

STATE OF SOUTH CAROLINA

 ORIGINAL

IN THE COURT OF APPEALS

Appeal from Richland County

Honorable DeAndrea G. Benjamin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMMIE DWAYNE WILSON,

APPELLANT

APPELLATE CASE NO 2018-000213

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS

3
4 State of South Carolina,)
5 Plaintiff,)
6 vs.) TRANSCRIPT OF RECORD
7 Jammie Wilson,)
8 Defendant.)

9 January 5, 2018
10 Columbia, South Carolina

11
12
13 B E F O R E:

14 THE HONORABLE DEANDREA G. BENJAMIN, JUDGE.
15
16

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

18 OFFICE OF PROBATION, PARDON AND PAROLE
19 Appearing for the Plaintiff

20 RICHARD E. MARSH, III, ESQ.
21 Attorney for the Defendant
22
23
24

25 DEBORAH M. McCURDY, RPR
Official Court Reporter

I N D E X O F W I T N E S S E S

(WHEREUPON, no witnesses were called
during these proceedings.)

E X H I B I T S

(WHEREUPON, no exhibits were introduced
during these proceedings.)

JANUARY 5, 2018

(WHEREUPON, the proceedings began at
11:05 a.m.)

THE PROBATION OFFICER: Jammie Wilson.

THE CLERK: Do you swear or affirm to tell the
truth, the whole truth, and nothing but the truth,
so help you God?

THE DEFENDANT: I do.

THE CLERK: Thank you.

THE COURT: Yes, sir?

THE PROBATION OFFICER: Good morning. May it
please the Court, Your Honor?

Mr. Wilson was convicted of DUI third offense.
He received a sentence of three years suspended
upon 18 months and 18 months probation. And,
according to my records, you were the judge that
day.

He has failed to provide an accurate residence
address to the department. His accounts are in
arrears. He has failed to attend substance abuse
counseling as court ordered and referred. And,
finally, one of the special conditions that was
ordered by yourself when he was placed on probation
was that he continue on an alcohol monitor being
placed on himself where he could be monitored for

1 alcohol usage. He failed to do that. He has not
2 had one on since he was in court that day.

3 Thank you, Your Honor.

4 THE COURT: All right. Yes, sir?

5 MR. MARSH: Thank you, Your Honor.

6 It is quite accurate that this is not the
7 first time that you have seen Mr. Wilson. He is 39
8 years old today. He is married. He has three
9 children. They are 18, 14, and 1.

10 One of the first things that popped out to me
11 when I saw his report -- I was appointed this
12 morning -- after speaking with him is that Jammie
13 D. Wilson has been reporting as scheduled. You
14 will see that under the reporting section of that
15 first page.

16 And we have a couple of issues. It looks like
17 there might be some confusion. If I may approach,
18 Your Honor? I do have documentation from the U.S.
19 Post Office and from the DMV that shows that the
20 address that Mr. Wilson provided was in fact and is
21 in fact the address that he is currently residing
22 at, the one that is his address of record, which is
23 [REDACTED], [REDACTED].

24 There is a reference in the report to a
25 Mr. Danell E. Ammons, who apparently indicated to

1 one of the probation agents that Mr. Wilson does
2 not live there.

3 In speaking with Jammie, he doesn't know him,
4 he doesn't understand his situation, and his
5 conjectures about Mr. Wilson's residence were
6 inaccurate.

7 You will also notice that one of the details
8 of the present violation is that Mr. Wilson is
9 alleged to have failed to work diligently at a
10 lawful occupation as evidenced by his unemployment
11 or by failing to provide verification.

12 Your Honor, when Mr. Wilson started probation
13 on November 1st of 2017, he actively went out and
14 sought employment. He continued to continue to try
15 to find employment after his period of
16 incarceration, and as you'll see now he is wearing
17 a series of badges on his belt buckle that shows
18 that he has a job now. I should have handed this
19 on the front end, but if I may approach again, Your
20 Honor, I will show a badge showing that he is
21 employed by Reliable Management Sources. He is
22 occupied in their Michelin plant as a forklift
23 driver, and he has been since '13.

24 He has -- since he has gotten out of jail,
25 prison, he has found himself in a difficult and

1 precarious situation and he has just achieved firm
2 footing.

3 Now, when he was placed on that alcohol
4 monitor, he had been placed on it prior to his
5 period of confinement, and when he got out he
6 already owed money on the account for that monitor.
7 When he sought to have it put back on, they told
8 him it would be \$1,234 and some change. He would
9 also have to continue paying \$71 a week and
10 reporting twice a week.

11 The first time he was put on the monitor, he
12 lost his job over those requirements. He still
13 tried to do it again, he tried to find some way to
14 balance the number of plates that he was trying to
15 keep spinning once he had gotten out of jail, but
16 he has taken very strong, affirmative strides
17 towards maintaining what is necessary to do.

18 While it is true that he doesn't have the
19 monitor on today like Your Honor ordered, he has
20 done what -- those steps that he -- he would like
21 to. He would like to have the resources to comply
22 with everything that you said, and he is finding it
23 difficult for him to do so. But we are not talking
24 about today someone who is -- and, unfortunately,
25 sometimes people get scared and they don't know to

1 report, but Mr. Wilson hasn't taken that approach.
2 He showed up here today on his own recognizance.
3 He has shown from the reporting thing, he is
4 reporting as scheduled.

5 And in regards to the substance abuse
6 counseling, it is his understanding that he has
7 made the preliminary steps necessary to sign up for
8 it, and after providing his contact information to
9 them, that once he is eligible to begin those
10 classes they will contact him. He has only been
11 out for a little over a month -- excuse me, two
12 months, Your Honor -- since being released on
13 November 1st.

14 At this point I think the best path for Mr.
15 Wilson to going forward is if the Court would be
16 willing to consider continuing him on probation and
17 waiving whatever fees that the Court has the power
18 to waive so that the newfound successes that he has
19 secured in his life will not vanish today.

20 And I think that Mr. Wilson would like to
21 speak at the appropriate time.

22 THE COURT: Is he still driving? Does he have
23 new driving offenses?

24 MR. MARSH: He has no new offenses, Your
25 Honor.

1 THE COURT: Oh, I was just looking at the
2 document.

3 MR. MARSH: He is placed on a habitual traffic
4 offender charge, but I think that is just something
5 that you get -- this is my conjecture -- I think
6 that when you are on that status they send you
7 letters periodically. I represent a number of
8 people on HTO charges, and in looking through the
9 discovery there are a myriad of intervals at which
10 the DMV submits that. As you'll see that -- the
11 point of providing that was to show that, for all
12 intents and purposes, that is his address. If he
13 was not present --

14 THE COURT: I understand. Of course, you
15 handed it up. I'm reading the content of it. And
16 it says, as to why DMV was contacting him, so I'm
17 trying to find out if he had recently received --
18 what triggered them to send him the letter.

19 THE DEFENDANT: Oh -- may I speak?

20 THE COURT: Yes, sir.

21 THE DEFENDANT: As you are reading, that
22 letter just states that if I get any more traffic
23 offenses I will be charged as a habitual offender.

24 THE COURT: No, I understand what it is,
25 habitual traffic offender, but I am just trying to

1 figure out what triggered them. It just says, This
2 is to advise you of your present standing.

