

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

Steven H. John, Circuit Court Judge

RECEIVED

JUN 09 2011

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

STEVE YOUNG,

APPELLANT

APPELLATE CASE NO. 2013-002417

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF NEWBERRY	)	2011-GS-32-00623

STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STEVE YOUNG	)	
DEFENDANT	)	

November 1, 2013
Lexington, South Carolina

B E F O R E:

HON. STEVEN H. JOHN, Judge.

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

DEPARTMENT OF PROBATION, PAROLE & PARDON SERVICES
Appearing for the State of South Carolina

ELIZABETH C. FULLWOOD, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

CAROL M. THUEME, RPR
Official Court Reporter

I N D E X

DEFENDANT:	PAGE
STEVE YOUNG	3

EXHIBITS

(There were no exhibits marked.)

1 THE PROBATION AGENT: Steve Young.

2 THE CLERK: Raise your right hand, please.

3 STEVE YOUNG, after being duly sworn, testified
4 as follows:

5 THE COURT: Yes, sir, Agent.

6 THE PROBATION AGENT: Yes, sir. If it please
7 the Court, Daniel Shearer for the Probation Department.

8 Before you is Steve Young. He's here on a
9 probation matter from Newberry County, that on December 1,
10 2011, for the offense of assault and battery, 1st degree.
11 That sentence was ten years suspended upon time served,
12 157 days, and four years probation. That case was ordered
13 PTUP after two years if his restitution was paid. The
14 restitution amount, Your Honor, was \$2,400 with the
15 20 percent collection fee added to it. He was also
16 ordered to complete 40 hours, attend substance abuse
17 counseling and be drug tested.

18 Your Honor, this matter actually is before
19 you -- I guess it's kind of hard for us to bring cases
20 before the Court on just a motion, so I kind of issued a
21 citation which really didn't violate him, just asking you
22 to review the case.

23 Mr. Young has been sentenced to a period of ten
24 years in prison under a Union County indictment -- or two
25 Union County indictments for reckless homicide, death

1 resulting, and leaving the scene of an accident causing
2 death. I do indicate that information in the violation
3 report.

4 Your Honor, those offense dates were a year
5 prior to the sentence date of this probation case. So it
6 does not allow us to address it as a violation even though
7 the conviction date was during the probation case.

8 Also, right before Mr. Young had been convicted,
9 I had gone ahead and did a paperwork review and kind of
10 made an agreement with him that we would readjust the case
11 and put him in perfect standing with our Department prior
12 to the conviction, so just here to -- we do have to ask
13 that the case be tolled, which would just put the case on
14 hold until he got out of prison. However, if you decide
15 that the case should be terminated or revoked
16 concurrently, we would ask that a civil judgment be
17 ordered for the restitution balance owed to Alfred Cromer,
18 who has been notified and I don't believe is present
19 today, and has not indicated either way how he feels about
20 the case.

21 THE COURT: All right. So what you're asking,
22 that the probationary period be tolled?

23 THE PROBATION AGENT: While he's incarcerated.

24 THE COURT: And apparently that was during the
25 August 16, 2012 term of General Sessions court in Union

1 County, correct?

2 THE PROBATION AGENT: Yes, Your Honor.

3 THE COURT: That's when he was convicted?

4 THE PROBATION AGENT: Yes, Your Honor.

5 THE COURT: So you want it tolled from that
6 period of time, so that basically he would have been on
7 probation up to then for approximately nine months?

8 THE PROBATION AGENT: Yes, Your Honor. I don't
9 know if I can actually -- I wanted to make that the date.
10 I don't know if I'm allowed to make or we're allowed to
11 make that the date. I think the date of toll would have
12 to be the date the citation was issued, which is going to
13 be August 21, 2013.

14 I'm sorry, Judge. My supervisor has indicated
15 that actually it would be the date of this order, rather,
16 that the toll date would begin. And you could have -- you
17 have the opportunity for -- to extend the case
18 additionally a year as well. Mr. Young will come out
19 under the 85 percent if he gets good time, he will still
20 be under supervision on that -- the new conviction for a
21 CSC matter.

22 THE COURT: I'm just trying to figure out when
23 the new end date would be for his current probation.

24 So assuming we sign the order today doing what
25 you want --

1 THE PROBATION AGENT: Yes, Judge.

2 THE COURT: -- what is the new end date for his
3 supervision, probationary supervision for this case, not
4 his supervised release?

