

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Lancaster County
Honorable Daniel D. Hall, Circuit Court Judge

RECEIVED
MAY 18 2018
SC Court of Appeals

THE STATE,

RESPONDENT,

v.

TRAEVIS A. MINGO,

APPELLANT

APPELLATE CASE NO. 2017-001679

RECORD ON APPEAL

ROBERT M. DUDEK
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South Carolina Commission on Indigent
Defense
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ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF LANCASTER
4 2015-GS-29-01283

5 State of South Carolina
6 vs.
7 Traevis Mingo

8
9 Lancaster, South Carolina
10 July 17, 2017
11 Before the Honorable Daniel D. Hall

12
13 APPEARANCES

14 For the State: Agent Lynn Oliver
15 For the Defendant: Ryan Payne

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17 Reported by: Michael C. Watkins
18 Official Court Reporter

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Probation Revocation Hearing: 3
Certificate: 11

NO EXHIBITS

1 AGENT OLIVER: We have before you Traevis Mingo. He is on
2 probation for indictments 2015-GS-29-1282 and 2015-GS-29-1283,
3 which he began probation on September 1st of 2016, scheduled
4 end date was August 31st of 2019. He was sentenced by the
5 Honorable Judge Brian Gibbons on April 26th of 2016 for
6 burglary violent second degree, it was ten years provided upon
7 the service of two years, and assault and battery first degree
8 for ten years provided upon the service of two years, balance
9 suspended with three years of probation, pay court costs of
10 \$648.90, public defender fund and surcharge and an additional
11 surcharge on the second order of \$130.90. At the time of
12 sentencing he received credit towards the two years of 260
13 days. He has a reported home with his grandmother at Fork
14 Hill Road in Kershaw, South Carolina which is located in the
15 southern portion of Lancaster County. He has missed reports on
16 November 6th of 2016 and January 1st of 2017 prior to issuance
17 of this process. He has not reported any employment, Your
18 Honor, throughout his supervision. You can see there's
19 multiple arrearages listed on the record which would be charged
20 in the violations charge. He is currently charged with
21 violating conditions one, two, four, six, seven, nine and ten
22 of cause number 2015-GS-29-1282 and 1283 in Lancaster County
23 court of general sessions of April 26th of 2016 by the
24 Honorable Judge Brian Gibbons. He failed to follow the advice
25 and instructions of his agent, failing to report upon his

1 release from November 6th of 2016 to January 1st of 2017 when
2 he was arrested. He failed to notify probation agent of a
3 change of address. That information was obtained in an
4 incident report from the Lancaster County Sheriff's Department
5 dated March 19th of 2017 that he was living at Tram Road in
6 Lancaster, South Carolina where the incident took place for his
7 current arrest. He failed to refrain from being in possession
8 of a weapon by a person convicted of a violent felony on
9 January 1st of 2017, and again on March 19th of 2017 he was in
10 possession of a weapon by a person convicted of a violent
11 felony and possession of a weapon during of a violent crime.
12 Information was obtained in the incident report states that --

13 THE COURT: So what are his pending charges?

14 AGENT OLIVER: It's a DV first degree and then one count
15 of possession of a firearm during the commission of a violent
16 crime, and then two counts of possession of a firearm by
17 someone convicted of a felony.

18 THE COURT: Thank you, go ahead.

19 AGENT OLIVER: Information obtained in the incident report
20 states Mr. Mingo was in possession of a pistol, demanded his
21 girlfriend, Ashley, to sit down while he searched the
22 residence. The report then states Ashley's three year old son
23 awoke and he demanded they stay in the bedroom while he
24 searched the baby's room and shot the pistol while in that
25 room. Deputy Hammond located the shell casing in the said

1 child's bedroom and placed it into record. Once Ashley got
2 Mingo out of the residence and into his grandmother's residence
3 at Fork Hill, he took her keys and when she grabbed for them he
4 punched her in the face. That means, Your Honor, that he
5 traveled approximately 15 miles from where the incident took
6 place in the Elgin Community of Lancaster to Kershaw, South
7 Carolina. Mr. Mingo has an arrest record for domestic violence
8 first. He has failed to work diligently at a lawful occupation
9 in that he has been unemployed since being placed on probation
10 while having the ability to work. He failed to notify
11 probation of his law enforcement contacts November 6th of 2016
12 and January 1st of 2017. He was convicted on November 15th of
13 2016 for breach of peace in magistrate's court, received a
14 sentence of a fine. Mr. Mingo failed to pay supervision fees
15 being \$300 in arrears at the issuance of process on indictment
16 1282 being \$120 in arrears at the issuance of process. Failed
17 to pay his surcharge on 1283 indictment being \$300 in arrears
18 at the issuance of process, and failed to pay his drug test fee
19 of \$20 being in arrears that amount at the issuance of process.

