

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from York County

Honorable R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NELSON SENTELLE COOK,

APPELLANT

APPELLATE CASE NO 2018-000578

RECORD ON APPEAL

VICTOR R SEEGER
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
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ATTORNEYS FOR RESPONDENT

ATTORNEY FOR APPELLANT

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF YORK) SIXTEENTH JUDICIAL CIRCUIT
2016-GS-46-03614

STATE OF SOUTH CAROLINA)
vs.) TRANSCRIPT OF RECORD
NELSON SENTELLE COOK)

MARCH 26, 2018
YORK, SOUTH CAROLINA

BEFORE THE HONORABLE R. KEITH KELLY

APPEARANCES:

AMBER BOYLE, PROBATAION AGENT
YORK, SOUTH CAROLINA

JEFFREY ZUSCHKE, ASSISTANT PUBLIC DEFENDER
YORK, SOUTH CAROLINA

ATTORNEY FOR THE DEFENDANT

SHIRLEY BROOM
16TH Circuit Court Reporter

I-N-D-E-X

WITNESSES: DIRECT CROSS RE-DIRECT RE-CROSS

(NO TESTIMONY TAKEN)

E X I B I T SDESCRIPTION:ID.

EV.

NO EXHIBITS

1 MS. BOYLE - NELSON COOK.

2 THE COURT - Madam Clerk, would you swear him,
3 please.

4 (WHEREUPON, NELSON COOK IS DULY SWORN BY THE
5 DEPUTY CLERK.)

6 THE COURT - Sir, you are Nelson Cook?

7 MR. COOK - Yes, sir.

8 THE COURT - Mr. Cook, you're in custody. Have
9 you taken any medication or substance that interferes with
10 your ability to think clearly?

11 MR. COOK - No, sir.

12 THE COURT - Do you know what you're doing here
13 today?

14 MR. COOK - Yes, sir.

15 THE COURT - Sir, have you had sufficient time to
16 speak with your lawyer about the allegations in this 1106?

17 MR. COOK - Yes, sir, I have.

18 THE COURT - Okay, is it true what they say?

19 MR. COOK - Yes, sir.

20 THE COURT - Okay. He admits the violation. Is
21 there anything new, agent?

22 MS. BOYLE - No, sir.

23 THE COURT - All right, yes, sir.

1 MR. ZUSCHKE - Your Honor, we would ask you to
2 consider a partial revocation followed by reinstating.
3 What we're here about is a phone call. Mr. Cook was picked
4 up when he was reporting to the jail. He was picked up at
5 that point for a child support warrant from another county.
6 Since that time he had transferred his child support to
7 this county not realizing there was a balance there that
8 they sent forward. He is working now at the McDonald's
9 making ten dollars an hour. He does have it set up here
10 for them to garnish his wages so that he's paying child
11 support here. The issue was just a mistaken (sic) the
12 transferring. Once he was locked up, he didn't have a way
13 to pay the child support in order to get out, so he did
14 against the Court's Order called Ms. Guess who is his five-
15 year relationship and formerly live-in significant other.
16 They've had a very long relationship during that five
17 years. He's been the father-figure for her children.
18 They've been living together; they've had a long
19 relationship. She's here to speak on his behalf at the
20 appropriate time, but he made the call because she's the
21 other person with access to his finances. He wasn't trying
22 to -- he knew that he was going to be in violation of that;
23 he was told by his agent not to do so, but he was looking
24 at that or jail and he made the wrong decision. I think
25 him sitting here in jail for the last weeks has shown him

1 the error of that decision. I think if you were to give
2 him another chance on probation that he would be very
3 successful there after the Court installs appropriate
4 punishments, but we would ask you to let him show that he
5 can complete that probation. He is working. He has been
6 paying his probation. He is doing what he can there and I
7 believe both him and Ms. Guess would like to speak.

8 THE COURT - Okay. Sir, would you like to speak?

9 MR. COOK - Yes, sir, I would, Your Honor.

10 THE COURT - Be happy to hear from you.

11 MR. COOK - I was -- like my attorney said, I was
12 reporting in to do my weekend time they said I had to get
13 for child support. Cool. I know was going to have to stay
14 a extra day to go handle that that Monday morning. Went up
15 there, the Judge, he told me you could purge out or do 30
16 days. Cool. I know I have been working; I've been saving
17 my money like my grandma taught me. I just made a bad
18 mistake by calling Ms. Guess. I should've just called my
19 brother or somebody to relay the message, tell her how
20 much, purge me on out, no problems, still on probation,
21 still rolling. I just made a bad, bad decision, Your
22 Honor, bad, bad decision. I should've went another route
23 to get my finances up here to pay my money.

