

STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Jul 21 2020

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

The Honorable L. Casey Manning,
Circuit Court

Case Number: **2016-GS-40-04324**
Probation Warrant No.: **W-40-18-0365**

State of South Carolina.....Respondent,

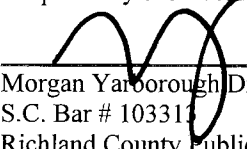
v.

Terrell Denard Knightner.....Appellant.

NOTICE OF APPEAL

Petitioner (“Appellant”) Terrell Denard Knightner, by and through counsel, Morgan Yarborough Drapeau, appeals the Honorable L. Casey Manning’s Order Granting the Motion to Reconsider in turn placing Mr. Knightner on the South Carolina Sex Offender Registry. Undersigned counsel received notice of entry of Judge Manning’s Order Granting the Motion to Reconsider on July 14, 2020.

Respectfully submitted,


Morgan Yarborough Drapeau
S.C. Bar # 103313
Richland County Public Defender’s Office
1701 Main Street
P.O. Box 192
Columbia, South Carolina 29201
(803) 765-2592 ext. 114
Drapeau.morgan@richlandcountysc.gov

Columbia, South Carolina
This 20th day of July, 2020

RECEIVED

Jul 21 2020

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

The Honorable L. Casey Manning,
Circuit Court

Case Number: **2016-GS-40-04324**
Probation Warrant No.: **W-40-18-0365**

State of South Carolina.....Respondent,

v.

Terrell Denard Knightner.....Appellant.

**STATEMENT OF BASIS FOR APPEAL FROM
ORDER GRANTING MOTION TO RECONSIDER**

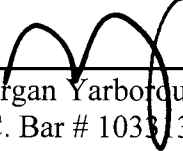
The grounds for appeal are as follows:

1. The State did have proper notice for Mr. Knightner's Motion to Reconsider, because Motion to Reconsider was in response to a Probation Violations where the representative of the State is the South Carolina Department of Probation, Pardon and Parole ("SDPPP"). SCDPPP was present and properly notified of the hearing;
2. The Probation Agent nor the Solicitor provided the court "good cause" for placement on the sex offender registry which is necessary for a judge to place a defendant or probationer on the South Carolina Sex Offender Registry;
3. The Sentencing Order signed on December 1, 2016 by the Honorable L. Casey Manning

is invalid pursuant to S.C. Code of Laws § 23-3-430(D) and

4. Any additional grounds raised to the lower court and not covered by the above-stated grounds.

Respectfully submitted,



Morgan Yarborough Drapeau
S.C. Bar # 103313
Richland County Public Defender's Office
1701 Main Street
P.O. Box 192
Columbia, South Carolina 29201
(803) 765-2592 ext. 114
Drapeau.morgan@richlandcountysc.gov

Columbia, South Carolina
This 20th day of July, 2020

RECEIVED

Jul 21 2020

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Honorable L. Casey Manning

Case Number: **2016-GS-40-04324**
Probation Warrant No.: **W-40-18-0365**

The State,.....Respondent;

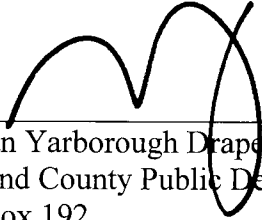
v.

Terrell Denard Knightner.....Appellant.

PROOF OF SERVICE

I hereby certify that a true copy of the Notice of Intent to Appeal & the Statement of Basis for Appeal from Motion to Reconsider in the above-referenced case has been served upon opposing counsel by delivering same this date to his office at the Office of the Solicitor, Fifth Judicial Circuit, Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina 29201.

July 20, 2020


Morgan Yarborough Drapeau
Richland County Public Defender's Office
P.O. Box 192
Columbia, S.C. 29201
(803) 765-2592
Attorney for Appellant

Other Counsel of Record:
Assistant Solicitor Anna Browder
Office of the Solicitor, Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street
Columbia, South Carolina 29201
Attorney for Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

The State of South Carolina,)

vs.)

Terrell Denard Knightner,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
Indictment Number: 2016-GS-40-04324
Probation Warrant Number: W-40-18-0365

MOTION TO RECONSIDER

RECEIVED

Jul 21 2020

SC Court of Appeals

COMES NOW, the State of South Carolina, by and through undersigned counsel, respectfully requests this court to reconsider the sentence ruling by this Court on June 27, 2019 regarding the Defendant's status on the sex offender registry.

