

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jun 25 2020

SC Court of Appeals

Appeal from Sumter County

Honorable Thomas L. Hughston, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RISHEEN G. RICH,

APPELLANT

APPELLATE CASE NO 2019-001785

RECORD ON APPEAL

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Appellate Defender

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Attorney General

South Carolina Commission on Indigent
Defense
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ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SUMTER) COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5 PLAINTIFF,) OF
6 VS.) RECORD
7 RISHEEN, G. RICH,) 2013-GS-43-00045
8 DEFENDANT.)

9
10 October 11th, 2019
11 Sumter, South Carolina

12
13 B E F O R E:
14 THE HONORABLE THOMAS L. HUGHSTON, Judge.

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16
17 A P P E A R A N C E S:
18 PHILLIP LITTLE, JR.
19 ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

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23 Transcribed by Pamela E. Green, from
24 DCRP, Digital Courtroom Recorder Project

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

(WHEREUPON, there were no exhibits marked during this hearing.)

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P R O C E E D I N G S

THE PROBATION AGENT: The next matter is Risheen Rich.
Agent Sumter. Risheen Rich. Agent Sumter.

AGENT SUMTER: Your Honor, this is the case of Risheen
Rich. He was sentenced to---

THE COURT: You have some papers you want me to look
at?

AGENT SUMTER: Oh, I'm sorry, Your Honor.

(Pause.)

THE COURT: Thank you.

Are you Risheen Gervais Rich?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Let me look over these papers.
Looks like you were convicted for failure to stop for a blue
light and/or siren. That was in January of '18. Received a
sentence of three years suspended with 30 months probation.

Let's see what's happened. They say you absconded.
That is you hadn't reported since July of 2018.

Do you agree with that?

THE DEFENDANT: Yes, sir.

THE COURT: And you had a -- they say you had a weapon,
a pistol I guess it was, in your possession when you
shouldn't of had that.

You agree with that?

1 MR. LITTLE: Your Honor, he has not been convicted of
2 that at this time. We would---

3 THE COURT: Okay.

4 MR. LITTLE: ---assert his Fifth Amendment rights on
5 that.

6 THE COURT: Okay. Well, let me hear from probation.
7 Tell me what, what y'all know about that.

8 AGENT SUMTER: Well, Your Honor, since the time that
9 he -- we had found him, he has tested positive for marijuana
10 as evidenced by this voluntary admission.

11 THE COURT: Tested positive for marijuana.
12 You agree with that?

13 MR. LITTLE: I, I, I think it's an -- actually an
14 admission of use of marijuana---

15 AGENT SUMTER: Well, it's---

16 THE COURT: All right.

17 MR. LITTLE: ---as opposed to testing, yes, Your Honor.

18 THE COURT: But you don't want to say, but anyway
19 let's---

20 MR. LITTLE: But, Your Honor, he did---

21 THE COURT: Let's say---

22 MR. LITTLE: He did admit to using it.

23 THE COURT: What?

24 MR. LITTLE: You did admit to using it?

25 THE DEFENDANT: That's right.

1 MR. LITTLE: He did admit to using marijuana. I don't
2 think there was an actual test. I'm just clarifying.

3 THE COURT: He does admit to using marijuana?

4 MR. LITTLE: Yes, he does, Your Honor.

5 THE COURT: All right. We got that.

6 AGENT SUMTER: Yes. And, Your Honor, I have---

7 THE COURT: Tell me about the weapon.

8 AGENT SUMTER: Your Honor?

9 THE COURT: well, tell me what you know about that.

10 AGENT SUMTER: Detective---

11 THE COURT: Tell me your name.

12 DETECTIVE MCFADDIN: Detective Willie McFaddin.

13 THE COURT: Raise your right-hand.

14 DETECTIVE MCFADDIN: Yes, sir.

15 (WHEREUPON, Detective McFaddin was placed under oath at
16 this time.)

17 THE COURT: Tell me what your name is.

18 DETECTIVE MCFADDIN: willie McFaddin.

19 THE COURT: Tell me what you know about this weapon.

20 DETECTIVE MCFADDIN: Your Honor, on September 8th,
21 2019, at the Hop In Gas Station, law enforcement
22 responded---

23 THE COURT: Hop In Gas Station?

24 DETECTIVE MCFADDIN: Yes, it's also known as the Sunoco
25 right there on Broad Street.

1 THE COURT: Okay.

2 DETECTIVE MCFADDIN: It's 1083 Broad Street, the City
3 of Sumter. Law enforcement responded to shots being fired
4 out there.

