

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SUMTER COUNTY

Howard P. King, Circuit Court Judge

RECEIVED

NOV 22 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ARTHUR JAMES BUIE,

APPELLANT

APPELLATE CASE NO. 2013-000440

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

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

Attorney for Appellant

MATTHEW BUCHANAN
General Counsel

South Carolina Department of
Probation, Parole & Pardon Services
PO Box 50666
Columbia, SC 29250
(803) 734-9220

Attorney for Respondent

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STATE OF SOUTH CAROLINA)	COURT OF GENERAL SESSIONS
)	THIRD JUDICIAL CIRCUIT
COUNTY OF SUMTER)	CASE NO. 2000-GS-43-00548
)	
STATE OF SOUTH CAROLINA,)	
)	
Plaintiff,)	
)	
-vs-)	TRANSCRIPT OF RECORD
)	
ARTHUR JAMES BUIE,)	
)	
Defendant.)	
)	

February 15, 2013
Sumter, South Carolina

B E F O R E:

THE HONORABLE HOWARD P. KING, Judge

A P P E A R A N C E S

AGENT SUMTER, DEPARTMENT OF PROBATION, PAROLE & PARDON

JULIE RICHARD, Esquire
Attorney for the Defendant

KRYSTAL J. SMITH
Court Reporter

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
C1	Form 1106		4

1 FEBRUARY 15, 2013

2 (WHEREAS this matter was scheduled for a probation
3 revocation hearing, the defendant appeared along with his
4 counsel of record. The hearing began at 10:00 a.m.)

5 AGENT SUMTER: The court calls Arthur Buie, Agent Sumter,
6 and his attorney Julie Richard.

7 THE COURT: What's the name?

8 AGENT SUMTER: Excuse me?

9 THE COURT: What's the name?

10 AGENT SUMTER: Arthur Buie, Your Honor.

11 THE COURT: Okay.

12 THE CLERK: Place your left hand on the Bible. Left
13 hand, please. Raise your right hand and state your name.

14 THE DEFENDANT: Arthur Buie.

15 THE CLERK: Do you solemnly swear or affirm your
16 testimony to the Court will be the truth, the whole truth, and
17 nothing but the truth, so help you God?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. The next matter before the Court
20 is a probation violation and hearing on Arthur Buie. The
21 Court has a copy of the 1106, the Department of Probation,
22 Parole and Pardon Services Violation Report. It indicates
23 Number 00-GS-43-0548.

24 Again, this is a community supervision matter before the
25 Court. It appears that he is on community supervision from an

1 armed robbery conviction. The Court will give the 1106 to the
2 court reporter and ask that it mark it as Exhibit 1 and return
3 it. Court's Exhibit 1 and return it to me, please.

4 (Whereupon, the Form 1106 is marked and entered as
5 Court's Exhibit Number 1 and returned to the Court.)

6 THE COURT: The matter is before the Court originally on
7 the citation dated October the 10th, 2011, and subsequently on
8 an arrest warrant dated October the 26th of 2011 and served on
9 October the 26th of 2011 and another arrest warrant dated
10 January the 18th of 2012 and served in January of 2012.

11 AGENT SUMTER: Excuse me, Your Honor.

12 THE COURT: Yes, sir.

13 AGENT SUMTER: The -- the citation date, you said it was
14 October 10th?

15 THE COURT: November.

16 AGENT SUMTER: It was November 10th.

17 THE COURT: November 10th.

18 AGENT SUMTER: And the last warrant was served in 2013.

19 THE COURT: '13.

20 AGENT SUMTER: Yes, sir.

21 THE COURT: You're right. It was January 2013.

22 AGENT SUMTER: Yes.

23 THE COURT: All right. Just -- just for the record, I
24 said October; it was November on the original citation. Then
25 the first arrest warrant was in October and the second arrest

1 warrant was in January of 2013. So the Court does have
2 jurisdiction.

3 All right. Now, Mr. Buie, the original citation in this
4 case charged that you violated the terms and conditions of
5 your community supervision by giving an untruthful report to
6 Agent Sumter stating that you were negative for all drugs and
7 you failed to refrain from the use of controlled substances,
8 having tested positive for marijuana on October the 9th of
9 2011. That was the original citation.

10 Then in the arrest warrant in October, the arrest warrant
11 alleges you didn't pay your supervision fees. You were in
12 arrears on those. You didn't pay the electronic monitoring
13 fee. You were in arrears on that. And you didn't comply with
14 the electronic monitoring, violations having been cited on
15 October 22nd of 2011.