PROCEDURAL HISTORY

On or about February 28, 2013, Terrell Knightner was arrested for Criminal Sexual Conduct Third Degree. He pled guilty on December 13, 2016 to Assault and Battery 1st Degree in front of the Honorable L. Casey Manning. Judge Manning signed a Sentencing Order (see Attachment A) that listed special conditions of Mr. Knightner's probation. Condition Four stated that Mr. Knightner is not to be placed on the sex offender registry unless there is a violation of the terms set forth by probation as provided in the sentencing order.

On May 31, 2019, Mr. Knightner appeared in front of the Honorable DeAndrea Benjamin charged with a Probation Violation based on violating the sex offender terms of probation. (See Attachment B) Judge Benjamin found Mr. Knightner did violate the terms and conditions of probation by viewing pornography, being around his niece and nephew who are minor children and accessing social media websites.

On June 7, 2019, defense counsel filed a Motion to Reconsider arguing Judge Benjamin did not have the authority to put Mr. Knightner on the sex offender registry because she was not the original sentencing judge. The Motion to Reconsider was heard on June 27, 2019 in front of Judge L. Casey Manning, at which time Judge Manning removed Mr. Knightner from the sex

offender registry without prejudice, indicating that Judge Benjamin did not have jurisdiction to place the defendant on the sex offender registry, but only the sentencing judge could. (See Attachment C) The Solicitor's Office was not notified of this hearing to argue the relative portion as to whether or not Judge Manning should place the defendant on the registry.

WHEREFORE, the State of South Carolina is requesting this Court to reconsider its June 27, 2019 decision and allow for a proper hearing for all parties to be present regarding the requirement of sex offender registry.

Respectfully submitted,



Anna R. Browder
Assistant Solicitor
Richland County Solicitor's Office
1701 Main Street
Columbia, SC 29201

This 3rd day of July, 2019

ATTACHMENT A

**ATTACHMENT
B**

South Carolina Department of Probation, Parole and Pardon Services

Violation Report

A

Offender's Name: **TERRELL DENARD KNIGHTNER**

State of South Carolina, County of: **RICHLAND**

SID#: **02092995**

Indictment Numbers:

16-GS-40-04324

Date of Birth: **3/9/1984**

SCDC#:

Warrant Numbers:

W-40-18-0365

Offense and Offense Code(s):

3412 - Assault & Battery 1st Degree

Supervision Program: **Probation**

Supervision Level: **Standard Supervision**

Sentencing Judge: **061 - Manning, L.**

Sentencing Date: **12/13/2016**

Location (Bold Response): **Community**

Sentence:

3 yrs ss; 3 yrs probation

(PTUP after counseling Complete)

Begin Date: **12/13/2016**

End Date: **12/12/2019**

Sentencing County: **RICHLAND**

Must complete weekends consecutively, any missed weekend

3-21-2017, FORM 1462, PER JUDGE MANNING, CONTINUE SUPERVISION; RAISE SUPERVISION LEVEL TO HIGH; NO INTERNET FOR 30 DAYS AND AS AGENT SEES FIT; CONTINUE SEX OFFENDER COUNSELING; ZERO TOLERANCE FOR ANY FURTHER SOCIAL MEDIA ACCESS. LS.

Special Conditions:

\$643.75 / Fine/Costs and Assessments payable as directed by the Court; PTUP after counseling complete.;

See attached order

*- Must report today by bpm to AS&DC
- Must register as sex offender*

will result in legal process to go back to GS to do sixty days straight

Current Address and Summary of Residence:

Type	Begin Date	End Date	Address
HOME	12/13/2016		7817 CRESTBROOK RD. COLUMBIA, SC 29223

History Address and Summary of Residence:

Type	Begin Date	End Date	Address

Reporting:

He failed to report on 11/05/2018, otherwise, he reports as instructed.

