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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

DISHSHI YOUNG,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-000528

APPENDIX

JESSICA M. SAXON
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

TAYLOR Z. SMITH
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Suite 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON

STATE	)	
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	)	TRANSCRIPT OF RECORD
V.	)	2017-GS-32-1412
	)	2018-GS-32-0196
DISHSHI YOUNG	)	2018-GS-32-0197
	)	
DEFENDANT.	)	

JUNE 7, 2019
LEXINGTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE.

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

LISA BAKER, PROBATION AGENT
ON BEHALF OF THE STATE

KEBRA SIMPSON, ASSIST. PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

BETHANIE K. CREPPON
CIRCUIT COURT REPORTER

I N D E X

WITNESS	PAGE

(No Witnesses.)

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.

(No Exhibits.)

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P R O C E E D I N G S

* * *

THE COURT: All right. Looks like Mr. Young has a couple of cases. Judge Cooper apparently sentenced him at 18 months, suspended to 18 months' probation, March 2017, for DV second. And he has a forgery case wherein Judge Dickson sentenced him, in November of last year, four years. Looks like there have been some reporting issues.

Agent, you want to tell a me little more about Mr. Young, please?

AGENT BAKER: Yes, sir. May it please the Court?

THE COURT: Yes, ma'am.

AGENT BAKER: On the domestic violence case, he had two prior violations: 10/26/17, there was probable cause to believe he committed a DV second. And he was on probation for a DV for that. He was revoked 48 days, credit 48 days, extend the probation, DV conditions apply.

3/23/18, he failed to report, changed his residence without consent of the agent, probable cause to believe that he committed a burglary third in Greenville. He was continued, re-enroll in DAC within 30 days, time served satisfies arrearages.

On W-32-19-0064, he changed his residence without his agent's permission. I spoke to his wife. She is the victim. And she confirmed that he left the residence on 2/9/19. Was refrained from the use of illegal substances. He tested positive on 1/18/19 for marijuana and he tested positive and voluntarily admitted to using amphetamines, methamphetamines, and marijuana on 1/25/19.

He failed to pay his monies. Then on the W-32-19-0138, he failed to report to group on 3/19/19 and an office visit that day. He changed his residence to an unknown location in Greenville.

He failed to allow his agent to do a home visit; he absconded supervision; he violated the special conditions of domestic violence offenders by failing to report and changing his residence without permission.

He was also terminated from the domestic anger counseling. This is the third time he's tried. The victim on the above case, D.Y. , came into the office on 3/27/19 and signed an affidavit.

Do you have that, Your Honor?

THE COURT: I have not gotten through -- okay. I may not. I do not.

AGENT BAKER: Okay. Let me --

THE COURT: Unless it's attached to the forgery case. But --

AGENT BAKER: That's a possibility.

THE COURT: It's not on the DV case. If you have a clear recollection of it, you can simply relay to me what --

AGENT BAKER: I do. I do.

She came to the office on 3/27/19 and signed an affidavit in which he threatened to hurt her. She also said he took her phone so she couldn't call for assistance. She stated he had also threatened to set her on fire and break every bone in her face and that will be a good reason for him to go to jail.

I will just make note, Your Honor, of his -- at the very bottom of his record, which is lengthy, on the forgery case, the warrants were about the same on that, Your Honor, the only difference being that there's restitution on that case.

The recommendation of the hearing officer on the domestic violence case is a partial revocation of 90 days and reinstate probation; remain incarcerated until admitted into inpatient treatment; review after 120 days; extend probation for one year; no contact with the victim, D.Y. [redacted], for the duration of supervision; refer to

transitional housing; attend aftercare; zero tolerance for further terminations from batterer's intervention.

And the recommendation on the forgery is to remain incarcerated until inpatient treatment; attend aftercare; refer to transitional housing; restructure the drug test fees, fines, and restitution.

What I can tell you, Your Honor, is he's probably going to want to have contact with his victim, and it is a nightmare. They're in love one day and they're not the next. And they're blowing up my phone. And she's telling me to get him out of the house; she's telling me he's doing drugs in the house. Then she bonds him out. Then she comes and does an affidavit, and then she wants to be with him.

And I haven't been a DV agent for that long, but a little while to know that this is going to end very badly. He has got to stay away from that victim. It is toxic.

THE COURT: Thank you.

All right. You're representing Mr. Young, obviously? I assume he admits he's in violation of his probation.

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MS. SIMPSON: Yes, sir.

THE COURT: Let me hear from you, please.

MS. SIMPSON: Your Honor, I understand what the agent is asking for. They can't stay away from each other. They have children and grandchildren together. Mr. Young knows that he has a drug problem, which is why I've had him screened through LRADAC. And they're recommending Morris Village.

From my understanding -- in him not reporting to group on the 19th of March, it's my understanding that a family member died, so he went to Greenville. He said he did get in contact with his agent and let her know he was leaving, but he was going to a funeral. And he also let her know that it was up in the air whether he was moving to Greenville or not. He has kept her abreast of that, continuing this type of situation.

It's my understanding that, as the agent said, he and the wife, they have a toxic relationship. One day she calls, one day she recants; one day she calls, one day she recants. I believe she may have recanted this particular statement, but I have nothing from the hearing officer stating that.

AGENT BAKER: I don't have anything that she recanted.

THE COURT: Either way.

MS. SIMPSON: Yeah. Your Honor, I understand the case looks bad. We are asking, if possible, to send him to treatment.

THE COURT: Mr. Young, anything you'd like to tell me, sir?

THE DEFENDANT: No, sir, Your Honor. I just really want you to find it in your heart to get me some help, you know. I had a drug problem and I'm trying to overcome it. I've never been a bad candidate for probation. I always kept this lady up on everything I've ever did; if I couldn't pay money, if I couldn't report. When I was with Hoover's, when I was working with Bentley Pontoon boats and couldn't report, then I called her, and she rescheduled it.

When I called her and told her about the funeral, she could have called me and rescheduled it, you know, but she didn't. But she'll call my wife phone number. Why would you call my wife when you can call me? The day after that, my wife went up there to probation. She called this lady -- and she admitted it to the hearing officer that you can read in the report that she just wanted me to get drug rehab and treatment.

There ain't nothing really too much I can say, Your Honor. I mean, I know I messed up. I'm a man; I take responsibilities. So whatever you do, I'm with it, you know. I leave it in the Lord's hands. If I wouldn't have been on them drugs, I would have never missed my report date, I know that. I'm just asking for help.