5 THE PROBATION AGENT: Do you want us to suspend
6 this matter? We can find that information out --

7 (A discussion was held off the record.)

8 THE PROBATION AGENT: Judge, for the record, I'm
9 Daniel Lake, I'm the supervisor for the Probation
10 Department.

11 THE COURT: Yes, sir.

12 MR. LAKE: Judge, the actual time to be tolled
13 would be from today's date through the end date of the
14 case, 11-30-2015, which is a total of 759 days.

15 THE COURT: All right.

16 MR. LAKE: We would add 759 days to the
17 probationary supervision to whatever the SCDC discharge
18 date ends up being.

19 Thank you.

20 THE COURT: Thank you, sir.

21 Now, regarding the -- before he got arrested on
22 those other charges, there were certain -- let's see. He
23 got placed on probation -- so did he do any of the things
24 that he was supposed to have done before he got placed in
25 detention for this other matter while he was on probation,

1 the 40-hours public service employment, the random drug --
2 did he pass the random drug and alcohol testing, did he
3 start going to any substance abuse counseling? Did he do
4 any of that?

5 THE PROBATION AGENT: Judge, he was under
6 supervision for a period of -- I guess that's going to put
7 it for about two years. He could not do the public
8 service per our policy because this defense is statutorily
9 violent. Per our department policy, violent offenders are
10 not permitted to perform public service.

11 THE COURT: All right.

12 THE PROBATION AGENT: The majority of the
13 violations that you could see in this report surround --
14 there was two previous violations that were just trying
15 to -- the first one was the public service, we used that
16 order to delete the public service. The second one was
17 addressing the nonpayment issue. And if he would've
18 tested positive, I would have violated him, so I would
19 assume that there are no positive drug tests or that would
20 be indicated as a previous violation.

21 I do remember -- I took over Mr. Young's case,
22 say, roughly May of 2012. I only personally got to
23 supervise him about three months, but I do remember him
24 being very cooperative. He actually -- when I saw him, he
25 asked to make sure that I'd be his agent when he got out

1 of prison. We did work well together, and he just needs
2 to get a job and get his feet back on solid ground.

3 THE COURT: All right. I'm going accede to the
4 agency's request to toll the time.

5 MS. FULLWOOD: Your Honor?

6 THE COURT: Sir? I'm sorry, ma'am.

7 MS. FULLWOOD: I'm Beth Fullwood, I represent
8 him, and I would like to be heard.

9 THE COURT: I'll be glad for you to do so,
10 ma'am.

11 MS. FULLWOOD: Your Honor, I believe that this
12 is a situation where the Court isn't allowed to toll the
13 probation. He hasn't done anything to violate the terms
14 and conditions of his probation. There's no statute that
15 would allow the Court to toll the probation under these
16 circumstances. I think under State V Meller, that tolling
17 is inappropriate and we'd ask the Court to simply
18 terminate the probation and convert the restitution into a
19 civil judgment.

20 THE COURT: Is he current on all his fees,
21 Agent?

22 THE PROBATION AGENT: No, Judge. He was one
23 payment behind on his supervision fees when he was
24 incarcerated. We stopped the accounts --

25 THE COURT: At that point in time?

1 THE PROBATION AGENT: Yes, sir.

2 THE COURT: How about when he was arrested, the
3 public defender fund, had he paid the public defender fund
4 as ordered?

5 THE PROBATION AGENT: Public defender fund
6 indicates that he has not paid any of that.

7 THE COURT: Was he current on restitution at the
8 time that he was arrested?

9 THE PROBATION AGENT: Judge, he's only paid \$65
10 total to the balance. I would -- we would have
11 restructured that on that May 1, 2012 date, so I would
12 suggest --

13 THE COURT: Well, you're got on the report that
14 it's \$960 behind.

15 THE PROBATION AGENT: That's been running, Your
16 Honor.

17 THE COURT: So at the time of his arrest was he
18 current?

19 THE PROBATION AGENT: No, Judge. I think it
20 would be three payments behind.

21 THE COURT: So he's behind on the public
22 defender's fund, he's behind on his restitution, behind on
23 the payment to the supervision fees.

24 Was he current on his drug test fees?

25 THE PROBATION AGENT: Judge, that has not been

1 paid.