3 MR. MARSH: I think that is it, Your Honor,
4 but if I may look at it again?

5 THE COURT: Sure.

6 Yes, sir?

7 THE PROBATION OFFICER: Just in response to
8 some of the comments that were made, Your Honor.

9 As I said, Mr. Wilson was released November
10 1st, and came to my office that day, as he was
11 supposed to. And that is when we had the
12 conversation about the conditions of his
13 supervision.

14 He was told that day he needed to go to an
15 address on Broad River Road to have the monitor put
16 on. And he subsequently returned to my office on
17 November 6th, five days later, and stated that he
18 couldn't meet the conditions of the supervision;
19 and a discussion was held that he would have to
20 come back to court to address that.

21 The second issue was in regard to the
22 residence. I think you have got some document,
23 which I haven't been able to see, so I don't know
24 what the date on that is, but, again, he was
25 released November 1st. I made a trip to the

1 address he had given to me seven days later,
2 November 8th, and spoke to the gentleman who was at
3 the front door of the apartment, Mr. Dane11 Ammons.
4 And I had a picture of Mr. Wilson in my hand,
5 showed him the picture, and I said, of course, Does
6 Mr. Wilson live here? And he said, No, he did not.

7 So that is where that came from. You know,
8 what has happened since November 8th, I don't know.
9 You know, all I can speak to is the fact that I
10 went there on November 8th myself, talked to the
11 person, and that was the answer I received. You
12 know, if something has changed since then, then,
13 you know, it may be, I don't know. But, again, I
14 can only tell the Court, and anyone else that wants
15 to hear, what I was told that particular day.
16 Okay.

17 As far as his employment, you know, that was
18 discussed November 1st. At that point he was
19 unemployed. I received a copy of a letter five
20 weeks later, December 8th, saying that he was
21 employed. That may be the case, you know, but,
22 again, when the citation was issued that was the
23 knowledge that we had based on the facts at hand.

24 THE COURT: All right. Well, let me tell you
25 what my concern is -- not so much the employment,

1 because he just got out of jail -- my concern is he
2 doesn't have on the monitor, not going to substance
3 abuse classes. I don't remember the underlying
4 case, but from looking at his driving record, he
5 apparently has some serious charges in the past. I
6 don't know. What is his prior record?

7 MR. MARSH: Your Honor, if I may? All these
8 minor and major violations listed on here are just
9 examples of what they could violate you on the
10 habitual traffic offender charge. This doesn't
11 list any actual offenses that he has, other than to
12 say that, Our records now reveal you have
13 accumulated two major and zero minor violations.

14 THE COURT: I understand. I understand those
15 could be charges that -- convictions he had on the
16 ticket, but I'm trying to figure out what his --
17 because obviously he was before me on a DUI third.

18 MR. MARSH: Correct.

19 THE COURT: Which means there is a problem
20 with him drinking and driving. My concern is,
21 someone who has a problem drinking and driving,
22 that's why I ordered the monitor and that is why I
23 ordered substance abuse counseling so he would not
24 have any future issues.

25 In looking at that, there is a felony -- and I

1 don't know whatever happened to those charges. I
2 guess that's what I'm asking, what is his prior
3 record?

4 THE PROBATION OFFICER: Look at the very
5 bottom of the violation report, I have a brief
6 criminal history on this that will give you a
7 little idea, I think, about the point you are
8 making.

9 MR. MARSH: I would point out, Your Honor,
10 that is his whole record. His latest charge, other
11 than one you sentenced him for, was from 2012. He
12 hasn't had anything since then. He does not have
13 anything new. Also, both of these documents that I
14 submitted -- I am happy to show the agent as
15 well -- are dated in December. And the crux of the
16 issue with the monitor, in my estimation, is
17 financial. He has to pay money in order to get on
18 it. And he has to pay arrearage before he is able
19 to have the new one installed. He doesn't have
20 that money, he has only been working since
21 November 13th.

22 THE COURT: All right, let me ask, did he do
23 substance abuse counseling when he was at the
24 Department of Corrections?

25 THE DEFENDANT: No. Most of my time was spent

1 at R&E. When I got out, I didn't have enough time
2 to get put in one of those classes.

3 MR. MARSH: He was incarcerated for relatively
4 a short period, Your Honor.

5 THE DEFENDANT: The three years that you gave
6 me, I did the nine months.

7 THE COURT: Eighteen months. You did 18
8 months?

9 THE DEFENDANT: Yes. Nine months. I did most
10 of it in the county.

11 THE COURT: All right.

12 THE PROBATION OFFICER: If you would like to
13 see these, I have a copy of the original sentencing
14 sheet you did, and also the substance abuse
15 referral.

16 THE COURT: All right. You can hand it up.

17 All right, this is what I'm going to do. Do
18 you all put the alcohol monitor on?

19 THE PROBATION OFFICER: No, ma'am, there is a
20 company called OMS out on Broad River Road. We
21 don't do alcohol monitoring. That is why we send
22 him to OMS. That was the place he was dealing with
23 earlier, obviously.

24 MR. MARSH: And that is where his prior
25 arrearage was from, because he couldn't start after

1 he was released until he paid back the money he had
2 already owed.

3 THE COURT: All right. What I'm going to do
4 is -- he is going to have to figure it out, his
5 family has to figure it out -- I'm going to revoke
6 90 days. He can get out of jail.

7 Why haven't you gone to the substance abuse
8 counseling?

9 THE DEFENDANT: I'm waiting on them to contact
10 me back. I done done what I am supposed to do. I
11 guess they call you when your classes are ready.

12 THE COURT: All right. Yes, sir? I'm
13 assuming in November -- he got out in November. He
14 said he did the paperwork for substance abuse.

15 THE PROBATION OFFICER: Well, the referral
16 form, I believe, Your Honor -- I gave you the copy
17 I had -- I think it is dated November 1st; is that
18 not right?

19 THE DEFENDANT: Yes.

20 THE PROBATION OFFICER: And the instructions
21 on there to him was to contact them within 48 hours
22 to set up an appointment to start his counseling.
23 So those were his instructions by me.

24 THE COURT: All right. He can -- once he gets
25 the monitor put on, he can be released from the

1 jail. So I'm revoking -- he can be released from
2 the jail once he gets the monitor on.

3 THE PROBATION OFFICER: So you are going to
4 revoke 90 days, but during that 90-day period, if
5 he gets things worked out about getting the alcohol
6 monitor, he can be released at that point instead
7 of doing the full 90 days?

8 THE COURT: Yes. And he needs to attend --
9 and you need to go ahead and set up the substance
10 abuse counseling within 48 hours of being released
11 from the jail.

12 MR. MARSH: Your Honor, my concern is, he
13 thinks he has done what he has to do to sign up for
14 it. He doesn't have any control over scheduling
15 the classes himself. He has already made the
16 effort to reach out to get the counseling. We'll
17 just end up back here again. He will be released,
18 he will make the phone call, and then --

19 THE COURT: He is going to check with the
20 substance abuse -- Columbia -- is it the Columbia
21 Center?

22 THE PROBATION OFFICER: Yes, ma'am. We run
23 that operation.

24 THE COURT: So they will make sure he gets in.

25 MR. MARSH: Okay.

1 THE COURT: That is not going to be an issue.

2 THE PROBATION OFFICER: That is not an issue.

3 THE COURT: They will do the paperwork, they
4 will make sure he gets into substance abuse
5 counseling. If he needs inpatient treatment, then
6 they can send him to inpatient treatment. I'm
7 assuming they can do an assessment on him while he
8 is at the jail?

