

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JUN 27 2018

Certiorari to Berkeley County

S.C. SUPREME COURT

Honorable Michael G. Nettles, Circuit Court Judge

CHAVIS AIKMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-002295

APPENDIX

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Appellate Defender

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Attorney General

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INDEX

INDEX i

PROBATION REVOCATION HEARING TRANSCRIPT (OCTOBER 31, 2014)1

APPLICATION FOR POST-CONVICTION RELIEF (FEBRUARY 26, 2015).....12

RETURN (JUNE 22, 2017)19

POST-CONVICTION RELIEF HEARING TRANSCRIPT (JULY 31, 2017)24

CONSENT ORDER OF DISMISSAL AND GRANT OF APPEAL PURSUANT TO
WHITE V. STATE (AUGUST 28, 2017)42

PROBATION ORDERS45

INDICTMENT48

SENTENCING SHEET50

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF BERKELEY)

State of South Carolina)
)
 v.) Case No. 12-GS-08-2210
)
 Chavis Aikman,)
)
 Defendant)

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on October 31, 2014, before The Honorable W. Jeffrey Young in Courtroom E of the Berkeley County Courthouse, 300 California Avenue, Moncks Corner, South Carolina; attended by counsel as follows:

APPEARANCES:

Agent Boyd
 PROBATION PARDON & PAROLE
 Appearing for State of South Carolina

Chavis Aikman, Probationer
 Appearing *Pro Se*

ALSO PRESENT:

Lauren Cleary

Deborah Garrison
 Circuit Court Reporter – 13th Judicial Circuit
 P O Box 27145
 Greenville, South Carolina 29616
dgarrison@sccourts.org

State of South Carolina v. Chavis Aikman

Case No. 12-GS-08-2210

Hearing of October 31, 2014

Before The Honorable W. Jeffrey Young

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(DEFENDANT PRESENT)

AGENT BOYD: Chavis Aikman.

THE COURT: You are Chavis Aikman?

DEFENDANT: Yes, sir.

THE COURT: Good morning.

AGENT BOYD: Good morning, Your Honor.

May it please the court, we have before you Defendant Chavis Aikman under Indictment 12-08-2210.

He was sentenced by The Honorable Judge Dennis for the offense of assault and battery in the first. He was sentenced to -- he was sentenced on November 20th, 2012, to a sentence of ten (10) years suspended on five (5) years probation.

Mr. Aikman is here for a violation in failing to follow the advice and instructions of the agent; by failing to follow the special conditions ordered by the Family Court. The defendant was arrested on August 8th, 2014, for violating a Family Court Order.

Mr. Aikman has been before a judge twice on this case and he was revoked on April 25th, 2014, for one year, with credit for time served.

State of South Carolina v. Chavis Aikman

3

Case No. 12-GS-08-2210

Hearing of October 31, 2014

Before The Honorable W. Jeffrey Young

1 The victim is here and wishes to speak,
2 Your Honor.

3 THE COURT: Where is the victim? Come
4 forward, please.

5 DEFENDANT: Your Honor, may I request
6 an attorney?

7 THE COURT: You knew that you had to
8 have an attorney before. Didn't you?

9 DEFENDANT: I haven't had an
10 opportunity to be able to get one.

11 THE COURT: When was the last time that
12 you were in court?

13 DEFENDANT: Several months ago, Your
14 Honor.

15 THE COURT: And the judge told you that
16 you needed to have an attorney?

17 DEFENDANT: No. It wasn't this case,
18 sir. It was for something different.

19 THE COURT: Has he been in here on a
20 probation violation before?

21 AGENT BOYD: Yes, sir.

22 THE COURT: And he was told that he
23 needed to have an attorney?

24 AGENT BOYD: Yes, sir.

25 THE COURT: All right. You've had an

State of South Carolina v. Chavis Aikman

4

Case No. 12-GS-08-2210

Hearing of October 31, 2014

Before The Honorable W. Jeffrey Young

1 opportunity to get an attorney and you didn't
2 get one. We're going forward.

3 AGENT BOYD: Your Honor, he also had an
4 administrative hearing on September 2nd in
5 which the finding was to have him revoked.

6 He signed his notice to appear on
7 September 9th for a lawyer to be here. So
8 that ended the notice to get a lawyer.

9 THE COURT: All right, sir.

10 DEFENDANT: Your Honor, I haven't had
11 the funds for an attorney.

12 THE COURT: Did you go to the public
13 defender's office?

14 DEFENDANT: I ---

15 THE COURT: Did you go to the public
16 defender's office?

17 DEFENDANT: I requested a public
18 defender ---

19 THE COURT: On what day? What day?

20 DEFENDANT: Sir, I can't tell you that.

21 THE COURT: Do you have that paperwork
22 with you?

23 DEFENDANT: No, sir, I do not.

24 THE COURT: Okay. Yes, ma'am?

25 LAUREN CLEARY: Yes, sir. Thank you,

State of South Carolina v. Chavis Aikman

5

Case No. 12-GS-08-2210

Hearing of October 31, 2014

Before The Honorable W. Jeffrey Young

1 Your Honor, for allowing me the opportunity.
2 This is my daughter, she is our daughter in
3 common. She is actually the victim. Mr.
4 Aikman pled down to a lesser charge of first
5 degree child abuse and neglect from criminal
6 sexual misconduct on a minor under the age of
7 eleven.

8 I don't think he's taken this seriously,
9 one bit. The last time he was in front of
10 the court, on April 25th, 2014, he was
11 instructed to report to intensive for four
12 month and restructure court fines.