I've been in LRADAC. I've talked to Robert Household; I've talked to Aaron; I've been in there high, asking for help, asking for my Morris Village papers, with my wife right behind me. She's still writing me. I still call her every day. I mean, I don't know what else to say.

I'm not going to turn away from my marriage though. I do -- I do do right in my marriage. It's not toxic. It's just -- she's an older lady, you know. We bump heads sometimes, but it's not like that. I should've never had the DV. I just want to know how I'm going to explain it to my grandson. I just adopted him. I don't know how I'm going to do that.

THE COURT: Well, Mr. Young, I sincerely appreciate your position. I greatly respect the recommendation that the hearing officer made in this case. But, you know, sir, in terms of asking for

help for your drug problem, I mean, that ship has sailed.

And I'm looking at this, and you were terminated from domestic anger counseling on March 27th of this year for noncompliance. I'm quite certain that that's one of the things that Judge Cooper was really hoping would prevent any sort of future incidents. And they can't help you if you don't show up.

And you -- this -- these violations, they're abysmal. And you're the worst probation candidate, perhaps, ever, sir. That's just the reality of it. Okay? You can't do probation.

I'm revoking the 18 months on the DV charge in full. I'm also revoking the forgery charge in full. Those will be consecutive. You'll do the DV charge first and then you'll do consecutive time on the forgery, whatever he's got.

Good luck to you, sir. Have him screened for ATU. He can get help in prison for his drug problem. I can't do anything more; y'all can't do anything more.

Good luck, sir.

AGENT BAKER: Can we do a civil judgment for the restitution?

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THE COURT: Please.

AGENT BAKER: Okay. Thank you, Your Honor.

MR. RENTIERS: Okay. Your Honor, we've got two forgeries --

THE COURT: Four years is enough on a forgery. So we'll just -- the four years that I was looking at, he'll do a year and a half on the DV and then he'll do four years minus whatever time he's got credit for.

MS. SIMPSON: 66 days, Your Honor.

MR. RENTIERS: So two forgeries, concurrent with each other, but consecutive to the DV --

THE COURT: Two forgeries will be concurrent with each other but consecutive to the DV charge. And I ask that he also be screened for batterer's treatment while in the department of corrections.

So he's got, roughly, five years to do, I guess, something like that. Good luck to you, sir.

MS. SIMPSON: Thank you, Your Honor.

-- END OF TRANSCRIPT OF RECORD --

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 7th of June, 2019.

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

June 9, 2020

s/*Bethanie K. Creppon*

Bethanie K. Creppon
Circuit Court Reporter

South Carolina Department of [redacted]tion, Parole and Pardon Servic[redacted]
Violation Report

Offender's Name: **DISHSHI RODRICKUS YOUNG**

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

Date of Birth: [redacted]

SID#: **01398242**

SCDC#: **311120**

Indictment Numbers:
17-GS-32-01412

Warrant Numbers:
W-32-19-0064; W-32-19-0138

Offense and Offense Code(s):
3812 - Domestic Violence, 2nd degree

Supervision Program: **Probation**
Supervision Level: **Jail**
Begin Date: **3/29/2017**
End Date: **9/28/2019**
Sentencing Judge: **054 - Cooper, Jr., Thomas**
Sentencing County: **LEXINGTON**
Sentencing Date: **3/29/2017**
Location (Bold Response): **Jail**

Sentence:
18 MTHS SSP TS AND 18 MTHS PROBATION. **12/14/17 FORM 9 P-REV 48 DAYS ORDER SATISFIES DEPT FEE AND FINES ARREARS, CTS 48 DAYS, EXTEND PROB 30 MTHS, DV CONDITIONSAPPLY EXCEPT #3 **5/9/18 FORM 9B REPIRT MTHLY AS INSTRUCTED, RE-ENROLL INTO DA COUNSELING W/IN 30 DAYS, TIME SERVED SINCE 3/30/18 WILL SATISFY $150 SF ARRERAS, RESTR FINE $54/MTH BEGINNING 8/28/18, MAY BE RELEASED TO ANY OTHER HOLDS

Special Conditions:
F9 - **12/14/17 FORM 9 P-REV 48 DAYS ORDER SATISFIES DEPT FEE AND FINES ARREARS, CTS 48 DAYS, EXTEND PROB 30 MTHS, DV CONDITIONSAPPLY EXCEPT #3; F9B - **5/9/18 FORM 9B REPIRT MTHLY AS INSTRUCTED, RE-ENROLL INTO DA COUNSELING W/IN 30 DAYS, TIME SERVED SINCE 3/30/18 WILL SATISFY $150 SF ARRERAS, RESTR FINE $54/MTH BEGINNING 8/28/18, MAY BE RELEASED TO ANY OTHER HOLDS; Fine - $625.; Other1 - MENTAL HEALTH COUNSELING, DAC.; RADT - RADT / Random Alcohol/Drug Testing; SAC - SAC / Substance Abuse Counseling

Current Address and Summary of Residence:

Type	Begin Date	End Date	Address
HOME	4/12/2017		[redacted] LEXINGTON, SC 29073

He changed his residence on 2/9/19 and 3/19/19 to an unknown location. He absconded supervision.

History Address and Summary of Residence:

Type	Begin Date	End Date	Address
HOME	4/18/2014	4/12/2017	[redacted] WEST COLUMBIA, SC 29170
HOME	4/16/2014	4/17/2014	[redacted] WEST COLUMBIA, SC 29170
HOME	8/26/2013	4/15/2014	[redacted] PELION, SC 29123
HOME	1/8/2013	8/25/2013	[redacted] CAYCE, SC 29033
HOME	11/2/2012	1/7/2013	[redacted] SPARTANBURG, SC 29301
HOME	12/11/2011	11/1/2012	[redacted] INMAN, SC
HOME	9/15/2011	12/10/2011	[redacted] SPARTANBURG, SC 29303
HOME	4/15/2011	9/14/2011	[redacted]
HOME	2/4/2011	4/14/2011	[redacted] SPARTANBURG, SC 29303
HOME	10/1/2009	2/4/2011	[redacted] CLINTON, SC 29325
HOME	11/24/2005	10/1/2009	[redacted]. GREENVILLE, SC 29615
HOME	4/4/2005	11/23/2005	[redacted] GREENVILLE, SC

Reporting:

He missed group on 3/19/19 and an office report on 3/19/19.