5 During the course of investigation, this is where two
6 individuals were murdered this particular night. Through
7 video surveillance footage, and also through witnesses out
8 there, put Mr. Risheen Rich on scene, and also, through the
9 video surveillance footage, we also showed that Risheen Rich
10 was carrying an AR type pistol and also through this---

11 THE COURT: He was, carrying it?

12 DETECTIVE MCFADDIN: Yes, sir.

13 And also it appeared that he fired while he was inside
14 the vehicle cause we located three shell casings in the
15 vehicle that he was in.

16 Additionally, he also gave, gave a statement said he
17 did have a, a AR pistol, and that he gave a guy a hundred
18 dollars for the gun about a month ago. He said he only had
19 it for the video shoot. He was cooperative when talking to
20 law enforcement about -- at the incident.

21 THE COURT: But one of the terms of probation is that
22 he's not to have a weapon like that.

23 Is that correct?

24 AGENT SUMTER: A weapon at all, Your Honor.

25 THE COURT: Okay.

1 All right. So tell me why I shouldn't revoke his
2 probation.

3 MR. LITTLE: Well, Your Honor, as to the weapon charge,
4 I would, I would just inform the Court that I represent him
5 on that charge. I've not yet received discovery from the
6 Solicitor's Office. I have not had a chance to review any
7 of that material --

8 THE COURT: Okay.

9 MR. LITTLE: -- at this point.

10 Your Honor, he told me that he believed that he was off
11 probation. He's been on probation before and got off early,
12 and he tells me that he thought that he was on -- he was off
13 of his probation. That's why he was not reporting.

14 He has been working. He works for Haier Refrigerator
15 in Camden. He lost that job upon being arrested for this
16 charge, for this probation violation, Your Honor.

17 He has five children. He takes care of them during the
18 day while his fiancée is at work, and then, at nighttime, he
19 was working with the kids. He tells me that he did report
20 once he got out of -- once he bonded out of jail on this
21 charge.

22 I believe his fiancée is here in the courtroom, Your
23 Honor, and he -- would like to address the Court.

24 THE COURT: Be glad to hear from anybody who wants to
25 say anything.

1 Come on up.

2 (Witness complies.)

3 MS. BENNETT: Good morning.

4 THE COURT: Tell me your name and speak up please.

5 MS. BENNETT: Hi. My name is Tamara Bennett. I'm
6 Risheen's fiancée.

7 THE COURT: How long you been his fiancée?

8 MS. BENNETT: About a year now. We have two kids
9 together, and I have two, two other kids, and his other son.

10 As he stated, he does, during the day, watch our kids.

11 As far as not reporting or not paying anything, I went
12 into labor early with our son, our last child. So, he was a
13 preemie. He was working taking care of the bills. Of
14 course, I couldn't work.

15 So, that's what happened, and then, when he was on
16 probation, no one ever called, which I understand and he
17 understand that it is still his responsibility to report.

18 As far as the gun charge or whatever, Risheen has a
19 tendency to hang with people he does not need to hang with.
20 Monday through Thursday or Monday through Friday, what I see
21 and what my kids see, and what they -- I -- you know, they
22 don't see that. They see their father.

23 THE COURT: well, that's good.

24 MS. BENNETT: They see a working man. They see
25 somebody who -- and that's who I see.

1 So I'm just asking, you know, for a little leniency
2 because as I -- like I'm suppose to be at work now. He is a
3 great provider. He takes care of our kids. Our kids have
4 never been in daycare.

5 I have a daughter who is actually 20. He takes better
6 care of my older kids than their own father does. He
7 stays---

8 THE COURT: well, you're saying some mighty nice things
9 about him. I just wish everything was that good.

10 MS. BENNETT: Right. And I understand, yes, sir.

11 Like I stated, he just has a tendency of hanging with
12 the wrong people. Wrong place at the wrong time. Should of
13 been home with his kids, but, yeah.

14 THE COURT: well, thank you very much for coming and
15 saying that, and I'm sure he appreciates it.

16 All right. Anything else?

17 MR. LITTLE: Your Honor, we would request, of course,
18 that you continue him on probation. If you're not inclined
19 to do that, we would request leniency, Your Honor.

20 THE COURT: Anything else you want to say, Mr. Rich?

21 THE DEFENDANT: Yes, sir.

22 I been going through a lot at the time. Like she said,
23 I was trying to bile (phonetic) up. Trying to keep the
24 household all right.