13 His probation fees have been waived for
14 some reason.

15 He has not been drug tested for -- I
16 don't know about now but as of a few months
17 ago when I inquired about it, he had not been
18 drug tested in over a year. He blamed his
19 actions of molesting my daughter on drugs and
20 alcohol. And he continues to use drugs and
21 alcohol. So there's no doubt in my mind that
22 he will reoffend again.

23 I am asking for full revocation. He was
24 sentenced to ten years suspended on five
25 years probation. He's not taking that

State of South Carolina v. Chavis Aikman

6

Case No. 12-GS-08-2210

Hearing of October 31, 2014

Before The Honorable W. Jeffrey Young

1 seriously. He's a free man. He walks around
2 like nothing happened. Meanwhile, she's
3 living in an emotional prison.

4 It should have been her choice who the
5 first man was that touched her body. He took
6 that from her. That's something that she
7 will never get back.

8 THE COURT: Mr. Aikman, what would you
9 like to tell me?

10 DEFENDANT: Sir, I would ask for some
11 legal representation, Your Honor.

12 THE COURT: You've had notice that you
13 could have legal representation and you've
14 not done so.

15 DEFENDANT: Mr. Boyd told me about two
16 weeks ago that I needed to get an attorney
17 and that I could request an attorney at this
18 hearing, Your Honor.

19 THE COURT: Okay. Has he been before a
20 judge who has advised him to get an attorney
21 before?

22 AGENT BOYD: No, not since he's been
23 released on the violation of the Family Court
24 Order, Judge.

25 THE COURT: Has he ever been in front

State of South Carolina v. Chavis Aikman
Case No. 12-GS-08-2210
Hearing of October 31, 2014
Before The Honorable W. Jeffrey Young

1 of a judge who -- what did he sign? Show me
2 what he signed.

3 AGENT BOYD: He signed the notice to
4 appear and -- he was advised that he had a
5 court date, that he needed to get
6 representation.

7 THE COURT: Did he specifically waive
8 legal representation?

9 AGENT BOYD: No, he hasn't waived it.

10 THE COURT: Okay. He's never come into
11 court and never asked for legal representa-
12 tion. Correct?

13 AGENT BOYD: It's the first time since
14 he ---

15 THE COURT: Ma'am, I don't have any
16 choice on that. He has a right to -- if he
17 comes in again and doesn't have a ---

18 LAUREN CLEARY: Can you appoint him a
19 public defender today?

20 THE COURT: Let's go ahead and -- he's
21 to go downstairs right now and apply for it.
22 I want you to bring me the receipt back up
23 here. If you don't apply and leave out, then
24 I'm going to have you arrested and revoke you
25 in full. Do you understand that?

State of South Carolina v. Chavis Aikman

Case No. 12-GS-08-2210

Hearing of October 31, 2014

Before The Honorable W. Jeffrey Young

1 LAUREN CLEARY: He's had a public
2 defender before.

3 THE COURT: I know. But this is a
4 probation violation.

5 LAUREN CLEARY: Last time we were here
6 for a probation violation, he did have Ms.
7 Littlejohn as his public defender.

8 DEFENDANT: That's not true, Your
9 Honor.

10 THE COURT: I've got to get to the
11 bottom of that. I can't revoke him in full
12 without being sure that he's been afforded
13 the chance to -- go down there, request it
14 and -- Ms. Littlejohn, did you represent him
15 at another probation violation?

16 MS. LITTLEJOHN: I can't ---

17 THE COURT: You probably have so many
18 that you wouldn't ---

19 COURT REPORTER: Your Honor, what is
20 the victim's mother's name?

21 THE COURT: Ma'am, what is your name?

22 LAUREN CLEARY: Lauren Cleary
23 (phonetic).

24 AGENT BOYD: (Tenders document to
25 judge).

State of South Carolina v. Chavis Aikman

Case No. 12-GS-08-2210

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THE COURT: Okay. (Upon review), I don't see where this shows me anything.

AGENT BOYD: It just shows that in the last hearing he was here for a violation in this same case.

THE COURT: Did he have an attorney in that case?

DEFENDANT: I ---

LAUREN CLEARY: Yes.

DEFENDANT: --- talked ---

LAUREN CLEARY: He had Ms. Littlejohn, who has asked for a continuance -- a total of three times, I believe. Then he hired private counsel after that, who represented him on April the 25th, 2014.

THE COURT: So you are fully aware that you could have had an attorney.

DEFENDANT: Sir, ---

THE COURT: I'm going to move forward with -- yes, sir?

DEFENDANT: Sir, I just haven't had the money. I've just been out of jail a little over a month. I haven't ---

LAUREN CLEARY: It's not fair, Your Honor.

State of South Carolina v. Chavis Aikman

Case No. 12-GS-08-2210

Hearing of October 31, 2014

Before The Honorable W. Jeffrey Young

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DEFENDANT: I assure you that ---

THE COURT: I am going to revoke him in full. Thank you. You can get an attorney now and appeal within ten days. Have a good day.

(HEARING CONCLUDED)

State of South Carolina v. Chavis Aikman

Case No. 12-GS-08-2210

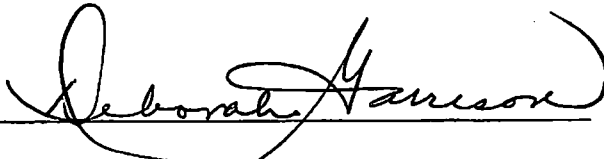
Hearing of October 31, 2014

Before The Honorable W. Jeffrey Young

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF GREENVILLE)

I, the undersigned Deborah Garrison,
Circuit Court Reporter for the 13th Judicial
Circuit, hereby certify that the foregoing is a
complete and accurate transcript of the hearing
held in the within action heard on October 31,
2014, before The Honorable W. Jeffrey Young;

I further certify that I am neither kin nor
counsel to any of the parties and have no interest
in the outcome of this action.