Employment Records While Under Supervision:

South Carolina Department of [redacted]tion, Parole and Pardon Servic[redacted]
Violation Report

Offender's Name: **DISHSHI RODRICKUS YOUNG**

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
BENTLEY PONTOONS	11/28/2018 -		$1,600.00
MCDONALDS	12/5/2005 - 2/8/2011		$1,000.00
Unemployed	2/9/2011 - 12/19/2018		
Unemployed	4/12/2017 - 12/19/2018		
HOOVER TRUSSES	12/19/2017 - 11/28/2018		$1,200.00

Subject has never brought proof of employment to his agent.

Financial Conditions:

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Court Ordered Fines	$643.75	$54.00/M	$0.00		$594.00	$0.00
Regular Supervision	$1,750.00	$50.00/M	$100.00	5/9/2018	$700.00	$0.00

He is in arrears on his financial obligations.

Prior Violation Dates	Prior Violations	Prior Violation Disposition
10/26/2017	There was probable cause of committing DV2 as indicated by incident report dated 8/10/17. He was arrested for DV and never notified his agent. Failed to pay monies. Failed to attend SA, Mental Health, and DAC.	12/14/17-He was revoked 48 days. CTS 48 days. Extend Probation to 30 months. DV conditions apply except #3. Order satisfied SF arrearages and fine arrearages.
3/23/2018	He failed to report. He changed his residence without consent of his agent. Probable cause to believe subject committed Burglary 3rd in Greenville. He failed to pay monies. Never re-enrolled into DAC.	05/09/2018-Form 9B-Report monthly as instructed. Re-enroll into DAC within 30 days. Time served satisfies SF arrearage. Restructure fine at $54.00 a month beginning 8/28/18.

Details of the Present Violation:

W-32-19-0064

Subject has violated his probation in the following manner: He changed his residence from [redacted], Lexington to an unknown residence. Spoke to his wife and she confirmed that he left the residence on 2/9/19. Failing to refrain from the use of illegal substances. He tested positive on 1/18/19 for marijuana and he tested positive and voluntarily admitted to using amphetamines, methamphetamines, and marijuana on 1/25/19. He failed to pay supervision fees at $50.00 a month being $550.00 in arrears. He failed to pay court fine at $54.00 a month being $643.75 in arrears. He has failed to follow the direct instruction of his agent. Such actions constitute a violation of Sections 2, 3, 7, 9, 10 and special conditions of the original probation order dated 3/29/17 and continuation orders dated 12/14/17 and 5/9/18.

W-32-19-0138

Subject has violated his probation in the following manner: He has failed to report for group on 3/19/19 and an office visit scheduled for 3/19/19. He changed his residence from [redacted], Lexington SC 29073 to an unknown location in Greenville SC. He failed to allow his agent to do a home visit as he changed his residence on 3/19/19 to Greenville SC. Subject also called on 3/20/19 and 3/25/19 stating he was in Greenville. He gave no address and left no phone number. He said he didn't know when he was going to be back, therefore, he has absconded supervision. He has violated special conditions for Domestic Violence Offenders by failing to report and changing his residence without permission. He has also been terminated from Domestic Anger Counseling on 3/27/19 for non-compliance. The victim on the above case, D. Y[redacted] came into the office on 3/27/19 and signed an affidavit in which he threatened to hurt her. She said he also took her phone, so she could not call for any assistance. Victim stated that he also threatened to set her on fire and break every bone in her face and that would be a good reason for him to go to jail. Such actions constitute a violation of Sections 1, 2, 10 of the original probation order dated 3/29/17 and continuation orders dated 12/14/17 and

Offender's Name: **DISHSHI RODRICKUS YOUNG**

5/9/18 and this also violates conditions 1, 2, 6 and 10 of the Domestic Violence Conditions. This warrant is in addition to warrant W-32-19-0064 issued on 2/13/19 and served on 2/14/19.

Agent's Recommendation:

Partial revocation 6 months and continue. Restructure fine and other fee accounts upon release. Allow revocation to satisfy supervision fee arrears. DV Condition #3 applies to case. Must attend/comply with all conditions of domestic violence counseling. Zero tolerance for future violations. If any, refer case directly back to court. Extend case 1 year to allow time for completion of domestic violence counseling.

Agent's Justification:

Subject continues to violate his probation. He has previously violated 2 times and continued on both occasions. He has absconded twice. He is using methamphetamines, amphetamines, and marijuana. He's also failed to pay his monies. He has been terminated from DAC for the 3rd time and in an affidavit dated 3/27/19 by the victim, D. Y. [redacted], said he has threatened to set her on fire, break every bone in her face, and hurt her. He is very dangerous. He should be considered a threat to the community, but especially the victim. He has shown that he is not going to comply with the conditions of probation, The Domestic Violence conditions, and special conditions ordered by Judges. He should be revoked.

Note: Subject has a very serious rap sheet. His convictions are as follows: Petty Larceny-1/21/2002; Petty Larceny-7/10/02; Poss. 28 g or less of marijuana-3/11/04; Failure to obey traffic control device and DUS-9/22/04; Lewd Act on child <16-9/8/05; Poss. <1 gram ice/ crack-12/4/06; Petty Larceny-6/29/09; Forgery-10/15/09; Forgery <5000 X3-10/15/09; Forgery <5000 X3 and indecent exposure-2/3/11; Sex Offender Registry Violation-4/15/11; Sex Offender Registry Violation 2nd-3/14/12; DUS-6/17/13; Indecent Exposure-4/25/14; DVHAN-3/29/17; Habitual Traffic Offender-12/14/17; DUS-11/28/17; DV 2nd-12/14/17; Entering premises after warning-12/12/18

Hearing Officer Recommendation:

Hearing Officer Justification:

Lisa S. Baker Senior DV Agent Date: 04/24/2019

Supervisor's Signature Lisa C. Faulkner Date: 4/30/19

South Carolina Department of [redacted]ation, Parole and Pardon Servi[redacted]
Violation Report

Offender's Name: **DISHSHI RODRICKUS YOUNG**

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

Date of Birth: [redacted]