9 THE PROBATION OFFICER: Yes, ma'am. That is
10 the purpose of the initial call within 48 hours is
11 to set up an appointment time to have an evaluation
12 done. After that evaluation, they typically make a
13 recommendation as to the depth and type of
14 counseling that they feel an offender needs.

15 THE COURT: All right. So this is what I'm
16 going to do. He is going to be held at the jail
17 until he gets the monitor. You all need to, while
18 he is at the jail, go down there and do, within the
19 next week, go down and do -- have your substance
20 abuse person do the assessment. And once that --
21 so that won't even be an issue, because I am
22 putting it back on them to go do the assessment.
23 Once they do the assessment, they will make a
24 recommendation?

25 THE PROBATION OFFICER: I assume so. I don't

1 know that we have ever done anything quite like
2 that, go to the jail. I don't know who would do
3 it. I can find out.

4 THE COURT: All right. Go do the assessment.
5 If they say put him in inpatient, then he will need
6 to be transferred from the jail to inpatient
7 treatment. If he is -- they say he can be an
8 outpatient, then he will be released with the
9 monitor on.

10 THE PROBATION OFFICER: The idea being that he
11 can begin both the monitor -- wearing the monitor
12 and substance abuse immediately upon his release?

13 THE COURT: Well, obviously if they say he
14 needs inpatient, then he doesn't need the monitor
15 on until --

16 THE PROBATION OFFICER: Well, if they tell me
17 he needs inpatient, they don't do inpatient there,
18 they would refer me and say, You need to refer him
19 to LRADAC or somebody can get him in Morris
20 Village, or whatever. That is how that would work.

21 THE COURT: Yes, sir.

22 THE PROBATION OFFICER: If you don't mind,
23 Your Honor, if this doesn't happen, if he doesn't
24 get this done within 90 days, what will we do at
25 that point? If he doesn't get the monitor --

1 THE COURT: Well, if he does the assessment
2 and they say inpatient treatment, then you all can
3 go ahead and do the paperwork to get him in the
4 inpatient treatment.

5 THE PROBATION OFFICER: I understand.

6 THE COURT: Instead of him being at the jail.

7 THE PROBATION OFFICER: I understand.

8 THE COURT: If they say outpatient, then he
9 can't do anything. He can't do anything on the
10 outside until he is out.

11 THE PROBATION OFFICER: Well, my question was
12 in regard to the alcohol monitor. You know, I
13 understand if he gets things worked out, at that
14 point he can have the monitor put on and be
15 released. My question is the opposite of that.
16 Suppose he can't get the --

17 THE COURT: After 90 days, if he doesn't have
18 the monitor put back on, bring it back in front of
19 me.

20 THE PROBATION OFFICER: What now?

21 THE COURT: Bring it back in front of me.

22 THE PROBATION OFFICER: Okay. So at the end
23 of 90 days, if he does not have things worked out,
24 he is to be released and then come back in front of
25 you?

1 THE COURT: Yes.

2 THE PROBATION OFFICER: Remain on probation
3 and come back in front of you?

4 THE COURT: Yes.

5 MR. MARSH: Your Honor, could you waive all
6 his prior arrearage and continuing fees with
7 probation?

8 THE COURT: Yes.

9 MR. MARSH: My concern is that he has been
10 trying to get a monitor and due to his finances
11 won't be able -- they are not going to come --

12 THE COURT: I'm going to waive the fees. That
13 is the next thing I'm going to say. Waive the
14 fees. And of course obviously while he is in jail
15 he doesn't need to be accruing any fees at that
16 time.

17 All right.

18 THE PROBATION OFFICER: So we are going to
19 exempt any arrearages he has?

20 THE COURT: Yes. Convert to a civil judgment.

21 THE PROBATION OFFICER: Okay. He has a
22 surcharge, we can convert that if you like, but as
23 far as his --

24 MR. MARSH: Your Honor, my client would like
25 to address the Court at the appropriate time.

1 THE COURT: All right. Yes, sir? I will be
2 glad to hear from you.

3 THE DEFENDANT: So my question is, let's
4 say -- I hear what you said about bring me back up
5 after 90 days. So am I still on probation?

6 THE COURT: You will be on probation. We'll
7 discuss it at that time. Because your sentence is
8 three years.

9 THE DEFENDANT: Well, I done done --

10 THE COURT: Eighteen months.

11 THE DEFENDANT: -- 18 months. I got 18 months
12 left. So, I mean, I'm just asking a question,
13 Ms. Benjamin. At the most is nine months. I mean,
14 I just got a job.

15 THE COURT: I understand.

16 THE DEFENDANT: I'm about to lose that.

17 THE COURT: My concern is, the DUI third, and
18 you have not had the substance abuse, that you are
19 out there, you have not had any substance abuse
20 counseling, you have not had any -- you don't have
21 the monitor on. So I'm giving you an opportunity
22 to, if next week you or your family members can
23 come up to get the monitor put on, the fees for the
24 monitor to put on, you can get out of jail.

25 THE DEFENDANT: What I'm saying, Ms. Benjamin,

1 I mean, I don't have no problem with probation.
2 Listen, I learned my lesson from drinking. I don't
3 drive, I don't drink. And I have no problem with
4 probation. The thing with the alcohol monitor, I
5 had the alcohol monitor on nine months before you
6 sentenced me. Okay, yeah, I do have three DUIs,
7 but as -- anyway, I got roped into pleading guilty
8 to third, but either way it go. I mean, I ain't --
9 I'm working. I'm willing to go to probation. The
10 only thing that I was talking about is the monitor.

11 THE COURT: You have got to -- that is a part
12 of why --

13 THE DEFENDANT: The last time -- that is why I
14 lost my job. That is why I owed the money I owed,
15 because that is like two months -- that is right at
16 three months of pay. I paid them for nine months
17 other than three months when I lost my job, because
18 you got to go see them twice a week. You got to
19 see them twice a week, pay \$71.75 --

20 THE COURT: They can work out the times for
21 you.

22 THE DEFENDANT: -- a week.

23 THE COURT: The times are flexible for him
24 with OMS; right?

25 THE DEFENDANT: But going to jail and stuff, I

1 am fixing to lose my job.

2 MR. MARSH: Your Honor, may I propose -- I
3 think the reason he doesn't have his monitor is
4 financial.

5 THE COURT: I understand that.

6 MR. MARSH: But I think that if we can keep
7 him on firm footing with a job now we can do a vast
8 amount of good for him. I think that he has done
9 everything he is capable of doing with the
10 resources that he has had since he has been out on
11 November 1st.

12 What I would consider asking is if he can do
13 weekend time on jail, and that could be -- weekend
14 time could be removed as soon as the monitor is
15 off.

16 THE COURT: That is not my concern. I'm
17 putting him in -- he has not had any alcohol
18 treatment and he -- I ordered the monitor for a
19 reason, so he won't go out here -- and this is a
20 DUI third or above.