Employment Records While Under Supervision:

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
SSI	12/20/2016 -		\$488.00
BABCOCK	10/2/2017 -		

Financial Conditions:

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Regular Supervision	\$1,800.00	\$50.00/M	\$1,060.00	12/3/2018	\$190.00	\$0.00

Prior Violation Dates	Prior Violations	Prior Violation Disposition

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

Offender's Name: **TERRELL DENARD KNIGHTNER**

2/22/2017	Terrell Knightner violated conditions 7, 9, and 10 of the standard conditions of Probation as ordered in Cause Number 16-GS-40-04324 in the Richland County Court of General Sessions by Judge Manning on 12/13/2016.	CONTINUE SUPERVISION; RAISE SUPERVISION LEVEL TO HIGH; NO INTERNET FOR 30 DAYS; CONTINUE COUNSELING; ZERO TOLERANCE FOR ANY FURTHER SOCIAL MEDIA ACCESS
-----------	---	---

Details of the Present Violation:

Terrell Denard Knightner has violated conditions 1, 4, and 6 of his Computer and Internet Use Agreement, conditions 2, 4, 6, and 8 of his Standard Sex Offender Conditions, and conditions 1, 7, 9, and 10 of his Standard Conditions of Supervision as ordered in cause number 16-GS-40-04324 in the Richland County court of General Sessions by the Honorable Judge Manning on 12/13/2016 and continuation order dated 03/21/2017.

Terrell Knightner has failed to follow the advice and instructions of his agent in that he failed to refrain from accessing the social media site "Snapchat"; failed to refrain from accessing pornographic websites having admitted to watching porn and masturbating as a result; failed to refrain from deleting incriminating information from his phone having admitted to "erasing" things so his agent would not find it; failed to actively participate in Sex Offender Counseling having been terminated on 08/13/2018; failed to refrain from having contact with minors, having confessed on a polygraph examination to having contact with his two minor-aged nieces and nephew without prior permission from his supervising agent; failed to comply with the Computer/Internet Use Agreement for Sex Offenders by accessing pornography, using social media and deleting material from his phone; failed to make truthful reports to agents prior to his polygraph examination; failed to pay supervision fees being \$640 in arrears, failed to pay Court Ordered Fines being \$400 in arrears, and has failed to pay his DNA fee being \$230 in arrears.

Agent's Recommendation:

Revoke 60 days and continue on supervision.
PTUP after successful completion of Sex Offender Counseling (he must re-enroll after being terminated due to his violations).
Judge must rule on SOR (original sentence stated no registry unless Mr. Knightner violates the conditions of his probation).

Agent's Justification:

Mr. Knightner was made fully aware of the conditions that he was to abide by at the beginning of his supervision period. These violations were found after he submitted to a polygraph examination as a requirement of his sex offender counseling. Before his polygraph exam, he was asked every month if he had any contact with minors and he maintained that he had not. Mr. Knightner continues to make excuses for his violations and tries to justify them by saying that the minors are "just his family" or it was "just for a little while". By him lying to his agent prior to the exam, he knew that what he was doing was wrong and that there would be consequences. It is clear that Mr. Knightner thinks it is okay to lie and hide things from his agents being that he admitted to deleting information off of his phone prior to office visits. The deleted material included social media and pornographic material that would be a violation of his supervision if found.

Hearing Officer Recommendation:

Revocation.

Hearing Officer Justification:

I conclude from the aforementioned violations that Mr. Knightner's Probation Supervision should be revoked. Mr. Knightner admitted to visiting pornographic and social media sites after being given a zero tolerance from a continuation order on February 22, 2017. Mr. Knightner admitted during his testimony that he was visiting pornographic sites to masturbate due to him being lonely. Mr. Knightner admitted during his testimony to having contact with minors without gaining permission and failed to pay monies as directed by the courts. Such actions demonstrate that there is no longer a reasonable probability that Mr. Knightner can remain at liberty without violating the conditions of his Probation Supervision. Consequently, revocation is recommended

Evers

Agent

Date: 08/28/2018

Supervisor's Signature

[Handwritten Signature]

Date: 1/23/19

ATTACHMENT C

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS

16
4324

The State of South Carolina,

Indictment Number: W-40-18-0365

Warrant Number: 2016-GS-40-04324

vs.

ORDER

Terrell Knightner
Defendant

CHARGE(S): Probation Violation

THIS MATTER COMES BEFORE THE COURT on June 27 2019 Present
at the hearing were Morgan Y. Drapeau, representing the Defendant; and
Agent Adrian Tucker, representing the State.

