

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable J. C. Buddy Nicholson, Circuit Court Judge

**ORIGINAL
RECEIVED**

**AUG 27 2019
SC Court of Appeals**

THE STATE,

RESPONDENT,

v.

JAMES MICHAEL BROOKS,

APPELLANT

APPELLATE CASE NO 2018-002075
_____ v

RECORD ON APPEAL

VICTOR R SEEGER
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
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ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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1 (September 10, 2018.)

2 THE PROBATION AGENT: Number nine, James
3 Brooks, Agent Mood.

4 THE COURT: Who is the lady that he beat up?

5 AGENT MOOD: That was a live-in -- common-law
6 wife, girlfriend.

7 THE COURT: Why was he charged with domestic
8 violence on that case, is that still pending?

9 AGENT MOOD: Yes, it is.

10 THE COURT: All right. I mean, the offenses
11 are pretty brutal.

12 AGENT MOOD: Yes, sir, Your Honor.

13 THE COURT: I'll be glad to hear you. What's
14 the -- exposure is four years and ten months; is that
15 correct?

16 MR. BOWDEN: Yes, Your Honor.

17 THE COURT: All right. Be glad to hear you.

18 MR. BOWDEN: That's my understanding.

19 Mr. Brooks is -- he's also charged at this
20 time with a breach of trust that, according to the
21 discovery we've gotten, the alleged victim in the case
22 allowed him to borrow the car and never revoked that
23 permission.

24 As far as the difficulty -- as far as the
25 difficulty that he had on probation outside of the

1 pending charges, the nature of his work makes it
2 extremely difficult to report as someone who worked on
3 land would. He owns a boat, or co-owns a boat, out of
4 McClellandville. It's a crab boat, I guess, and so --

5 THE COURT: What kind of work does he do?

6 MR. BOWDEN: He's a crabber.

7 AGENT MOOD: Commercial crabber, Your Honor.

8 THE COURT: Commercial what?

9 AGENT MOOD: Crabber.

10 THE COURT: Okay.

11 AGENT MOOD: Shrimp, crab.

12 THE COURT: What's that have to do with him
13 reporting and not doing what he's supposed to do?

14 MR. BOWDEN: That's why he missed the last
15 report date, the one report date that he missed since
16 he was -- the previous violation was continued. So it's
17 an issue where he is sacrificing an entire day's pay,
18 which doesn't come easily in his chosen profession.

19 THE COURT: That's the only debt he has that
20 will put him in jail.

21 MR. BOWDEN: I'm sorry?

22 THE COURT: It's the only debt that he has
23 that will put him in jail.

24 MR. BOWDEN: I agree, Your Honor, but it's --
25 he had to calculate what time he gets back, and then he

1 got stuck in traffic, which I think he may have spoken to
2 the agent about, but he has anxiety, bipolar disorder as
3 well. He was diagnosed in the Department of Corrections
4 with those.

5 THE COURT: How much time has he served in
6 the Department of Corrections?

7 AGENT MOOD: Fifty-nine days, Your Honor.

8 THE COURT: Pardon?

9 AGENT MOOD: Fifty-nine days on this.

10 THE COURT: That's all? That was in the jail
11 here?

12 AGENT MOOD: Prior to this arrest.

13 THE COURT: Prior?

14 AGENT MOOD: Yes, sir.

15 THE COURT: How much time did he actually
16 serve in the prison? Not county jail, but prison.

17 MR. BOWDEN: Twenty-six months, Your Honor.

18 THE COURT: Twenty-six months for what? What
19 were you charged with?

20 THE DEFENDANT: Me? Property crime
21 enhancement.

22 THE COURT: I'm sorry?

23 THE DEFENDANT: Property crime enhancement.

24 THE COURT: Okay.

25 THE DEFENDANT: But the reason I didn't make

1 it here I was just sitting in traffic, and my sister was
2 bringing me over, and I called him off Clements Ferry
3 Road --

4 THE COURT: Mr. Brooks, I'll be honest with
5 you: I'm not necessarily concerned about that one
6 failure to show up. I'm more concerned about all the
7 criminal history you have. You've been arrested since
8 you've been on probation, and especially the one where --
9 that's related to the lady you apparently brutally beat
10 up, that's what I'm concerned about, not your one-time
11 failure to report. Okay?

12 Anything else you want to tell me?

13 MR. BOWDEN: I would just ask, knowing that
14 that charge is there and that the bond set on those is
15 fairly high, I think it's been reduced to about \$50,000
16 now, but I would just ask for partial revocation on the
17 probation, those 63 days that he's served at this time,
18 and then, knowing that the domestic violence is still
19 there to deal with, it may even be indicted as a higher
20 charge than it currently is.