25 Like, my agent, my -- the person who I was under, under

1 probation, she wasn't no longer there anymore. So, I
2 thought I was off. So -- and then no one never called,
3 nothing, but until the incident happened, and then same
4 number, same address. They called me right then and be like
5 come in.

6 I came right in. I didn't run from nobody. I
7 didn't---

8 THE COURT: Well good for you.

9 THE DEFENDANT: So --.

10 THE COURT: Anything else?

11 MR. LITTLE: Nothing further, Your Honor.

12 THE COURT: All right. Well, I appreciate that, but
13 I'm gonna revoke your probation in full. I find that you
14 did fail to report as you were instructed to, and also that
15 you did have in your possession a weapon when you're -- when
16 that was not allowed under probation.

17 Good luck to you.

18 MR. LITTLE: Thank you, Your Honor.

19

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21 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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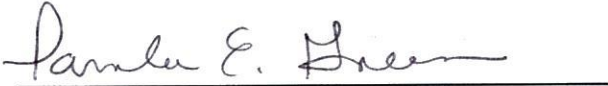
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the 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 Sumter County, South Carolina, on the 11th day of October, 2019.

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

December 11th, 2019



PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA

County of Sumter

STATE

VS.

AKA: Kishawn Rich

Race: [REDACTED]

Sex: [REDACTED]

DOB: [REDACTED]

SSN: [REDACTED]

SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

GS - 43 - 45

Probation C/W#: WUB-19-133

Name of Original Offense: F.T.S.C.

Original A/W#: W021031531

Date of Original Offense: 8-1-17

Conviction S.C. Code §: 56-25-750 (D)

Conviction CDR Code #: 0101015

Original Sentence: 3 1/2 MONTHS IN PRISON
but 305 TW. 50 DAYS THE PROBATION

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 1/2/2018 in the Court of General Sessions of Sumter County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 12-15, as set forth in the attached warrant(s) or citation(s) dated 12-15. 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, 9, 10

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 3 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: Terminate probation on date

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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 _____ 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 11 day of October, 2019, SC

T.L. [Signature]
Presiding Judge
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
[Signature]
Signed this _____ day of October, _____ at _____ SC

Witnessed by [Signature]
City _____ SC

South Carolina Department of Probation, Parole and Pardon Services

Violation Report - (Report 1106)

P 13
8

Personal Information					
Name:	SID:	DOB:	SCDC#:	Supervision Level:	Agent Name:
RISHEEN GERVAIS RICH	01899871	04/17/1990		High Supervision	0827-Keyanne McCray

Sentencing Information	
Order: 3 Potential End Date: 1/20/2020 Adjusted End Date: 4/6/2020	Warrant/Citation Numbers: W-43-19-0133
Sentence Date: 01/26/2018 County Name: SUMTER GPS Indicator:	Authority: Judge - Cothran, Jr., R.Ferrell

Indictment Number: 18-GS-43-00045 Offense Code: 65 - Failure to stop for a blue light, no injury or death - 1st offense
Supervision: Probation Sup. Begin Date: 01/26/2018 Sup. End Date: 06/25/2020
Sentence: 3 YRS, TS SUS WITH 30 MONTHS PROBATION. AW: 6102P0318231

Residence Summary & Address History			
Address:	Begin Date:	End Date:	Time at Residence:
98 SOMERSET DRIVE, SUMTER, SC, 29150	09/18/2019		0 YR, 0 MO, 12 DY
1026 MARION LANE, SUMTER, SC, 29153	08/29/2012	10/01/2018	6 YR, 1 MO, 1 DY

Employment History				
Employer:	Location:	Begin Date:	End Date:	Time at Employer:
Unemployed		02/05/2018		1 YR, 7 MO, 25 DY
DOLLAR GENERAL	612 S. MILL STREET, MANNING, SC, 29102	05/14/2015	02/05/2018	2 YR, 8 MO, 9 DY

Account Information								
Account Name:	Case:	Indictment #:	Monthly Obligation:	Total Obligation:	Account Balance:	Payments in Arrears:	Arrearage:	Last Payment Made:
Public Defender Fund	105	18-GS-43-00045	\$19.00	\$540.75	\$540.75	20	\$380.00	
Drug Test Fee			\$20.00	\$20.00	\$20.00	1	\$20.00	
Regular Supervision			\$50.00	\$1,450.00	\$1,172.00	15	\$722.00	04/17/2019

Violation History			
Violation:	Start Date:	Complete Date:	Disposition:

Current Violation(s) Summary	
Violations:	16.x
Condition:	Description:
1	I shall report in person to the SCDPPPS' office on the day of my sentencing or release, and as instructed by the Department; and I shall make complete and truthful reports to the Agent.
2	I shall not change my residence or employment without the consent of my agent. Further, I shall allow my Agent to visit me in my home, at my place of employment, or elsewhere at any time.