The following motions were presented: Motion to Reconsider
placement on the sex offender registry.

Attached pertinent documents were submitted by the State/Defendant and were made a part of
the record.

The Court determined: Defendants motion to remove
Mr. Knightner from the sex offender Registry
is granted without prejudice.

IT IS SO ORDERED

Columbia, South Carolina

This 27 day of June 2019

J. [Signature]
Presiding Judge
Fifth Judicial Circuit

2019 JUN 27 PM 4:56
JEANNETTE W. MCBRIDE
P. & G.S.

RICHLAND COUNTY
FILED

10-4324

STATE OF SOUTH CAROLINA
RICHLAND COUNTY

IN THE COURT OF GENERAL SESSIONS
FIFTH JUDICIAL CIRCUIT

Probation Warrant No.: W-40-18-0365
Indictment No.: 2016-GS-40-04324

State of South Carolina,

v.

Terrell Knightner,
Defendant.

MOTION TO RECONSIDER

2013A4810600139

RICHLAND COUNTY
FILED
2019 JUN 7 PM 1:56
BENJAMIN W. MCBRIDE
C.C.P., S.S. & F.C.

COMES NOW, the Defendant, Mr. Terrell Knightner, by and through undersigned counsel respectfully requesting this court to reconsider the sentence imposed on May 31, 2019.

PROCEDURAL HISTORY

On or about February 28, 2013, Terrell Knightner was arrested for Criminal Sexual Conduct Third Degree. He plead guilty on December 13, 2016 to Assault and Battery 1st Degree in front of the Honorable L. Casey Manning. Judge Manning signed a Sentencing Order (See Attachment A) that listed special conditions of Mr. Knightner's probation. Condition Four stated that Mr. Knightner is not to be placed on the sex offender registry unless there is a violation of the terms set forth by probation as provided in the sentencing order.

On May 31st, 2019, Mr. Knightner appeared in front of the Honorable DeAndrea Benjamin charged with a Probation Violation. Judge Benjamin found that Mr. Knightner did violate the terms and conditions of probation by viewing pornography, being around his niece and nephew who are minor children and accessing social media websites. During the hearing, Judge Benjamin first contemplated the idea that the determination to place Mr. Knightner on the registry needed to be decided by the presiding judge at the sentencing hearing. Defense counsel agreed that this issue should go back before the original sentencing judge. After some deliberation, Judge Benjamin felt

that the terminology in the Sentencing Order forced her to place Mr. Knightner on the sex offender registry.

Pursuant to the South Carolina Code of Laws and *State v. Davis*, 375 S.C. 12, 649 S.E.2d 178 (Ct. App. 2007) the Probation Judge does not have the statutory authority to add placement on the sex offender registry. Probation may argue that the sentencing order signed by Judge Manning enables the probation judge to add Mr. Knightner on the registry, however, the sentencing order was ambiguous, thus leaving room for discretion when deciding whether to order placement. While judges have full discretion with sentencing, a person may only be placed on the registry when good cause is shown. See S.C. Code of Laws § 23-3-430(D). However, good cause was not shown by the probation agent, therefore, the statutory elements for placement were not met. See *Id.* Moreover, the sentencing order signed on December 13, 2016 by the Honorable L. Casey Manning is in violation of *State v. Best*, 257 S.C. 361, 373-74, 186 S.E.2d 272, 277-78 (1972), and, therefore, cannot be used to place Mr. Knightner on the registry.

ARGUMENT

(A) The Probation Judge does not have statutory authority to place Mr. Knightner on the sex offender registry.

The Probation Judge at Mr. Knightner's probation violation hearing did not have the statutory authority to place Mr. Knightner on the sex offender registry. In *State v. Davis*, the defendant was indicted for first degree criminal sexual conduct but plead no contest to a lesser included of assault and battery of a high and aggravated nature and was placed on probation. At the probation revocation the Probation Judge placed the defendant on the sex offender registry. Section 23-3-430 of the South Carolina Code of Laws, states the "*presiding judge* may order as a condition of sentencing that the person be included in the sex offender registry." (emphasis added). See also,

Davis at 17. The South Carolina Supreme Court held that because the Probation Judge did not preside at the sentencing hearing they were not the presiding judge and, therefore, did not have the statutory authority to place the defendant on the registry.

