

STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

vs.

Indictment No(s): 15-GS-40-3909
15-GS-40-3911

Andre Deshawn Posey.

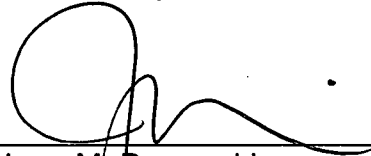
Violation C/W: C-32-19-0080

Defendant.

RULE 203(B) EXPLANATION

Pursuant to Rule 203(B)(iv), the undersigned asserts that he does not have a good faith basis to believe that any issues are properly before the Court of Appeals, and the undersigned did not object to the sentence or file a motion to reconsider the sentence. Nevertheless, the undersigned consulted with the Appellant about his right to appeal, and after consultation, the undersigned has filed the instant appeal at the request of the Appellant because the Sixth Amendment requires counsel to follow the Appellant's request. See *Frazer v. South Carolina*, 430 F.3d 696, 706 (4th Cir. 2005) ("A defendant has a right to pursue a direct appeal, even if frivolous, which counsel must assist as 'an active advocate on behalf of his client.'") (quoting *Anders v. California*, 386 U.S. 738, 744 (1967)).

Respectfully submitted,



Jean M. Popowski
Assistant Public Defender
202 East Main Street
Lexington, South Carolina
(803) 785-8873

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Lexington, South Carolina
November 27, 2019

DEC 03 2019

SC Court of Appeals

STATE OF SOUTH CAROLINA

County of Lexington

STATE Andre Posey VS.

Race: B Sex: M
DOB: [REDACTED]
SSN: [REDACTED]
SID# 2220083

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

15 - GS - 40 - 3911
Probation C/W#s: C-32-19-0080

Name of Original Offense: A+B by Mob, 3rd degree
Original A/W#: 2015A4021600192
Date of Original Offense: 12/31/14
Conviction S.C. Code §: 16-03-0210 (D)
Conviction CDR Code #: 3 / 4 / 3 / 3
Original Sentence: YOA NTE 1 yr ISP 3 yrs prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 9 / 28 / 15 in the Court of General Sessions of Richland County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 3/11/16, 6/27/16, 9/15/17, as set forth in the attached warrant(s) or citation(s) dated 3/29/19. 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) 7, 9, 10, 11

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve YOA NTE 1 year 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 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 type="checkbox"/> Department fees
<input type="checkbox"/> Fines and other fees (arrearage / balance)		<input 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:
A TRUE COPY Screen for Stack Incarceration.
[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

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DEC 03 2019

SC Court of Appeals

[Signature]
Presiding Judge

Judicial Circuit

The defendant is given credit for pre-arrest hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
 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 0 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 22nd day of November, 2019
Lexington, SC

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 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 _____ Witnessed by _____
Signed this _____ Day _____ of _____ Month _____ Year _____ at _____ City _____ SC

STATE OF SOUTH CAROLINA

County of Lexington

STATE VS: Andre Posey

Race: B Sex: M
DOB: [REDACTED]
SSN: [REDACTED]
SID# 2220083

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

15 - GS - 40 - 3909
Probation C/W#s: C-32-19-0080

Name of Original Offense: Burglary 3rd, 1st offense
Original A/W#: 2015A4021600190
Date of Original Offense: 12/31/2014
Conviction S.C. Code #: 16-011-313
Conviction CDR Code #: 0 / 4 / 2 / 7
Original Sentence: YOA NTE 5 yrs ssp 3 yrs prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 9 / 28 / 15 in the Court of General Sessions of Richland County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 3/11/16, 6/27/16, 9/15/17, as set forth in the attached warrant(s) or citation(s) dated 3/29/19. 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)
7, 9, 10, 11

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve YOA-NTE 5 year 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 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:
 - Department fees (arrearage)
 - Fines and other fees (arrearage / balance)
 - Restitution (and 20%) (arrearage / balance)
 Civil judgment:
 - Department fees
 - Fines and other fees
 - Restitution (and 20%)

Additional Conditions ordered by the Court:

A TRUE COPY

Screen for Subst. Invention

[Signature]

RECEIVED

DEC 03 2019

SC Court of Appeals

- The defendant is given credit for pre-arrest detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- 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 -0- 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: 22nd day of November, 2019
Lexington SC

[Signature]
Presiding Judge
11th

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 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

Witnessed by

Signed this _____ day of _____ at _____ SC