Deborah Garrison

Greenville, South Carolina

STATE OF SOUTH CAROLINA)

County of Berkeley)

Chavis Aikman (359767))
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

20 15-CP-08-522

APPLICATION FOR
POST-CONVICTION REVIEW

MARIE P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

2015 FEB 26 AM 11:44

FILED

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention SC DC "Evans"
2. Name and location of Court which imposed sentence Berkeley County
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) _____
 - (b) Probation violation on 10/31/14

48

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 10-31-14

(b) 10 years "non violent"

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. _____

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Applicant was denied counsel in violation of 6th Amend.
- (b) Probation was revoked due to inability to pay civil fine
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Applicant requested counsel but was denied by court
- (b) Applicant probation was revoked because of family court
- (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) Was not aware of right to appeal
- (b) _____
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- no* (a) your arraignment and plea? NO
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. _____
 - _____
 - ii. _____
 - _____
 - iii. _____
 - _____
- (b) the proceedings at which each such attorney represented you:
 - i. _____
 - _____
 - ii. _____
 - _____
 - iii. _____
 - _____

19. State clearly the relief you seek in filing this application:

Have my sentence overturned

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)
County of Berkeley)

VERIFICATION

I, Chavis Lane Aikman, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Chavis Aikman

SWORN to and subscribed before me this 30th day of January, 2015.

S Oulaw (L.S.)
Notary Public

My Commission Expires: 2/24

2015 FEB 26 AM 11:44
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

FILED

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Chavis Lane Aikman, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Chavis Aikman
Applicant

SWORN or affirmed to and subscribed before me this

30th day of January, 2015.

S. Ouellet
Notary Public

My Commission Expires: 2/24

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

2015 FEB 26 AM 11:44

FILED

STATE OF SOUTH CAROLINA)
 COUNTY OF BERKELEY)
)
 Chavis Aikman, SCDC No. 359767,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2015-CP-08-0522

RETURN

Respondent, making its Return to the application for post-conviction relief filed February 26, 2015, would respectfully show this Court:

I.

Chavis Aikman (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. On November 29, 2012, Applicant waived presentment to the Berkeley County Grand Jury and pled guilty to first-degree Assault and Battery (2012-GS-09-2210) before the Honorable R. Markley Dennis, Jr. Judge Dennis sentenced Applicant to confinement period of ten years' suspended upon the service of five years' probation. Applicant did not appeal his guilty plea or sentence.

On April 25, 2014, Applicant appeared before Judge Dennis for a probation revocation hearing. Judge Dennis revoked Applicant's probation for a year.

Thereafter, on October 31, 2014, Applicant appeared before the Honorable W. Jeffrey Young for another probation revocation hearing. Applicant was not represented by counsel at this hearing and proceeded *pro se*. A probation agent appeared on behalf of the State. After a discussion between Judge Young, Applicant, and the probation agent, Judge Young concluded

Applicant had fired previous attorneys, had ample notice of the hearing and that he needed to retain counsel if he did not want to go forward *pro se*, and determined Applicant would proceed *pro se*. After a short hearing, Judge Young revoked Applicant's probation in full.

Attached herewith and incorporated herein are the records of the Berkeley County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the application, and the probation revocation transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his application, Applicant alleges that he is being held in custody unlawfully pursuant to a revocation of his probation for the following reasons:

1. "Applicant was denied counsel in violation of 6th Amendment"
 - a. "Applicant requested counsel but was denied by court"
2. "Probation was revoked due to inability to pay civil fine"
 - a. "Applicant probation was revoked because of family court"

Additionally, Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this post-conviction relief application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

III.

Applicant alleges he was denied the right to counsel at his probation revocation proceeding. A probationer has a right to counsel, though not a Sixth Amendment one. Turner v. State, 384 S.C. 451, 682 S.E.2d 792 (2009). see also Gagnon v. Scarpelli, 411 U.S. 778 (1973). Rather, Rule 602(a), SCACR, requires the appointment of counsel for indigent defendants in probation revocation proceedings. Nonetheless, “the same analysis for ineffectiveness that applies in other PCR proceedings involving claims against counsel should, by analogy, apply in PCR proceedings involving claims against probation counsel.” Turner, 384 S.C. at 455, 682 S.E.2d at 794; see e.g., United States v. Wren, 682 F.Supp. 1237 (S.D.Ga. 1988). However, since probation revocation hearings are not a formal adversarial proceeding, “the Court must review counsel’s performance in light of the particular type of proceeding involved.” Wren, 682 F.Supp. at 1242; see also United States v. Cates, 402 F.2d 473, 474 (4th Cir. 1968) (“A revocation hearing is an informal proceeding and rules of evidence need not be strictly observed.” (citing United States v. Williams, 378 F.2d 665 (4 Cir. 1967))).

In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Respondent submits Applicant cannot satisfy his burden entitling him to relief based on the allegations raised in his application. However, the allegation a constitutionally deprived right to assistance of probation revocation counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held on Applicant's allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: Megan Harrigan Jameson
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

6/22, 2017.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BERKELEY)
)
)
 CHAVIS AIKMAN,)
 S.C.D.C. No. 359767,)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS

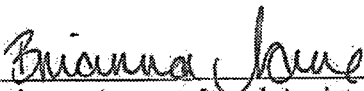
2015-CP-08-0522

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Rodney Davis, Esquire
Lowcountry Law Office
4000 Faber Place Drive, Suite 300
Charleston, SC 29405

DATED this 22nd day of June, 2017.



 Brianna Arnone, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
 COUNTY OF BERKELEY 2015-CP-08-0522

CHAVIS AIKMAN,)
) TRANSCRIPT OF RECORD
 Applicant,)
) July 31, 2017
 -vs-)
) Moncks Corner, South Carolina
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

B E F O R E:

The Honorable Michael G. Nettles, Judge.