21 MR. MARSH: But --

22 THE COURT: This is not a DUI first. This is
23 somebody -- that is the reason why I ordered
24 alcohol monitoring. I am giving him an opportunity
25 to get out of jail if he gets the monitor on, but

1 he has to have the monitor on. I'm not taking a
2 chance on him getting out, riding around with no
3 monitor, no alcohol treatment, running somebody
4 over.

5 All right.

6 THE DEFENDANT: So even if I get out, do I
7 still have to do --

8 THE COURT: You still have to do -- you are
9 going to get the monitor on and you are going to go
10 to the --

11 THE DEFENDANT: But if I do that -- if you
12 just sentence me to the 18 months I got left, then
13 I don't have no monitor; right?

14 THE COURT: Whatever --

15 THE DEFENDANT: I mean, I'm losing -- I mean,
16 that is the way I see better.

17 MR. MARSH: Your Honor, could I --

18 THE COURT: And I can do that too, if you want
19 do to that.

20 THE DEFENDANT: If you are going to sentence
21 me --

22 THE COURT: And I can send you to ATU at the
23 Department of Corrections, but you are not --

24 THE DEFENDANT: I'm not going to be able to
25 get out. And then I'm losing a job. You are

1 taking my money now. I'm asking you to work
2 something out for me where I can get --

3 THE COURT: I'm trying to work something out
4 for you.

5 THE DEFENDANT: You are sending me to jail,
6 though, Ms. Benjamin. How is that working
7 something out?

8 THE COURT: I'm sending you so you can get the
9 monitor on.

10 THE DEFENDANT: I don't have --

11 THE COURT: I am trying not to send you back
12 to the Department of Corrections.

13 THE DEFENDANT: I mean, you might as well --
14 that is where I'm going to go. You might as well
15 sentence me now.

16 THE COURT: All right. Listen, if you can't
17 get out in 90 days, we will review it at that time.

18 MR. MARSH: Your Honor, may I submit a
19 proposed order regarding just the fees and the fees
20 owed to OMS, just so that I have something to
21 present to OMS about why they need to install the
22 monitor?

23 THE COURT: What are you asking me?

24 MR. MARSH: For example, when I do a motion to
25 amend bond for someone who is on GPS monitoring

1 through OMS, I will usually prepare a proposed
2 order saying that these fees are waived. May I
3 submit that to Your Honor so that I have a
4 reflection of your ruling to say --

5 THE COURT: I'm not waiving the fees -- I'm
6 waiving their fees. He has still got to pay OMS.

7 MR. MARSH: Your Honor, he can't pay OMS
8 without a job. And he has only been out since the
9 13th working. He doesn't -- my concern is that we
10 are putting him in prison for not having money.

11 THE COURT: No, we are putting him in --

12 MR. MARSH: He can't get a monitor if the
13 State doesn't provide it.

14 THE COURT: We are putting him in -- you can
15 present the order, I'll take a look at it and
16 consider it, but I'm not going to tell OMS that
17 they have to monitor him and he not pay them.

18 MR. WHITFIELD: Really quickly, if I can, Your
19 Honor. This is actually the subject of a motion by
20 our boss, Ms. Pringle.

21 THE COURT: I'm aware of that motion you are
22 talking about before Judge Newman.

23 MR. WHITFIELD: Correct, Your Honor.

24 THE COURT: That has been -- you all put your
25 own spin on it. Judge Newman and I talked about

1 it, and his position was that they do not have to
2 be the only people that use the monitor. I talked
3 to Judge Newman about that in detail.

4 MR. WHITFIELD: All right.

5 THE COURT: Over a year ago.

6 MR. WHITFIELD: Yes, ma'am.

7 THE COURT: It has been over a year or two
8 years ago. I am very familiar with the order.

9 But you can present the order, I will consider
10 it. See how much money it is that he owes OMS for
11 the monitor in the past. My concern is that --

12 MR. MARSH: Okay, thank you.

13 THE COURT: We are not talking about somebody
14 that has a DUI first, and we are not talking about
15 somebody who has a DUI second, we are talking about
16 somebody who has a DUI third. Plus, all of that
17 other -- I don't even have the rap sheet in front
18 of me, but I ordered the monitor for a reason at
19 the time.

20 MR. MARSH: His rap sheet shows that the only
21 other thing that you sentenced him for was in 2012.
22 He had been clean since then. He got in trouble,
23 he slipped. He has been clean since then.

24 THE PROBATION OFFICER: Your Honor --

25 THE COURT: I can't have him --

1 THE PROBATION OFFICER: Your Honor, would you
2 like to see it?

3 THE COURT: All right, call the next case.
4 (WHEREUPON, the proceedings concluded at
5 11:30 a.m.)
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(END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 5th day of January, 2018.

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

January 23, 2018

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

COURT OF GENERAL SESSIONS
2017-GS-40-00495

3
4 State of South Carolina,)

5 Plaintiff,)

6 vs.)

7 Jammie Wilson,)

8 Defendant.)

TRANSCRIPT OF RECORD

9 January 29, 2018
10 Columbia, South Carolina

11
12
13 B E F O R E:

14 THE HONORABLE DEANDREA G. BENJAMIN, JUDGE.

15
16
17 A P P E A R A N C E S:

18 DEPARTMENT OF PROBATION, PAROLE AND PARDON
19 OFFENDER MANAGEMENT SERVICES
Appearing for the Plaintiff

20 RICHARD E. MARSH, III, ASSISTANT PUBLIC DEFENDER
21 Attorney for the Defendant

22
23
24
25 DEBORAH M. McCURDY, RPR
Official Court Reporter

I N D E X O F W I T N E S S E S

(WHEREUPON, no witnesses were called
during these proceedings.)

E X H I B I T S

(WHEREUPON, no exhibits were introduced
during these proceedings.)

1 JANUARY 29, 2018

2 (WHEREUPON, the proceedings began at
3 10:28 a.m.)

4 THE COURT: Yes, sir?

5 MR. MARSH: Good morning, Your Honor. May it
6 please the Court?

7 THE COURT: Yes, sir.

8 MR. MARSH: This is my motion for
9 reconsideration of the Court's probation revocation
10 hearing that was held on January 5th, 2018.

11 There were a number of issues that the Court
12 had an issue with in the underlying hearing, but
13 the one that I think that was most pressing was the
14 condition of alcohol monitoring.

15 I'd be happy to delve into the other issues if
16 Your Honor would so desire, but to jump into the
17 alcohol monitoring issue, the reason I ask for a
18 reconsideration of that, Your Honor, is that I
19 believe that the requirement that he participate
20 and pay for the alcohol monitoring results in,
21 under his circumstances as an indigent person, as a
22 unconstitutional violation violating fundamental
23 principles, fundamental fairness principles, and
24 the equal protection clause.

25 Your Honor, my client was released on -- he

1 had 18 months active time and 18 months probation.
2 He was released from the Department of Corrections
3 on November 1st, 2017. He obtained a job on
4 November 13th, less than two weeks later, on
5 November 13th, 2017, at Reliable Management
6 Solutions. But prior to that, he had attempted to
7 have the alcohol monitoring -- his probation was
8 conditioned upon his participation in alcohol
9 monitoring, the SCRAM monitoring.

