and Parole Agent - Agent # Ginger W. Newton - 0343
Date 10/05/2017	<i>[Signature]</i>

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 <u>Oconee</u>	Date and Time <u>10-12-17</u> <u>2:47pm</u>
	Serving Officer's Signature <i>[Signature]</i>

Sworn to and subscribed before me this 12 day of OCT, 17

[Signature]
Signature of Notary Public

My Commission Expires 4/24/2025

Exhibit - 5

AFFIDAVIT

County of OCONEE

Personally appeared before me, Newton, Ginger W. Ginger W. Newton, who first being duly sworn, deposes and says that GEORGE CLEVELAND III did within this county and State on the 5 day of October, 2017, violate certain conditions of release in the following particulars:

DESCRIPTION OF VIOLATION

The above named defendant has failed to comply with the Court's probation order and the defendant's agreement to pay a fine, restitution and supervision fees.

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:

The above named defendant agreed in writing, as a part of his/her probation agreement, to pay a fine, restitution and supervision fees. The defendant has not complied with his/her written agreement. As of the date of this affidavit, the defendant's arrearage and unpaid balance on the agreed payment schedule is as follows:

	<i>Fine</i>	<i>Restitution</i>	<i>Supervision Fees</i>	<i>DNA Fees</i>
Arrearage	\$60.00	\$1,560.00	\$300.00	\$0.00
Unpaid Balance	\$267.80	\$13,410.00	\$3,000.00	\$0.00

The matter needs to be reviewed by the court pursuant to Section 24-21-430. The defendant should be required to show the Court why he/she has not kept his/her probation agreement to pay. The Court should determine whether or not the defendant has willfully violated the condition to pay fines, and/or restitution and whether or not the condition to pay fines, restitution should be modified.

Sworn to and subscribed before me this 5 day of October, 2017

[Handwritten Signature]

Signature of Notary Public

11-24-2025

My Commission Expires:

[Handwritten Signature]
Affiant