16 And then the last arrest warrant, the one that he stated
17 ---

18 AGENT SUMTER: January.

19 THE COURT: January of 2012. You didn't comply with
20 community supervision by coming to the hearing that was
21 scheduled on January the 13th. Is that right, Mr. Sumter?

22 AGENT SUMTER: Yes, Your Honor. He's been absconded
23 since that time, Your Honor.

24 THE COURT: He's been absconded since that time?

25 AGENT SUMTER: Yes, sir.

1 THE COURT: Okay.

2 AGENT SUMTER: Since then.

3 THE COURT: All right. Tell me what is remaining on his
4 sentence and what the situation is.

5 AGENT SUMTER: On his sentence, he has 502 days, of which
6 you can revoke up to 365 days this time and, Your Honor, the
7 only way that we were able to find him to bring him to justice
8 was he was arrested in Glenn County, Georgia, for this
9 outstanding warrant. So he's been absconded since the service
10 of the last warrant.

11 THE COURT: Okay. All right. Do you understand what the
12 charges are, Mr. Buie?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand that you have the right to
15 present any testimony or evidence to me that you would present
16 and I'll hear from you in that regard in a few minutes?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And you have the right to be represented by
19 counsel. I see you already have Ms. Richard. Have you had a
20 chance to talk with her?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And you have the right to appeal any decision
23 that I make and you must do that within ten days; do you
24 understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. All right, Ms. Richard?

2 MS. RICHARD: Yes, Your Honor. One thing I'd like to set
3 straight. He turned himself in to -- in Georgia on this
4 warrant. He knew that this warrant was outstanding. He was
5 not arrested. He -- he went there and turned himself in on
6 this warrant and then was taken back to South Carolina.

7 Additionally, on the -- it indicates this electronic
8 monitoring. The only violation that I'm showing is he was one
9 minute late. He arrived home at 7:01 p.m. That's what I'm
10 showing on this paperwork.

11 THE COURT: I'm -- I'm not concerned about that. Tell me
12 about being absconded for the last year.

13 MS. RICHARD: Yes, Your Honor. My client indicates that
14 when he was supposed to be in court in January, his son at
15 that time had been shot and he was shot in January of 2012.
16 His son almost died from that incident and -- and that's why
17 he did not come to court. And he indicates to me that he had
18 some issues with the probation agent threatening to arrest him
19 when he wasn't able to pay his fees and whatnot and he had
20 requested another agent and he was not -- he didn't get one
21 and he does admit that, you know, he didn't report.

22 However, in the last -- since September of 2011 when he
23 was released, he has not gotten into any criminal activity.
24 He hasn't been arrested for any new charges. He -- he has
25 currently work waiting for him if he is able to do so in

1 Georgia at a construction company in Brunswick County. He did
2 turn himself in on this and ---

3 THE COURT: When? When did he -- was he arrested on
4 these charges?

5 MS. RICHARD: Yes, Your Honor. In ---

6 THE COURT: When?

7 MS. RICHARD: --- January 13th.

8 THE COURT: Of this year?

9 MS. RICHARD: Of 2013. Yes, Your Honor.

10 THE COURT: But the year before that he hadn't reported?

11 MS. RICHARD: Yes, Your Honor.

12 THE COURT: Okay. All right, Mr. Buie, anything you'd
13 like to tell me?

14 THE DEFENDANT: No, sir. Oh, but the -- the job thing,
15 right? Like I'm saying, I did got a job, right. I only
16 worked for a day because Agent Sumter went ahead and set up
17 work when he set up my monitor. So when he put down on the
18 paper I was making 800 in a week, I wish I could make 800 a
19 week. I'd pay my child support off and pay off the monitor.

20 THE COURT: All right. Do you -- the thing that bothers
21 me is that for whatever reason a year ago, more than a year
22 ago, your son did get shot and you had family problems and all
23 that. You know, if you keep the agency advised of that sort
24 of stuff, they'll generally work with you, but you just never
25 came back. You didn't do anything until they issued a warrant

1 and then you found out a warrant was out there and thought,
2 well, I'll turn myself in. But that -- that doesn't mean a
3 whole lot. You knew for that whole last year that you were
4 not doing what you were supposed to do under community
5 supervision; didn't you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. The Court is going to revoke one
8 year and give him credit for the time served since the time
9 that he was -- was arrested on January the 13th and continue
10 the community supervision until it's end -- finishes up.

11 I find he does understand the nature of these
12 proceedings. He's represented by competent counsel. That he
13 is in violation of the terms and conditions of his community
14 supervision by not reporting for last year and being absconded
15 from supervision. Okay.

16 AGENT SUMTER: Thank you, Your Honor.

17 (Whereupon, the proceedings end at 10:09 a.m.)