SID#: **01398242**

SCDC#: **311120**

Indictment Numbers:
17-GS-32-01412

Warrant Numbers:
W-32-18-0163

Offense and Offense Code(s):
3812 - Domestic Violence, 2nd degree

Supervision Program: **Probation**
Supervision Level: **Jail**
Begin Date: **3/29/2017**
End Date: **9/28/2019**
Sentencing Judge: **054 - Cooper, Jr., Thomas**
Sentencing County: **LEXINGTON**
Sentencing Date: **3/29/2017**
Location (Bold Response): **Community**

Sentence:
18 MTHS SSP TS AND 18 MTHS PROBATION. **12/14/17 FORM 9 P-REV 48 DAYS ORDER SATISFIES DEPT FEE AND FINES ARREARS, CTS 48 DAYS, EXTEND PROB 30 MTHS, DV CONDITIONSAPPLY EXCEPT #3

Special Conditions:
F9 - **12/14/17 FORM 9 P-REV 48 DAYS ORDER SATISFIES DEPT FEE AND FINES ARREARS, CTS 48 DAYS, EXTEND PROB 30 MTHS, DV CONDITIONSAPPLY EXCEPT #3; Fine - $625.; Other1 - MENTAL HEALTH COUNSELING, DAC.; RADT - RADT / Random Alcohol/Drug Testing; SAC - SAC / Substance Abuse Counseling

Current Address and Summary of Residence:

Type	Begin Date	End Date	Address
HOME	4/12/2017		[redacted] LEXINGTON, SC 29073

His residence is unknown.

History Address and Summary of Residence:

Type	Begin Date	End Date	Address
HOME	4/18/2014	4/12/2017	[redacted] WEST COLUMBIA, SC 29170

Reporting:

Subject reported twice after being released from jail.

Employment Records While Under Supervision:

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
HOOVER TRUSSES	12/19/2017 -		
	2/9/2011 - 12/19/2018		
	4/12/2017 - 12/19/2018		

He is not employed.

Financial Conditions:

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Court Ordered Fines	$643.75	$0/$0/$0/$0/$0/$30.00/M	$0.00		$120.00	$643.75
Regular Supervision	$1,100.00	$0/$0/$0/$0/$0/$50.00/M	$50.00	1/25/2018	$150.00	$1,050.00

His financial obligations are in arrears.

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

Offender's Name: **DISHSHI RODRICKUS YOUNG**

Prior Violation Dates	Prior Violations	Prior Violation Disposition
10/26/2018	Subject committed a new DV against the same victim. He failed to pay monies and failed to attend substance abuse counseling, mental health counseling, and Domestic Abuse Counseling.	Court-He got time served on the new DV. On this probation case he was continued and revoked 48 days, credit time served 48 days. DV conditions except #3.

Details of the Present Violation:

W-32-18-0163

Subject has violated his probation in the following manner: He has failed to report on 1/23/18 and 1/30/18. He changed his residence without the consent of his agent. His wife informed me that he moved from his approved residence on 3/7/18 to an unknown location in Greenville. Without conviction there is probable cause to believe that Mr. Young committed the criminal offense of Burglary 3rd Degree 1st Offense having been arrested on warrant 2018A2330202147 in Greenville, SC. He failed to pay Supervision Fees at $50.00 a month being $50.0.0 in arrears and he failed to pay a court fine at $30.00 a month being $90.00 in arrears. He failed to follow up with a referral. Agent referred subject to DAC on 12/19/17 and he never re-enrolled. This is a specific order violation and a violation of special conditions. He has failed to follow the direction instructions of the agent. Such actions constitute a violation of Sections 1, 2, 6, 7, 9, 10, and special conditions of the original probation order dated 3/27/17 and continuation order dated 12/14/17.

Subject has 2 counts of Forgery in Orangeburg that occurred on 6/19-6/21/17

Agent's Recommendation:

Revoke 13 months and continue. Allow time to satisfy all monies in arrears. Subject just had a violation on 12/14/17 and was continued and it was a serious violation. Now he has violated his probation again. He has failed to report, got arrested on new charges, failed to pay his monies, and failed to Domestic Anger Counseling again. He also has pending charges for forgery in Orangeburg.

Agent's Justification:

Subject just went through the violation process on 12/14/17. He was convicted of another DV. He received a 45 day revocation. He reported twice after being released from jail. He moved without agent's permission. He went to Greenville and committed a new crime. He has also failed to re-enroll in DAC. He has shown by his actions that he is a terrible candidate for supervision. He should be revoked and sent to SCDC to finish out his time. He cannot do probation. He is a threat to the community and to the victim.

Hearing Officer Recommendation:

Hearing Officer Justification:

Lisa S. Baker Sr. DV Agent Date: 05/02/2018

Supervisor's Signature William C. Fordham Date: 5/8/18

5-23-18 Hrg

South Carolina Department of P[redacted]tion, Parole and Pardon Servic[redacted]
Violation Report

Offender's Name: **DISHSHI RODRICKUS YOUNG**

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

Date of Birth: [redacted]

SID#: **01398242**

SCDC#: **311120**

Indictment Numbers:
18-GS-38-00196, 18-GS-38-00197

Warrant Numbers:
W-32-19-0065

Offense and Offense Code(s):
3436 - Forgery, value less than $10,000; 3436 - Forgery, value less than $10,000

Supervision Program: **Probation**
Supervision Level: **Jail**
Begin Date: **11/6/2018**
End Date: **11/5/2020**
Sentencing Judge: **2153 - Dickson, Edgar**
Sentencing County: **ORANGEBURG**
Sentencing Date: **11/6/2018**
Location (Bold Response): **Jail**

Sentence:

4 YRS SS TIME SERVED OF 187 DAYS; SS TO 2 YRS PROBATION, 4 YRS 187 DAYS TIME SERVED SS TO 2 YRS PROBATION

Special Conditions:

Fine - SUBJECT IS TO PAY $643.75 TOWARS ALL Fine / Fine/Costs and Assessments payable as directed by the Court.

Current Address and Summary of Residence:

Type	Begin Date	End Date	Address
HOME	4/12/2017		[redacted]

Subject's whereabouts were unknown. He left his approved residence on 2/9/19 and again on 3/19/19.