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

Rodney D. Davis, Esquire
 Attorney for the Applicant

Judah N. VanSyckel, Esquire
 Attorney for the Respondent

Amanda K. Haffenden, RPR, CRR
 Circuit Court Reporter

1 (July 31, 2017.)

2 MR. VanSYCKEL: May it please the Court, Your
3 Honor. This is case No. 2015-CP-08-5522. The applicant
4 filed his PCR application on February 26, 2015. I can go
5 into procedural posture very briefly.

6 Applicant waived presentment to the Berkeley
7 County grand jury on indictment 2012-GS-08-02210 in the
8 charge of assault and battery first degree. Applicant
9 was represented by William L. Runyon, Esquire. Applicant
10 pled guilty under North Carolina versus Alford for that
11 charge before the Honorable R. Markley Dennis on November
12 29, 2012.

13 As part of the applicant's plea, the State
14 had agreed to a negotiated sentence, the negotiated term
15 being that applicant was guaranteed a probationary
16 sentence. Judge Dennis sentenced applicant to a ten-year
17 term of imprisonment, suspended upon five years'
18 probation. On April 25, 2014, applicant's probation was
19 partially revoked, and he was ordered to serve one year
20 in prison by the Honorable R. Markley Dennis.

21 Applicant was given credit for time served
22 for having been incarcerated since November 26, 2013. On
23 October 31, 2014, applicant's probation was revoked in
24 full by the Honorable W. Jeffrey Young. Applicant did
25 not appeal the revocation.

1 Your Honor, today we're here for a motion to
2 dismiss on the grounds that applicant's claims are not
3 allowed to be heard on a South Carolina post-conviction
4 relief act as these claims could have been brought on
5 appeal. Your Honor, applicant's claims are that he was
6 denied counsel in violation of the sixth amendment and
7 that his probation was revoked due to his inability to
8 pay the fine.

9 Your Honor, I have passed to the Court a copy
10 of three cases: Simmons v. State, Drayton v. Evatt, and
11 Ashley vs. State as well as copy of the transcript of the
12 hearing. At that hearing on October 31, 2014, Mr. Aikman
13 did request an attorney, and he was revoked by Judge
14 Young without being granted an attorney. Regardless of
15 whether or not he should have been granted an attorney or
16 not and regardless of the grounds of revocation, Mr.
17 Aikman did not file an appeal.

18 He did not a file a notice of appeal, he did
19 not file an appeal, and these claims could have been
20 brought after his probation revocation. As such, we
21 believe that they are barred from being heard as a
22 post-conviction relief matter, and we believe that his
23 claims -- this is an inappropriate forum for his claims.

24 THE COURT: What do you have to say about
25 that, Mr. Davis?

1 MR. DAVIS: To that directly, we would argue
2 that it is a viable claim. The statute originally, and
3 then the Al-Shabazz case, which I think the Court and
4 certainly the Attorney General for PCRs is familiar with,
5 allowed for -- if the sentence has, and I'm quoting from
6 the statute, that PCR -- cognizable claims: If the
7 sentence is expired, probation, parole or conditional
8 release has been unlawfully revoked, or if the applicant
9 is otherwise unlawfully held in custody or restrained,
10 then the statute as interpreted by Al-Shabazz must be a
11 collateral fact. The only exceptions, two of them, the
12 second one being that the applicant's probation or parole
13 or conditional release has been unlawfully revoked.

14 So as a threshold matter, Judge, we would
15 argue that he does have a cognizable claim under the
16 statute, and there is case law interpreting the statute.
17 I've had a chance to review summarily the three cases
18 that the Attorney General has handed up. The first thing
19 that jumps out at me, and certainly I appreciate it, he
20 pointed out that basically these three cases, Simmons,
21 Drayton, and Ashley, dealt with the claims of sufficiency
22 of the evidence.

23 The two contrasting things that jump out to
24 me immediately, and not having read the entirety of the
25 case, but two things: One, that these deal with, in the

1 Drayton case, a murder, armed robbery, kidnapping
2 conviction. Here we're dealing with a claim of the
3 revocation of his probation, which is different. Ashley
4 is sufficiency of claim. Forgive me. I don't see the
5 underlying conviction there, but it was for a criminal
6 offense, and then, finally, Simmons v. State is a murder
7 conviction, where here it is the two exceptions that
8 Al-Shabazz carves out, and we would argue that we do have
9 grounds to go forward under that.

10 I'll go ahead and mention this, Judge: If
11 you're not persuaded by that argument, the State made a
12 very obvious point, is that if a pro se hearing was
13 revoked, if an appeal was not filed, we would argue then
14 if you're not inclined to say we don't have grounds to go
15 forward on the validity of the revocation, which we think
16 we do, we would certainly argue that he is allowed his
17 one bite of the apple, and we would ask for a White
18 appeal to allow the very thing the State said he didn't
19 do what he should have.

20 He was unrepresented, despite his request for
21 an attorney at least twice in the transcript, so we would
22 argue that we should be able to go forward in his
23 post-conviction relief matter. If you're not inclined to
24 dismiss the State's motion for that and you grant it, we
25 would argue that he should at least be entitled to direct

1 appeal relief because he did not take advantage of it
2 when he should be allowed one bite of the apple.

