

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Cherokee County

R. Keith Kelly, Circuit Court Judge

RECEIVED

Dec 07 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JERRY JEROME DAVIS,

APPELLANT

APPELLATE CASE NO. 2020-000608

RECORD ON APPEAL

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ATTORNEYS FOR RESPONDENT

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

3
 4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
 5 PLAINTIFF,) OF
 6 vs.) RECORD
 7 JERRY JEROME DAVIS,) 2019-GS-11-367
 8 DEFENDANT.)

9
 10 March 26th, 2020
 11 Gaffney, South Carolina

12
 13 B E F O R E:

14 THE HONORABLE R. KEITH KELLY, Judge.

15
 16 A P P E A R A N C E S:

17 CLAY ALLEN
 18 PUBLIC DEFENDER
 Attorney for the Defendant

19 ANDREA PRICE
 20 ASSISTANT PUBLIC DEFENDER
 Attorney for the Defendant

21
 22
 23 PAMELA E. GREEN
 24 Circuit Court Reporter
 25 Seventh Judicial Circuit

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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 COURT: Is this -- sir, are you Jerry Davis?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Your lawyer's here in the --
Ms. Price is here in the courtroom. Sir, you'll hear from
her in just a minute.

Raise your hand and be sworn.

(WHEREUPON, the Defendant was placed under oath at this
time.)

THE COURT: All right. You may lower your hand.

Sir, have you had a chance to review this report with
your lawyer, Ms. Price?

THE DEFENDANT: No, sir. No, sir.

THE COURT: Have you talked with your lawyer about any
of this?

(Pause.)

THE DEFENDANT: Oh, yes, I know what the violation is.
Yes, sir.

THE COURT: Okay. She went over the violations with
you.

Okay. Is it true that you violated your probation?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Ms. Price, he admits the
violations.

1 MS. PRICE: Yes, Your Honor.

2 I represent Mr. Davis. Went to go see him on Monday.
3 He is being held currently in our jail on his two warrants
4 for probation violation. He also has new -- two new charges
5 that I represent him on are the DV first and a grand larceny
6 two to ten. Don't have discovery on those yet. He
7 literally just got arrested on those on the 19th of this
8 month. I expect, from my conversation with him, that it
9 will be a trial.

10 He has not had an admin hearing yet, Your Honor. As
11 you already know, these are some pretty outstanding and
12 difficult times. No news on when we're gonna have an admin
13 hearing on these, on these particular warrants. However, he
14 has admitted to the, to the violation here today.

15 I would request that Your Honor, since he's not getting
16 out anyway cause he does not have a bond on that DV first
17 that was set by -- Judge Clary here declined to set one,
18 that we continue this on, that we continue this on to
19 another term of Court, Your Honor, so he can both have an
20 admin hearing, and I get some discovery on some cases.

21 Thank you.

22 THE COURT: well, agent.

23 THE PROBATION AGENT: We got -- we just got called and
24 said just put him on today's docket.

25 THE COURT: Let me see the lawyers and the agent.

1 (WHEREUPON, a bench conference was held at this time.)

2 THE COURT: Okay. We're, we're back on the record on
3 this, and I, I understand, from your lawyer, sir, what we
4 were talking about was about whether or not you have --
5 you -- not the fact whether or not -- you have not had an
6 administrative hearing. I don't know of any statute, and I
7 was on the phone with the State's lawyer, and I don't know
8 of any statute that guarantees you a preliminary -- I mean
9 preliminary hearing or an administrative hearing.

10 They've been canceled due to the COVID-19 as I
11 understand. We're under a state of emergency. But whereas
12 here you have admitted the violations with able counsel, and
13 also Mr. Allen himself standing there next to you. I don't
14 see any, I don't see any violation of due process. But
15 you -- I'm gonna let Ms. Andrea Price put anything she wants
16 to on this record on this.

