

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM AIKEN COUNTY

Doyet A. Early, III, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

MARTIN KEENAN,

APPELLANT

---

RECORD ON APPEAL

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ROBERT M. PACHAK  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
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Attorney for Appellant

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South Carolina Department of  
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(803) 734-9220

Attorneys for Respondent

**RECEIVED**  
AUG 16 2012  
SC Court of Appeals

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State of South Carolina )  
 County of Aiken ) Court of General Sessions  
 2010-GS-02-00062

State of South Carolina )  
 Plaintiff )  
 vs. ) Transcript of Record  
 Martin Keenan )  
 Defendant )

January 19, 2012  
 Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

C. David Hayes, Esq.  
 Attorney for the Defendant

Lisa H. Davenport, RPR  
 Official Court Reporter

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I N D E X   O F   W I T N E S S E S

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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(None offered)

1 (Whereupon, on January 19, 2012 the following  
2 proceedings were held:)

3 THE COURT: All right. This is Mr. Martin Keenan.  
4 Mr. Hayes, have you had an opportunity to discuss  
5 this probation violation with him?

6 MR. HAYES: I have, Your Honor.

7 THE COURT: All right. It appears that Mr. Keenan  
8 was sentenced by Judge Cothran in February of 2010 to a  
9 three-year sentence suspended to a fine and one year of  
10 probation for grand larceny. He had restitution of \$340.  
11 He's had prior violations in April of 2010 for financial  
12 delinquencies, August of 2010 once again for financial  
13 deficiencies but he tested positive for cocaine at that  
14 time, and he was ordered to continue but he had to attend  
15 and complete substance abuse counseling. One month later  
16 he tested positive for cocaine. Actually, less than a  
17 month later. He failed to attend the outpatient  
18 counseling, found in possession of drug paraphernalia and  
19 55 rounds of some type of ammunition.

20 Judge Keesley continued him on probation, diverted  
21 his supervision fees to public service, and he ordered  
22 once again to successfully complete substance abuse  
23 counseling. Two or three months later he failed to report  
24 and once again failed to refrain from using controlled  
25 substance and tested positive for cocaine again. He was

1 to remain -- I guess that's the Lexington County Detention  
2 Center until bed space was available.

3 Judge McMahon restructured it and then September of  
4 last year 2011 he failed to report, once again arrearage  
5 on his financial obligations. Probation was extended to a  
6 full five years where they restructured him once again.

7 Presently he is before us for failing to follow the  
8 advice and instructions by moving without consent, once  
9 again testing positive for marijuana and cocaine in  
10 December of 2011, monetary arrearages once again. Agent  
11 is recommending termination -- strike that; revocation.  
12 He's had five previous violations for all similar reasons  
13 including continued drug usage and failing to report. He  
14 last reported in December of 2011.

15 Is that correct, ma'am? So he missed January of this  
16 year?

17 THE PROBATION OFFICER: Yes. He had an appointment  
18 on Tuesday but he didn't show up.

19 THE COURT: He didn't show up this Tuesday?

20 THE PROBATION OFFICER: Yes, sir.

21 THE DEFENDANT: No, sir. Your Honor, nobody let me  
22 know ---

23 THE COURT: I'll talk to you in a minute.

24 Mr. Hayes?

25 MR. HAYES: May it please the court, Your Honor.

1 THE COURT: What are you shaking your head about?

2 MR. HAYES: He is indicating that he did not receive  
3 any notification or anything about an appointment for last  
4 week.

5 THE COURT: Are we supposed to send engraved  
6 invitations or how does that work? He knows he's supposed  
7 to report, doesn't he?

8 MR. HAYES: Yes, sir, and when we talked about it I  
9 asked him if he had been reporting or had any issues with  
10 that and he indicated that he to his knowledge has not  
11 missed a single appointment time; that he did -- he was  
12 staying up with his mom until about Thanksgiving and he  
13 had to report very shortly thereafter; however, he has a  
14 home in Pelion which is closer to his work. He works for  
15 SCE&G.

