

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Laurens County  
The Honorable Eugene C. Griffith, Jr., Circuit Court Judge  
Case No. 2013-002732

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THE STATE, .....  
SC Court of Appeals  
RESPONDENT

v.

LARRY G. PARRIS, ..... APPELLANT

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FINAL BRIEF OF RESPONDENT

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**STATEMENT OF ISSUE ON APPEAL**

**The probation revocation court did not err in allowing appellant to proceed pro se and there is enough evidence in the record to believe appellant was aware of his right to counsel and the dangers of self-representation.**

## STATEMENT OF THE CASE

On October 11, 2007, Appellant was sentenced to five years incarceration suspended to two years probation after pleading guilty to six counts of forgery in Laurens County before the Honorable Brooks P Goldsmith. (R.p.22-p 33). At the hearing, he informed the court that he had previous charges against him in Michigan Appellant was subsequently extradited to Michigan and returned to South Carolina after his release on January 19, 2011. He faced a violation of supervision for not reporting upon his release from Michigan and his probation was extended to the full five years in an order signed by the Honorable Eugene C. Griffith on September 14, 2011.

On September 30, 2013, probation agents issued an arrest warrant against Appellant for absconding supervision, failure to report, leaving the state without permission, and numerous financial arrearages. The warrant was served on October 14, 2013. (R.p.19-p.20). The Appellant then filed a Notice of Motion and Motion to proceed without an attorney, which was filed October 29, 2013. (R.p.21).

The Appellant appeared before Judge Griffith on December 16, 2013 for the probation hearing. Although Appellant appeared pro se, he had Assistant Public Defender Kate Kendall standing with him Judge Griffith revoked eighteen months of his probation after the hearing.

The Appellant now brings this appeal before this court, filing an appeal asserting that he was not represented by counsel at the hearing.

## ARGUMENT

**The probation revocation court did not err in allowing appellant to proceed pro se and there is enough evidence in the record to believe appellant was aware of his right to counsel and the dangers of self-representation.**

*Faretta v California*, 422 U.S. 806, 95 S.Ct 2525 (1975) establishes that criminal defendants have a Sixth Amendment right to proceed without the representation of an attorney. That same decision also requires that for a defendant to proceed *pro se*, he or she must be aware that self-representation carries with it certain dangers and disadvantages. The court is generally expected to inquire with the defendant to make sure he or she is aware not only of the right to counsel, but also the risks associated with proceeding without counsel.

However, “the ultimate test is not the trial judge’s advice but rather the defendant’s understanding.” *Wroten v State*, 301 S.C. 293, 294, 391 S.E.2d 575, 576 (1990), *citing Fitzpatrick v Wainwright*, 800 F.2d 1057 (11th Cir.1986).

“In the absence of a specific inquiry by the trial judge to determine whether the defendant has made his decision to proceed *pro se* ‘with eyes open,’ this Court will look to the record to discern whether there are facts to show the defendant had sufficient background or was apprised of his rights by some other source so as to constitute a knowing and intelligent waiver of the right to counsel.” *Salley v State*, 306 S.C. 213, 410 S.E.2d 921 (1991) (citations omitted).

It is clear that the court in the instant case did not make a specific inquiry of the defendant’s awareness of the right to counsel and a warning of the dangers of self-representation. So therefore, this Court must determine if evidence exists that points to the Appellant’s awareness of the *Faretta* factors. The Appellant filed a notice of his intent to proceed *pro se* prior

to the hearing. In his motion, he moves to be allowed to represent himself, and even notes correctly that it is his “statutory and Constitutionally protected right to do so.” [Cite] Appellant’s request was also appropriately asserted before the hearing, in line with the requirement that the demand to proceed *pro se* take place prior to trial, as noted in *State v Fuller*, 337 S C 236, 241, 523 S.E.2d 168, 170 (1999).

Furthermore, Appellant also had the opportunity to discuss his decision with an appointed counsel, both before the hearing and during the hearing. The record clearly shows that Ms. Kendall stood with him and met with him prior to the hearing<sup>1</sup> Appellant was given ample opportunities to make up his mind about self-representation, and had the advantage of an attorney standing with him if he had any questions about the proceedings.


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<sup>1</sup> Ms Kendall Well, I just want to let the Court know why I am standing up here I have stood beside Larry, Mr Parris, at the last hearing He wanted to represent himself, he did not totally agree on what the violations were But I met with him at the hail just to ensure that he wanted to represent himself and I told him I would stand next to him if there were any questions or I may could assist the Court or Mr Parris Tr p 4, lines 20 – p 5, lines 2

**CONCLUSION**

Based on the foregoing reasons the Respondent respectfully requests that the decision of the lower court to revoke Appellant's probation be upheld.

Respectfully submitted,



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November 12, 2014

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***CERTIFICATE OF COUNSEL***

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The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR and with the South Carolina Supreme Court's order dated August 13, 2007.



Matthew C Buchanan  
General Counsel

November 12, 2014

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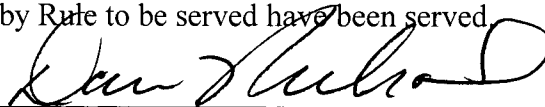
LARRY G. PARRIS, ..... APPELLANT

**CERTIFICATE OF SERVICE**

I, Dawn K. Nichols, Executive Administrative Assistant, hereby certify that I have served the within *Final Brief of Respondent* dated November 12, 2014, on Appellant this 12<sup>th</sup> day of November, 2014, by depositing a copy of the same in the United States mail, postage prepaid, addressed to his attorney of record:

Robert Pachak, Esquire  
S.C. Commission on Indigent Defense  
PO Box 11589  
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I further certify that all parties required by Rule to be served have been served



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