17 You go right ahead.

18 MS. PRICE: Thank you, Your Honor.

19 Just please note, note my objection.

20 THE COURT: Yes, ma'am.

21 MS. PRICE: He has not had an administrative hearing.
22 Granted these are extraordinary times, but that's one --
23 first thing that he indicated to me when I went to go see
24 him is that he had not yet had an administrative hearing on
25 these charges.

1 He -- Your Honor, he just got picked up on these. He's
2 just been in jail since the 19th of this month. I, I just
3 feel that, at this point, that it's a little premature for
4 him to have this at this early of a date. If he wants to
5 admit to the violation, that -- that's a totally separate
6 issue, but, in my estimation, he's looking at a 10 year
7 exposure on these charges. I just wanted to make sure that
8 his rights were protected as well.

9 THE COURT: Yes, ma'am.

10 MS. PRICE: Thank you, Your Honor.

11 THE COURT: Yes, ma'am.

12 Mr. Allen, would you like to put anything on the
13 record?

14 MR. ALLEN: One second.

15 (Pause.)

16 MR. ALLEN: Am I on video?

17 THE COURT: Oh, okay. What we did was we muted it here
18 so we could not hear your conversation with him. I tell you
19 what, when you talk to someone, Brandy suggested, when you
20 finish talking, if you'll raise your hand. We'll know to
21 turn it back on.

22 MR. ALLEN: Okay.

23 THE COURT: We, we did not---

24 MR. ALLEN: I appreciate it. I'm sorry.

25 The, the question that I've asked is has the Court

1 asked him if he consented to do this by video.

2 THE COURT: I don't, I don't remember if I did or if I
3 didn't.

4 MS. PRICE: I don't think so.

5 THE COURT: I don't know that I did.

6 MR. ALLEN: Does the Court want to ask him that now?

7 THE COURT: I can, I can ask him that.

8 Sir, you want to do this by video or not?

9 THE DEFENDANT: I just want to -- I, I was told I was
10 gonna get a bond today. That's what I'm trying to do. I
11 wanted to get a bond.

12 THE COURT: I can't hear what you said.

13 MR. ALLEN: He was under the impression that -- he was
14 under the impression that he was coming up for a bond
15 hearing or thinking he was gonna get a bond he says. That's
16 what he's trying to -- really trying to get on the, on the
17 new charges.

18 THE COURT: Oh, I understand about that, but we're here
19 on the probation matter.

20 THE DEFENDANT: I want to be present.

21 MR. ALLEN: He says he would like to be present
22 before -- for the probation hearing.

23 THE COURT: Okay. We can absolutely arrange that.
24 That's no problem. We'll stand this one down until we get
25 him brought over after lunch.

1 Can we get him over here after lunch?

2 (WHEREUPON, a recess was taken in this case at this
3 time.)

4 THE COURT: Okay. We're back on the matter of Jerry
5 Davis.

6 THE OFFICER: Is that all right here?

7 THE COURT: That's good, yes, sir.

8 Sir, you wanted to be physically present in the
9 courtroom. You're now physically present in the courtroom.
10 You understand?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Anything else you wanted to put on the
13 record?

14 MS. PRICE: No, Your Honor.

15 THE COURT: Okay. Agent.

16 THE PROBATION AGENT: Yes, sir, Your Honor. He's here
17 on two warrants. Warrant-11-200006 and 0070.

18 On the first one is regarding him committing another
19 domestic violence in the first degree with the same victim.
20 She had a very large bruise. I've shown defense all the
21 photos and the text messages where he even admits to hitting
22 her with a belt.

23 Then, on the second one, he hadn't gotten enrolled in
24 batterers treatment, and then he had texted me from another
25 phone number stating why you lied on me to put me on TV, and

1 lies I hit my child's mother. I want to turn myself in, Ms.
2 Moore. I'm in Atlanta working and I will be there Friday to
3 turn myself in. Ms. Moore, this is your day. This was my
4 lawyer, my bondsman, in which he never showed up. And then
5 he got arrested for some other pending charges that he had.

