

22103

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Gordon G. Cooper, Circuit Court Judge

ANDERS
ORIGINAL

No Respondent's Brief Filed
RECEIVED
NO DEFENDANT'S BRIEF
APR 28 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

EVANDOR THOMPSON

APPELLANT

APPELLATE CASE NO. 2014-002660

RECORD ON APPEAL

BENJAMIN JOHN TRIPP
Appellate Defender

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Form 16-1 - Arrest Warrant
 Form Approved By
 SC Attorney General
 Section 17-13-160
 March 18 1078

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Probation

ARREST WARRANT

Indictment Number 11-GS-42-04011

Warrant Number W-42-14-0338

State Identification No (SID) 01075746

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

It appearing from the attached affidavit that there are reasonable grounds to believe that EVANDOR THOMPSON, did on the 2 day of October, 2014 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Probable Cause to believe the offender did commit a new crime on 9/14/14 and Violation of Conditions 1, 3, 6, 7, 9, 10, 11 and Special Condition as ordered in Cause Number 11-GS-42-4911 by the Spartanburg County Court of General Sessions.

Now, therefore, you are empowered and directed to arrest the said defendant and bring EVANDOR THOMPSON 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 SPARTANBURG, S. C. this 2 day of October, 2014.

County of SPARTANBURG

Heather H. Carswell
 Signature of Probation and Parole Agent

(L.S.)

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Heather H. Carswell, who, first being duly sworn, deposes and says that EVANDOR THOMPSON did within this County and State on the 2 day of October, 2014, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

Probable Cause to believe the offender did commit a new crime on 9/14/14 and Violation of Conditions 1, 3, 6, 7, 9, 10, 11 and Special Condition as ordered in Cause Number 11-GS-42-4911 by the Spartanburg County Court of General Sessions.

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:

Probable cause to believe the offender did commit the crimes of Armed Robbery, Possession of a Weapon by a Felon and Possession of a Weapon during a Violent Crime; Assault and Battery by the Spartanburg Police Department Incident Report 09038914 dated 9/15/14. Per Incident Report and the offender's own confession on 10/2/14, it is believed the offender did meet the victim at McDonald's and rob him of Marijuana. Offender was asked by Payton Deal if he had a weapon or knew anyone that had a weapon. He states he advised her that he did not have a weapon but Deal asked offender to ride with her to help "jug" somebody. Offender then went with the two females, Payton Deal and Savannah Cox, to the front of the McDonald's on Reidville Road. The offender was motioned by another male in a car parked next to Deal's car. Offender got out and went into the males car, sitting in the back sit. The offender then was handed a bag of marijuana. Once receiving the marijuana, the offender proceeds to get out of the car. At that time, the male grabs the offender due to not paying for the

Sworn to and Subscribed before me
 this 2 day of October, 2014.

Amik J.
 Signature of Notary Public

(L.S.)

4-18-2017
 My Commission Expires

Heather H. Carswell
 Affiant
 Address: 180 LIBRARY STREET
 SPARTANBURG, SC 29306
 SPARTANBURG
 USA

(864) 596-2582

2

Addendum

drugs and the offender punched the male in the neck area. The offender gets back into the car with the two females and leaves the McDonalds. Offender and the two females go to Savannah Cox's house where the marijuana was distributed between the two females. Offender stated he did not take any of the marijuana. Offender was arrested two days later while at work.

Failure to give complete and truthful reports to the Agent. While being questioned about his drug usage by Agent E. Johnson, the offender continually lied about his drug usage, finally stating it was just two weeks ago when he used Marijuana.

Failure to refrain from the use of controlled substances. The offender tested positive for Marijuana on 10/2/14.

Failure to notify Agent of new arrest or contact with Law Enforcement. The offender was arrested by Spartanburg Police Department on 9/16/14 for Armed Robbery, Possession of a Weapon during a Violent Crime, Possession of a Weapon by a Felon and Assault and Battery 3rd Degree and failed to immediately notify the Agent of the arrest.

Failure to pay Supervision Fee as instructed. The offender is \$390 in arrears on his Supervision Fee.

Failure to pay Restitution as instructed. The offender is \$225 in arrears on his DACOR account.

Failure to follow the advice and instructions of the supervising Agent in that the offender was referred to Don Foster and Associates for Substance Abuse Counseling on 2/25/14 and per his own confession on 10/2/14, he has failed to go.

Sworn to and Subscribed before me
this 2 day of October, 2014.

H. H. H. H.
Agent

Erin K. Jones
Signature of Notary Public

4-18-2017
My Commission Expires

1 STATE OF SOUTH CAROLINA }
 2 COUNTY OF SPARTANBURG } COURT OF GENERAL SESSIONS
 3
 4 STATE OF SOUTH CAROLINA,)
 5 PLAINTIFF,)
 6 vs.)
 7 EVANDOR KEATH THOMPSON,)
 8 DEFENDANT.)
 9
 10 November 14th, 2014
 11 Spartanburg, South Carolina
 12
 13 B E F O R E:
 14 THE HONORABLE GORDON G. COOPER, Judge.
 15
 16 A P P E A R A N C E S:
 17
 18 CLAIRE HALL
 19 ASSISTANT PUBLIC DEFENDER
 20 Attorney for the Defendant
 21
 22 PAMELA E. GREEN
 23 Circuit Court Reporter
 24 Seventh Judicial Circuit
 25

I N D E X O F W I T N E S S E S

(There were no exhibits marked or testimony taken
during this hearing.)