History Address and Summary of Residence:

Type	Begin Date	End Date	Address
HOME	4/18/2014	4/12/2017	[redacted]
HOME	4/16/2014	4/17/2014	
HOME	8/26/2013	4/15/2014	
HOME	1/8/2013	8/25/2013	
HOME	11/2/2012	1/7/2013	
HOME	12/11/2011	11/1/2012	
HOME	9/15/2011	12/10/2011	
HOME	4/15/2011	9/14/2011	
HOME	2/4/2011	4/14/2011	
HOME	10/1/2009	2/4/2011	
HOME	11/24/2005	10/1/2009	
HOME	4/4/2005	11/23/2005	

Reporting:

He missed group on 3/19/19 and an office visit scheduled for 3/19/19.

Employment Records While Under Supervision:

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

Offender's Name: **DISHSHI RODRICKUS YOUNG**

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
[redacted]	11/28/2018 -		$1,600.00
	12/5/2005 - 2/8/2011		$1,000.00
	2/9/2011 - 12/19/2018		
	4/12/2017 - 12/19/2018		
	12/19/2017 - 11/28/2018		$1,200.00

He has not brought any proof of employment.

Financial Conditions:

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Court Ordered Fines	$643.75	$27.00/M	$0.00		$135.00	$0.00
Dept. Admin. Ct. Ordered Rest.	$660.22	$34.00/M	$34.00	12/11/2018	$136.00	$0.00
Dept. Admin. Ct. Ordered Rest.	$356.26	$15.00/M	$14.00	12/11/2018	$61.00	$0.00
Drug Test Fee	$20.00	$20.00/M	$0.00		$20.00	$0.00
Regular Supervision	$1,750.00	$50.00/M	$100.00	5/9/2018	$700.00	$0.00
Surcharge	$20.00	$20.00/M	$0.00		$20.00	$0.00

He is in arrears on his financial obligations.

Prior Violation Dates	Prior Violations	Prior Violation Disposition

Details of the Present Violation:

W-32-19-0065

Subject has violated his probation in the following manner: He changed his residence from 2719 Old Barnwell Road, Lexington to an unknown residence. Spoke to his wife and she confirmed that he left the residence on 2/9/19. Failing to refrain from the use of illegal substances. He tested positive on 1/18/19 for marijuana and he tested positive and voluntarily admitted to using amphetamines, methamphetamines, and marijuana on 1/25/19. He has failed to pay a $20.00 Drug Test, a court fine at $27.00 a month being $81.00 in arrears, he has failed to pay a surcharge at $20.00 a month being $20.00 in arrears. He has two restitution accounts. One is $34.00 a month with a $68.00 arrearage and one is $15.00 a month with a $31.00 arrearage. He has failed to follow the direct instruction of his agent. Such actions constitute a violation of Sections 2, 3, 7, 9, and 10 of the original probation order dated 11/6/18.

W-32-19-0139

Subject has violated his probation in the following manner: He has failed to report for group on 3/19/19 and an office visit scheduled for 3/19/19. He changed his residence from 2719 Old Barwell Road, Lexington SC 29073 to an unknown location in Greenville SC. He failed to allow his agent to do a home visit as he changed his residence on 3/19/19 to Greenville SC. Subject also called on 3/20/19 and 3/25/19 stating he was in Greenville. He gave no address and left no phone number. He said he didn't know when he was going to be back. Such actions constitute a violation of Sections 1, 2, 10 of the original probation order dated 11/6/18. This warrant is in addition to warrant W-32-19-0065 issued on 2/13/19 and served on 2/14/19.

Agent's Recommendation:

Partial revocation 12 months and continue. Restructure restitution, fine and other fee accounts upon release. Must attend/comply with all conditions of substance abuse counseling. Zero tolerance for future violations. If any, refer case directly back to court. Extend probation to the full 5 years.

South Carolina Department of Pr[redacted]tion, Parole and Pardon Service[redacted]
Violation Report

Offender's Name: **DISHSHI RODRICKUS YOUNG**

Agent's Justification:

Subject has absconded on 2 occasions. He left his residence on 2 separate times without getting permission from his agent. He hooked up with an offender from group and they started to use methamphetamines and marijuana. He failed to report and he has failed to pay his financial obligations. He received this probation case while on for probation for DV2nd. He continues to show by his actions that he is not a good candidate for probation and his record shows he is a danger to the community.

Note: Subject has a very serious rap sheet. His convictions are as follows: Petty Larceny-1/21/2002; Petty Larceny-7/10/02; Poss. 28 g or less of marijuana-3/11/04; Failure to obey traffic control device and DUS-9/22/04; Lewd Act on child <16-9/8/05; Poss. <1 gram ice/ crack-12/4/06; Petty Larceny-6/29/09; Forgery-10/15/09; Forgery <5000 X3-10/15/09; Forgery <5000 X3 and indecent exposure-2/3/11; Sex Offender Registry Violation-4/15/11; Sex Offender Registry Violation 2nd-3/14/12; DUS-6/17/13; Indecent Exposure-4/25/14; DVHAN-3/29/17; Habitual Traffic Offender-12/14/17; DUS-11/28/17; DV 2nd-12/14/17; Entering premises after warning-12/12/18

Hearing Officer Recommendation:

Hearing Officer Justification:

Lisa S. Baker Senior DV Agent Date: 04/24/2019

Supervisor's Signature Dilli C. Fordham Date: 4/30/19

SCANNED AUG-06-2019

FORM 5

FILED
2019 AUG -6 PM 3:52
LISA M. COHEN
CLERK OF COURT
LEXINGTON SC

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF Lexington)

Full name and prison number (if any) of Applicant.
Dishshi Young, 311120

v.

State of South Carolina

2019-CP-32-03140

APPLICATION FOR

POST-CONVICTION RELIEF

SEE Attachment (2) Pages of grounds.

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention KCJ
2. Name and location of Court which imposed sentence Lexington County 11 Circuit.
3. Name(s) of co-defendant(s) (if any) X
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
   (a) 18GS.3800196 - 18GS.3800197 (2017GS3201412)
   (b) 17GS 32-01412
   (c) W 32-19-0139. W. 32-18 0138
5. The date upon which sentence was imposed and the terms of the sentence:
   (a) 18 months MARCH 29/2017 (14) YEARS Sentence
   (b) All in Lexington County Courthouse (11) Circuit

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Lex. Co. C.C.C.P., G.S. & F.C.

SCANNED AUG-06-2019

(c) ✓ pleas guilty. By ~~Jury Trial~~

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty ____

(c) after a plea of nolo contendere ____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

No the lawyer never inform young to appeal.