6 He hasn't done anything really on probation. This is
7 not his first DV conviction. He had a three year sentence
8 prior, and he, he just can't do probation.

9 THE COURT: Gotcha.

10 Sir, would you like to speak?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right.

13 THE DEFENDANT: I was confused a while ago. I was --
14 didn't know what was going on. I was just complying with
15 what that---

16 MS. PRICE: About, about the allegations.

17 THE DEFENDANT: About the allegations, I was confused.
18 He was like -- I, I was just wanting to sit back and accept
19 it. Yes, sir.

20 THE COURT: You just want to get it over with?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: So, you want to go forward?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. Any -- anything you can say --
25 you've admitted the allegations, okay, and you have counsel.

1 We went back and read the U.S. Supreme Court decision I
2 think in 1973, something like that. And so we, we've taken
3 that into account, and it talks about minimal due process,
4 and you have counsel, and you have the warrant which gives
5 the Court jurisdiction, and you have admitted that you have
6 violated your probation on the times -- both of these.

7 Okay.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: So, you wanted to be present in the
10 courtroom, and I'm putting all this on the record here. So,
11 we have physically brought you over although, and I will say
12 this, I don't make a finding, but I don't think you have a
13 Constitutional right to physically be here. We're taking
14 the pleas and doing other matters with video conferencing,
15 and there's a new directive out from the Chief Justice
16 himself, in fact, he signed it Chief, that I just read on
17 the email and we're going to be using a thing called wedEx
18 to work remotely if the Court shuts down.

19 So -- but anyway, we have honored your request and
20 brought you here, and now I understand you to say that you
21 wish to go forward.

22 Is that right?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And just get it over with, right?

25 THE DEFENDANT: Yes, sir.

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THE COURT: All right. He's revoked in full.

MS. PRICE: Thank you, Your Honor.

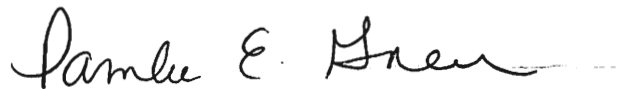
* * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

C E R T I F I C A T E

1
2
3 I, Pamela E. Green, Official Court Reporter for the
4 State of South Carolina, do hereby certify that the
5 foregoing is a true, accurate and complete Transcript of
6 Record of the proceedings had and evidence introduced in the
7 trial of the captioned case, relative to appeal, in the
8 Court of General Sessions for Cherokee County, South
9 Carolina, on the 26th day of March, 2020.

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

12
13
14
15 June 1st, 2020
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18 
19

20 PAMELA E. GREEN, Court Reporter
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DOCKET NO. **19-GS-11-00367**

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2019 MAR 21 AM 11:00

BRANDY W. MCBEE

WITNESSES

Gaffney Police Dept.

[Handwritten signature]

The State of South Carolina

County of Cherokee

Bary Barnette, Solicitor

COURT OF GENERAL SESSIONS

March 21 2019 TERM

ARREST WARRANT

DIRECT INDICTMENT

THE STATE

vs.

JERRY JEROME DAVIS

ACTION OF GRAND JURY

~~TRUE BILL~~
~~TRUE BILL~~

[Handwritten signature]
Foreperson of Grand Jury
Date: 3-21-19

Indictment for

DOMESTIC VIOLENCE IN THE FIRST DEGREE

SC Code: 16-25-20 (A)(B)

CDR: 3811

Class: FEL/E

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on March 21 2019
 the Grand Jurors of Cherokee County present upon their oath:

DOMESTIC VIOLENCE IN THE FIRST DEGREE

That Jerry Jerome Davis did in Cherokee County on or about January 13, 2019,

(1) cause physical harm or injury to a person's own household member (Sandra Johnson); or

(2) did offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril; and

(1) great bodily injury to the person's own household member resulted or the act was accomplished by means likely to result in great bodily injury to the person's own household member; or

(2) the person violated a protection order and in the process of violating the order committed domestic violence in the second degree,

in violation of 16-25-20(A)(B), 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.