18 --- END REQUESTED TRANSCRIPT ---

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STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

CERTIFICATE

I, the undersigned, Krystal J. Smith, Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Sumter County, South Carolina, on the 15th day of February, 2013.

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

Krystal J. Smith

Court Reporter

Florence, South Carolina

April 17, 2013

South Carolina Department of Probation, Parole and Pardon Services
Violation Report

AHJ 11
Jail

Offender's Name: **ARTHUR JAMES BUIE**
 State of South Carolina, County of: **SUMTER**
 SID#: **01056046**

Warrant#: **W4311-0132 C-43-11-0444 W-43-12-0007**
 Date of Birth: [REDACTED]
 SCDC#: **258921**

Indictment Numbers:
00-GS-43-00548

Offense and Offense Code:
139 - Armed Robbery, robbery while armed or
allegedly armed with a deadly weapon

Supervision Program: **Community Supervision** Begin Date: **9/1/2011** End Date: **7/1/2013**
 Supervision Level: **Institutionalized**

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 FEB 11 2013
 BY: NTG

Sentencing Judge: [REDACTED] Sentencing County: **SUMTER**
 Sentencing Date: **9/1/2011**
 Location (Bold Response): **Jail**

Sentence:

MUST HAVE NO CONTACT WITH VICTIM AND/DOR VICTIM'S FAMILY FOR DURATION OF SUPERVISION. EM NOT LESS THAN 90 DAYS.

Special Conditions:

EM - EM / Electronically Monitored Home Detention NOT LESS THAN 90 DAYS; NC-Vctm - NC-Victim / No contact with Victim

Current Address and Summary of Residence:

[REDACTED], SUMTER, SC 29150, SUMTER, USA,
 Mr. Buie absconded supervision. His current residence is unknown.

FEB 11 2013

Reporting:

Mr. Buie last reported on 12/7/11.

SCANNED

Employment Records While Under Supervision:

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
JERMAINE WALKER	9/2/2011 -		\$800.00

Financial Conditions:

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Fees						
Electronic Monitoring Fee	\$280.00	\$20.00/W	\$55.00	11/10/2011	\$225.00	\$225.00
Intensive Supervision	\$280.00	\$20.00/W	\$60.00	10/12/2011	\$220.00	\$220.00
Regular Supervision	\$950.00	\$50.00/M	\$0.00		\$650.00	\$950.00

Prior Violation Dates	Prior Violations	Prior Violation Disposition
10/23/2011	The offender arrived home at 7:01 pm. He was 1 minute late Agent Sumter changed out the offender's EM transmitter	For Reference Only

Details of the Present Violation:

Listed on the warrant W-43-11-0132

12
South Carolina Department of Probation, Parole and Pardon Services
Violation Report

Offender's Name: **ARTHUR JAMES BUIE**

Mr. Buie violated condition # 7 by failing to pay his supervision fees. He has an arrearage of \$80 with a balance of \$220.
Mr. Buie violated condition # 9 by failing to pay his Electronic Monitoring Fee. He has an arrearage of \$111 with a balance of \$251.
Mr. Buie violated condition additional conditions # 29 by failing to comply with electronic monitoring. Violations have been cited on 10/22/11

Listed on the citation

Mr. Buie violated condition # 1 by giving an untruthful report to Agent Sumter stating that he was negative for all drugs.
Mr. Buie violated condition # 3 by failing to refrain from the use of controlled substances. He tested positive for marijuana on 11/9/11.

Listed on the warrant W-43-12-0007

Mr. Buie failed to report to his Community Supervision Violation hearing on January 13, 2012. Mr. Buie was notified of this hearing on October 26, 2011.

Agent's Recommendation:

Revoke 1 year of Community Supervision.

Agent's Justification:

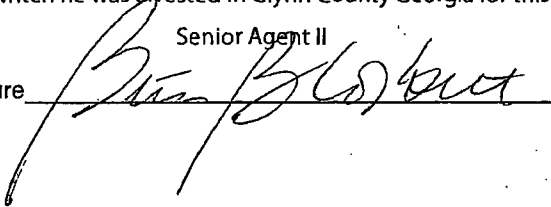
This man is on CSP for a violent offense. He needs to learn that he does not have freedom of the community and can do as he please. He was only located when he was arrested in Glynn County Georgia for this outstanding warrant.

William Sumter

Senior Agent II

Date: 2/1/2013

Supervisor's Signature



Date:

2/1/2013

Form 16.1- Arrest Warrant
Form Approved by
SC Attorney General
Section 17-13-160
March 15, 1978

Community Supervision

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

ARREST WARRANT

Indictment Number 00-GS-43-00548

Warrant Number W-43-12-0007

State Identification No. (SID) 01056046

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

It appearing from the attached affidavit that there are reasonable grounds to believe that ARTHUR JAMES BUIE, did on the 18 day of January, 2012 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Violation of Community Supervision pursuant to section 24-21-560.