10 Your Honor, we don't have any objection to his
11 placement on alcohol monitoring. We just have an
12 objection to his requirement that he be required to
13 pay for the alcohol monitoring. He is an indigent
14 person.

15 Prior to his sentencing date, he had been on
16 the alcohol monitor for, I think it was around nine
17 months or so. He accumulated quite a bit of
18 arrearage to Offender Management Services at that
19 time, totaling \$1,037.75.

20 I spoke with Emily Burn, the South Carolina
21 Director of Operations for Offender Management
22 Services, and learned that in addition to paying
23 that arrearage he would also have to be responsible
24 for \$193.50 upfront to have it installed, including
25 a daily monitoring cost of \$10.25 per day.

1 Throughout the course of participation in
2 probation, if he did it for the full 18 months,
3 that would amount to about \$5,000 -- that would
4 amount to \$5,606.75.

5 Your Honor, I think that without the ability
6 for him to pay to participate on the alcohol
7 monitoring, he is in effect not sentenced to
8 probation, but just active jail time for the
9 entirety of the sentence. He cannot pay what he
10 doesn't have.

11 I believe that that is a deprivation of his
12 constitutional rights. And I believe that the
13 Supreme Court in *Bearden v. Georgia* was inclined to
14 agree. In that case the Court held that indigent
15 probationers cannot be incarcerated for failure to
16 pay a fine because to do otherwise would deprive a
17 probationer of his conditional freedom simply
18 because, through no fault of his own, he cannot pay
19 the fine. Such a deprivation would be contrary to
20 the fundamental fairness required by the Fourteenth
21 Amendment.

22 In *Tate v. Short*, which was relied upon in the
23 *Bearden v. Georgia* decision, the Supreme Court also
24 held that: A state cannot convert an unpaid fine
25 for a fine-only offense to incarceration because to

1 subject him to that would be to imprison him solely
2 because of his indigency.

3 Now, South Carolina doesn't have any case law
4 looking at SCRAM monitoring in particular.
5 However, other jurisdictions have considered this
6 issue with probationers who have been placed on
7 probation and as a condition of the probation are
8 required to participate in SCRAM monitoring.

9 In Texas -- In Kent v. Mathis, the Texas Court
10 of Appeals noted that the probationer had not
11 contested the trial Court's requirement that he
12 wear a SCRAM device, only that he pay all
13 associated costs with the device. The Court of
14 Appeals in that case modified the Court's ruling to
15 remove the condition that appellant pay for the
16 costs associated with the SCRAM device.

17 Your Honor, I believe that this is -- the
18 practical effect is that Mr. Wilson was deemed
19 indigent by the Court. He has been appointed a
20 Public Defender today, and he is functionally
21 indigent. He doesn't have the means to pay either
22 the arrearage, and during his period of
23 incarceration -- during the period prior to
24 sentencing, the arrearage that he incurred places
25 such a heavy slope against him that even when he

1 got the job on November 13th, he had no way to meet
2 the requirements necessary to participate in
3 alcohol monitoring.

4 As we discussed at the last hearing, I have
5 prepared a proposed order, an order amending the
6 fees. I have two of those orders. I have one
7 which I believe that the Court has the jurisdiction
8 and authority to do, which is to waive the fees
9 associated with OMS and require him only to
10 participate in the alcohol monitoring, but not
11 requiring that he pay for it. I have another one,
12 another order in the alternative where the Court
13 would essentially simply find that the probationer
14 has availed himself of the services of the Public
15 Defender's Office as a result of his financial
16 indigency and that the Court should hold that the
17 probationer be treated as an indigent participant
18 pursuant to the South Carolina Home Detention Act.

19 We are not asking for any other conditions to
20 be removed for him. I think as Your Honor
21 elucidated during the hearing, his record does show
22 that he needs a SCRAM monitor in order to be on
23 probation. But it is his inability to pay for it
24 that is the problem.

25 I have asked OMS if they would be willing to

1 waive those fees and simply put those on there --
2 or even if they -- if there was a Court order
3 finding him indigent, whether they will waive those
4 fees. As of this morning they have said they would
5 refuse to do so. I believe that is incorrect
6 according to the South Carolina Home Detention Act.
7 And if I could get into that now, unless you would
8 like me to speak about any of the issues that I
9 have just raised.

10 THE COURT: The Home Detention Act?

11 MR. MARSH: Yes, Your Honor.

12 THE COURT: What does that have to do with --
13 he is not on home detention.

14 MR. MARSH: That's correct, Your Honor, but
15 the South Carolina Home Detention Act does, under
16 Section 24-13-1530 in Subsection (b) say that:
17 Local governments which have instituted programs
18 for offenders whose sentences do not place them in
19 the custody of the Department of Corrections and
20 requires those home detention programs to be held
21 at the minimum standards for local detention
22 facilities in South Carolina.

23 I think that Mr. Wilson is obviously an
24 example of someone whose sentence, being on
25 probation, does not place him in the custody of the

1 Department of Corrections.

2 Now, Offender Management Services actually
3 recognizes this on their website wherein they state
4 that: If the staff exceeds the standards for home
5 detention private entity contracts as required by
6 the South Carolina Association of Counties and the
7 South Carolina Department of Corrections. I have a
8 printout of that if you would like to see it. But,
9 in any event, the important part there is that the
10 minimum standards for local detention facilities in
11 South Carolina, when offenders who are not placed
12 in the custody of the Department of Corrections,
13 that minimum standards includes that Subsection 8
14 under contract requirements for what the South
15 Carolina Association of Counties has promulgated is
16 at Number 8, a procedure for the handling of
17 indigent participants. Mr. Wilson is an indigent
18 participant, and under the South Carolina Home
19 Detention Act should have been screened and dealt
20 with as such.

21 THE COURT: But he is not under the South
22 Carolina Home Detention Act. He was never
23 sentenced under -- he is under probation. There is
24 a difference between probation and the South
25 Carolina Home Detention Act. What happens with the

1 Home Detention Act is that he was sentenced to a
2 certain sentence, and then we said he may serve
3 that under the Home Detention Act in lieu of going
4 to the Department of Corrections. I don't think
5 that the Home Detention Act applies to him. I am
6 very familiar with the Home Detention Act.

7 MR. MARSH: Yes, Your Honor.

8 THE COURT: And he is on probation.

9 MR. MARSH: I am just talking about that
10 specific subsection that shows that -- and even as
11 OMS affirmatively states on its website, in order
12 to operate as a contract service provider that
13 provides services for offenders whose sentences do
14 not place them in the custody of the Department of
15 Corrections. One of those, in order to have the
16 contract with local government establishing those
17 programs, is a procedure for the handling of
18 financial -- a procedure for the handling of
19 indigent participants. Mr. Wilson is an indigent
20 participant.

21 THE COURT: All right. The concern is -- you
22 know, I wouldn't have as much of an issue with the
23 \$193 installation, but he has -- when he was out on
24 bond, he has this fee of \$1,375 to OMS, working at
25 the time. He wasn't paying OMS. I'll be glad to

1 hear from OMS regarding the report, but you are
2 asking me to waive fees for somebody -- he might be
3 indigent now, and I can possibly waive the
4 installation fee of \$193, but \$1,375 when he was
5 working, when he was out on bond, when he was free,
6 to pay \$10.35 a day. That -- I mean, so what you
7 are talking about -- I'm assuming from our last
8 hearing the issue was not the \$193 installation,
9 the issue was the arrears, that he could not get
10 the new SCRAM monitor because he had arrears.

