

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

**RECEIVED**

JUL 18 2018

Appeal from Anderson County

**SC Court of Appeals**

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIE HOWARD SMALLWOOD,

APPELLANT

APPELLATE CASE NO. 2017-001987

RECORD ON APPEAL

ROBERT M. DUDEK  
Chief Appellate Defender

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
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ATTORNEY FOR RESPONDENT

ATTORNEY FOR APPELLANT

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1 State of South Carolina  
 2 County of Anderson In the Court of General Sessions

3  
 4 State of South Carolina, )  
 5 ) 2009-GS-23-00053  
 6 -vs- ) September 18, 2017  
 7 Willie Howard Smallwood, )  
 8 Defendant. )  
 9 ) Transcript of Record

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B E F O R E:

The Honorable R. Scott Sprouse, Judge

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

South Carolina Probation Department

Anderson County Pubic Defender's Office  
Victoria Gurney, Esquire  
Attorney for Defendant

Diane L. Marcengill, RPR, CRR  
Circuit Court Reporter

1 (WHEREUPON, court convened with all parties  
2 present and the following proceedings were had  
3 commencing at 10:56 a.m.)

4 PROBATION OFFICER: William Smallwood.

5 (WHEREUPON, the defendant was sworn.)

6 THE COURT: Yes, sir.

7 PROBATION OFFICER: Yes, sir. May it please the  
8 court. Today before you is Mr. Willy Smallwood. He  
9 was convicted of criminal sexual conduct with a minor,  
10 victim 11 to 14 years of age, second degree. He was  
11 released from prison on March 1, 2017. He was  
12 originally sentenced out of Greenville County.

13 Today, Your Honor, we're here due to the subject  
14 not paying his monies, but mainly, Your Honor, he  
15 allowed his GPS unit to go dead.

16 To give a little background on this case, if I  
17 may, Mr. Smallwood came to Anderson, South Carolina on  
18 May -- excuse me -- March 1st. At that time, Your  
19 Honor, it is very difficult to find a sex offender a  
20 place to live in South Carolina. SCDC has a problem  
21 with it, so does probation.

22 Luckily, the Labor of Fields, which is the local  
23 place here, gave him a place to stay. He stayed there  
24 for a few months, but he was kicked out for drug use,  
25 and the subject did admit this to me, using

1 methamphetamine.

2            Luckily, the subject came across a man who was  
3 willing to give him a job and help him out by the name  
4 of D.W. and, again, gave him a place to stay and a job,  
5 and then again, Your Honor, he got on drugs again. To  
6 this point, to where on August 3rd, he failed to charge  
7 his monitor, his GPS ankle monitor, which he is  
8 supposed to wear 24 hours a day due to public safety  
9 issues.

10            During this, I did a home visit. He wasn't home.  
11 I plotted his last known point at a hospital. I walked  
12 around the hospital on all floors, trying to locate  
13 him. I couldn't. And, eventually, we had to issue a  
14 warrant, and he turned back up at the hospital, I  
15 believe on the 8th floor, where we then took him in  
16 custody.

17            But we are here on that, Your Honor, for not  
18 charging his unit, and for failing to pay his monies.

19            THE COURT: Mr. Smallwood, did you hear the  
20 agent's statement of your alleged violations?

21            THE DEFENDANT: Yes, sir.

22            THE COURT: Do you admit or deny that you violated  
23 your probation?

24            THE DEFENDANT: Yes, sir.

25            THE COURT: You admit that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. Ms. Gurney.

3 MS. GURNEY: Your Honor, as the agent stated,  
4 Mr. Smallwood was at Labor of the Fields. He's told me  
5 he completed their inpatient program and was moved to  
6 transitional housing and was hospitalized due to an  
7 illness for two days and did not have the money to pay  
8 the transitional housing and was kicked out for that  
9 reason, although he has told me he did admit to his  
10 agent he used methamphetamines as well.

11 He was living at a friend's house and paying rent  
12 there. When -- he told me he tried to report but his  
13 agent was not there on August 2nd to talk about his  
14 money situation. And his roommate drove him up there,  
15 but then he started having a panic attack, and his  
16 roommate called, I believe it was the next day, called  
17 emergency, and he went to the hospital. He was there  
18 but then checked himself out. He has told me he did  
19 not leave the hospital grounds. He has been diagnosed  
20 with paranoid schizophrenia and told me he was having  
21 paranoid thoughts, was afraid that he was going to be  
22 arrested, did not leave the hospital grounds and went  
23 back and checked himself in again.

24 He states that he apparently called his agent but  
25 does not remember doing so because he was prescribed

1 morphine while he was in the hospital. He did see that  
2 his ankle monitor stated it needed to be charged. He  
3 did not see a notification to call his agent but did  
4 not leave the hospital grounds, and that was why he did  
5 not charge it, because he continued to stay at the  
6 hospital.

7 We have not received those medical records yet.  
8 He has told me that he does have bed space available at  
9 New Mercy Rehab Center, so what we are asking is either  
10 to give us time to receive those medical records,  
11 hopefully soon, or to hold him for that rehab bed  
12 space.