South Carolina Department of Probation, Parole and Pardon Services

Violation Report - (Report 1106)

Condition:	Description:
4	I shall not possess or purchase any firearms or other dangerous weapons, and I shall not associate with any person who has a criminal record, or any other person whom my Agent has instructed me to avoid.
7	I shall pay a supervision fee as determined by the Department.
9	I shall obey all conditions of supervision set forth in this order including the payment of fines, restitution or other payments, and the service of any period of incarceration.
10	I shall follow the advice and instructions of my Agent and I agree to comply with any further conditions imposed by the Department or its Agents.

Description:

Absconded supervision. Last reported on 7/11/18; subject's whereabouts were unknown.
 There is probable cause to believe that subject was in possession of a weapon as evident by warrant (2019A4320100709) issued by the Sumter Police Department.
 Failed to refrain from associating with people with criminal records as he has been seen in several rap videos with known criminals.
 Failed to pay supervision fees being in arrears \$672.00.
 Failed to pay public defender fund being in arrears \$361.00
 Failed to pay one time drug test fee of \$20.00.
 Failed to report as instructed. Last reported on 7/11/18 and was to report back on 8/22/18.

The Agent's Recommended Response(s) Summary

Responses:

Revoke

Justification:

Subject has shown he is unwilling to change his criminal behavior after this agency has made numerous attempts to assist him.

Approved By: Beverly L. Singleton, 9/30/2019

End Of Violation Report

WITNESSES

Corporal J. Hansen Sumter Police Dept.
 Robert D. Beckford, Jr Sumter Police Dept.
 J. Lane Sumter Police Dept.

ARREST WARRANT NUMBER

6102P0318231 2017A4320100549
 2017A4320100551

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury *John Duff*
 Date: 1/17/18

VERDICT

Foreperson of Petit Jury
 Date:

DOCKET NO. 2018-GS-43-0045

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

JANUARY TERM 2018

THE STATE

vs.

RISHEEN GERVAIS RICH

Indictment for

Traffic / Failure to stop for a blue light, no injury or death

Weapon / Unlawful Carrying of a Pistol

Drugs/ Poss. C-IV controlled substance

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR

Traffic / Failure to stop for a blue light, no injury or death
Weapon / Unlawful Carrying of a Pistol
Drugs/ Poss. C-IV controlled substance

At a Court of General Sessions, convened on January 11, 2018 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE

FAILURE TO STOP FOR BLUE LIGHT/SIREN

That Risheen Gervais Rich did in Sumter County on or about August 1, 2017, while operating a motor vehicle on a road, street, or highway of the State of South Carolina, fail to stop the motor vehicle he was operating when signaled to do so by a law enforcement vehicle, by means of a siren and/or flashing light, in violation of Section 56-05-0750(B)(1), S. C. Code of Laws, 1976, as amended.

COUNT TWO

UNLAWFUL CARRYING OF A PISTOL

That Risheen Gervais Rich did in Sumter County on or about August 1, 2017, carry about the person a pistol, such carrying not being authorized by law, in violation of Section 16-23-0020, S. C. Code of Laws, 1976, as amended.

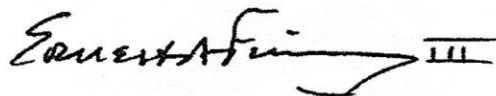
COUNT THREE

POSSESSION OF SCHEDULE IV CONTROLLED SUBSTANCE

That in Sumter County, South Carolina, on or about August 1, 2017 the Defendant, Risheen Gervais Rich, knowingly or intentionally and unlawfully did possess a quantity of Tramadol, a Schedule IV controlled substance, all in violation of § 44-53-370 of the Code of Laws of South Carolina (1976), as amended.

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

Solicitor



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,

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Jun 25 2020

SC Court of Appeals

s/Taylor D. Gilliam

Taylor D. Gilliam
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 25th day of June, 2020.