THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COUNTY OF PICKENS
Court of General Sessions

Perry H. Gravely, Circuit Court Judge

Appellate Case No.: 2017-002599

The State of South Carolina .....Respondent,

vs.

Ronnie Carrol Tucker, ...Defendant,

Bail Out Bonding (Surety), ...Appellant.

FINAL REPLY BRIEF OF APPELLANT

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Respondent does not contest that entry into the Pre-Trial Intervention program acts to defer the disposition of a case pending the defendant's completion of the requirements of the program. Nevertheless, Respondent contends that entry into the pre-trial intervention program is not a "deferred disposition" for the purposes of S.C. Code Ann. § 17-15-20(B) (2012). Respondent's sole argument for this distinction is its contention that S.C. Code Ann. § 17-15-20(B) (2012) requires some form of judicial action for a deferred disposition to so qualify.

The problem for Respondent in making this argument is that this is a distinction that has no basis or support within the law itself. There is nothing in the language of S.C. Code Ann. § 17-15-20(B) (2012), or elsewhere for that matter, that states that judicial action or consent is required for a program to be considered a "deferred disposition" under the statute.

"The primary rule of statutory construction requires that legislative intent prevail if it can reasonably be discovered in language used construed in light of intended purpose." Stephen v. Avins Construction Co., 324 S.C. 334, 338, 478 S.E.2d 74, 76 (Ct.App.1996). "The legislature's intent should be ascertained primarily from the plain language of the statute." Stephen, 324 S.C. at 339, 478 S.E.2d at 77. "If a statute's language is plain and unambiguous, and conveys a clear and definite meaning, there is no need to employ rules of statutory interpretation, and the court has no right to look for or impose another meaning." South Carolina Dep't of Revenue and Taxation v. Rosemary Coin Machines, Inc., 331 S.C. 234, 245, 500 S.E.2d 176, 182 (Ct.App.1998) (citing Paschal v. State Election Comm'n, 317 S.C. 434, 454 S.E.2d 890 (1995). "[W]ords used in a statute must be given their plain and ordinary meaning without resort to

subtle or forced construction to limit or expand the operation of the statute." Greenville Hospital System v. Provident Life & Accident Ins. Co., 330 S.C. 436, 442, 499 S.E.2d 232, 235 (Ct.App.1998) (citing Koenig v. South Carolina Dept. of Public Safety, 325 S.C. 400, 403-04, 480 S.E.2d 98, 99 (Ct.App.1996)).

There is no question that the plain meaning of the term "deferred disposition" includes any program that delays, postpones, or defers the disposition of the case. There is nothing within that term, as stated in the statute, that mandates judicial action or even judicial consent to occur, as Respondent claims.

If the legislature had intended for judicial action or consent to be so required for a "deferred disposition", they would have surely indicated that in the statute. The legislature, however, did not.

Further, even if it could be reasonably argued that such judicial action or consent is mandated for other programs that defer the disposition of a case, Pre-Trial Intervention would be the absolute exception to this requirement. As Respondent states in its own brief, entry into Pre-Trial Intervention is a "completely discretionary executive decision and is not reviewable by the judicial department." In granting the State/Solicitor this virtually unfettered power to control the Pre-Trial Intervention program, the legislature also relieved them of any alleged need to seek judicial action or consent to effectuate a deferred disposition.

But the fact that they do not need to seek judicial action or consent to defer the disposition of a case does not mean that they have not deferred the disposition of a case. A dismissal of a criminal case, which by the way also ends a bondsman's obligation on a bond and also can be completed without judicial action or consent, is still a dismissal whether it is effectuated by the State/Solicitor or if it is a result of a hearing and resulting judicial action.

Likewise, a deferred disposition is still a deferred disposition whether it is effectuated by the State/Solicitor while exercising its unfettered authority to do so or by a Judge.

The Pre-Trial Intervention program clearly defers the disposition of a case while a Defendant participates in the program. Accordingly, by the plain meaning of the statute, entry into the Pre-Trial Intervention program constitutes a "deferred disposition" pursuant to S.C. Code Ann. § 17-15-20(B) (2012).

CONCLUSION

For the foregoing reasons as well as those stated by Appellant in its primary brief, the decision of the Circuit Court should be reversed.

Date: August 22, 2018

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Undersigned Counsel hereby certifies that this Final Reply Brief of Appellant complies with Rule 211(b), SCACR

Date: October 18, 2018

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