13 THE COURT: Thank you, Ms. Gurney.

14 What does the State want to do?

15 PROBATION OFFICER: Your Honor, if I may counter  
16 one thing. I talked to security and talked to  
17 everybody. They did tell me he had left the hospital.  
18 That being said, I do remember the subject calling me  
19 on the 3rd or, excuse me, the 4th. He was very  
20 emotional. He was on the 8th floor. He said he was  
21 having bad thoughts such as suicidal thoughts, and I  
22 asked him, "Have you gotten back into drugs?" He said  
23 a simple "yes." I didn't push it any further than  
24 that.

25 But, Your Honor, it's clear the subject does have

1 a drug problem, but now it's crossed the line from a  
2 drug problem to a public safety problem with his record  
3 and me not being able to track him.

4 Your Honor, we're asking right now to revoke his  
5 CSP. He also did go before a hearing where the hearing  
6 officer also agrees to revoke the CSP.

7 MS. GURNEY: I haven't seen that hearing report.

8 THE COURT: Have you got a copy of the report so  
9 Ms. Gurney can see it?

10 PROBATION OFFICER: Yes, Your Honor.

11 MS. GURNEY: Your Honor, we're asking again for  
12 the rehab. And, that is, he would be -- it's a  
13 six-month program. He would be monitored that entire  
14 time while he's there, would not only be responsible  
15 himself but also people there would be, you know,  
16 making sure that if he has an ankle monitor, he would  
17 be charging it. On top of that, that would also give  
18 him more tools to fight his addiction.

19 If you are revoking any time, we would ask for  
20 county time rather than prison.

21 THE COURT: Thank you, ma'am.

22 MS. GURNEY: Thank you, Your Honor.

23 THE COURT: Anything you want to tell me,  
24 Mr. Smallwood?

25 THE DEFENDANT: Just that my house arrest would

1 have been over September 7th, and I've always reported  
 2 on time other than that, and I called -- I had the  
 3 hospital call probation and let them know where I was.  
 4 I don't know if it was Friday or Saturday, the 4th or  
 5 5th. And after choosing the program and, if necessary,  
 6 intensive probation with drug testing at my expense,  
 7 just mercy from the court, sir.

8 THE COURT: Thank you, sir. How many days time  
 9 served has he got?

10 PROBATION OFFICER: I believe, sir, this warrant  
 11 was served on August 5th.

12 MS. GURNEY: I have that as 45 days, Your Honor.

13 THE COURT: All right. Revoke the community  
 14 supervision; give him credit for the 45 days time  
 15 served. Good luck to you, sir.

16 THE DEFENDANT: Thank you, sir. Thank you, Your  
 17 Honor. God bless you.

18 (WHEREUPON, proceedings concluded at 11:04 a.m.)

19 \*\*\*END OF REQUESTED TRANSCRIPT OF RECORD\*\*\*  
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Certificate of Reporter

I, Diane L. Marcengill, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Anderson County, South Carolina, on the 18th day of September 2017.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

December 13, 2017

  
Diane L. Marcengill, RPR, CRR  
Circuit Court Reporter

STATE OF SOUTH CAROLINA )  
 COUNTY OF Greenville )  
 STATE VS. )  
 Willie Howard Smallwood Jr )  
 AKA: )  
 Race: W Sex: M Age: 42 )  
 DOB: [REDACTED] SS#: [REDACTED] )  
 Address: [REDACTED] )  
 City, State, Zip: [REDACTED] )  
 DL#: [REDACTED] STR#: [REDACTED] )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS2300053  
 A/W#: 1803626  
 Date of Offense: 1/1/2008  
 S.C. Code § : 16-03-0655(B)  
 CDR Code #: 0396

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 TO: Sex / Criminal sexual conduct with minor - victim 11 to 14 yrs of age inclusive - Second deg.

in violation of § 16-03-0655(B) of the S.C. Code of Laws, bearing CDR Code # 0396  
 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. WHS (defendant's initials)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

Christy Kedrocker SC Bar# 70375 Willie Smallwood Defendant WHS Attorney for Defendant 75095 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 \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
 probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code: § 24-13-40 to be calculated and applied  
 by the State Department of Corrections. 467 Days  
 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: \_\_\_\_\_

Recipient: \_\_\_\_\_  
 \*Fine: \$ \_\_\_\_\_  
 § 14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_  
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100  
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_  
 § 56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
 § 56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_  
 § 47-12 (Public Def/Prob) \$500 \$ \_\_\_\_\_  
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 20  
 § 14-1-213 (Drug Court Surcharge) \$100 \$ \_\_\_\_\_  
 § 50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
 § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
 § 90.7 (SCJA Surcharge) \$5 \$ 5  
 3% to County (if paid in installments) \$ \_\_\_\_\_  
 TOTAL \$ \_\_\_\_\_

Clerk of Court/Deputy Clerk Paul B. Wiseman  
 Court Reporter: Herron  
 SCCA/217 (1/1/2009)