3 Thank you, Your Honor.

4 THE COURT: What do you have to say about
5 that?

6 MR. VanSYCKEL: Your Honor, I understand the
7 applicant's position as to his argument; however, even
8 though this is a claim that could be cognizable under the
9 Post-Conviction Relief Act, the Supreme Court has held
10 that those claims have to -- can't be -- just because the
11 subject matter is cognizable, it can't be brought up if
12 it was able to be brought up on appeal, so we believe
13 that regardless of the subject matter being
14 cognizable doesn't apply --

15 THE COURT: What do you think about giving
16 him the opportunity to appeal?

17 MR. VanSYCKEL: Well, Your Honor, as to that,
18 I understand that -- the right to have one bite at the
19 apple, I understand that philosophy; however, I would
20 just ask the Court to turn to page ten of the transcript.
21 When the Court, at the October 31 hearing, says directly
22 to the applicant: I'm going to revoke him in full.
23 Thank you. You can get an attorney now and appeal within
24 30 days. Have a good day.

25 Your Honor, there's not much more clear than

1 an instruction by the Court to the applicant telling him
2 exactly what he needs to do in order to raise a
3 complaint, and it was very clear as to how long he had to
4 do it, and so we believe that the applicant has had his
5 opportunity and his day in court and his opportunity to
6 complain about what was done in his case.

7 THE COURT: What do you think the state of
8 the law is with regard to whether or not the defendant is
9 entitled to a lawyer at a probation revocation hearing?

10 MR. VanSYCKEL: Your Honor, my understanding
11 is that it is allowed in South Carolina. It is not a
12 Sixth Amendment claim, Sixth Amendment right to counsel
13 because he has already been adjudicated guilty; however,
14 the South Carolina rules do grant for an attorney, and
15 that's my understanding. And I may be wrong as to that
16 issue, but we believe that regardless of the applicant's
17 right to an attorney at the hearing, his remedy for that
18 violation was to appeal within ten days.

19 THE COURT: What do you have to say about the
20 fact that Judge Young did tell him he had ten days to
21 appeal the ruling?

22 MR. DAVIS: And if only I could jump across
23 this room, I could get out that door. He was indigent
24 when he appeared that day. He made it clear. We would
25 point out the last page where Judge Young told my client

1 that, but we can also look earlier in this at least
2 twice. My client said, I don't have the ability to hire
3 an attorney. I've tried. I've started the process for a
4 public defender.

5 Judge Young was going to send him that day to
6 go get one, but that didn't happen, and so telling him to
7 do something that he's not trained to without the advice
8 and consent of counsel, I would argue back -- it's a
9 critical stage. Clearly, it's a critical stage because
10 of what happened that day, is why we're here, and it's a
11 due process issue, and so we would argue that it's
12 necessary that an attorney be present and advise.

13 That didn't happen, and that not only goes
14 towards our cognizable claims, but also goes towards the
15 appeal. Being told you have a right to something or an
16 obligation to do something without understanding that
17 process or the ability to begin this process, Judge, this
18 isn't something that he was sentenced probation that day.
19 He was revoked in full that day. He went from the
20 courtroom to the jail and from the jail to prison, so
21 it's not as though he was here in the community for the
22 next ten days and had time to go to --

23 THE COURT: What part of the transcript does
24 he say that he's going to get a lawyer?

25 MR. DAVIS: Just a moment, Your Honor. I'll

1 find it. Judge, the first one I jump to is on page 7,
2 line 15. The court: Ma'am I don't have any choice in
3 that. He has a right to -- if he doesn't come in again
4 and doesn't have a -- so the sentence wasn't completed,
5 but that was all discussions about whether he had legal
6 representation at the time or whether he was entitled to
7 it.

8 To go downstairs right now -- this is line
9 20 -- to go downstairs right now and apply for it. I
10 want you to bring me the receipt back up here. If you
11 don't apply and leave out, I'm going to have you arrested
12 and revoked in full. Do you understand?

13 So on page seven, he's ready to send him to
14 the screener, to the public defender's office, and barely
15 two pages later, he's revoking him in full and notifying
16 him to appeal pro se.

17 THE COURT: What do you have to say about all
18 that?

19 MR. VanSYCKEL: Your Honor, on page nine --
20 the issue in this case, an issue in this case, is that
21 this was not Mr. Aikman's parole revocation hearing. He
22 had already been revoked once earlier that year, and he
23 did, in fact, according to the record that we have on
24 page nine -- the Court, at the October 31 hearing, made
25 the determination that Mr. Aikman was fully aware that he

1 could have had an attorney when he came into the
2 courtroom. That would be page 16 -- or, excuse me, page
3 9, line 16 and line 17, and the Court at that point
4 decided on line 19 that he was going to move forward with
5 the hearing.

6 THE COURT: What the about when he goes on to
7 explain, he says, Sir, I haven't had the money. I've
8 been out of jail a little over a month. I haven't --

9 MR. VanSYCKEL: And, Your Honor, I would just
10 say that the trial Court is impliedly making a ruling
11 that they're moving forward, that he's had time -- and
12 he's expressed that Mr. Aikman has had the time and the
13 opportunity to hire an attorney, because this isn't his
14 first shot at being revoked on his probation. This isn't
15 the first time he's been in front of the Court on this
16 probation, on a probation violation in this case.

17 THE COURT: Well, the Court seems to indicate
18 that -- he says, I've got to get to the bottom of that.
19 I can't revoke him in full without being sure that he's
20 been afforded the chance to go down there and request it.

21 Ms. Littlejohn, did you represent him at
22 another probation violation?

23 What do you have to say about that?

24 MR. VanSYCKEL: And, Your Honor, the -- if we
25 turn to page nine, the Court relied upon Ms. Cleary's

1 statement, who was the mother of the victim, as to his
2 prior representation, and the Court also relied on the
3 fact that Mr. Aikman apparently had had previously hired
4 a private attorney in the case.

5 So, Your Honor, I think the Court took all of
6 that into consideration and made a ruling, and
7 ultimately, Your Honor, Mr. Aikman has already had a
8 chance to address the wrong that was done to him. He had
9 a chance to a file notice of intent to appeal and have
10 the South Carolina Court of Appeals address it on direct
11 appeal. We're just saying this is a forum issue.