Now, therefore, you are empowered and directed to arrest the said defendant and bring ARTHUR JAMES BUIE 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 SUMTER, S. C. this 18 day of January, 2012.

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

County of SUMTER

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one William Sumter, who, first being duly sworn, deposes and says that ARTHUR JAMES BUIE did within this County and State on the 18 day of January, 2012, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

Violation of Community Supervision pursuant to section 24-21-560

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:

Mr. Buié failed to report to his Community Supervision Violation hearing on January 13, 2012. Mr. Buié was notified of this hearing on October 26, 2011.

William Sumter
Affiant

Sworn to and Subscribed before me
this 18 day of January, 2012.

Ben G. Stone (L.S.)
Signature of Notary Public
3/2/2015
My Commission Expires

Address: P.O. BOX 1322
SUMTER, SC 29151
SUMTER
USA

(803) 778-5185

RETURN

Constable or Law Enforcement Officer

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

+ Arthur Buie

on the 17th day of January
[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.

(L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA

COUNTY OF

SUMTER

THE STATE

against

ARTHUR JAMES BUIE

ARREST WARRANT

Offense: Violation of Conditions of Community Supervision Supervision

Offense Section: 24-21-560

Date: 1/18/2012

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

William Sumter

Disposition _____

Sentence _____

Co-Defendants _____

INFORMATION ON DEFENDANT

Name ARTHUR JAMES BUIE
Address ABSCONDED SUMTER, SC 29150
Phone (803) 775-
Sex Male Race Black Height 066
Weight 145 Birth date
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 _____

BAIL

Date Set _____
Magistrate _____
Amount _____
Surety _____

Form 16.1 - Arrest Warrant
Form Approved by
SC Attorney General
Section 17-13-160
March 15, 1978

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

Community Supervision
ARREST WARRANT

Indictment Number 00-GS-43-00548
Warrant Number W-43-11-0132
State Identification No. (SID) 01056046

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

It appearing from the attached affidavit that there are reasonable grounds to believe that ARTHUR JAMES BUIE, did on the 26 day of October, 2011 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Violation of CSP pursuant to section 24-21-560

Now, therefore, you are empowered and directed to arrest the said defendant and bring ARTHUR JAMES BUIE 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 SUMTER, S. C. this 26 day of October, 2011.

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

County of **SUMTER**

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one William Sumter, who, first being duly sworn, deposes and says that ARTHUR JAMES BUIE did within this County and State on the 26 day of October, 2011, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE:

Violation of CSP pursuant to section 24-21-560

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:

Mr. Buie violated condition # 7 by failing to pay his supervision fees. He has an arrearage of \$80 with a balance of \$220.
Mr. Buie violated condition # 9 by failing to pay his Electronic Monitoring Fee. He has an arrearage of \$111 with a balance of \$251.
Mr. Buie violated condition additional conditions # 29 by failing to comply with electronic monitoring.
Violations have been cited on 10/22/11

Sworn to and Subscribed before me
this 26 day of October, 2011.

William Sumter
Affiant

Ben Colburn (L.S.)
Signature of Notary Public
3/2/2015
My Commission Expires

Address: P.O. BOX 1322
SUMTER, SC 29151
SUMTER
USA
(803) 778-5185

RETURN

STATE OF SOUTH CAROLINA
COUNTY OF

SUMTER

THE STATE
against

ARTHUR JAMES BUIE

INFORMATION ON DEFENDANT

Name ARTHUR JAMES BUIE
Address [REDACTED]
SUMTER, SC 29150
Phone (803) 775-1976
Sex Male Race Black Height 066
Weight 145 Birth date [REDACTED]
Social Security Number [REDACTED]

Constable or Law Enforcement Officer

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

* Arthur Buié

ARREST WARRANT

Offense: Violation of Conditions of Community Supervision Supervision

Offense Section: 24-21-560

Date: 10/26/2011

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

William Sumter

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 _____

BAIL

Date Set _____
Magistrate _____
Amount _____
Surety _____

Disposition _____

Sentence _____

Co-Defendants _____

on the 26 day of Oct. 2011

[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.

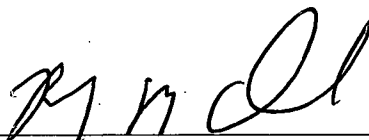
(L.S.)

Signature of Judge

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."

November 22, 2013



Robert M. Dudek
Chief 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