Similarly, Mr. Knightner was indicted for Criminal Sexual Conduct Third Degree but plead to a lesser included offense of Assault and Battery First Degree. The Honorable L. Casey Manning was the sentencing judge. As the presiding judge at the sentencing hearing only Judge Manning has the statutory authority to place Mr. Knightner on the sex offender registry.

(B) The probation agent did not show "good cause" for placement on the sex offender registry, therefore, Mr. Knightner may not be placed on the registry.

During the probation hearing on May 31, 2019, the probation agent addressed the reasons for violating Mr. Knightner. The violations were that Mr. Knightner admitted in a polygraph examination to looking at adult pornography, being in the same house with his niece and nephew (supervised by his mother) and violating the Computer/Internet Use Agreement for Sex Offenders by using social media. None of the alleged violations addressed by the probation agent demonstrated or suggested that Mr. Knightner was at risk for reoffending.

The South Carolina Code of Laws specifically states that "good cause" must be shown in order to place a defendant on the registry. The Supreme Court of South Carolina addressed sufficient "good cause" in *In the Interest of M.B.H, A Minor Under the Age of Seventeen*, 387 S.C. 323, 692 S.E.2d 541 (2010). In this case the minor was convicted of two counts of Assault and Battery of a High and Aggravated Nature. The decision to place the minor on the private sex offender registry was held off until the minor could undergo an inpatient evaluation. See *Id* at 542. Following the evaluation, the sentencing judge ordered the minor be placed on the private sex offender registry and enumerated specific issues that constituted good cause for requiring the

minor to register. Those issues included the minors multiple offenses, multiple younger, same-sex victims; a sense of victimization; denial of harm to others. . . . See Id.

The Supreme Court held that trial judges have broad discretion in sentencing within its statutory limits and absent abuse of the discretion the sentence will not be overturned. See Id. The Supreme Court also stated that "finding of good cause in this context means only that the judge must consider the facts and circumstances of the case to make the determination of whether or not the evidence indicates a risk to reoffend sexually." Id. Moreover, the probation agent did not place any evidence on the record to indicate that he was at risk to reoffend sexually and the Probation Judge did not state any reasons on the record that demonstrated Mr. Knightner was at risk for reoffending sexually, therefore, good cause was not shown and Mr. Knightner cannot be placed on the sex offender registry.

The legislature found it necessary to add the good cause element to ensure defendants are not mindlessly placed on a lifetime registry. At Mr. Knightner's original sentencing hearing, the sentencing judge used his discretion and decided that there was not good cause shown to add Mr. Knightner to the registry. At the time of sentencing, the state did not produce enough facts to demonstrate that Mr. Knightner was likely to reoffend sexually. However, out of an abundance of caution, Judge Manning agreed to sign the attached sentencing order. See Attachment A. Judge Manning's order does not include any mandatory language in regards to placement on the registry. This demonstrates that Judge Manning likely intended for the judge to exercise discretion if a violation occurred. Such discretion was not used at Mr. Knightner's hearing.

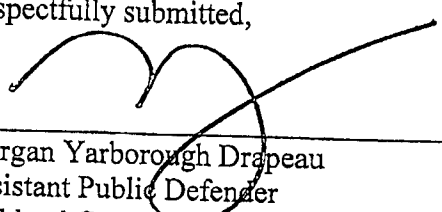
(C) The sentencing order signed on December 13, 2016 by the Honorable L. Casey Manning is invalid pursuant to S.C. Code of Laws § 23-3-430 (D).

The Sentencing Order is not valid because the sentencing judge must determine whether a person is to be placed on the registry *upon conviction* if good cause is shown by the solicitor. See S.C. Code of Laws § 23-3-430(D) (emphasis added). The statute clearly expresses that the determination to place a person on the registry must be decided upon conviction. Because the sentencing judge chose not to place Mr. Knightner on the registry at the time of sentencing he cannot now be placed on the registry.

CONCLUSION

For the reasons set forth above the order to place Mr. Knightner on the registry is in violation of South Carolina Law. Mr. Knightner respectfully requests the probation court to reconsider the decision to place Mr. Knightner on the registry.