21 THE COURT: I'm going revoke his probation
22 and violate him on the conditions of probation and
23 sentence him to serve 58 months. Terminate probation
24 when he gets out.

25 Thank you very much.

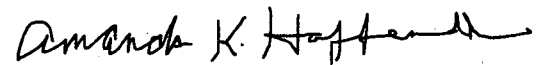
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(Whereupon, the proceedings were concluded.)

I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth 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 trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 10th of September 2018.

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

February 12, 2019



Circuit Court Reporter

KSS2013-08-02067

DOCKET NO. 2014GS0800527

00

WITNESSES

Berkeley County Sheriff's Office

Dar m Y...

AGENCY CASE NUMBER

2013-04017219

ARREST WARRANT NUMBER

2013A0810401003

DATE OF ARREST

August 6, 2013

ACTION OF GRAND JURY

True Bill

Dorothy B. Guster

Foreperson of Grand Jury

Date: 5/13/2014

VERDICT

Foreperson of Petit Jury

Date:

INDICT

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

May Term

THE STATE

vs.

JAMES MICHAEL BROOKS

DOB: [REDACTED]

W/M

Indictment for

Petit Larceny (Enhancement)

§16-01-0057

CDR: 2877

MAJORITY BY
CLERK OF COURT
BERKELEY COUNTY, S.C.

14 MAY 13 PM 12:58

JFH
FILED

JFH

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

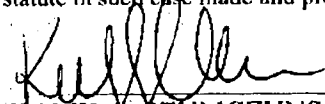
INDICTMENT

At a Court of General Sessions, convened on May 13, 2014 the Grand Jurors of Berkeley County present upon their oath:

Petit Larceny (Enhancement)

That JAMES MICHAEL BROOKS did in Berkeley County, South Carolina, on or about April 24, 2013, previously having been convicted of at least two offenses for which the term of imprisonment is contingent upon the value of the property involved, did take and carry away the property of another with intent to deprive the owner permanently of such property to wit: tools, miscellaneous equipment and other property, belonging to Samanatha Blume; all in violation of §16-01-0057, Code of Laws of South Carolina, (1976, as amended) and the Common Law of South Carolina.

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


KAMILA SZYMCZYNSKA-SAS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BERKELEY

STATE VS.

JAMES MICHAEL BROOKS

AKA: James M Brooks, James Brooks

Race: White Non-Latino/Caucasian

Sex: M

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

Road [REDACTED]

City, State, Zip: Mc Clellanville, SC 29458

DL# [REDACTED]

SID# SC010015A

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

CONVICTED OF or

PLEADS

TO: Property Enhancement

In violation of § 16-01-0057 of the S.C. Code of Laws, bearing CDR Code # 2367

NON-VIOLENT

VIOLENT

SERIOUS

MOST SERIOUS.

Mandatory GPS

§17-25-45

(CSC w/minor 1st or Lewd Act)

The charge is: As indicted,

Lesser Included Offense,

Defendant Waives Presentment to Grand Jury.

_____ (def.'s initials)

The plea is: Without Negotiations or Recommendation,

Negotiated Sentence,

Recommendation by the State.

ATTEST

100437

Kamila Szybczyaska-Jas, Assistant Solicitor SC Bar #

Defendant

Attorney for Defendant

69472

SC Bar #

WHEREFORE, the Defendant is committed to the

State Department of Corrections

County Detention Center,

for a determinate term of 5 years or

under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of

59 days/

~~30~~ and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5

years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 59 days credit.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:

Deferred

Def. Waives Hearing

Ordered

PTUP

Total: \$ 300. plus 20% fec: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED

Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

NOV 18 2016

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive _____/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Recipient: Samantha Blume

*Finc: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Prob) \$500 \$ 500.00

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 18.75

TOTAL \$ 643.75

Clerk of Court/Deputy Clerk:

K. Mills

Court Reporter:

Karen Andersen

Presiding Judge:

Judge Code:

Sentence Date:

T.L. Huntington Jr.
2008
11/16/16.

K.M.

FILED

+ 2 yrs. comply.

NO GASE
NO
MARY P. BROWN CLERK OF COURT
BERKELEY COUNTY, SC

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

Probation

ARREST WARRANT

Indictment Number: 14-GS-08-00527

Warrant Number: W-10-18-0346

State Identification No. (SID) 00727542

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

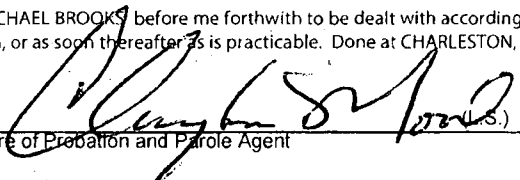
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF CHARLESTON, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that JAMES MICHAEL BROOKS, did on the 17 day of July, 2018 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Violation of Probation conditions 6,9,10, and 11 as ordered in Indictment 14-GS-08-0527 in Berkeley County.