20 THE COURT: Thank you. Mr. Payne, I'll be glad to hear
21 from you and your client.

22 MR. PAYNE: Mr. Mingo is 26 years old. I will say the
23 basis -- I believe a large part of that probation violation is
24 current pending charges which have not been resolved. With
25 respect to residing, the only other place he could have

1 theoretically resided at would be his fiance's, and from what I
2 understand about their relationship he was maybe there one
3 night or two nights there a week. He did have some stuff there
4 but predominantly he resided with his grandmother. The
5 original charge he had I believe back in last year some time
6 with the owning a gun, that took place as his grandmother's
7 house. It has been my understanding in looking at that case, I
8 believe there's some issues with the search. The pistol that
9 was found was found in his grandmother's washing machine.
10 There is some dispute whether or not she gave consent to search
11 her house. Mr. Mingo -- as far as the domestic violence
12 charge, I've had numerous conversations with his fiance, Ms.
13 Bragdone (phonetically), and from what I've been able to gather
14 from her she doesn't wish the charges to go forward, she
15 doesn't. She said what's in the police report didn't happen
16 that night. In talking about Mr. Mingo, any possession that he
17 would have had with that firearm was purely for self-defense.
18 She was the one who was kind of upset at him, she had the gun,
19 any kind of possession that he had of it would have been trying
20 to take the gun away from her. I believe at this point the
21 whole violation hearing is somewhat premature. I think he
22 should be out on bond right now on the probation violation
23 until we go to trial on his pending charges and those charges
24 are resolved. He has indicated to me -- I don't think he wants
25 to plead guilty to them, I think he wants a trial on them so at

1 this point it would be beneficial for me and Mr. Mingo's
2 defense on these new charges to have him out on bond. I
3 believe he has a \$75,000 bond on the violation and another
4 75,000 on the domestic violence charges, if we could get him
5 out on bond I could start preparing him for trial. He's been
6 in jail for 46 days on this bench warrant, he was in jail for a
7 few weeks before that before he bonded out on everything, so I
8 would ask you to consider giving him time served. Really the
9 main sticking point for I think as far as convictions wise is a
10 breach of peace charge that carries 30 days in jail, I believe
11 he paid the fine on that in magistrate's court. From what he
12 told me that was an incident where he and his brother, somebody
13 called the police and he went to jail, the next night got
14 bonded out, paid the fine, that was over with. So I think
15 until he is found guilty or until we work out some kind of plea
16 agreement I think it's somewhat premature to violate him on
17 probation. But Your Honor, I would ask you to consider giving
18 him time served.

19 THE COURT: Thank you. Mr. Mingo, anything you want to
20 say?

21 THE DEFENDANT: No, sir, Your Honor.

22 THE COURT: Tell me, Mr. Mingo, how many times have you
23 been in the department of corrections before you got this
24 burglary conviction?

25 THE DEFENDANT: Before I got the burglary conviction?

1 THE COURT: Yes, sir. You did two years and then you got
2 out and then you got in trouble about two months after you were
3 out, tell me, how many times you had been in the department of
4 corrections before?

5 THE DEFENDANT: Before this?

6 THE COURT: Yeah.

7 THE DEFENDANT: Your Honor, it's a blur to my memory but
8 altogether I've been to prison three times.

9 THE COURT: Three times?

10 THE DEFENDANT: Yes, sir. I honestly can't remember that
11 burglary.

12 THE COURT: Tell me his prior record. Have you got his
13 rap sheet prior to the being convicted of the burglary second
14 where he got ten years suspended on two?

15 AGENT OLIVER: Your Honor, if I may approach.

16 THE COURT: You can just tell me.

17 AGENT OLIVER: There is a 2008 charge for malicious injury
18 to property and breach of peace, those were --

19 THE COURT: Tell me what he went to prison on.

20 AGENT OLIVER: Your Honor, the only thing I can find is
21 county commitments. He had an October 4th of 2012 resisting
22 arrest, convicted December 6th of 2012, received a one year
23 sentence. He had the -- I'm trying to be sure these aren't the
24 current ones, sometimes the sheets print out a little bit
25 different, but he had a burglary second degree, October 18th of

1 2012 with a conviction of one year, same date, December 6th of
2 2012.

3 THE COURT: Well, let me ask you this, Mr. Mingo, the
4 times before this, where did you serve your time?

5 THE DEFENDANT: Where did I serve my time?

6 THE COURT: Where.

7 THE DEFENDANT: Wateree Corrections.

8 THE COURT: The big farm?

9 THE DEFENDANT: Yes, sir, level two.

10 THE COURT: How long did you stay there?

11 THE DEFENDANT: Thirteen or 14 months.

12 THE COURT: What was that for?

13 THE DEFENDANT: I think burglary. I think the first time
14 was burglary and I think that is it, Your Honor. I can't
15 really --

16 THE COURT: Well, that's all I need.

17 AGENT OLIVER: He had a common law strong armed robbery
18 conviction of two years credit for time served on September
19 18th of 2014 as well, Your Honor.

20 THE COURT: Well, here is the thing, Mr. Mingo, you've
21 been down there several times, you're not a candidate for
22 probation, you have demonstrated that. I find there's a
23 willful substantial -- on the two years how much time did you
24 actually do?