16 THE COURT: He's not before me today for failing to  
17 report.

18 MR. HAYES: Yes, sir.

19 THE COURT: He is back before me today for financial  
20 arrearages --

21 MR. HAYES: Yes, sir.

22 THE COURT: -- for a number of times, but more  
23 importantly for continuing to test positive for drugs.

24 MR. HAYES: Yes, sir, and I believe they also alleged  
25 moving without notice and where I was going was that he

1 works in the Lexington and Pelion area and he had moved to  
2 stay there and was staying there because it was closer to  
3 work. He had an appointment date to meet with his agent  
4 on the same day that they came to do the home visit and  
5 found out that he wasn't at that location; however, he was  
6 intending to tell them on that same date of the notice of  
7 move from the previous address.

8 Judge, he tells me about that that drug -- the drug  
9 use -- I asked him what was going on with it. Why? And  
10 his quote was, It was stupid. However, he says, I have  
11 not touched cocaine since the last time I was in trouble  
12 for it and I went to rehab. I still haven't touched  
13 cocaine willingly.

14 He said he did smoke the joint and he did tell his  
15 agent that he did smoke a marijuana joint and he believes  
16 that cocaine --

17 THE COURT: He tested positive for cocaine in  
18 December -- last of December 2011 --

19 MR. HAYES: Yes, sir.

20 THE COURT: -- which is less than a month ago.

21 MR. HAYES: He is saying that the marijuana joint  
22 that he smoked he believes was laced with the cocaine;  
23 that he did not ---

24 THE COURT: He didn't do it willingly? Somebody  
25 tricked him?

1 MR. HAYES: He was tricked on the cocaine but not on  
2 the marijuana and he did admit it to his agent and was  
3 straight with him when they asked about it. Judge, he  
4 tells me he's got two children and wife and he also  
5 supports his mother; that he is working 40 to 50 hours a  
6 week depending on the week; however, over the holidays he  
7 did not work at all; so he's behind on his money and he  
8 realizes that.

9 THE COURT: Well, you know, I never revoke them for  
10 being in arrearage on money.

11 MR. HAYES: Yes, sir. Judge, looking at the form  
12 here it does show he's had issues in the past with drug  
13 issues and that he's gone and gone through some treatment  
14 plans. Judge, I would ask the court to consider allowing  
15 him to do a treatment plan through Voc Rehab or of another  
16 facility as part of his probation, continue him on  
17 probation.

18 He's got a good job. He is working. He is  
19 supporting his family. It is on a PTUP probation. He  
20 tells me that his funds should be coming in for his taxes  
21 and that he intends to pay this probation off.

22 THE COURT: Well, in August of 2010 he was ordered to  
23 attend and complete substance abuse. That's one time. He  
24 tested positive 8/9/2010. Fifteen, sixteen days later he  
25 tested positive again for cocaine. He was then again

1 ordered to attend and complete substance abuse  
2 counseling -- tested positive again in September 30, 2010.

3 Judge McMahon apparently put him in an inpatient  
4 treatment facility. That's the third chance to give him  
5 and then again December of 2011 he tested positive for  
6 marijuana and cocaine. I don't know how how much other --  
7 how many more chances he needs.

8 I am going to revoke him in full, convert his  
9 monetary obligations to a civil judgment, and terminate  
10 him.

11 (End of Transcript of Record.)

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CERTIFICATE OF REPORTER

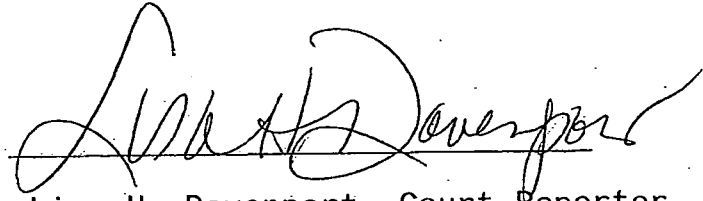
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State of South Carolina        )  
County of Aiken                 )

I, Lisa H. Davenport, Official Court Reporter for the  
Second 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  
Aiken County, South Carolina, on the 19th day of January,  
2012.