P R O C E E D I N G S

THE COURT: All right.

THE PROBATION OFFICER: Your Honor, if it pleases the Court.

Here before you is Evandor Thompson under W-42-14-0338 issued October the 2nd, 2014, and served that same date.

THE COURT: Counsel.

MS. HALL: Thank you, Your Honor.

Mr. Thompson admits to violation of admitting to marijuana usage and failing the test in October though he informs me he would be able to pass it today.

He also admits to not telling the agent immediately about a new arrest. He had a report date for November following that arrest and planned to tell her when he reported, which obviously he should of called as soon as he was released from the jail.

He does report. He has been making payments although he is somewhat behind. He has been making payments. He has worked at Bowen's Landing, and, unfortunately, when he was served with this citation, he was not able to bond out for about a month and lost that employment as a result. Right before that he was taken into the jail for this citation he had also picked up a second job at Ruby Tuesday, and I do have his last two receipts for his pay from Bowen's Landing

1 in September.

2 He was to attend drug classes and he said he did have
3 some problems with the scheduling of that with his job and
4 that's why he had not been able to complete that yet.

5 As to the allegation of the new charges, Your Honor, I
6 would -- I do represent him on those, and I would ask the
7 Court to not consider those as they are pending charges.
8 He's not been convicted. These are all allegations.
9 They're other people who are implicated and I think it's
10 appropriate that that not be considered as it's not a
11 conviction, and I do represent him and there's gonna be
12 further investigation into that, and I think it's
13 appropriate to allow those allegations to be taken into
14 consideration by another Court in the future when it's time
15 for that case to come up.

16 So, I would ask the Court to consider he was in jail
17 approximately a month on this citation before he bonded out
18 and he has worked. I'm sure he'll be able to find another
19 job. Perhaps some minimal revocation for the failed drug
20 test and allow him to continue his probation because
21 otherwise he seems to be mostly in compliance.

22 THE PROBATION OFFICER: Your Honor, if I may.

23 If mostly in compliance means using drugs and not
24 paying your money and not going to Don Foster, then
25 absolutely he's in compliance. Mr. Thompson continues to

1 exhibit the same behavior. He's on for common law
2 robbery/strong armed robbery. He is -- he uses drugs. He's
3 been working. He's worked the -- since he's been placed on
4 probation although you can see his monetary obligations are
5 in arrears.

6 It's clear that he was spending his money on marijuana
7 instead of paying his monetary obligations to the Probation
8 office and to the court.

9 The, the new charge doesn't include possession of a
10 weapon during a violent crime. We feel that Mr. Thompson is
11 a threat to the community at this time cause he continues,
12 he continues to do the same type of things.

13 THE COURT: Counsel.

14 MS. HALL: Your Honor, I'd just ask, again, that the
15 Court not consider the new charge from September. I believe
16 Mr. Thompson should be afforded the opportunity to fully see
17 that case through and allow me, as his attorney on that
18 charge, to investigate it and defend him on it rather than
19 Your Honor take it into consideration on a probation
20 violation at this time based on just allegations and a
21 police report. That's all we have at this time.

22 THE COURT: All right. Mr. Thompson, based on the
23 matters in the 1106, specifically the failure to drug test
24 and the arrest for the -- on 9/15/2014, I am gonna revoke
25 your probation.

1 THE PROBATION OFFICER: Thank you, Your Honor.
2 Can we convert restitution to a civil judgment?
3 THE COURT: Yes.

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6 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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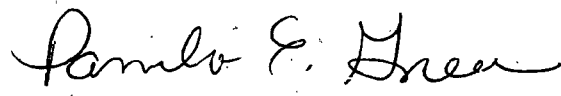
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh 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 Spartanburg County, South Carolina, on the 14th day of November, 2014.

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

December 21st, 2014



PAMELA E. GREEN, Court Reporter

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

County of Spartanburg
STATE VS.Evander ThompsonAKA:
Race: B Sex: M
DOB: [REDACTED]
SSN: [REDACTED]
SID#: 01975746

Indictment Number:

11 -GS- 42 - 4911
Probation C/W#s: W-42-14-0338Name of Original Offense: Common Law Robbery, Stron
Original A/W#: K248171
Date of Original Offense: 12/7/10
Conviction S.C. Code §: 16-11-0325
Conviction CDR Code #: 0 1 1 3 17
Original Sentence: 10 years Susp to 1 year + 3 year
probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 10/22/12 in the Court of General Sessions of Spartanburg County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 7/2/14 as set forth in the attached warrant(s) or citation(s) dated OCT 2, 2014. 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 9 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 523-3-540 (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 (arrestage)
☒ Fines and other fees (arrestage/bailage)
☒ Restitution (and 20%) (arrestage/bailage)

☐ Additional Conditions ordered by the Court:

Civil Judgment: ☒ Department fees
☒ Fines and other fees
☒ Restitution (and 20%)

- ☐ 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 1 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 523-3-540.

This 14 day of November, 2014
Spartanburg, SCPresiding Judge: Hon. Judge [Signature] 7th 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 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

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."

This 28th day of April, 2015,



Benjamin John Tripp
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