Respectfully submitted,



Morgan Yarborough Drapeau
Assistant Public Defender
Richland County Public Defender's Office
1701 Main Street
Columbia, SC 29201

ATTACHMENT A

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF GENERAL SESSIONS
Warrant Number: 2016GS4004324

The State of South Carolina,)
)
)

vs.)
)
)

SENTENCING ORDER

Terrell Denard Knightner,)
Defendant.)

This matter comes before me on motion of Robert L. Bank Jr., attorney for the above-captioned defendant. It appears that the Defendant pled guilty to the above listed indictment on December 13, 2016 before the Honorable Judge Manning. The Defendant was sentenced to three years incarceration suspended to three years probation. The Defendant's probation shall also include the following conditions:

1. That he must abide by all sex offender conditions;
2. That he be supervised by a sex offender agent;
3. That he not be required to be monitored by GPS;
4. That he is not to be placed on the sex offender registry unless there is a violation of these terms;
5. That probation may terminate upon completion of sex offender counseling.

NOW THEREFORE IT IS ORDERED that the above stated conditions shall apply to the Defendant's sentence.

AND IT IS SO ORDERED.

[Handwritten Signature]
 Honorable Casey Manning
 Circuit Judge
 Fifth Judicial Circuit

2016 DEC 14 PM 3:38
 ALTHEA W. BRIDGE
 C.C.P. & C.S.
 RICHLAND COUNTY
 FILED

Columbia, South Carolina

This 13 day of December, 2016

[Handwritten mark]

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

The State of South Carolina,)

vs.)

Terrell Denard Knightner,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS

Indictment Number: 2016-GS-40-04324

Probation Warrant Number: W-40-18-0365

2013A4010600139

ORDER GRANTING THE
MOTION TO RECONSIDER

This matter comes before the court on January 14, 2020, upon the motion of Assistant Solicitor Anna Browder, attorney for the State, in response to a Motion to Reconsider filed on July 3, 2019. Present at the hearing was Anna Browder for the State of South Carolina, Leanne Evers with South Carolina Probation, Pardon and Parole, and Terrell Knightner, represented by his attorney, Assistant Public Defender Morgan Drapeau.

FILED
JAN 14 2020
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA

PROCEDURAL HISTORY

On or about February 28, 2013, Terrell Knightner was arrested for Criminal Sexual Conduct Third Degree. He pled guilty on December 13, 2016 to Assault and Battery 1st Degree in front of the Honorable L. Casey Manning. Judge Manning signed a Sentencing Order dated December 13, 2016 that listed special conditions of Mr. Knightner's probation. Condition Four stated that Mr. Knightner is not to be placed on the sex offender registry unless there is a violation of the terms set forth by probation as provided in the sentencing order.

On May 31, 2019, Mr. Knightner appeared in front of the Honorable DeAndrea Benjamin charged with a Probation Violation based on violating the sex offender terms of probation. Judge Benjamin found Mr. Knightner did violate the terms and conditions of probation by viewing pornography, being around his niece and nephew who are minor children, and accessing social media websites.

On June 7, 2019, defense counsel filed a Motion to Reconsider arguing Judge Benjamin did not have the authority to put Mr. Knightner on the sex offender registry because she was not

the original sentencing judge. The Motion to Reconsider was heard on June 27, 2019 in front of Judge L. Casey Manning, at which time Judge Manning removed Mr. Knighter from the sex offender registry without prejudice, indicating that Judge Benjamin did not have jurisdiction to place the defendant on the sex offender registry, but only the sentencing judge could.

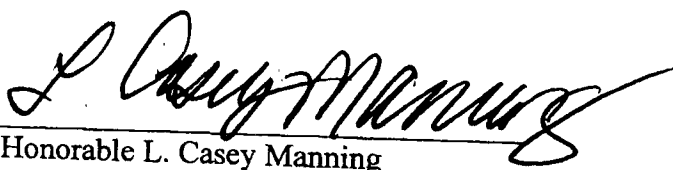
The Solicitor's Office was not notified of this hearing to argue the relative portion as to whether or not Judge Manning should place the defendant on the registry. Upon learning of this hearing, the State filed a Motion to Reconsider on July 3, 2019, which is the substance of the hearing in front of the Court on January 14, 2020.

