

THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

RECEIVED

AUG 10 2018

APPEAL FROM SUMTER COUNTY SC Court of Appeals
Court of General Sessions

The Honorable George McFaddin Jr. , Circuit Court Judge

Case No(s): 99-GS-43-00294; W-43-09-0173; Appellate
Case No. 2018-001415

The State of South Carolina,

Respondent.

v.

Mikel Terrell Francis,

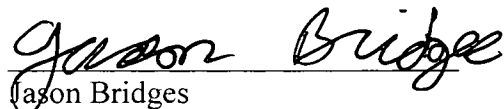
Appellant.

Motion for Rehearing

Mikel Terrel Francis appeals his probation revocation in this case. The notice of appeal served on July 27, 2018 contained a scrivener's error. The notice of appeal states that the probation revocation hearing was held on June 20, 2018. Due to this error, the appellate case of Mr. Francis was dismissed on August 3, 2018 due to filing not being timely.

The probation revocation hearing was in fact held on July 20, 2018. The filing of the notice of appeal would therefore be timely under Rule 203 of the South Carolina Appellate Court Rules. Mr. Francis moves for a rehearing under Rule 221 of the South Carolina Appellate Court. Documentation supporting the date of the probation revocation hearing as well as a copy of the notice of appeal filed on July 27, 2018 are enclosed in support of this motion.

Date: August 7, 2018



Jason Bridges
Assistant Public Defender
Sumter County Public Defender's Office
Sumter, SC 29150
803-436-2424
Attorney for Appellant

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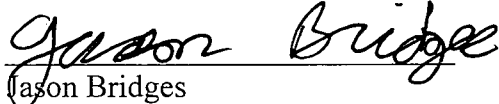
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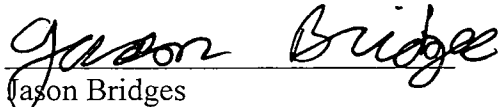
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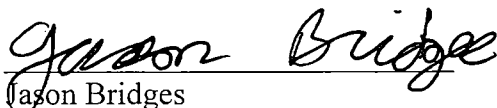
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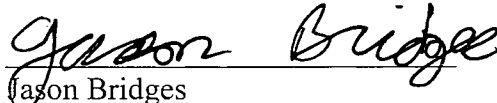
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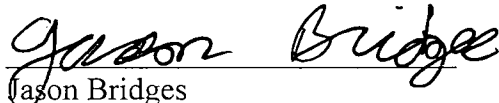
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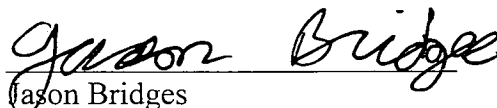
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RECORDED

2018 JUL 27 PM 1:09

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

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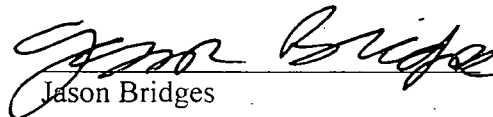
Mikel Terrell Francis,

Appellant.

NOTICE OF APPEAL

Mikel Terrel Francis appeals his probation revocation in this case. The probation revocation was ordered after a probation revocation hearing before the Honorable George McFaddin Jr. , on June 20, 2018.

Date: July 27, 2018



Jason Bridges
Assistant Public Defender
Sumter County Public Defender's Office
Sumter, SC 29150
803-436-2424
Attorney for Appellant

STATE OF SOUTH CAROLINA)

COUNTY OF SUMTER)

IN THE COURT OF GENERAL SESSIONS

Attorney

Indictment No.

99-65-43-00294

Probation/Community Supervision Program (CSP) Violation

Warrant/Citation #

W-43-09-0173

NOTICE OF PROBATION /CSP VIOLATION HEARING AND ACKNOWLEDGMENT OF NOTICE

State of South Carolina,

v.

Mikel Francis

Offender.

You are hereby directed to appear at a Probation/CSP Violation Hearing in General Sessions on July 20, 2018 at 8:45 am in the SUMTER County Judicial Center SUMTER, South Carolina.

You may have an attorney represent you at this hearing. If you cannot afford an attorney and you desire the representation of the SUMTER County Public Defender, you must apply for an appointed attorney with that office. If you choose to appear at the hearing without an attorney, you may be required to represent yourself. You are hereby advised that there are dangers and disadvantages to self-representation. An attorney may better understand courtroom procedure and may be better able to think of and present defenses to your violations. By appearing without an attorney you are acknowledging these dangers but are knowingly and voluntarily choosing to proceed without counsel.

