

ORIGINAL

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Richland County  
Alison Renee Lee, Circuit Court Judge  
\_\_\_\_\_

RECEIVED  
OCT 26 2018  
SC Court of Appeals

THE STATE,

APPELLANT,

V.

JAMIE SIMPSON,

RESPONDENT

APPELLATE CASE NO. 2016-002210  
\_\_\_\_\_

**MOTION TO DISMISS APPEAL AS MOOT**  
\_\_\_\_\_

Respondent, through his undersigned counsel, would respectfully show unto this Court as follows.

1. Respondent pled guilty on October 18, 2016, before the Honorable Alison R. Lee. R. 1. R. Kyle Senn represented the state, and Alexandra M. Benevento represented Respondent. R. 1. Judge Lee sentenced Respondent to four years' imprisonment, which she suspended upon the service of two years in home detention supervised through electronic monitoring to be followed by two years of probation. R. 46, 1. 2-18. Additionally, Judge Lee explained Respondent's home detention would restrict him to his residence with the exception of work and medical treatment, including continued counseling with his doctor and/or "medical psychiatric or mental health

treatment or counseling.” R. 46, ll. 6-11. Finally, Judge Lee ordered that Respondent not have access to a personal computer. R. 46, ll. 11-13.

2. The state appealed the sentence. The state’s sole issue on appeal is whether Judge Lee had the authority to order that Respondent’s imprisonment be served as home detention pursuant to S.C. Code Ann. § 24-13-1530. In its brief, the state asked that Respondent’s sentence on home detention to be vacated and the case remanded for resentencing. Although the state did not expressly say so in its brief, presumably the state intends for Respondent to serve at least two year’s imprisonment in the Department of Corrections.

3. Respondent successfully completed his sentence of imprisonment on home detention on October 17, 2018. See Exhibit #1 (affidavit of compliance from Offender Management Services).

4. A sentence of home detention is a sentence of imprisonment. “Home detention” is defined as a type of “confinement.” S.C. Code Ann. § 24-13-1520(4). Furthermore, when computing credit for time served, time spent on house arrest may be given. S.C. Code Ann. § 24-13-40.

5. Because Respondent has completed his sentence before the end of this appeal, the state cannot receive the requested relief. Respondent cannot serve two years’ imprisonment on home detention and then be resentenced to serve another two years’ imprisonment in the Department of Corrections. This renders the case moot. State v. Pickelsimer, 388 S.C. 264, 270-71, 695 S.E.2d 845, 849 (2010). See also Matter of Angela Suzanne C., 286 S.C. 186, 188-89, 332 S.E.2d 542, 543-44 (1985) (finding that appeal was moot because defendant had already served her sentence and noting the state’s argument that there was “no meaningful relief” which the court could

grant). “It is settled law that this Court will not issue advisory opinions on questions for which no meaningful relief can be granted.” Id.

6. Respondent expects that the state will argue the exception to the mootness doctrine of “capable of repetition but evading review” applies. This Court should not apply that exception in this case because the state cannot show that this question will always evade review. A trial judge could sentence a defendant to a longer period of home detention than received by Respondent. Under that scenario, a defendant may not have served all of his period of imprisonment before the adjudication of his appeal.

WHEREFORE, Respondent prays that the Court hold this matter in abeyance until ruling on this motion, and dismiss this appeal as moot.

Respectfully submitted,



Susan B. Hackett  
Appellate Defender

ATTORNEY FOR RESPONDENT

October 26, 2018

# **EXHIBIT #1**



**OFFENDER MANAGEMENT SERVICES  
AFFIDAVIT OF COMPLIANCE**

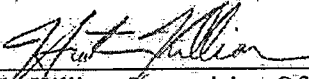
To:  
From: Hunter L. Killian  
Date: 10/23/2018  
Re: **Jamie Lee Simpson**

**Services:**  
Offender Management Services-Electronic Monitoring  
**Program Start Date:**  
10/18/2016-10/17/2018- 730 days of House Arrest Electronic Monitoring Completed

**Charges:**  
Sexual Exploitation of a Minor, 2<sup>nd</sup> degree (4 counts)

**Compliance:**

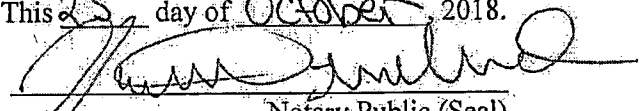
The defendant Jamie Lee Simpson has been compliant and has successfully completed 730 days of Electronic Monitoring with House Arrest Conditions. If there are any questions, please contact our office at 803-814-3216.

  
\_\_\_\_\_  
Hunter L. Killian, Supervision Officer

Date: 10.23.18

The above affidavit was sworn and  
subscribed before me,

This 23 day of October, 2018.

  
\_\_\_\_\_  
Notary Public (Seal)

Commission Ends: May 2028

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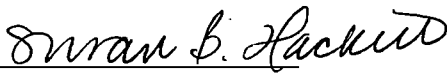
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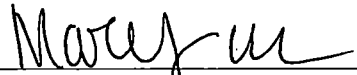
\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

The undersigned attorney hereby certifies that a true copy of the Motion to Dismiss Appeal as Moot in the above referenced case has been served upon William M. Blicht., Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Jamie Lee Simpson at 448 Fountain Lake, Columbia, SC, 29209, this 26<sup>th</sup> day of October, 2018.

  
\_\_\_\_\_  
Susan B. Hackett  
Appellate Defender

ATTORNEY FOR RESPONDENT

SUBSCRIBED AND SWORN TO before me  
this 26<sup>th</sup> day of October, 2018.

 (L.S.)  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: May 12<sup>th</sup>, 2027