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. NON

ii. ____

iii. ____

(b) the result in each such Court to which you appealed:

i. NON

ii. ____

iii. ____

(c) the date of each such result: NON

i. ____

ii. ____

iii. ____

(d) if known, citations of any written opinion or orders entered pursuant to such results: UNKNOWN

i. ____

ii. ~~____~~

iii. ~~____~~

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) The lawyer never told me to ~~Appeal~~.

(b) ____

(c) ____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Denied me the Right to Appeal. Was never inform that Right to Appeal the Conviction And Sentence

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(b) ____

(c) ____

11. State concisely and in the same order the facts which support each of the grounds set out in (10): See Attach Page on grounds.

(a) ____

(b) ____

(c) ____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? ____ NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. ____

ii. ____

iii. ____

iv. ____

(b) the name and location of the Court in which each was filed:

i. ____ S.C. Circuit Court

ii. ____ Eleventh Circuit

iii. ____ Lexington County,

iv. ____

(c) the disposition thereof:

i. ____

ii. ____

iii. ____

iv. ____

(d) the date of each such disposition:

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SCANNED AUG-06-2019

i. ____

ii. ____

iii. ____

iv. ____

(c) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. NO

ii. ____

iii. ____

iv. ____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N/E

ii. ____

iii. ____

(b) the proceedings in which each ground was raised:

i. NO

ii. ____

iii. ____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) ____

(b) N/A

(c) ____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes, he was ineffective assistance of counsel

(b) your trial, if any? ____

(c) your sentencing? 4 years. 18 Running World

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(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? ✓ NO

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? ____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. ____

ii. ____

iii. ____

(b) the proceedings at which each such attorney represented you:

i. Lexington County public defender.

ii. ____ County of Lexington SC

iii. ____

19. State clearly the relief you seek in filing this application:

Give A new TRIAL.

20. Are you now under sentence from any other court that you have not challenged?

NO.

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STATE OF SOUTH CAROLINA)
) VERIFICATION
County of)

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Dishshi Rodricklus young.

SWORN to and subscribed before me this 2nd day of August, 2019.

(L.S.)
Notary Public

BETH A. MANGOLD
Notary Public, State of South Carolina
My Commission Expires 8/10/2028

My Commission Expires:

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SCANNED AUG-06-2019

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

s/ D [illegible]
Applicant

SWORN or affirmed to and subscribed before me this 2nd day of August, 2019.

[illegible] Mangold
Notary Public

BETH A. MANGOLD
Notary Public, State of South Carolina
My Commission Expires 8/10/2028

My Commission Expires:

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[illegible]
Lex. Co. C.C.O.P., G.S. & F.C.

SCANNED AUG-06-2019

NAMES of the Parties. And address.
Also See Attach Pages of (2) Grounds. Relief.
of South Carolina. Lexington County Public
defender office.

(1) defendant. Dishshi K. young. 311120
F.3. 236 B.
Kirkland Correctional institution
4344 Broad River Road.
Columbia. South-Carolina 29210.

(2) office of the public defender.
Elizabeth fullwood
Lexington public defender
202 East main Street
Lexington S.C. 29072.
803. 785-8873 fax 803-785.1443.

(3) Court Reporter of Lexington County
Stacy Sheppard, Court Reporter.
Address unknown At this time.

please forward Me. A copy of my Appeal. And
I" left A opened for Amended of my PCR
Application. Please Appoint Me A Attorney
sent his or her names And address Direct
to Me the Above Address.

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SCANNED AUG 06 2019

Application for Post Conviction Reliefs. PCR.

This is July 26/2019.

"Pray for Relief states Below."

(1) the Applicant Above Captioned Respectfully move This Honorable Court pursuant to S.C. Code of Law 17-27-10 of the uniform Post Conviction Act Sub title 17-27-90 to leave open for Amended His Original Application for Post Conviction Relief And request that this Court grant the Reliefs sought,

NOW. Grounds. Below:

(2) The defendant States That After the Conclusion of His pleas. Trial, Counsel failed to properly Advise Him of His right to Appeal, An indigent defendant has the right to be informed of an Appeal And the Manner for taking the Appeal."

(3) pleas. Guilty pleas Counsel was informed by defendant desire to Appeal from the Judgement of his pleas Sentence. Counsel did not informed defendant of Methods or step in taking Appeal. After the pleas of guilty, Counsel Should have Made Certain that the defendant was fully Aware of his Rights And in the Absence of an intelligent Waiver By the defendant either pursued An Appeal in His Behalf. or Else, if deemed Appropriate By Counsel.

(4) There is evidence that Counsel informed defendant the Rights to Appeal or he will filed An Appeal. leave open Amended

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SCANNED AUG-06-2019

(5) defendant received ineffective Assistance of Counsel At plea guilty hearing Inasmuch Counsel failed to Conduct An Adequate PRETRIAL pleas of guilty or filed any PRETRIAL Motions which enforced defendant to overthrew His innocent to pleas of guilty."

(6) Counsel failed to Conduct An Adequate PRETRIAL investigation of defendant defense, To the Charged Crimes. forced defendant to pleas of Guilty, that Counsel was ineffective Assistance of Counsel for failing to Conduct Necessary investigative Means during Counsel Representation, Counsel did not talked to the Alleged Victim, Witnesses or Doctor involved in defendant Case. Counsel erroneous Choice to not to Challenged the VARACITY of the State Witnesses Truthfulness is clear error. There exists no Specific Amount of time which Counsel must Spend in Preparation for TRIAL or hearing upon A guilty pleas. each Situation Must Be Judged upon its own Circumstance and in light of His own degree of Complexity.

(7) Where Counsel failed to requested Continuance, Spend inAdequate time with defendant. Counsel were ineffective Assistance of Counsel. The Court should granted NEW TRIAL — defendant respectfully requested for Amended His Application.

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ALAN WILSON
ATTORNEY GENERAL

February 24, 2020

The Honorable Lisa M. Comer
Clerk of Court, Lexington County
205 East Main Street, Suite 128
Lexington, South Carolina 29072

Re: Dishshi Young, #311120 v. State of South Carolina
2019-CP-32-3140

Dear Ms. Comer:

Enclosed please find the original **Return and Partial Motion to Dismiss** in the above-captioned case for filing in your office.