RULING

Upon hearing arguments from all parties, the Court finds the following:

1. The Court was unaware upon signing the order June 27, 2019 overturning Judge Benjamin's order to place the Defendant on the sex offender registry that the State had not been present at the hearing or been able to argue their position in front of Judge Benjamin.
2. The Court was also unaware that the State had not been notified prior to being presented with the proposed order, ultimately signed June 27, 2019, before he signed it removing the Defendant from the sex offender registry.
3. The order signed on June 27, 2019 by this Court shall hereby be rescinded and Judge Benjamin's order of May 31, 2019 placing the Defendant Terrell Knightner onto the sex offender registry due to a violation of his bond conditions shall be reinstated.

AND IT IS SO ORDERED.


The Honorable L. Casey Manning
Presiding Judge

This 7 day of February 2020

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

PD

Offender's Name: **TERRELL DENARD KNIGHTNER**

State of South Carolina, County of: **RICHLAND**

SID#: **02092995**

Indictment Numbers:

16-GS-40-04324

Date of Birth: **3/9/1984**

SCDC#:

Warrant Numbers:

W-40-18-0365

Drapeau

Offense and Offense Code(s):

3412 - Assault & Battery 1st Degree

Supervision Program: **Probation**

Begin Date: **12/13/2016**

End Date: **12/12/2019**

Supervision Level: **Standard Supervision**

Sentencing Judge: **061 - Manning, L.**

Sentencing County: **RICHLAND**

Sentencing Date: **12/13/2016**

Location (Bold Response): **Community**

Sentence:

3 yrs ss; 3 yrs probation

(PTUP after counseling Complete)

3-21-2017, FORM 1462, PER JUDGE MANNING, CONTINUE SUPERVISION; RAISE SUPERVISION LEVEL TO HIGH; NO INTERNET FOR 30 DAYS AND AS AGENT SEES FIT; CONTINUE SEX OFFENDER COUNSELING; ZERO TOLERANCE FOR ANY FURTHER SOCIAL MEDIA ACCESS. LS.

Special Conditions:

\$643.75 / Fine/Costs and Assessments payable as directed by the Court.;

PTUP after counseling complete.;

See attached order

Current Address and Summary of Residence:

Type	Begin Date	End Date	Address
HOME	12/13/2016		7817 CRESTBROOK RD. COLUMBIA, SC 29223

History Address and Summary of Residence:

Type	Begin Date	End Date	Address

Reporting:

He failed to report on 11/05/2018, otherwise, he reports as instructed.

Employment Records While Under Supervision:

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
SSI	12/20/2016 -		\$488.00
BABCOCK	10/2/2017 -		

Financial Conditions:

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Regular Supervision	\$1,800.00	\$50.00/M	\$1,060.00	12/3/2018	\$190.00	\$0.00

Prior Violation Dates	Prior Violations	Prior Violation Disposition

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

Offender's Name: **TERRELL DENARD KNIGHTNER**

2/22/2017	Terrell Knightner violated conditions 7, 9, and 10 of the standard conditions of Probation as ordered in Cause Number 16-GS-40-04324 in the Richland County Court of General Sessions by Judge Manning on 12/13/2016.	CONTINUE SUPERVISION; RAISE SUPERVISION LEVEL TO HIGH; NO INTERNET FOR 30 DAYS; CONTINUE COUNSELING; ZERO TOLERANCE FOR ANY FURTHER SOCIAL MEDIA ACCESS
-----------	---	---

Details of the Present Violation:

Terrell Denard Knightner has violated conditions 1, 4, and 6 of his Computer and Internet Use Agreement, conditions 2, 4, 6, and 8 of his Standard Sex Offender Conditions, and conditions 1, 7, 9, and 10 of his Standard Conditions of Supervision as ordered in cause number 16-GS-40-04324 in the Richland County court of General Sessions by the Honorable Judge Manning on 12/13/2016 and continuation order dated 03/21/2017.