11 MR. MARSH: That's correct, Your Honor.

12 THE COURT: All right.

13 MR. MARSH: That is my understanding as well.

14 THE COURT: And is it your understanding that
15 he was working also?

16 MR. MARSH: Your Honor, speaking to that, he
17 actually lost his job when he was on bond as a
18 result of the conditions of this. He had a
19 different job before this incident, before he was
20 sentenced. He lost that job as a result of the
21 reporting requirements. He needed to come every
22 two weeks to have it calibrated.

23 At this point, I think that it is not as much
24 about what happened on his -- prior to his
25 sentencing date -- I understand that he has civil

1 arrearage out there, but I think -- for example,
2 when someone comes off probation and their fees are
3 converted to a civil judgment -- in this situation,
4 what has happened is that, because he already has
5 an outstanding debt, he has to pay the debt before
6 he can even be -- a condition -- before he can
7 comply with your sentence, with your sentence that
8 he do 18 months probation, he has to pay to a third
9 party a prior civil judgment, a prior civil fee. I
10 don't think -- I think that the way to handle that
11 is to have that fee sent to collections or
12 something, if that is the way OMS wants to handle
13 it, rather than require him, in order to upfront,
14 on a new sentence of probation, pay over \$1,000,
15 plus the installation fee.

16 THE COURT: All right. I'll be glad to hear
17 from probation regarding this.

18 MS. KING: Yes, Your Honor. If it pleases the
19 Court? Mr. Wilson was placed under supervision by
20 Your Honor. And I know that he was on bond with
21 the SCRAM monitor prior to supervision. If it was
22 a concern at that time, I believe his Public
23 Defender, prior Public Defender, prior to accepting
24 the plea, would have notified this Defendant if
25 there was any issue of paying the financial

1 obligations, Your Honor.

2 The State does stand behind your ruling on the
3 5th of January, Your Honor, as not only having
4 tried to give him the benefit of the doubt to make
5 his payments, you waived all his supervision fees
6 and every fee that has to do with probation so he
7 can actually delegate that time and money towards
8 his OMS for the SCRAM monitor for the duration,
9 Your Honor.

10 At this time, the State stands behind your
11 decision on January 5th.

12 THE COURT: And I will be glad to hear from
13 OMS regarding this.

14 MS. BURN: Yes, Your Honor. Emily Burn, with
15 Offender Management Services. I was going to say
16 that the past due balance that Mr. Wilson owes is
17 \$1,037.75. And then also while he was on the SCRAM
18 monitor the first time, he was also not compliant.
19 He had six different confirmed tampers between
20 December of 2016 and January of 2017. One of those
21 confirmed tampers, alcohol was also detected during
22 that time period. Not confirmed as a consumption,
23 but there were positive TAC readings during the
24 time of one of those tampers.

25 And I do have those if you would like them,

1 Your Honor.

2 THE COURT: I will be glad to see them.

3 Also, do you all know if he was working at the
4 time? I'm assuming you all monitor where --

5 MS. BURN: Yes, Your Honor, he did tell us
6 that he was employed when he was on electronic
7 monitoring as a condition of his bond.

8 THE COURT: So he was on electronic
9 monitoring?

10 MS. BURN: Yes.

11 THE COURT: And SCRAM?

12 MS. BURN: Just SCRAM. He was just SCRAM. He
13 wasn't on GPS. But he was on SCRAM monitoring as a
14 condition of his bond. And at the time, Mr. Wilson
15 did tell us that he was employed.

16 THE COURT: Did he make any payments?

17 MS. BURN: He would have made some. I'd have
18 to look up in our system to see how much. But it
19 is \$1,037.75 at \$10.25 a day. That is a pretty
20 substantial arrearage.

21 MR. MARSH: Your Honor, he was on probation --
22 or, excuse me, on bond for -- how much was it a
23 week?

24 THE DEFENDANT: \$71.75 a week.

25 MR. MARSH: \$71.75 a week.

1 THE DEFENDANT: And I lost my job. It was
2 only about three months.

3 MR. MARSH: Your Honor, he only stopped paying
4 when he lost his job. That amount that he was on
5 probation -- or, excuse me, on bond for would have
6 only generated once he had lost his job.

7 For the record, we have also made an attempt
8 to try an alternative carrier for the SCRAM
9 monitoring system. I went to the SCRAM Systems,
10 which is the manufacturer, and looked up which
11 providers are in Richland County. The only one
12 that is listed is Offender Management Services. So
13 in order to attempt to get him on a SCRAM monitor
14 through where he doesn't have that prior arrearage
15 that he has built up, he is simply unable to do so
16 in this jurisdiction. I have reached out to other
17 providers in other counties, but haven't heard
18 anything back yet.

19 The point I think -- the takeaway from all of
20 this is not as much what occurred prior to this
21 or -- the fact is, when he was working, he was
22 paying. They have acknowledged that he has paid
23 some. He says when he lost his job he was unable
24 to pay. He can't pay what he doesn't have. And
25 when he built up arrearage, that is when things

1 kind of went south for him.

2 THE COURT: How long was he on the SCRAM
3 monitor?

4 THE DEFENDANT: Nine months.

5 MR. MARSH: Nine months, Your Honor.

6 THE COURT: Obviously my concern is that, as I
7 stated to you on the 5th of January, is that we
8 have someone who has an extensive record of driving
9 under the influence. That is why I sent him to the
10 Department of Corrections and ordered the SCRAM
11 monitor. I think he is the appropriate, ideal
12 candidate that needs to be on the SCRAM monitor
13 based under the statute, the DUI statute, of the
14 legislature. And that is the reason why I ordered
15 him to go to treatment and also be on the SCRAM
16 monitor.

17 I understand that there was some mix-up as to
18 why -- I don't know there was a mix-up -- probation
19 says that paperwork -- he was supposed to do
20 paperwork and he was supposed to report for
21 treatment. He had not reported to treatment. He
22 says he did do the paperwork. I don't know what
23 the issue is regarding the treatment.

24 My concern is we have somebody out here who
25 has DUIs, excessive DUIs, repeated over the years.

1 Also someone who has not had any alcohol treatment
2 and is not on the SCRAM monitor. That is why
3 probation was revoked.

4 Now, the issues regarding his conditions of
5 bond when he was required to be on the SCRAM
6 monitor and he was required to pay \$1,375 as a
7 condition of his bond by whoever put him on the
8 SCRAM monitor. I don't know who put him on the
9 SCRAM monitor at that time, which judge, if it was
10 magistrate, but I'm assuming they had the same
11 concerns that I had regarding him being out and
12 driving, and rightly so, because even with the
13 SCRAM monitor that she had, he has repeated
14 tampering -- tampers with the SCRAM monitor, and
15 also the detection of alcohol with the SCRAM
16 monitor.