Sincerely,

Taylor Z. Smith
Assistant Attorney General

TZS/ch
Enclosure

Cc: Ashely A. McMahan, Esquire

STATE OF SOUTH CAROLINA COUNTY OF LEXINGTON	)	IN THE COURT OF COMMON PLEAS FOR THE ELEVENTH JUDICIAL CIRCUIT
Dishshi Young, #311120, Applicant, v. State of South Carolina, Respondent.	)	2019-CP-32-3140 **RETURN AND PARTIAL MOTION TO DISMISS**

The State (Respondent), making its return to the application for post-conviction relief filed by Dishshi Young (Applicant) on August 6, 2019, would respectfully show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. On March 29, 2017, Applicant appeared before the Honorable Thomas W. Cooper, Jr., waived presentment for an indictment for second-degree domestic violence (2017-GS-32-1412), and pleaded guilty. Applicant was represented by Assistant Public Defender Jason B. Turnblad (plea counsel), and Assistant Solicitor Shannon A. Davis, of the Eleventh Circuit Solicitor's Office, prosecuted the case. Judge Cooper sentenced Applicant to imprisonment for eighteen months, suspended based upon the time already served, with probation for eighteen months. Judge Cooper ordered that, as a condition of probation, Applicant must undergo mental health counseling and drug abuse counseling, as well as be subject to drug testing and further counseling.[1] Applicant did not appeal his conviction or sentence.

II. Current Application

Applicant filed his application for post-conviction relief on August 6, 2019. He alleged

1 The transcript from the plea hearing indicates that Applicant had served 141 days.

therein that he was entitled to post-conviction relief for the following reasons:

1. Ineffective assistance of counsel:
   a. Plea counsel failed to file pre-trial motions;
   b. Plea counsel failed to conduct an adequate pre-trial investigation;
   c. Plea counsel failed to challenge the veracity of the State's witnesses; and
   d. Plea counsel failed to move for a continuance; and
2. Applicant did not knowingly and voluntarily waive his right to direct appellate review.

Applicant requests that he be granted post-conviction relief in the form of a new trial. Attached to this return and incorporated herein by reference are the records of the Lexington County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the transcript from Applicant's plea hearing, and the application for post-conviction relief. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III. Summary Dismissal Based on Statute of Limitations

All of Applicant's allegations, with the exception of Applicant's claim that he did not knowingly and voluntarily waive his right to direct appellate review, should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160 (the Act). Specifically, the Act requires as follows:

> An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of offense or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision on appeal, whichever is later.

S.C. Code Ann. § 17-27-45(A).

The South Carolina Supreme Court has held the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations.

McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, section 17-27-70(c) of the South Carolina Code authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." S.C. Code Ann. § 17-27-70(c).

In this case, Applicant was sentenced on March 29, 2017. Therefore, the application for post-conviction relief was due to be filed on or before March 29, 2018. Applicant's application was not filed until August 6, 2019, a date which occurred after statutory filling period had already expired. Therefore, the application should be summarily dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act, with the exception of the claim that Applicant did not knowingly and voluntarily waive his right to direct appellate review. Respondent moves for this summary dismissal.

IV. Response to Applicant's White v. State[2] Claim

Applicant claims that he did not knowingly and voluntarily waive his right to direct appellate review. The one-year limitations period in which to file a petition for post-conviction relief does not apply where the defendant alleges he was denied a direct appeal due to ineffective assistance of counsel. Wilson v. State, 348 S.C. 215, 218, 559 S.E.2d 581, 582-83 (2002). In White, the South Carolina Supreme Court held that, even though the post-conviction relief court may find that an applicant did not voluntarily and intelligently abandoned his right to a direct appeal, the PCR court does not have jurisdiction to grant a belated appeal. However, when an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the post-conviction relief

2 263 S.C. 110, 119, 108 S.E.2d 35, 39 (1974).

decision, will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected. Id. at 119, 108 S.E.2d at 39-40.

Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either: (1) that a rational defendant would want to appeal or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470 (2000). When counsel has consulted with the defendant regarding the right to appeal, "Counsel performs in a professionally unreasonable manner *only* by failing to follow the defendant's express instructions with respect to an appeal." Id. at 478 (emphasis added). In order to establish he was prejudiced by counsel's failure to file an appeal, Applicant must show he would have appealed absent counsel's deficient performance. See Id. 528 at 484. "Acts inconsistent with the continued assertion of a right, such as a failure to insist upon the right, may constitute waiver." Bonnette v. State, 277 S.C. 17, 18, 282 S.E.2d 597, 598 (1981).

Respondent submits Applicant cannot meet his burden showing he is entitled to a belated appeal pursuant to White. However, because this allegation may raise questions of fact not conclusively refuted by the record, Respondent requests an evidentiary hearing to fully resolve the matter. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (holding that an evidentiary hearing is required when an application for post-conviction relief alleges specific instances of ineffectiveness that are not conclusively refuted by the record) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

V. Denial of All Other Claims

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

VI. Future Amendments and the Discovery Process

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant is represented by counsel, that attorney and not the Applicant is the only individual authorized to file amendments to this application for post-conviction relief. See Rule 11, SCRCP. Pro se filings will not be considered at the evidentiary hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent pursuant to Love v. State, Op. No. 27921 (S.C. Sup. Ct. filed October 2, 2019) (Shearouse Adv. Sh. No. 39 at 14), or, alternatively, Respondent will move for a continuance in the matter. See Love, at 24 (Kittredge, J., dissent) ("If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.").

VII. Conclusion

WHEREFORE, Respondent requests a hearing in order to determine whether Applicant knowingly and voluntarily waived his right to a direct appeal and requests that the remaining allegations be summarily dismissed.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

TAYLOR ZANE SMITH
Assistant Attorney General

By:
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

February 24, 2020

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
	)	**2019-CP-32-3140**
	)	
DISHSHI YOUNG, #311120	)	
	)	
Applicant,	)	
	)	
vs	)	CERTIFICATE OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent,	)	
	)	

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Return, and Partial Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ashley A. McMahan, Esquire
McMahan & Taylor, Attorneys, LLC
Post Office Box 5501
West Columbia, South Carolina 29169

DATED this the 24th day of February, 2020.