12 THE COURT: So it's the State's position it's
13 a legitimate request for appeal.

14 MR. VanSYCKEL: Your Honor, I'm saying that
15 Mr. Aikman certainly made a request for an attorney at
16 the time, and the judge said that he had the opportunity
17 to appeal. Whether or not it's a legitimate basis or
18 whether or not the appeal would be successful, we're not
19 conceding that in any way.

20 We're just saying that the issue that the PCR
21 was filed on was brought up at the hearing, and the
22 probation hearing judge revoked him and he had the chance
23 to appeal at that time.

24 THE COURT: All right. Set forth the case
25 law, as you understand it, that would authorize me to

1 allow him to file an appeal on this very issue, about
2 whether it's appropriate for someone who is indigent,
3 who's asked for a lawyer to be sentenced and revoked in
4 full without getting a lawyer.

5 MR. DAVIS: Just off the top of my head, I
6 may need a minute to get you the case law on that, but I
7 believe that the line of cases -- I know it's not
8 directly toward a probation revocation, and I'm sure the
9 Attorney General will jump in if I misquote a case here,
10 but I believe a line of cases from Odom to White and I'm
11 blanking on the third one, Your Honor -- Wilson -- which
12 talk about the right to a direct appeal. Factually, I'm
13 sure they're a little different because I'm really
14 positive none of those dealt with probation revocation
15 issues, but the underlying issue is right to a direct
16 appeal, whatever the claim -- and I appreciated the
17 judge's question there.

18 I think the State's position is that if
19 there's a claim here, it's an appeal claim, and I believe
20 those line of cases allow for almost always indigent
21 clients that have filed their PCR and realized there was
22 an error in getting the appeal filed or perfected or the
23 notice served that PCR Courts can grant relief in that
24 way under the line of cases, Odom, Wilson, and White.

25 Now, Judge, if you're asking for something

1 dealing particularly with probation revocation hearing,
2 I'm not aware of one. I'll be happy to look at that.
3 It's been good to work with the State. Obviously they
4 indicated there would be a motion to dismiss, but it
5 obviously was not a written motion, so we're kind of
6 dealing with the legal issues on the fly here a little
7 bit.

8 If that would be dispositive of your
9 decision, I would ask for time over the lunch break to
10 research that issue.

11 THE COURT: Mr. VanSyckel, I've been on the
12 bench for about 12 years, and I've never seen anybody
13 present at a probation violation without a lawyer. Do
14 you think I can do that? If so, tell me why I can do
15 that. I was operating under the impression you couldn't
16 do it, or shouldn't do it.

17 MR. VanSYCKEL: Your Honor, I believe that
18 your judicial philosophy of whether or not it shouldn't
19 be done --

20 THE COURT: Well, that is clearly my judicial
21 philosophy, but I'm asking you the law that authorizes me
22 to abandon my philosophy.

23 MR. VanSYCKEL: And I would certainly not say
24 that this is a situation that I have seen a case directly
25 on, and I understand that Mr. Aikman is alleging that his

1 rights were violated. I would just say, going back to
2 this, Ashley v. State, Simmons v. The State, and Drayton
3 v. Evatt, all three cases stand for the proposition that
4 regardless of the errors that were committed at the trial
5 level or the guilty plea level, if they were not handled
6 on appeal and could have been handled on appeal, then
7 they're not cognizable under the PCR Courts, and that
8 is --

9 THE COURT: Therein lies the problem. He
10 wasn't afforded -- really, he had no ability to file an
11 appeal.

12 MR. VanSYCKEL: Your Honor, I would disagree
13 in that Roe v. Flores-Ortega -- and I'm going to ask -- I
14 believe that that is the case that says that counsel is
15 not required -- that's a United States federal case, and
16 I will get you the cite later on, but that is the case
17 that says that counsel is not required to inquire with
18 his clients if he or she wants to see if his clients want
19 to appeal; however, applicants -- or, excuse me,
20 defendants can appeal on their own, regardless of whether
21 or not -- what they've told their lawyers if they want to
22 or not, if they want to appeal or not.

23 And so I would just say, Your Honor, that to
24 say that he did not have the opportunity to appeal would
25 be taking away from his agency and from the fact that we

1 are presumed competent to protect our rights in the legal
2 system unless there's some finding that we are not
3 competent.

4 THE COURT: We being who?

5 MR. VanSYCKEL: Any person is competent to
6 protect their rights. That's why we have the right under
7 Farreta, to proceed on our own.

8 THE COURT: Have you ever filed an appeal?

9 MR. VanSYCKEL: Yes, Your Honor.

10 THE COURT: It's a right arduous task, isn't
11 it?

12 MR. VanSYCKEL: Yes, Your Honor.

13 THE COURT: A lot of lawyers don't get it
14 right. A lot of the lawyers have it dismissed a couple
15 times before they ever perfect it.

16 MR. VanSYCKEL: Yes, Your Honor.

17 THE COURT: Have you ever had one dismissed
18 for a timeliness issue?

19 MR. VanSYCKEL: No, Your Honor.

20 THE COURT: All right. Might counsel
21 approach the bench one moment.

22 (Discussion held at sidebar.)

23 We'll stand at ease until 1:30.

24 (Recess taken.)

25 A F T E R N O O N S E S S I O N

1 THE COURT: Mr. Davis, you're recognized.

2 MR. DAVIS: Thank you, Judge. May it please
3 the Court: Judge, I appreciate the break. Over the
4 break, I indicated to my client what options were
5 available possibly to us. Certainly, the State has a
6 motion to dismiss, which, if you grant, will end the
7 proceedings.