Now, therefore, you are empowered and directed to arrest the said defendant and bring JAMES MICHAEL BROOKS 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 CHARLESTON, S. C. this 17 day of July, 2018.


Signature of Probation and Parole Agent

County of CHARLESTON

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Clayton C. Mood Jr., who, first being duly sworn, deposes and says that JAMES MICHAEL BROOKS did within this County and State on the 17 day of July, 2018, violate the criminal laws of the State of South Carolina in the following particulars:

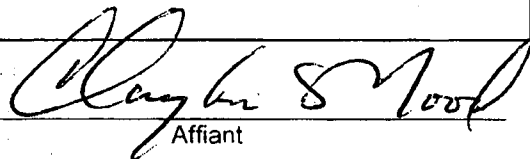
DESCRIPTION OF OFFENSE:


Violation of Probation conditions 6,9,10, and 11 as ordered in Indictment 14-GS-08-0527 in Berkeley County.

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:

Subject failed to follow the advice and instructions of the agent. Subject failed to notify the agent of his new arrest. Subject was arrested on 7-10-18 for Domestic Violence 2nd and Breach of Trust. Subject failed to pay his restitution, supervision fees, and fines. Such actions constitute a violation of his original probation agreement. By failure to report, offender missed his report on 6/28/18.

Sworn to and Subscribed before me
this 17 day of July, 2018.


Affiant


Signature of Notary Public (L.S.)
7/31/2018
My Commission Expires

Address: 4050 BRIDGE VIEW DRIVE
SUITE 100
NORTH CHARLESTON, SC 29405-7464

(843) 740-1553

2014 GS0800527

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF GENERAL SESSIONS
) FOR THE NINTH JUDICIAL CIRCUIT
)
) Warrant No.: W10180346
) Charge: Violation of Terms of Probation

STATE OF SOUTH CAROLINA)

vs.)

JAMES MICHAEL BROOKS,)

Defendant)

Motion to Reconsider Sentence

SEP 10 11:44 AM
FILED
CLERK OF COURT

PLEASE TAKE NOTICE that the above captioned Defendant, by and through the undersigned attorney, moves this Honorable Court for a reconsideration of the sentence of 58 months imposed upon the Defendant on September 10, 2018, by the Honorable J.C. Nicholson, Jr., pursuant to the above-mentioned charge.

The within motion will be made upon the grounds that the sentence imposed is unnecessarily severe under the circumstances, and upon such other and further grounds as may be hereinafter presented.

Respectfully Submitted,

Stephen M. Bowden
Assistant Public Defender
Attorney for Defendant

Charleston, South Carolina

Dated: 9/10/18

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

State of South Carolina,

v.

James Michael Brooks,

Defendant.

) IN THE COURT OF GENERAL SESSIONS

) 1465080527

) Warrant No.: W10180346

) Charge: Violation of Terms of Probation

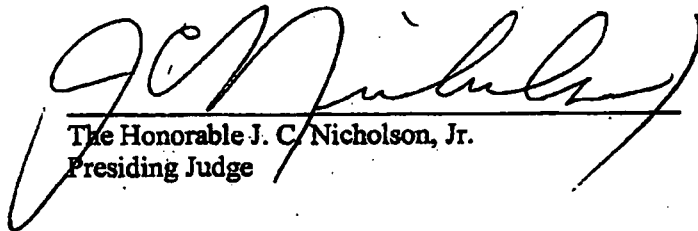
) **ORDER**

) **DENYING DEFENDANT'S MOTION TO**
) **RECONSIDER SENTENCE**

This matter came before the Court on Defendant's Motion to Reconsider Sentence filed in the Charleston County Clerk of Court office on September 10, 2018.

After review of the motion, I find the Motion to Reconsider Sentence is hereby **DENIED**.

IT IS SO ORDERED this 8 day of NOVEMBER, 2018, in Charleston, South Carolina.


The Honorable J. C. Nicholson, Jr.
Presiding Judge

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SC Court of Appeals

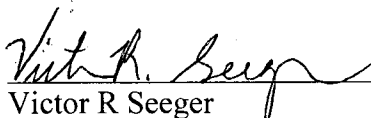
BY _____
JULIE J. ARSTRONG
CLERK OF COURT
2018 NOV -8 AM 10:41

FILED

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."

Respectfully Submitted,



Victor R Seeger
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 27th day of August, 2019.

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AUG 27 2019
SC Court of Appeals