2 THE COURT: Based on his actions on probation
3 during the time that he was out on probation and not under
4 arrest for the other charge, he was in violation of his
5 terms and conditions of probation. I do find those to be
6 a willful violation. I do find, therefore, it is proper
7 to toll the time period since he was not current, he was
8 not doing what he was supposed to be doing under probation
9 at the time he was arrested for the charges that
10 apparently had occurred prior to him being placed on
11 probation; therefore, we will toll the time period and I'm
12 going to extend his probation for an additional year to
13 the five full years of probation.

14 As I understand it, the PSC has been struck
15 already; is that correct?

16 THE PROBATION AGENT: No, Judge, there is two
17 public service accounts that were -- I guess they were
18 converted.

19 THE COURT: Public service employment is what I
20 was talking about.

21 THE PROBATION AGENT: Yes, Judge, public service
22 employment, there was fee arrearages that were converted
23 to public service. Again, I think that was done out of
24 error, not knowing that he could not do that, so I would
25 ask that in the order we could delete the public service.

1 THE COURT: The public service requirement is
2 deleted.

3 Thank you very much.

4 MS. FULLWOOD: Your Honor, I'd simply like to
5 state for the record that the citation that brought
6 Mr. Young before the Court did not make any allegations
7 that he has violated the terms and conditions of his
8 probation.

9 THE COURT: It's set forth on the terms and
10 conditions of the report. It indicates it's before the
11 Court for a review. Review would encompass all of the
12 matters that he was on probation for, including the
13 financial matters.

14 Thank you very much.

15 THE PROBATION AGENT: Judge, also, can we
16 indicate that the case would remain PTUP upon his release
17 as well to motivate him to pay the restitution?

18 THE COURT: Well, it says PTUP after two years.

19 THE PROBATION AGENT: Okay. We'll just leave it
20 that way.

21 THE COURT: So --

22 THE PROBATION AGENT: Two years of active
23 supervision?

24 THE COURT: Active supervision.

25 THE PROBATION AGENT: Yes, sir.

1 THE COURT: He hasn't been on active supervision
2 for two years.

3 THE PROBATION AGENT: Thank you, sir.

4 THE COURT: Thank you very much.

5 MS. FULLWOOD: Thank you, Your Honor.

6 (The proceedings were concluded.)

7 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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PROBATION CITATION

No. C-32-13-0179

SOUTH CAROLINA		COUNTY: LEXINGTON	
V. STEVE NMN YOUNG, STEPHEN YOUNG		SCDC # 265045	SID # 01292476
TO: STEVE NMN YOUNG, STEPHEN YOUNG			
YOU ARE HEREBY NOTIFIED to appear in the above named case at the time, date and place specified below.			
Place		Room	Date and Time
YOU ARE HEREBY NOTIFIED that you are charged with violating the conditions of your supervision as stated below.			
Violations Charged No violations charged. Motion for review of the Probation sentence imposed by Judge Addy Jr. in cause number GS-36-00623 at the 12/01/2011 term of General Sessions Court holden in Newberry County, Newberry, South Carolina pursuant to statute 24-21-430.			
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.			
LEXINGTON, South Carolina		Probation and Parole Agent Daniel R Schirra	Agent # 0587
Date 8/21/2013			
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.			
Place Kershaw Cor Inst.		Date and Time 9/25/13	
		Serving Officer's Signature <i>[Signature]</i>	
Sworn to and subscribed before me this 23 day of September, 2013			
Catherine A. Amason Signature of Notary Public		My Commission Expires December 22, 2018 My Commission Expires	

STATE OF SOUTH CAROLINA

AFFIDAVIT

County of LEXINGTON

Personally appeared before me, Daniel R Schirra, who first being duly sworn, deposes and says that STEVE NMN YOUNG, STEPHEN YOUNG did within this county and State on the 21 day of August, 2013, violate certain conditions of release in the following particulars:

DESCRIPTION OF VIOLATION

No violations charged. Motion for review of the Probation sentence imposed by Judge Addy Jr. in cause number 11-GS-36-00623 at the 12/01/2011 term of General Sessions Court holden in Newberry County, Newberry, South Carolina pursuant to statute 24-21-430.

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:

No violations charged. Citation issued to give the Court subject-matter jurisdiction over Indictment #: 11-GS-36-00623. State moves for court to review the probation case of Steve Young due to a conviction for the offense of Reckless Homicide, Death Results (2011-GS-44-00234) and Leaving the Scene of an Accident Causing Death (2011-GS-44-00235) at the 8/16/12 term of Court in Union County Court, receiving a sentence of 10 years and 7 years respectively, concurrent. The conviction is not considered a violation of the the current probation case as the incident date of 1/14/2011 occured before the begin date of supervision.

