

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )  
 )  
State of South Carolina )  
 )  
vs. )  
 )  
Joseph Randolph, )  
 )  
Defendant. )  
 )  
\_\_\_\_\_ )

FILED FOR RECORD  
WINNIFA B. CLARK  
2021 APR 23 PM 4:09  
CLERK OF COURT  
ORANGEBURG, SC

IN THE COURT OF GENERAL SESSIONS  
FIRST JUDICIAL CIRCUIT  
Ind 2016-GS-38-00695  
Warrant W-05-20-0003

**RECEIVED**  
**Jun 01 2021**  
**SC Court of Appeals**

**ORDER AMENDING SENTENCE**

This case was remanded from the South Carolina Court of Appeals by Order dated March 12, 2021 and came before this Court by motion of the Defendant requesting that his sentence from October 14, 2020, for Violation of Probation be amended.

A hearing was held on April 20, 2021, by videoconference. Present at the hearing were the Defendant with his attorney, Wallis Alves. Also present were Jessica Saxon, the Defendant's attorney from the South Carolina Office of Appellate Defense and Matthew Buchanan, general counsel for the South Carolina Department of Probation, Pardon and Parole Services.

Based on the information presented prior to and during the hearing, this Court makes the following Findings of Fact and Conclusions of Law:

The Defendant was before the Court on November 2, 2016 and pled guilty to Domestic Violence of a High and Aggravated Nature. He received a sentence of 10 years suspended to time served and 5 years probation. He was found to be in violation of this probationary sentence in 2018 and received a partial revocation of 2 years. He was incarcerated at the South Carolina Department of Corrections.

The Defendant's original charge of Criminal Domestic Violence of a High and Aggravated Nature under section 16-25-65 of the Code of Laws of South Carolina carries a maximum penalty not to exceed 20 years. Therefore, under section 24-13-100, it is considered a "no parole" offense. Section 24-21-560 states notwithstanding any other provision of law, except in a case in which the

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death penalty or a term of life imprisonment is imposed, any sentence for a “no parole offense” as defined in Section 24-13-100 must include any term of incarceration and completion of a community supervision program operated by the Department of Probation, Parole, and Pardon Services.

During the 2018 incarceration, the South Carolina Department of Corrections did not treat the Defendant’s sentence as a no parole sentence. As a result of this error, the Defendant was not placed on community supervision at the conclusion of the service of the sentence as required by statute, but instead was reinstated to probation.

The Defendant was again before the Court on October 14, 2020, for a hearing to determine if he was in violation of his probation. He was found to be in willful violation of probation and received a partial revocation of 18 months. He was also ordered to undergo inpatient substance abuse counseling upon his release. At the time of sentencing, neither the Court, defense counsel nor the probation agent were aware that the Defendant should have been on community supervision instead of probation. After sentencing, the Defendant’s attorney learned of the error in the service of the 2018 sentence for the Violation of Probation and the error in the Defendant’s supervision status and she, along with Attorneys Saxon and Buchanan worked to bring this matter back before the Court.

Section 24-21-560(C) of the Code of Laws of South Carolina states if the court determines that a prisoner has willfully violated a term or condition of the community supervision program, the court may impose any other terms or conditions considered appropriate and may continue the prisoner on community supervision, or the court may revoke the prisoner’s community supervision and impose a sentence of up to one year for violation of the community supervision program.

Therefore, if the Defendant had been properly placed on community supervision after the

service of the 2018 sentence for his Violation of Probation, he would have only been exposed to a maximum sentence of 1 year.

This Court finds that it is appropriate that the sentence of October 14, 2020 be amended to conform with Section 24-21-560 of the Code of Laws of South Carolina.

IT IS THEREFORE ORDERED that the October 14, 2020 sentence for Violation of Probation is amended and the Defendant shall receive a new sentence of 6 months for the above captioned charge.

IT IS FURTHER ORDERED that all other conditions previously set forth during the hearing on October 14, 2020 and memorialized on the Form 9 shall remain in effect as fully as if repeated verbatim herein.

IT IS ALSO ORDERED that the South Carolina Department of Corrections shall amend their records to reflect the new sentence.

SO ORDERED this 22 day of April 2021.



Courtney Clyburn-Pope  
Presiding Judge