Terrell Knightner has failed to follow the advice and instructions of his agent in that he failed to refrain from accessing the social media site "Snapchat"; failed to refrain from accessing pornographic websites having admitted to watching porn and masturbating as a result; failed to refrain from deleting incriminating information from his phone having admitted to "erasing" things so his agent would not find it; failed to actively participate in Sex Offender Counseling having been terminated on 08/13/2018; failed to refrain from having contact with minors, having confessed on a polygraph examination to having contact with his two minor-aged nieces and nephew without prior permission from his supervising agent; failed to comply with the Computer/Internet Use Agreement for Sex Offenders by accessing pornography, using social media and deleting material from his phone; failed to make truthful reports to agents prior to his polygraph examination; failed to pay supervision fees being \$640 in arrears, failed to pay Court Ordered Fines being \$400 in arrears, and has failed to pay his DNA fee being \$230 in arrears.

Agent's Recommendation:

Revoke 60 days and continue on supervision.
 PTUP after successful completion of Sex Offender Counseling (he must re-enroll after being terminated due to his violations).
 Judge must rule on SOR (original sentence stated no registry unless Mr. Knightner violates the conditions of his probation).

Agent's Justification:

Mr. Knightner was made fully aware of the conditions that he was to abide by at the beginning of his supervision period. These violations were found after he submitted to a polygraph examination as a requirement of his sex offender counseling. Before his polygraph exam, he was asked every month if he had any contact with minors and he maintained that he had not. Mr. Knightner continues to make excuses for his violations and tries to justify them by saying that the minors are "just his family" or it was "just for a little while". By him lying to his agent prior to the exam, he knew that what he was doing was wrong and that there would be consequences. It is clear that Mr. Knightner thinks it is okay to lie and hide things from his agents being that he admitted to deleting information off of his phone prior to office visits. The deleted material included social media and pornographic material that would be a violation of his supervision if found.

Hearing Officer Recommendation:

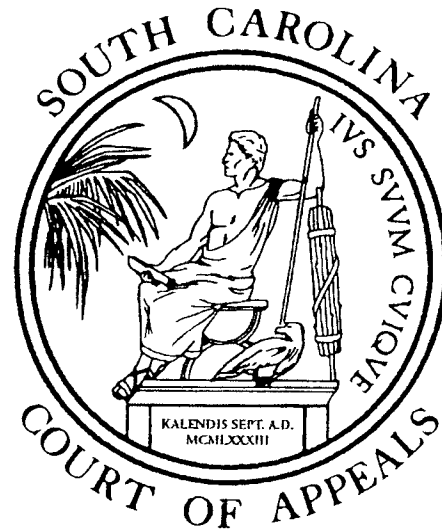
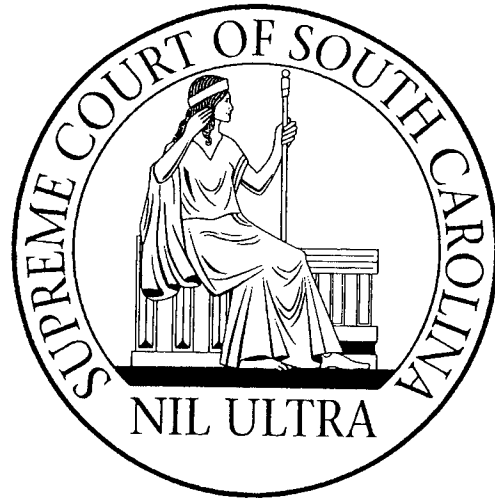
Revocation.

Hearing Officer Justification:

I conclude from the aforementioned violations that Mr. Knightner's Probation Supervision should be revoked. Mr. Knightner admitted to visiting pornographic and social media sites after being given a zero tolerance from a continuation order on February 22, 2017. Mr. Knightner admitted during his testimony that he was visiting pornographic sites to masturbate due to him being lonely. Mr. Knightner admitted during his testimony to having contact with minors without gaining permission and failed to pay monies as directed by the courts. Such actions demonstrate that there is no longer a reasonable probability that Mr. Knightner can remain at liberty without violating the conditions of his Probation Supervision. Consequently, revocation is recommended

Evers Agent Date: 08/28/2018

Supervisor's Signature *Laurel Gardner* Date: 1/23/19



The Calhoun Building is CLOSED to the public due to the coronavirus pandemic. For more information, refer to sccourts.org. To make an emergency filing with the South Carolina Court of Appeals, email ctappfilings@sccourts.org, fax (803) 734-1839, or call (803) 734-1890. You may contact Court Administration at (803) 734-1800. You may contact Disciplinary Counsel or Commission Counsel at (803) 734-2038.