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**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from York County

John C. Hayes, III, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

RONALD SCOTT RENWRICK,

APPELLANT

---

ANDERS BRIEF OF APPELLANT

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ROBERT M. DUDEK  
Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1343

ATTORNEY FOR APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

Whether the court erred by revoking appellant's probation without a finding that his failure to report was caused by circumstances beyond his control since he was seeking treatment for HIV in another state?

STATEMENT OF THE CASE

Appellant was served with a probation revocation warrant for violating the terms of his probation imposed by the Honorable Paula Thomas in Horry County on June 14, 2004. R. \*; R. 3, ll. 19-23. He appeared on March 28, 2011 before the Honorable John C. Hayes at a probation revocation hearing. Ashley Anderson represented appellant. R. 1.

At the conclusion of the probation revocation hearing, Judge Hayes revoked appellant's probation. R. 6, ll. 1-2.

This appeal follows.

## ARGUMENT

The court erred by revoking appellant's probation without a finding that his failure to report was caused by circumstances beyond his control since he was seeking treatment for HIV in another state.

### **Statement of Facts**

During the probation revocation hearing, the judge informed appellant that his failure to report constituted a "substantial violation." Defense counsel Anderson informed the judge appellant found out he was HIV positive and moved to Charlotte to get better health care. She requested that the judge not revoke appellant's probation in full due to his health care situation. R. 4, l. 5 – 5, l. 7.

The judge noted that appellant also had troubles with the law in North Carolina and revoked his probation in full. R. 5, l. 17 – 6, l. 7.

### **Argument**

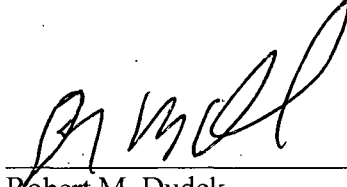
In State v. Spare, 374 S.C. 264, 647 S.E.2d 706 (Ct. App. 2007), this Court held that it was impermissible to revoke probation for failure to pay restitution without a finding that circumstances -- the failure to pay -- were beyond the defendant's control. While Spare involved a failure to pay, the principle remains the same. A judge must make a finding that the defendant's failure to comply of the terms of his probation is caused by circumstances beyond his control.

Here, the judge did not make a finding appellant willfully violated his probation where he merely moved to seek better health care for HIV. Consequently, the revocation of his probation should be reversed. See Barlet v. State, 288 S.C. 481, 483, 343 S.E.2d 620, 622 (1986); Bearden v. Georgia, 461 U.S. 660 (1983).

CONCLUSION

The revocation of appellant's probation should be reversed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. M. Dudek", written over a horizontal line.

Robert M. Dudek  
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 8th day of October, 2012.

STATE OF SOUTH CAROLINA  
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PETITION TO BE RELIEVED AS COUNSEL

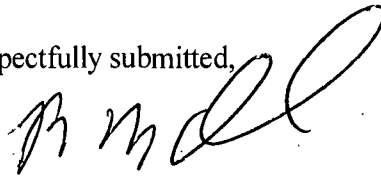
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Counsel for Ronald Scott Renwick states:

1. He is Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge John C. Hayes, III, which was held on March 28, 2011, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Ronald Scott Renwick.

Respectfully submitted,



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Robert M. Dudek  
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 8th day of October, 2012.

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**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

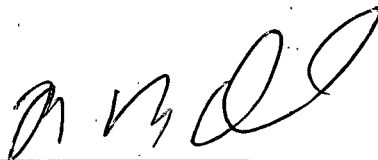
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Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment;
- (2) Probation Revocation Transcript;
- (3) Probation Revocation Warrant

I certify that this designation contains no matter which is irrelevant to this appeal.

October 8th, 2012



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Robert M. Dudek  
Chief Appellate Defender

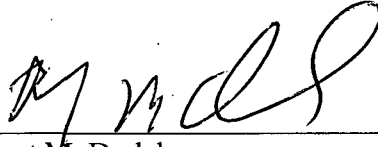
South Carolina Commission on Indigent Defense  
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PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1343

Attorney for Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and 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."

October 8th, 2012



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Robert M. Dudek  
Chief Appellate Defender

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Division of Appellate Defense  
1330 Lady Street, Suite 401  
Post Office Box 11589  
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA  
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Appeal from York County  
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THE STATE,

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CERTIFICATE OF SERVICE

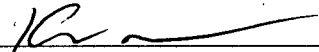
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The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Tommy Evans, Jr., Esquire, at P.O. Box 50666, Columbia, SC; and on Ronald Scott Renwick at 1251 Singletary Lane, York, SC 29745, this 8th day of October, 2012.

  
Robert M. Dudek  
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 8th day of October, 2012.

  
\_\_\_\_\_(L.S.)  
Notary Public for South Carolina

My Commission Expires: October 2, 2013 .