24 THE COURT - Okay.

1 MR. COOK - But my probation officer, she'll tell
2 you, I work -- she even commented on when I was doing my
3 plumbing, man, look at your hands! I was, like, awe man,
4 I'm all dirty. She said, no, no, that's good, that's a
5 working man's hands. So my probation officer she knows
6 from the time that I've been on probation up until now the
7 steady improvement I've made, constantly working,
8 constantly coming to see her and doing whatever she told
9 me. I made a bad mistake that day, Your Honor. I
10 should've just went another route about getting the money
11 up here. I got the money. I should've just went another
12 way of getting it up here.

13 THE COURT - Yes, sir, you got somebody else?

14 MR. ZUSCHKE - Ms. Guess.

15 She approached me on Friday, Your Honor, and said
16 that she wanted to speak at this hearing.

17 THE COURT - Sure.

18 Ma'am, tell me your name, please.

19 MS. GUESS - Christy Guess.

20 THE COURT - Guess?

21 MS. GUESS - (Indicating yes)

22 THE COURT - Yes, ma'am.

23 MS. GUESS - Um, basically, everything that he has
24 said, the -- actually, the family court warrant that was --
25 that he was put -- that he was put in for was something

1 that he had cleared up in October, and it had not been
2 disposed in York County, so it came up again, and he,
3 actually, received a check back from Green (sic) County for
4 that five hundred and fifty dollars, and he's supposed to
5 let York County know to just take out that warrant so that
6 it doesn't happen again. That's how all of this happened
7 in the first place, but he's done everything on probation,
8 as he should have. He's -- and also his son was removed
9 from custody of his mother's home and he's been dealing in
10 Greenville County trying to get custody of his son, and
11 he's very close to getting custody of his son, um, because
12 his son is not going back to his mom's house at all. We
13 don't live -- we -- we -- for right now until he's done
14 with probation, we decided not -- we're not going to live
15 together. I was not aware of the no-contact Order because
16 I was not able to come to the hearing, um, and like I said,
17 you know, we've been doing everything that we can, like as
18 far as him living at his uncle's house and everything like
19 that, and my kid's miss him, but they know that, I mean,
20 you know, he'll be back, just, you know trying to work
21 things out with his son, Daylin (phonetic), and, you know,
22 got things to do. So I just feel like -- like he -- he
23 reacted like -- it was a knee-jerk reaction, you know, the
24 only person that could get the money out of the bank, you

1 know, let me tell her how much or whatever, -- it was five
2 seconds, I mean.

3 THE COURT - All right, thank you, ma'am.

4 Anyone else?

5 MR. ZUSCHKE - Nothing further.

6 THE COURT - Anything further?

7 MS. BOYLE - Your Honor, my only concern with this
8 violation is that I approached him in the jail before he
9 made the phone call, reminded him of the no-contact Order,
10 told him not to call her and the very next thing he did was
11 call her, so he was very well aware of this no-contact
12 Order.

13 THE COURT - Yes, ma'am, I understand that. He's
14 been before Judge Hayes, Judge Hall, Judge Hayes and now
15 Judge Kelly; he's revoked in full. Good luck to you.

16 (END OF TRANSCRIPT)

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C E R T I F I C A T E

I, Shirley Broom, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing 9 pages is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the proceedings of State of South Carolina vs. Nelson Sentelle Cook, as taken by me in The Court of General Sessions for the Sixteenth Judicial Circuit on March 26, 2018, and provided by me this the 2nd day of May, 2018.

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

/s/SHIRLEY G. BROOM

Shirley Broom, CVR-M
Official Court Reporter,
Certified Verbatim Reporter, In and
for the State of South Carolina

STATE OF SOUTH CAROLINA

County of YORK

STATE VS.