Presiding Judge: [Signature]  
 Judge Code: 2130  
 Sentence Date: 1-5-10

A Certified Copy  
 Paul B. Wiseman  
 Clerk of Court C.P. & G.S.  
 Greenville County, SC  
 Dated 9-25-17

**South Carolina Department of Probation, Parole and Pardon Services  
Summary of Administrative Hearing**

**Releasee:** Willie Howard Smallwood Jr.

**SID#:** 00522204

**Location:** Anderson County Probation Annex Office, Anderson, South Carolina

**Date:** August 31, 2017

**Time:** 11:53 AM

**Persons in Attendance**

Name	Relationship
Stacy Murrell	Administrative Hearings Officer
Charles Webber	Agent
Willie Smallwood Jr.	Probationer

**Hearing Officer's Findings:**

I find that Willie Smallwood Jr. violated conditions 7, 9, and additional conditions as set forth in the affidavit(s) dated August 3, 2017 ; such conditions having been contained in the Order of Release accepted by Willie Smallwood Jr. in writing on March 1, 2017.

I find that Willie Smallwood Jr. failed to pay supervision fee and other fees as determined by the Department. Mr. Smallwood was behind \$440.00 on intensive supervision fee, \$880.00 on GPS fee, and \$20.00 on drug test fee at the time the warrant was issued on August 3, 2017.

I find that Willie Smallwood Jr. failed to comply with additional conditions. Mr. Smallwood was ordered to be on GPS monitoring not less than six months. On August 3, 2017, Mr. Smallwood allowed his battery in his GPS monitor to go dead making it unable for the Agent to track Mr. Smallwood.

I find that the aforementioned violations constitute a willful failure to follow the advice and instructions of the supervising agent. I base these findings on the evidence and testimony presented at the Administrative Hearing.

**Hearing Officer's Conclusions:**

Mr. Smallwood was ordered to be placed on GPS monitoring for not less than six months when he was released on March 1, 2017 to the Community Supervision Program. Mr. Smallwood

South Carolina Department of Probation, Parole and Pardon Services  
Summary of Administrative Hearing

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testified that he has been at the hospital but prior to him going to the hospital, his charger for his GPS monitor was stolen along with his book bag. Agent Webber testified that when Mr. Smallwood's monitor died, he checked the last known points and found that Mr. Smallwood had been at the hospital. In an attempt to get in contact with Mr. Smallwood, Agent Webber testified he went up to the hospital to see if he could locate Mr. Smallwood. Agent Webber was advised by the hospital staff that Mr. Smallwood had already been released from the hospital. Mr. Smallwood never attempted to contact his Agent to advise his charger had been stolen so that he could ensure he stayed in compliance. Mr. Smallwood was aware he had to charge his monitor in order to remain in compliance and failed to communicate with his Agent about the charger; therefore, a revocation is appropriate at this time.

**Recommendation of the State:**

Revocation.

Respectfully Submitted,

Stacy Murrell

Administrative Hearings Officer

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

No. 09GS230053

1  
Count

STATE  
-vs-

Community Supervision  
REVOCATION ORDER

WILLIE HOWARD, JR. SMALLWOOD

Defendant:

00522204

SID #

338651

01/29/1967

SCDC # or DOB

This matter was brought before me on the 18 day of September, 2017, pursuant to a [warrant or citation] charging the Defendant with violating the Defendant's Community Supervision Program and asking the Court to revoke the Defendant's community supervision. I find:

**A TRUE COPY**  
SEP 25 2017  
Richard A. Lingo  
ANDERSON CLERK OF COURT

1. The terms of the Community Supervision Program are fair and reasonable;
2. The Defendant has not complied with all terms of the Community Supervision Program;
3. The Defendant has willfully violated terms of the Community Supervision Program;
4. The Defendant should not be continued in the Community Supervision Program under its current terms or under other terms and conditions;

IT IS ORDERED that the Defendant be in the custody of the South Carolina Department of Corrections for a term of \_\_\_\_\_ days \_\_\_\_\_ months 1 year (total may not exceed one (1) year).

Revoke CSP. CTS 45 days. Time served satisfies money arrearages.

This 18 day of September, 2017

*[Signature]*  
Presiding Judge

S.C.

10th

Judicial Circuit

This is to certify that I have received this order.

Offender's Signature Willie Howard Jr Smallwood

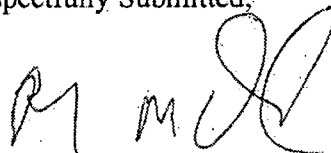
Witnessed by Vol Arnold

Signed this 18 day of September, 2017, at Anderson, S.C.

## 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,



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Robert M. Dudek  
Chief Appellate Defender

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

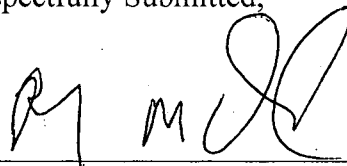
ATTORNEY FOR APPELLANT

This 18th day of July, 2018.

## 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, 2018.

**RECEIVED**

JUL 18 2018

**SC Court of Appeals**