 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charokee
STATE VS.

INDICTMENT/CASE#: 2019GS1100367

Jerry Jerome Davis

A/W#: 2019GS1100367

AKA:

Date of Offense: 1/13/2019

Race: BLACK Sex: M Age: 37

S.C. Code § : 16-25-0020(A)(B)

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 3811

Address: [REDACTED] Sarratt Street

City, State, Zip: Gaffney, SC 29341

DL#: [REDACTED] SID#: SC01270726

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

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

TO: Domestic / Domestic Violence, 1st degree (0-10 yrs.)

in violation of § 16-25-0020(A)(B) of the S.C. Code of Laws, bearing CDR Code # 3811

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory OPS(CSC §17-25-45
w/minor 1st or 2nd Act)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 102470x [Signature] [Signature] SCB101705
SMITH, TORIA D SC Bar# Defendant Craft, Matthew SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of 75 156 (day) months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 3
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services 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 SCDOC.

The Defendant is to be placed on the 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: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§14-1-212 (Law Enforce. Funding)	\$5
§14-1-213 (Drug Court Surcharge)	\$150
§50-21-114(DUI Breath Test Fee)	\$50
§56-5-2942(f) (Vehicle Assessment)	\$40/cv
3% to County (if paid in installments)	\$ 18.75

TOTAL: \$643.75

Clerk of Court/ Deputy Clerk [Signature]
Court Reporter: [Signature]

SCCA/217 (04/2018)

Obtain GHD
Attend Voc. Rehab. or Job Corp. _____
May serve W/B beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: STOPFA order signed
DV conditions of probation
contact with victim allowed per
her request regarding the parties minor
children.
 Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge [Signature]
Judge Code: 2760
Sentence Date: 6/17/19

STATE OF SOUTH CAROLINA
County of C.HEROKEE

STATE VS.

AKA: JERRY JEROME DAVIS
Race: B Sex: M
DOB: [REDACTED]
SSN: [REDACTED]
SID# 01270726

IN THE COURT OF GENERAL SESSIONS

Indictment Number:

2019 -GS- 11 - 00367
Probation C/W#s: W-11-20-0006 & W-11-20-0070
Name of Original Offense: DV 1ST DEGREE
Original A/W#: 2019051100367
Date of Original Offense: 1/13/2019
Conviction S.C. Code §: 16-25-0020 (A)(B)
Conviction CDR Code #: 318111
Original Sentence: 10 YRS PROBATION TSC/IS/DAN/SS
3 YRS PROBATION

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 6/17/19 in the Court of General Sessions of CHEROKEE County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 12/17/19, as set forth in the attached warrant(s) or citation(s) dated 1/7/2020 & 2/12/2020. 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)

3, 6, 10, 7, 8, 9 SPECIAL CONDITIONS

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve 10 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 (arrears) Civil judgment: Department fees
 Fines and other fees (average / balance) Fines and other fees
 Restitution (and 20%) (arrears / balance) Restitution (and 20%)

Additional Conditions ordered by the Court:
TERMINATE BALANCE OF PROBATION.

FILED IN OFFICE OF CLERK OF COURT
CHEROKEE COUNTY, S.C.
MAR 26 PM 4:00
BRANDY W. M...
RECEIVED

- 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 156 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.

APR 08 2020

This 26 day of MARCH, 2020
GAFFNEY, SC

R. Keith Kelly SC Court of Appeals
Presiding Judge
RON KEITH KELLY 7TH 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

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,

s/ Joanna K. Delany

Joanna K. Delany
Appellate Defender

RECEIVED

Dec 07 2020

SC Court of Appeals

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

ATTORNEY FOR APPELLANT

This 7th day of December, 2020.