AKA: Nelson COOKRace: BlackSex: Male

DOB: [REDACTED]

SSN: [REDACTED]

SID# [REDACTED]

FILED-RECEIVED

2018 APR -3 AM 12:00

DAVID HAMILTON
C.C.C.P. & G.
YORK COUNTY, SC

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

-GS-

463614

Probation C/W#s:

W-46-18-0056Name of Original Offense: DV 1st DegreeOriginal A/W#: 2016A4610200934Date of Original Offense: 04/13/2016Conviction S.C. Code §: 16-25-0020 (A)Conviction CDR Code #: 3 / 8 / 1 / 1Original Sentence: 5 yrs sus 3 yrs prob.

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 10 / 12 / 16 in the Court of General Sessions of YORK County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 12/16/17, 6/30/17, 2/12/18 as set forth in the attached warrant(s) or citation(s) dated 3/12/18.

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 Standard conditions: 3 and 9 of DV conditions.

Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 5 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) Civil judgment: ☐ Department fees
☐ Fines and other fees (arrearage / balance) ☒ Fines and other fees
☐ Restitution (and 20%) (arrearage / balance) ☐ Restitution (and 20%)

☒ Additional Conditions ordered by the Court:

Revoked in full. No Admin Monitoring

- ☒ The defendant is given credit for pre-arrest detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- ☒ 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 96 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 26th day of March, 2018,
YORK, SC

Presiding Judge

16th

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

Nelson A. Cook

Signed this

26th

Day

March

Month

18

Year

at

Witnessed by

[Signature]
YORK

City

SC

STATE OF SOUTH CAROLINA
COUNTY OF YORK

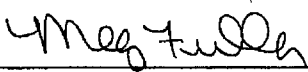
INDICTMENT

At a Court of General Sessions, convened on October 13, 2016, the Grand Jurors of York County present upon their oath:

DOMESTIC VIOLENCE, 1ST DEGREE

The defendant, Nelson Sentell Cook, on or about April 13, 2016 in York County, South Carolina, did cause physical harm or injury to Rachel Kristin Gess, a household member, or did offer or attempt to cause physical harm or injury to said household member with apparent present ability under circumstances reasonably creating fear of imminent peril. In addition the defendant committed domestic violence in the second degree during the commission of a robbery, burglary, kidnapping or theft and/or the defendant committed domestic violence in the second degree in the presence of, or while being perceived by, a minor. All in violation of 16-25-0020(A), *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



MEGAN Y. FULLER
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: T.Hager

ARREST WARRANT NUMBER

2016A4610200734

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-46- 03614

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

OCTOBER 13, TERM 2016

THE STATE

VS.

NELSON SENTELL COOK

INDICTMENT FOR

DOMESTIC VIOLENCE, 1ST DEGREE

SC Code: § 16-25-0020(A)
CDR Code: 3811

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

** Nelson Cook*
Defendant

** Nelson Cook*

hereby appear in my own proper person and plead guilty to the within indictment or to

** Nelson Cook*
Defendant

Witness:

And Mark Cooper
C.C.C. PLS AND G.S.

STATE OF SOUTH CAROLINA

COUNTY OF YORK

STATE VS.

NELSON SENTELL COOK

AKA: Nelson S Cook, Nelson Sentelle Cook

Race: Black Sex: M Age: 36

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Clover, SC 29710

DL# [REDACTED] SID# [REDACTED]

*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: Domestic Violence, 1st Degree

In violation of § 16-25-0020(A) of the S.C. Code of Laws, bearing CDR Code # 3811

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury, ☐ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Megan Y. Fuller
Megan Y. Fuller, Assistant Solicitor

101203
SC Bar #

Nelson Cook
Defendant

M. C. [Signature]
Attorney for Defendant 101654
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 5 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 24 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service 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 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Ordered PTUP _____ days/hours Public Service Employment

Obtain GED ☐

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 125.00

Clerk of Court/Deputy Clerk: David Hamilton

Court Reporter: Cileen Butler
SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS4603614
A/W: 2016A4610200734
Date of Offense: 04/13/2016
S.C. Code §: 16-25-0020(A)
CDR Code #: 3811

ORIGINAL

SENTENCE SHEET

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: Follow all Conditions of Supervision for Domestic Violence Offenders

☐ Appointed PD or appointed other counsel,

Proviso §61.6 requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Presiding Judge: [Signature]

Judge Bar ID: _____ Judge Code: 2753

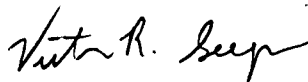
Sentence Date: 10-12-16

180 days

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,



Victor R Seeger
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 31st day of October, 2018.