8 On the other hand, if you allow us to go
9 forward, then we would present our evidence in an attempt
10 to get a win on a PCR and obtain relief today. Of
11 course, even if we won, the State could appeal that
12 decision.

13 The final option is the possibility of relief
14 being allowing a direct appeal, which there was a bench
15 conference, and that is something that was requested of
16 the State, whether they would consent to that. I spoke
17 to my client and told him that that was all the options
18 that were being considered. I can now tell my client
19 that during the break, I had an opportunity to speak with
20 the attorneys for the state and while they are presenting
21 their position they believe is a valid argument for
22 dismissal, without conceding anything on their side, they
23 would be willing to consent to the appeal.

24 On behalf of my client, we understand that
25 that would be an opportunity to go forward and make the

1 arguments on direct appeal, but that would not be any
2 resolution of the case today. Given that, on behalf of
3 my client, we would ask that you deny the State's motion
4 to dismiss and allow us to proceed forward with the
5 PCR today.

6 I was the one that raised the alternative
7 relief of the appeal, but we'd ask you to consider
8 allowing us to go forward today. If not, then I
9 certainly would appreciate the State's position and we'd
10 ask you to accept that.

11 THE COURT: Taking everything in
12 consideration, I'm going to grant the order with the
13 consent of the State to allow the defendant -- the
14 applicant to pursue an appeal. I'm going to ask the
15 State to prepare an order to that effect.

16

- - -

17 (Whereupon, the proceedings were concluded.)

18

- - -

19

20

21

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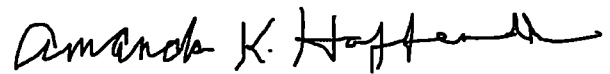
24

25

I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 31st of July 2017.

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

February 6, 2018



Circuit Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

2015-CP-08-0522

Chavis Aikman, #359767,

Applicant,

v.

State of South Carolina,

Respondent.

CONSENT ORDER OF DISMISSAL AND
GRANT OF APPEAL PURSUANT TO
WHITE V. STATE¹

FILED
17 AUG 28 PM 1:06
CLERK OF COURT
BERKELEY COUNTY, S.C.

This matter comes before the Court by way of an Application for post-conviction relief filed February 26, 2015. Respondent filed its Return on June 28, 2016. A hearing on the Respondent's Motion to Dismiss was held on July 31, 2017 at the Berkeley County Courthouse. Applicant was present and represented by Rodney Davis, Esquire. Assistant Attorney General Judah N. VanSyckel of the South Carolina Attorney General's Office represented Respondent.

I.

Chavis Aikman (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. On November 29, 2012, Applicant waived presentment to the Berkeley County Grand Jury and pled guilty to first-degree Assault and Battery (2012-GS-09-2210) before the Honorable R. Markley Dennis, Jr. Judge Dennis sentenced Applicant to confinement period of ten years' suspended upon the service of five years' probation. Applicant did not appeal his guilty plea or sentence.

On April 25, 2014, Applicant appeared before Judge Dennis for a probation revocation hearing. Judge Dennis revoked Applicant's probation for a year.

¹ White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974).

Thereafter, on October 31, 2014, Applicant appeared before the Honorable W. Jeffrey Young for another probation revocation hearing. Applicant was not represented by counsel at this hearing and proceeded *pro se*. A probation agent appeared on behalf of the State. After a discussion between Judge Young, Applicant, and the probation agent, Judge Young concluded Applicant had fired previous attorneys, had ample notice of the hearing and that he needed to retain counsel if he did not want to go forward *pro se*, and determined Applicant would proceed *pro se*. After a short hearing, Judge Young revoked Applicant's probation in full.

In his application, Applicant alleges that he is being held in custody unlawfully pursuant to a revocation of his probation for the following reasons:

1. "Applicant was denied counsel in violation of 6th Amendment"
 - a. "Applicant requested counsel but was denied by court"
2. "Probation was revoked due to inability to pay civil fine"
 - a. "Applicant probation was revoked because of family court"

II.

At the outset of the hearing, Respondent made a Motion to Dismiss all claims as being improper claims for a post-conviction relief action as they could have been heard on direct appeal. See Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1975); Drayton v. Evatt, 312 S.C. 4, 430 S.E.2d 517 (1993); Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Applicant argued that he was denied the right to counsel at his probation revocation hearing, that he was effectively denied the right to appeal, and that he was entitled to belated review of direct appeal issues pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974). After inquiry from the Court, Respondent consented to Applicant's request for a belated review of direct appeal issues pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974).


This Court agrees that Applicant did not waive his right to a direct appeal. In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal if requested or comply with the procedure required by Anders v. California, 386 U.S. 738 (1967), White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). Where the post-conviction relief judge determines that the applicant did not freely and voluntarily waive his appellate rights, the applicant may petition the South Carolina Supreme Court for review of direct appeal issues pursuant to White v. State, See Rule 227(g) (1), SCACR; Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986).

This Court affirmatively finds the Applicant did not knowingly and voluntarily waive his right to a direct appeal. The Court concludes that the Applicant is entitled to a belated review of his convictions. A petition for belated review pursuant to White can remedy Applicant's lack of a direct appeal.

IT IS THEREFORE ORDERED:

1. That this current Application for Post-Conviction Relief be dismissed with prejudice.
2. That the Applicant is granted a belated review of direct appeal issues pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974). Within thirty days of service of this Order, counsel for Applicant must file a Notice of Appeal to secure the appropriate review of Applicant's convictions. Counsel and the Applicant are directed to Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986) and South Carolina Appellate Court Rule 227(g) for the appropriate procedure for securing belated appellate review.
3. That Applicant remain in custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 22 day of August, 2017.