17 As I told you before, I am not inclined to
18 remove that condition. I know that is what you
19 requested on the 5th. I am not inclined to remove
20 that condition. And after looking at this, I am
21 definitely not inclined to remove the condition
22 regarding the SCRAM monitor.

23 As to the installation costs, I have no
24 problem waiving the \$193, but the arrears, I am not
25 going to get into his contractual relationship with

1 OMS based on the bond. I will waive the
2 installation of \$193. I have revoked -- I think I
3 revoked what?

4 MS. KING: Ninety days, Your Honor.

5 MR. MARSH: Ninety days, Your Honor.

6 THE COURT: -- ninety days on his probation to
7 give him -- and I also gave him the opportunity, if
8 he was able to, or his family was able to, pay OMS
9 to allow him to avail himself of that 90 days by
10 just putting him on the SCRAM monitor. I'm not
11 removing the condition regarding the SCRAM monitor,
12 I am not getting into his contractual relationship
13 with OMS regarding the \$1,375. I will waive the
14 \$193 installation fee as it pertains to this
15 probation. I'm not concerned -- I was not -- I did
16 not have anything to do with his order regarding
17 the bond and his arrears with OMS, and I think it
18 would be inappropriate for me at this time to get
19 into a contractual relationship between a private
20 business and him. I am going to waive the \$193
21 installation fee.

22 MR. MARSH: Thank you, Your Honor. I have a
23 couple of quick questions I would like to get for
24 the record.

25 In regards to the substance abuse counseling,

1 the testimony from the probation department was
2 that my client completed the referral paperwork on
3 November 1st, which was the day he was released
4 from the Department of Corrections. He has since
5 taken affirmative efforts to comply with that and
6 get into Morris Village.

7 Further, even beyond the condition --
8 furthermore, I never asked that the SCRAM monitor
9 be removed as a condition of his probation, just
10 that the requirement that he pay for it be removed.
11 And I won't belabor that point -- or beleaguer that
12 point any further. My question is this: If you
13 have waived the installation fees, but the prior
14 arrearage -- and if it is the State's position from
15 OMS that, We are not going to send this to
16 collections, we are just not going to give you the
17 monitor. We waive the installation fees, but you
18 still owe us \$1,300. So he is revoked for 90 days.
19 He gets out. He can't pay that prior arrearage
20 because he doesn't have a job because he lost the
21 one he just got. He is unable to pay for it. Does
22 he get revoked again on probation and just complete
23 the 18 months in jail going in and out, in and out,
24 on a 90-day basis?

25 THE COURT: I don't know what probation

1 intends on doing. It will be up to them. And we
2 will have to -- I can't predict what will happen in
3 the future.

4 MR. MARSH: Your Honor, would you be willing
5 to require OMS to -- with waiving the installation
6 fee, would you require them to install it when he
7 is released? Or to install it now?

8 THE COURT: They can't install it. I mean,
9 like I said, I am not going to getting into the
10 contractual -- jurisdictional-wise, he is before me
11 for a probation violation.

12 MR. MARSH: Yes, Your Honor.

13 THE COURT: What happened with him and his
14 conditions for his bond is not before me today.
15 So, if he has a contractual relationship to pay
16 them -- I'm not sure -- if he pays them, then she
17 understands that I have waived the installation fee
18 for him to be on probation. He -- I mean, he still
19 has to -- of course, he is still going to have to
20 pay them weekly, but he just won't have to pay that
21 \$193 upfront in order to get it installed and get
22 out.

23 So what I have done is -- as far as I'm
24 concerned, jurisdictionally, before me the issue
25 regarding his bond is not before me today. The

1 issue regarding his probation is before me. I have
2 waived the installation fee. It is going to be up
3 to him and you to see what you can work out with
4 her or another company. I don't know if there is
5 another company in another county, but the
6 installation fee of \$193 for them is waived.
7 They'll have to bill him accordingly as to the same
8 way they do others. But I'm not going to waive a
9 fee that is not in front of me today. I don't have
10 the jurisdiction of it. This is a probation
11 violation. That is related to his bond. It should
12 have been brought up at the time if it was an
13 issue.

14 MR. MARSH: At which time, Your Honor?

15 THE COURT: It could have been brought up
16 before he was sentenced before the Court. If he
17 had a fee that he could not pay, a motion could
18 have been filed at that time. But, she says he was
19 working. And she said at the time, I think at the
20 time he was working and not paying them. So I'm
21 guessing that is probably why it wasn't brought up.
22 On top of the fact he was tampering with the
23 monitor at the time also, and testing positive for
24 alcohol. So he probably didn't call y'all and say,
25 Hey, I've got these fees out here, because he knew

1 exactly what they were going to say.

2 MR. MARSH: Your Honor, it just seems to be
3 the case that where we are now, he is -- his
4 poverty prevents him from participating with OMS
5 because his --

6 THE COURT: No.

7 MR. MARSH: So we are in effect punishing him
8 for his poverty.

9 THE COURT: No. I waived the \$193.

10 MR. MARSH: I understand.

11 THE COURT: He can participate with OMS. I
12 have waived the installation fee.

13 MR. MARSH: Your Honor, if he had a \$10,000
14 restitution and you waived \$1,000 and he still owes
15 \$9,000, he still -- his poverty prevents him from
16 paying.

17 THE COURT: I understand. Well, that is going
18 to be my order. I have already given him the
19 opportunity to -- I gave him a sentence and I said
20 he can get out if he wants to get the installation
21 of the SCRAM monitor. And I do believe that the
22 argument was that he couldn't do the SCRAM monitor
23 and that he shouldn't have to wear a SCRAM monitor.
24 That's fine. That is neither here nor there. But,
25 I have done what you asked me to do. I have waived

1 the installation fee of the SCRAM monitor. And so
2 he is going to have to work out the other part. I
3 understand exactly what you are saying, but that is
4 -- he was working at the time and he wasn't paying
5 them. Then --

6 MR. MARSH: Your Honor, it is my understanding
7 that he was paying when he had a job and that he
8 was not paying when he lost his job.

9 THE COURT: That is a significant -- \$1,375 is
10 a significant amount at \$10.35 a day.

11 All right. That is going to be my order.

12 MS. KING: Thank you, Your Honor.

13 MR. MARSH: Thank you, Your Honor. And just
14 for the record, it is our understanding that the
15 Director of Operations, Emily Burn, is not waiving
16 the OMS prior arrearage.

17 THE COURT: That's fine. You all need to try
18 to work that out with her.

19 MR. MARSH: Thank you, Your Honor.

20 (WHEREUPON, the proceedings were
21 concluded at 10:45 a.m.)
22
23
24

25 (END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 29th day of January, 2018.