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

May 19, 2012



Lisa H. Davenport, Court Reporter

RETURN

\_\_\_\_\_  
Constable or Law Enforcement Officer

A copy of this Arrest Warrant was Delivered by me to the following defendant:

Martin R. Keenan

on the 25<sup>th</sup> day of Aug. 2012

[Signature]  
Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

\_\_\_\_\_  
Signatures of Judge (L.S.)

STATE OF SOUTH CAROLINA  
COUNTY OF  
LEXINGTON

THE STATE  
against

MARTIN ROBERT KEENAN

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 8/25/2010

Officer and Agency: SC Department of Probation,  
Parole and Pardon Services

Sai Lugos Daza

Disposition \_\_\_\_\_

Sentence \_\_\_\_\_

Co-Defendants \_\_\_\_\_

INFORMATION ON DEFENDANT

Name MARTIN ROBERT KEENAN  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Sex Male Race White Height 511  
Weight 230 Birth date 12/28/1984  
Social Security Number \_\_\_\_\_

INFORMATION ON WITNESSES

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_

PRELIMINARY HEARING held by

Magistrate \_\_\_\_\_  
on \_\_\_\_\_  
with \_\_\_\_\_

Attorney for the Defendant

Decision BAR

Date Set \_\_\_\_\_  
Magistrate \_\_\_\_\_  
Amount \_\_\_\_\_  
Surety \_\_\_\_\_

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

Probation  
ARREST WARRANT

Indictment Number 10-GS-02-00062

Warrant Number W-32-10-0293

State Identification No. (SID) 01483933

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF LEXINGTON, AND ANY CONSTABLE OF MAGISTERIAL DISTRICT:

Appearing from the attached affidavit that there are reasonable grounds to believe that MARTIN ROBERT KEENAN, did on the 25 day of August, 2010, violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Violation of Probation pursuant to statute 24-21-430 in that the defendant has willfully violated the conditions of his/her probation sentence as imposed by Judge Cochran at the 02/12/2010 term of General Sessions Court holden in Aiken County, Aiken, South Carolina.

Now, therefore, you are empowered and directed to arrest the said defendant and bring MARTIN ROBERT KEENAN before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Done at LEXINGTON, S.C. this 25 day of August, 2010.

Signature of Probation and Parole Agent (L.S.)

County of LEXINGTON

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Sal Lopez Diza, who, first being duly sworn, deposes and says that MARTIN ROBERT KEENAN did within this County and State on the 25 day of August, 2010, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

Violation of Probation pursuant to statute 24-21-430 in that the defendant has willfully violated the conditions of his/her probation sentence as imposed by Judge Cochran at the 02/12/2010 term of General Sessions Court holden in Aiken County, Aiken, South Carolina.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

Martin R. Keenan failed to refrain from using controlled substances as evidenced by positive test for Cocaine on 08/25/10. Additionally, the Supervising Agent found the subject to be in possession of drug paraphernalia and in possession of fifty-five (55) rounds .17 caliber ammunition during Home Visit conducted on 08/25/10. Mr. Keenan has failed to attend and complete outpatient treatment services as ordered by the Agent. He has failed to maintain gainful employment during supervision. These actions constitute a willful failure to follow advice and instructions of the Agent. Subject was notified in writing of the Standard Conditions of Probation as evidenced by his signature of this document on 02/12/10. The above actions constitute violations of probation conditions 3, 4, 5, and 10 of the original Probation Order signed by the defendant, dated 02/12/10.

Sworn to and Subscribed before me  
this 25 day of August, 2010.

Affiant

Signature of Notary Public (L.S.)