25 THE DEFENDANT: Two years, you do like 13 months.

1 THE COURT: Well, what I'm going to do is I will revoke
2 eight. Instead of giving you the full ten, you've already done
3 two, I will revoke eight, terminate the balance. Thank you.

4 AGENT OLIVER: Ask for civil judgments for outstanding
5 warrants?

6 THE COURT: Yes.

7 AGENT OLIVER: Could we also ask that you vacate the
8 current bench warrant?

9 THE COURT: Yeah.

10 (End of the hearing.)

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1 I, the undersigned, Michael C. Watkins,
2 Official Court Reporter for the Sixth Judicial
3 Circuit of the State of South Carolina, do hereby
4 certify that the foregoing is a true, accurate and
5 complete transcript of the proceedings had and
6 evidence introduced in the trial of the captioned
7 case relative to appeal in the Court of General
8 Sessions for Lancaster County, South Carolina, on
9 the 17th day of July, 2017.

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

12

13

October 12, 2017

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Michael C. Watkins

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Court Reporter

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FILED
OFFICE OF CLERK
COURT
2015 OCT 22 PM 3:35
CLERK OF COURT
LANCASTER, SC

WITNESSES

Silberman/Phillips - LCSO #15-36495

Adams

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

ARREST WARRANT NUMBER/DOA

215A2910100908 (DOA-8-9-15)

THE STATE

vs.

Traevis Ahkeem Mingo

ACTION OF GRAND JURY

TRUE BILL

Melvin Beaver
Foreperson of Grand Jury

Date: *OCT 22 2015*

VERDICT

ASSAULT AND BATTERY 1ST DEGREE

SC Code: §16-3-600(C)(1), 16-3-600(C)(2)

CDR Code: 3412

Class: Felony E

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LANCASTER)

INDICTMENT

At a Court of General Sessions, convened on October 22, 2015, the Grand Jurors of Lancaster County present upon their oath:

ASSAULT AND BATTERY FIRST DEGREE

That Traevis Ahkeem Mingo did in Lancaster County on or about August 4, 2015, unlawfully injure Brian Williams, and occurred during the commission of a robbery, burglary, kidnapping, or theft or offer or attempt to injure the victim with the present ability to do so and the act was accomplished by means likely to produce death or great bodily injury or occurred during the commission of a robbery, burglary, kidnapping, or theft by forcing entry into the victim's home, holding the victim at gunpoint and threatening to shoot the victim, in violation of Section 16-3-600(C)(1) of the *Code of Laws of South Carolina, (1976), as amended*.

STATE OF SOUTH CAROLINA
 County of LANCASTER
 STATE VS.
TRAVIS A. MINGO
 AKA:
 Race: B Sex: M
 DOB:
 SSN:
 SID# 01850059

IN THE COURT OF GENERAL SESSIONS

Indictment Number:
2015 - GS - 29 - 1283
 Probation C/W#s: W-29-17-00267 W-29-17-0044
revised 3/23/17 + 6/21/17
 Name of Original Offense: Assault & Battery 1st degree
 Original A/W#: 2015A2910100908
 Date of Original Offense: 8/4/15
 Conviction S.C. Code §: 16-03-0600(c)(1)
 Conviction CDR Code #: 3 1 4 1 1 2
 Original Sentence: 10 YRS UPON 2 YRS + 3 YRS
probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 4 26 16 in the Court of General Sessions of LANCASTER County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on _____, as set forth in the attached warrant(s) or citation(s) dated 5/23/17.

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)

1, 2, 4, 5, 6, 7, 9, 10 + special condition

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 8 months/years, the remainder of the original sentence, and/or pay \$ 0.00
- 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 electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first or third 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:

<input type="checkbox"/> Department fees (arrearage)	Civil judgment:	<input checked="" type="checkbox"/> Department fees
<input type="checkbox"/> Fines and other fees (arrearage / balance)		<input checked="" type="checkbox"/> Fines and other fees
<input type="checkbox"/> Restitution (and 20%) (arrearage / balance)		<input type="checkbox"/> Restitution (and 20%)
- Additional Conditions ordered by the Court:

- 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. 3-23-17 arrest + Bonded out 4-6-17; 6-2-17 arrest
- The defendant is to be given credit for pretrial detention time served (N/A if defendant has served prior SCDC time).
- The defendant has served 8 days/months/years of prior revocations and/or initial SCDC time.
- The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 17th day of July, 2017
LANCASTER, SC

David O. Wall
 Presiding Judge
D. HATH
5th
 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 if deemed 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 _____
 Signed this _____ day of _____, 2017 at _____

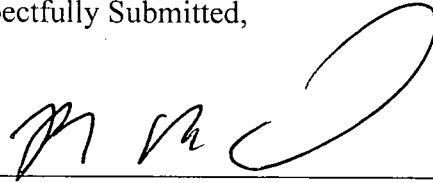
Witnessed by JEFF HAMMOND
 CLERK OF COMMON PLEAS
 SCDC COURT
 _____ CITY, S.C.

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."

RECEIVED
MAY 18 2018
SC Court of Appeals

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 18th day of May, 2018.