Sworn to and subscribed
before me this 21 day of
August, 2013

[Signature]
Signature of Notary Public

My Commission Expires: 8-19-20

[Signature]
Affiant

587

STATE OF SOUTH CAROLINA

County of Lexington
STATE vs.Stephen Young

AKA:

Race: Blk Sex: M

DOB:

SSN:

SID#: 01292476

IN THE COURT OF GENERAL SESSIONS

Indictment Number:
11 -GS- 36 - 0623
Probation C/W#: C-32-13-0179Name of Original Offense: A&B 1st degreeOriginal A/W#: M795251Date of Original Offense: 6/26/2011Conviction S.C. Code §: 16-3-600Conviction CDR Code #: 3 / 4 / 1 / 2Original Sentence: 10 yrs. susp. CRTS + 4 yrs. Prob.**ORDER (157 DAYS)**

The above named defendant has been charged with violating the conditions of probation ordered on 12/1/11 in the Court of General Sessions of Newberry County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 5/31/12, as set forth in the attached warrant(s) or citation(s) dated 9/25/13. 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)

Therefore, IT IS ORDERED that:

- ☐ the suspended sentence be revoked and the above named defendant be required to serve _____ months/years, the remainder of the original sentence, and/or pay \$_____.
- ☐ the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the original sentence and/or pay \$_____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☒ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☐ the above named defendant is placed on 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:TO LL PROBATION FROM TODAY UNTIL HIS RELEASE FROM SCDCDATE PSE REQUIREMENT AND PSE EXTENSION FULL, EXTEND PROBATION (1) ONE YEAR☐ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☒ The defendant has previously served 157 DAYS 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 1st day of Nov, 2013,
Lexington, SC

Presiding Judge

11TH 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

Witnessed by

Signed this _____ day of _____, at _____ SC
 Day Month Year City

WITNESSES

Kevin Goodman
Newberry Police Department

WARRANT NUMBER

M795251

TRUE BILL

Cindy A. O'mah

Foreman of the Grand Jury

Date: 9/8/2011

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

September Term, 2011

Indictment # 11GS36-0623

THE STATE

vs.

Stephen Young

INDICTMENT FOR

ATTEMPTED MURDER

16-03-0029

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

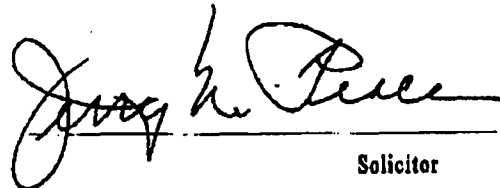
INDICTMENT FOR

**ATTEMPTED MURDER
16-03-0029**

At a Court of General Sessions, convened on the 2nd day of September, 2011 the Grand Jurors of Newberry County present upon their oath:

That Stephen Young, did in Newberry County, state aforesaid, on or about the 26th day of June, 2011 willfully and unlawfully, with the intent to kill and with malice aforethought, attempted to kill Alfred Cromer, in violation of Section 16-3-29 of the South Carolina Code of Laws, 1976, as amended.

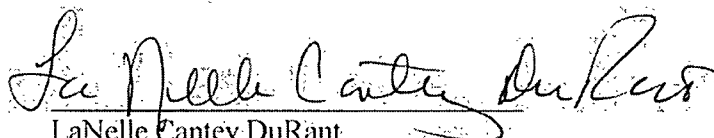
Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


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 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."

June 9th, 2014


LaNelle Cantey DuRant
Appellate Defender

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

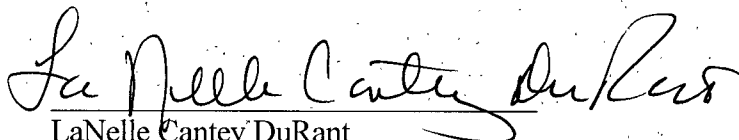
ATTORNEY FOR APPELLANT

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SC Court of Appeals

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."

June 9th, 2014


LaNelle Cantey DuRant
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT

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JUN 09 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Steven H. John, Circuit Court Judge

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THE STATE,

RESPONDENT SC Court of Appeals

V.

STEVE YOUNG,

APPELLANT

APPELLATE CASE NO. 2013-002417

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Matthew Buchanan, Esquire, at South Carolina Department of Probation, Parole & pardon Services, P.O. Box 50666, Columbia, Sc 29250, this 9th day of June, 2014.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 9th day of June, 2014.


(L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.