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

May 10, 2018

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on FEBRUARY 15, 2017,
the Grand Jurors of Richland County present upon their oath:

DRIVING UNDER THE INFLUENCE 3RD & SUBSEQUENT OFFENSE

That Jammie Dwane Wilson did in Richland County on or about May 13, 2016, unlawfully drive a motor vehicle while: under the influence of alcohol to the extent that his faculties to drive were materially and appreciably impaired; or under the influence of any other drug or a combination of any drugs or substances which cause impairment to the extent that his faculties to drive were materially and appreciably impaired; or under the combined influence of alcohol and any other drug or drugs or substances which cause impairment to the extent that his faculties to drive were materially and appreciably impaired, such not being the first offense within a period of ten (10) years, including and immediately preceding the foregoing date, in violation of Section 56-05-2930, S. C. 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.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) K.E. Bradacs
- S C Highway Patrol

ARREST WARRANT NUMBER

5102P0246701

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: FEB 13 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS4000495

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2017

152

**THE STATE
vs.**

Jammie Dwane Wilson

**Indictment for
DUI / DRIVING UNDER THE INFLUENCE,
LESS THAN .10, 3RD OFFENSE**

**SC Code: 56-05-2930(A)
CDR Code: 3359**

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA

60 days - 3 years
and 6300-3800, can suspend to 2100

IN THE COURT OF GENERAL SESSIONS

55

COUNTY OF
STATE

Richland

VS.

Jammie Dwane Wilson

AKA:

Race: BLACK Sex: M Age: 38

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: DUI / Driving under the Influence, less than .10, 3rd Offense

INDICTMENT/CASE#: 2017GS4000495

A/W#: 5102P0246701

Date of Offense: 5/13/2016

S.C. Code § : 56-05-2930(A)

CDR Code #: 3359

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 56-05-2930(A) of the S.C. Code of Laws, bearing CDR Code # 3359

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature]

Tobin, Saquisha

SC Bar# 77521

Defendant

Attorney for Defendant

SC Bar# 3802

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of 18 days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for 18

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. 134 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 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 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca
3% to County (if paid in installments)	\$

TOTAL

\$

PTUP

 days/hours Public Service EmploymentObtain 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:

continue on alcohol monitor☐ 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.

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (07/2016)

Presiding Judge

Judge Code: 2161Sentence Date: 6-5-17

PROBATION CITATION

No. C-40-17-0447

SOUTH CAROLINA V. JAMMIE DWAYNE WILSON		COUNTY: RICHLAND <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">SCDC # 298209</td> <td style="width: 50%;">SID # 01271794</td> </tr> </table>		SCDC # 298209	SID # 01271794										
SCDC # 298209	SID # 01271794														
TO: JAMMIE DWAYNE WILSON															
YOU ARE HEREBY NOTIFIED to appear in the above named case at the time, date and place specified below. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; height: 40px; vertical-align: top;">Place</td> <td style="width: 50%; height: 40px; vertical-align: top;">Room</td> </tr> <tr> <td colspan="2" style="height: 40px; vertical-align: top;"> Date to Appear: Time to Appear: </td> </tr> </table> YOU ARE HEREBY NOTIFIED that you are charged with violating the conditions of your supervision as stated below. Violations Charged Jammie D. Wilson has violated conditions 2, 5, 10, and special conditions of his probation as set forth in Cause Number 17-GS-40-495 in Richland County Court of General Sessions on 6/5/17. YOU ARE HEREBY NOTIFIED that you have the rights listed below. List of Rights: You have the right at the hearing to question any person who appears as a witness against you and to have witnesses appear on your behalf. You may present evidence on your behalf. You may have an attorney represent you. If you cannot afford an attorney, an attorney will be appointed for you. You must advise the agent or the court in writing of your desire for an attorney. It is your responsibility to make arrangements for your witnesses and your attorney to appear at the hearing. IF YOU FAIL TO APPEAR AT THE TIME, DATE AND PLACE SHOWN ABOVE, THE HEARING WILL BE HELD IN YOUR ABSENCE AND YOU MAY BE INCARCERATED. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">RICHLAND , South Carolina</td> <td style="width: 50%;">Probation and Parole Agent - Agent #</td> </tr> <tr> <td style="text-align: center;">Date 11/20/2017</td> <td>Gary Arthur Justice - 0288</td> </tr> </table> A copy of the citation was served by the undersigned and given to the individual named therein at the time, date, and place indicated below. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; height: 60px; vertical-align: top;"> Place <i>PPR RUI</i> </td> <td style="width: 50%; height: 60px; vertical-align: top;"> Date and Time 11/20 15:20 Serving Officer's Signature <i>Kelu Miller</i> </td> </tr> </table> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> Sworn to and subscribed before me this <u>20th</u> day of <u>November</u>, <u>2017</u> Signature of Notary Public </td> <td style="width: 50%; padding: 5px;"> <u>08-07-2024</u> My Commission Expires </td> </tr> </table>				Place	Room	Date to Appear: Time to Appear:		RICHLAND , South Carolina	Probation and Parole Agent - Agent #	Date 11/20/2017	Gary Arthur Justice - 0288	Place <i>PPR RUI</i>	Date and Time 11/20 15:20 Serving Officer's Signature <i>Kelu Miller</i>	Sworn to and subscribed before me this <u>20th</u> day of <u>November</u> , <u>2017</u> Signature of Notary Public	<u>08-07-2024</u> My Commission Expires
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STATE OF SOUTH CAROLINA

AFFIDAVIT

County of RICHLAND

Personally appeared before me, Gary Arthur Justice, who first being duly sworn, deposes and says that JAMMIE DWAYNE WILSON did within this county and State on the 20 day of November, 2017, violate certain conditions of release in the following particulars:

DESCRIPTION OF VIOLATION

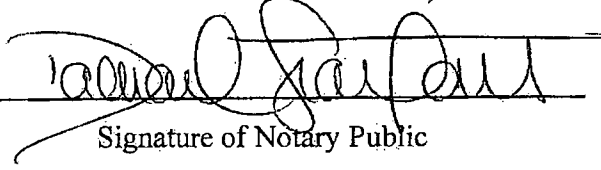
Jammie D. Wilson has violated conditions 2, 5, 10, and special conditions of his probation as set forth in Cause Number 17-GS-40-495 in Richland County Court of General Sessions on 6/5/17.

The Affiant states that there is probable cause to believe the defendant named committed the violations set forth and that such probable cause is based on the following facts:

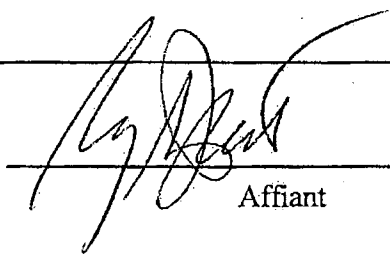
Jammie D. Wilson has failed to follow the advice and instructions of his agent in that he failed to provide his agent an accurate residence address as evidenced by a home visit conducted 11/8/17 when the agent spoke with resident Mr. Danyell Ammons, who stated Mr. Wilson does not live in apt. ■; failed to work diligently at a lawful occupation as evidenced by his unemployment or by failing to provide verification; failed to go to Offender Management Services on 11/01/17 and have a court ordered alcohol monitor put on as court ordered and instructed by agent. These violations are contrary to the conditions signed by Mr. Wilson on 11/01/2017.

Sworn to and subscribed before me this

20 day of November, 2017


Signature of Notary Public

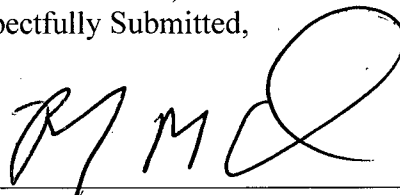
10/31/2021
My Commission Expires:


Affiant

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 7th day of December, 2018.

RECEIVED
DEC 07 2018
SC Court of Appeals