 MICHAEL G. NETTLES
 Presiding Judge
 Third Judicial Circuit

Florence, South Carolina

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Berkeley
STATE vs.

Indictment Number: 2012-GS-08-2210

FILED

Probation C/W#: C-09-13-0032

Chris L. Aikman APR 18 PM 1:18

Name of Original Offense: ASSAULT 1ST

AKA: _____
Race: W Sex: M

Original A/W#: 2012GS08-2210

DOB: _____

Date of Original Offense: 11-15-2010

SSN: _____

Conviction S.C. Code §: 16-03-0600

SID#: 1186069

Conviction CDR Code #: 3141112

Original Sentence: 10 YRS SS 5 YRS probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 11/29/12 in the Court of General Sessions of Berkeley County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 3/27/12, as set forth in the attached ~~warrant~~(s) or citation(s) dated 3/27/12. 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, 4 + 10

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 _____ 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)
 - 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: Toll probation while family court sentence is served. Exempt all future supervisory fees & arrearage
- 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 0 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 18 day of April, 2013,
Moncks Corner, SC

Brian S. Williams
Presiding Judge 7th 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 [Signature]

Witnessed by [Signature]

Signed this 18 day of April, 2013, at _____

Moncks Corner [Signature]
City

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Berkeley
STATE VS.

KWM
FILED

Indictment Number: 2012-GS-08-2210
Probation C/W#: W-08-13-0095

Chavis Aikman
AKA:
Race: W Sex: M
DOB:
SSN:
SID#: 1185069

14 APR 25 2014

Original Offense: Assault 1st
Original A/W#: DL
Original Offense: 11/15/2010
S.C. Code #: 16-03-0600
Conviction CDR Code #: 3, 4, 12
Original Sentence: 10y 4m 5y probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 11/29/12 in the Court of General Sessions of Berkeley County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 4/12/13, as set forth in the attached warrant(s) or citation(s) dated 10/13/12. 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, 9, 10

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 1 month/year of the original sentence and/or pay \$ 0.00; 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)
 - 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: Revoke 1 yr. Credit for time served since 11/26/2013. Report intensive for four (4) months. Restructure Court fines.

- 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 0 month/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 25 day of April, 2014
Moncks Corn, SC

[Signature]
Presiding Judge
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: [Signature]

Witnessed by: [Signature]

Signed this 25 day of April, 2014, at _____

Moncks Corn, SC KWM

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Berkeley KWM 12 -GS- 08 - 2210
STATE vs. FILED Probation C/W#: C-08-14-0100

Chavis Aikman 14 OCT 31 AM
AKA: _____
Race: W Sex: M
DOB: _____
SSN: _____
SID#: 1185069
Name of Original Offense: ASSAULT - 3 (BATTERED)
Original A/W#: 2012 GS 0802210
Date of Original Offense: 11-15-10
Conviction S.C. Code §: 16-03-0600(C)(1)
Conviction CDR Code #: 3, 4, 1, 1, 2
Original Sentence: 10 yrs SS 5 yrs Prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 11/24/10 in the Court of General Sessions of Berkeley County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on _____, as set forth in the attached warrant(s) or citation(s) dated August 12, 2014. 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)
10 and special condition

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 10 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)
 - 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: Revoke in full,

- 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 0 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 31 day of October, 2014
Moncks Corner SC
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 [Signature]
Signed this 31 day of October, 2014, at Moncks Corner SC
Day Month Year City

AMW2011-10-01505

WITNESSES

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

201107031147

ARREST WARRANT NUMBER

2012GS0802210

DATE OF ARREST

October 18, 2011

ACTION OF GRAND JURY

person of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS0802210

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

November Term 2012

THE STATE

Vs

CHAVIS LANE AIKMAN

DOB:

W/M

I, William Aikman, hereby
waive presentment at the within charge and
indictment to the Grand Jury.

Date

William Aikman
Attorney or Witness

Indictment for

Assault and Battery, First Degree

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on November 29, 2012 the Grand Jurors of Berkeley County present upon their oath:

Assault and Battery, First Degree

That Chavis Lane Aikman did in Berkeley County, South Carolina, on or between November 15, 2010 and April 2011, commit an assault and battery in the first degree constituting an unlawful act injuring the victim, , and the act involved nonconsensual touching of the private parts of a person, either under or above clothing, with lewd and lascivious intent; this in violation of Section 16-3-600(C)(1) of the South Carolina 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.


 ANNE M. WILLIAMS
 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE PART OF GENERAL SESSIONS

COUNTY OF Berkeley VS. Chavis Lane Aikman

INDICTMENT/CASE#: 2012GS0802210
A/W#: 2012GS0802210
Date of Offense: 11/15/2010
S.C. Code §: 16-03-0600(C)(1)
CDR Code #: 3412

AKA:
Race: WHITE Sex: M Age: 32
DOB: SS#:
Address:
City, State, Zip: Moncks Corner, SC 29461
DL#: SID#:

Aikford
SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Assault / Assault & Battery 1st degree

CONVICTED OF or PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
ATTEST: Williams, Arnie Defendant; 76463 SC Bar#; Probation William H. ... Attorney for Defendant; 4838 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years 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

month/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 §17-25-135.

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:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

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 \$ beginning
\$ paid to Public Defender Fund
Other: is not required to register
as a sex offender; no contact
with victim; must fully comply
with any Family Court Order affecting her
Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Table with 3 columns: Description, Amount, Total. 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 (BUJ 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) \$3.90, TOTAL \$133.90

Clerk of Court/Deputy Clerk: Dallis Tucker
Court Reporter: Deborah Garrison
SCCA/217 (03/2011)

Presiding Judge: R. M. ...
Judge Code: 2012
Sentence Date: 11/23/2012