Address: 605 West Main Street  
Suite 104  
LEXINGTON, SC 29072  
USA  
(803) 889-2551

Notary Commission Expires

Oct 4

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Aiken  
STATE VS.

Indictment Number:  
2010 -GS- 02 - 62  
Probation C/W#s: C-02-11-371

Martin Keenan  
AKA:  
Race: W Sex: M  
DOB: 12-28-84  
SSN  
SID#: 01483933

Name of Original Offense: Grand Larceny  
Original A/W#: M025399  
Date of Original Offense: 10/12/2009  
Conviction S.C. Code §: 16-13-030(B)(1)  
Conviction CDR Code #: 0141718  
Original Sentence: 3 yrs SS 1 yr

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 2/12/10 in the Court of General Sessions of Aiken County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 4/22/10, 9/20/10, 12/17/10, as set forth in the attached warrant(s) or citation(s) dated 12/20/11. 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)  
2, 7, 9, 10 and 11

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 3 months/years, the remainder of the original sentence, and/or pay \$ 0.
- 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 active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first 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:

FILED Jan 20, 2012  
[Signature]  
Deputy Clerk

- The defendant is given credit for pre-revocation hearing detention time on current probation violation to 12/20/11 applied by the SC Department of Corrections.
- The defendant has previously served 0 months/years on this sentence.  
(split sentence time and/or prior partial revocation time)
- The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 19 day of Jan, 2012  
Aiken, SC  
[Signature]  
Presiding Judge  
2nd Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature [Signature]    Witnessed by [Signature]  
Signed this 19th day of January, 2012, at Aiken SC

WITNESSES

Aiken County Sheriff

J.D. Sanders

Law Enforcement Case #: 09-060729

SMR

ARREST WARRANT NUMBER

M025399

FILED

*January 4* 2010

*Leij Godard*

C.C.C.P.&G.S.

*Cheryl Westall / CSM*

ACTION OF GRAND JURY

*True Bill*

*[Signature]*

Foreperson of Grand Jury  
Date: January 4, 2010

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2010GS0200062

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

JANUARY TERM 2010

THE STATE  
vs.

MARTIN ROBERT KEENAN

CDR #: 0478

Indictment for

GRAND LARCENY

§ 16-13-0030(B)(1)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF AIKEN )  
 )


INDICTMENT FOR  
 GRAND LARCENY

§ 16-13-0030(B)(1)

At a Court of General Sessions, convened on January 4, 2010, the Grand Jurors of Aiken County present upon their oath:

That **MARTIN ROBERT KEENAN** did in Aiken County, South Carolina on or between October 4, 2009 and October 11, 2009, feloniously take and carry away the personal goods of Edwin Nettles of a value of more than One Thousand Dollars but less than Five Thousand Dollars, described as follows: one (1) .22 rifle, one (1) pistol, two (2) dog boxes, dog equipment and boots and waders, with intent to deprive the owner permanently of such property, all in violation of §16-13-30 of the 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.

  
 J. STROM THURMOND, SOLICITOR

## 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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

August 16, 2012,



---

Robert M. Pachak  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

 ORIGINAL

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge  
\_\_\_\_\_

THE STATE,

RESPONDENT,


V.

MARTIN KEENAN,

APPELLANT  
\_\_\_\_\_

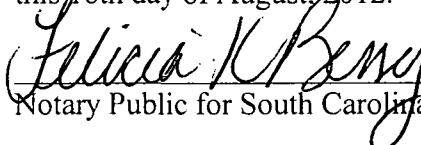
\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at the South Carolina Department of Probation, Parole & Pardon Services, PO Box 50666, Columbia, SC 29250 this 16th day of August, 2012.



\_\_\_\_\_  
Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 16th day of August, 2012.

 (L.S.)  
Notary Public for South Carolina

My Commission Expires: June 21, 2020 .

**RECEIVED**  
AUG 16 2012  
SC Court of Appeals