At the violation hearing you will have an opportunity to speak, and you may present witnesses or documentary evidence on your behalf. If requested, you will also have an opportunity to confront and cross-examine any witnesses called to testify against you; however, the Department may elect to present affidavits of witnesses or police officers in lieu of testimony. State v. Pauling (Cl. App. 2006). It is your responsibility to have your witnesses and attorney present. If you are released on bond prior to your hearing date, you must report to the Probation Office immediately upon your release.

You are required to be present at your hearing as scheduled above. If you do not appear, a bench warrant or a failure to appear warrant will be issued for your arrest. Furthermore, the Court may choose to proceed with the hearing in your absence. This directive remains in effect until you are granted leave by the Court.

This directive has been read to me and I have been provided with a copy. I was also given an opportunity to ask questions about this directive before it was signed.

Date

6/16/18

Offender's Signature

Mikel Francis

Agent's Signature

[Signature]

STATE VS.

RECORDED 1999
2018 JUL 20 PM 2:50

Indictment Number:

- GS - 43 - 294

AKA: Mikel Francis

Probation C/W#: W-43-09-0173

Race: Black Sex: Male

Name of Original Offense: Attempted Armed Robbery

DOB: [REDACTED]

Original AYW#: F 906823

SSN: [REDACTED]

Date of Original Offense: 12-21-98

SID#: [REDACTED]

Conviction S.C. Code §: 16-11-330 (B)

Conviction CDR Code #: 0101216

Original Sentence: 20 years upon 5 yrs bal ssw/4 yrs prob

James C. Campbell

CLERK OF COURT
SUMTER COUNTY

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 4 / 20 / 99 in the Court of General Sessions of Sumter 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 12/31/09. 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, 3, 6, 8, 9, 10

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 20 months/years, the remainder of the original sentence, and/or pay \$ _____
- the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- the above named defendant is placed on electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first or third degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- Financial Obligations: Order satisfies:
 - Department fees (arrearage)
 - Fines and other fees (arrearage / balance)
 - Restitution (and 20%) (arrearage / balance)
 Civil judgment:
 - Department fees
 - Fines and other fees
 - Restitution (and 20%)
- Additional Conditions ordered by the Court: Terminate Probation this date

- 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. Since June 6, 2018
- The defendant is to be given credit for pretrial detention time served (N/A if defendant has served prior SCDC time).
- The defendant has served 5 days/months/years of prior revocations and/or initial SCDC time.
- The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This Sumter day of _____, 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 [Signature] Signed this 20 day of July 2018 at Sumter SC
Witnessed by William Sumter City

The South Carolina Court of Appeals

The State, Respondent,

v.

Mikel Terrell Francis, Appellant.

Appellate Case No. 2018-001415

The Honorable George M. McFaddin, Jr.
Sumter County
Trial Court Case No. 1999GS4300294

ORDER

The notice of appeal states the probation revocation hearing was held on June 20, 2018. The notice of appeal was served on July 27, 2018. Appellant has failed to timely serve the notice of appeal, as required by Rule 203 of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire
Robert Michael Dudek, Esquire
Jason Edward Bridges, Esquire

FILED
August 3, 2018

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PROOF OF SERVICE

I certify that I have served copies of the motion for rehearing on the below listed parties by depositing a copy of it in the United States Mail, postage prepaid, on August 07, 2018, addressed to:

S.C. Department of Probation, Pardon & Parole
P.O. Box 50666
2221 Devine Street, Suite 400
Columbia, S.C. 29250

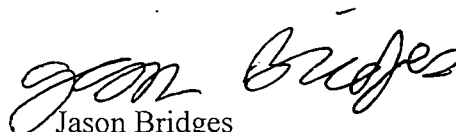
The Honorable Alan Wilson
P.O. Box 11549
Columbia S.C. 29211

Appellate Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia S.C. 29211

John Benjamin Aplin
P.O. Box 11549
Columbia, S.C. 29211

Robert Dudek
1330 Lady Street, Suite 401
Columbia, SC 29201

Sumter, SC
Date: August 07, 2018


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Sumter County Judicial Center