Camille Henry
Camille Henry, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	FOR THE 11th JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	Case No.: 2019-CP-32-03140
Dishshi R. Young, #311120	)	
	)	
Applicant,	)	**AMENDED POST-CONVICTION**
	)	**RELIEF APPLICATION**
v.	)	
	)	
State of South Carolina.	)	
	)	

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on August 6, 2019:

Amended Procedural History

On June 7, 2019, the Applicant went before the Honorable Frank. R. Addy, Jr. for a probation revocation hearing at the Lexington County Courthouse. At the hearing Judge Addy revoked the Applicant's probation in full and ran the revocations consecutive.[1] The Applicant attempted to appeal the revocation of his probation, however the appeal was ultimately dismissed by the Court of Appeals on August 9, 2019, for failure to properly serve the Notice of Appeal. The Remittitur was sent on August 29, 2019.

Amended Allegations

Applicant had been in contact with Assistant Public Defender Hallie Willm prior to his revocation hearing. He had met with her along with his probation agents and was told she would be present at the time of the revocation hearing. Ms. Willm was not present at the hearing.

The right to counsel attaches in probation revocation hearings. The requirements for waiving right to counsel in a probation revocation hearing are the same requirements as apply when a defendant desires to waive right to counsel in a trial. The trial judge has the duty to ensure that the defendant makes an intelligent

[1] The Applicant was revoked not only on the Lexington domestic violence conviction on this date but also on two counts of forgery from Orangeburg County.

and competent waiver of counsel. The trial judge should advise the defendant of his right to counsel, and adequately warn the defendant of the dangers of self-representation. *See* Salley v. State, 306 S.C. 213, 410 S.E.2d 921 (1991).

Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application and this Amended Application. *See* Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,

ASHLEY A. MCMAHAN, ESQUIRE
MCMAHAN & TAYLOR ATTORNEYS, LLC
PO Box 5501
West Columbia, SC 29171
803-219-1110
ashley@macvance.com
SC Bar No. 71676
ATTORNEY FOR APPLICANT

April 6, 2020

CERTIFICATE OF SERVICE

I certify that I have served this document via e-mail to:

Taylor Z. Smith
Assistant Attorney General
SC Attorney General's Office
tsmith@scag.gov

This 6th Day of April, 2020.

ASHLEY A. MCMAHAN, ESQUIRE
Attorney for Applicant

42

STATE OF SOUTH CAROLINA
County of Lexington

STATE vs. Dashon Young

Race: B Sex: M
DOB: [redacted]
SSN:
SID# 1391242

IN THE COURT OF GENERAL SESSIONS
Indictment Number:
2017 - GS - 32 - 1412
Probation C/W#s: W-32-19-0004
W-32-19-0138
Name of Original Offense: PWID 3rd
Original A/W#: 2016A3210202087
Date of Original Offense: 11-7-16
Conviction S.C. Code §: 44-53-375(C)
Conviction CDR Code #: 3 / 50 / 1 / 2
Original Sentence: 10 months SS +5 18mo prob.

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 05/24/17 in the Court of General Sessions of Lexington County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 12-19-17, 5-9-18, as set forth in the attached warrant(s) or citation(s) dated 2-13-19. 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)*
5-27-19

Therefore, IT IS ORDERED that:

☒ the suspended sentence be revoked and the above named defendant be required to serve 18 (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:

☒ The defendant is given credit for pre-revocation 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 7th day of June, 2019, Lexington, SC

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) day of _____ (Month Year) at _____ (City) SC

DPPPS Form 9 (Stock) Revision: F Revision Date 11-20-2016 Copy Distributions: White-Clerk of Court; Yellow-SCDC; Pink-Offender File; Gold-Offender

V

STATE OF SOUTH CAROLINA
County of Lexington

STATE vs. Shaun Young

~~AKA~~:
Race: B Sex: M
DOB: [redacted]
SSN:
SID# 1398242

IN THE COURT OF GENERAL SESSIONS

Indictment Number:
2018 - GS - 32 - 196
Probation C/W#s: W-32-19-0085
W-32-19-0139
Name of Original Offense: Forgery (Check)
Original A/W#: 201 FA3208000135
Date of Original Offense: 6-19-17
Conviction S.C. Code §: 16-13-10
Conviction CDR Code #: 3/4/3/4
Original Sentence: 4 yrs SES 5 yrs Prob.

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 11 / 2018 in the Court of General Sessions of Orangeburg County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on _____, as set forth in the attached warrant(s) or citation(s) dated 3-13-19 3-27-19. 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)*
1, 2, 10

Therefore, IT IS ORDERED that:

☐ the suspended sentence be revoked and the above named defendant be required to serve 4 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: Consecutive to 2017-1412
Concurrent to 2018-0197

☒ The defendant is given credit for pre-revocation 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 7th day of June, 2019, Lexington, SC

Presiding Judge

1st 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) day of _____ (Month Year) at _____ (City) SC

44

V

STATE OF SOUTH CAROLINA
County of Lexington

STATE vs. Dishon Young

~~AKA~~:
Race: B Sex: M
DOB: [redacted]
SSN:
SID# 1391242

IN THE COURT OF GENERAL SESSIONS
Indictment Number:
2018 - GS - 30 - 197
Probation C/W#s: W-32-19-0005
W-32-19-0139
Name of Original Offense: Forgery <10,000
Original A/W#: 2017A3220600237
Date of Original Offense: 12-21-17
Conviction S.C. Code §: 16-13-10
Conviction CDR Code #: 3/4/3/4
Original Sentence: 4 yrs. 55 ps 2 yrs Prob.

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 11 / Apr / 19 in the Court of General Sessions of Orangeburg County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on _____, as set forth in the attached warrant(s) or citation(s) dated 2-13-19 3-27-19. 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)*
1, 2, 10

Therefore, IT IS ORDERED that:

☒ the suspended sentence be revoked and the above named defendant be required to serve 4 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: Consecutive to 2017-1412
Concurrent to 2018-0196

☒ The defendant is given credit for pre-revocation 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 7th day of June, 2019, Lexington, SC

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
Day Month Year City

The State of South Carolina
In the courts of appeals
In the Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Frank R. Addy, Circuit Court Judge

RECEIVED
JUN 21 2019
SC Court of Appeals

Case No. W-32-19-0138
Case No. W-32-19-0139

The State ..... Respondent
v.
Dishshi R. Young ..... Appellant

NOTICE OF APPEAL

Dishshi R. Young appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Judge Addie on June 7, 2019.

Sworn and Subscribed to me
this 19th day of June, 2019.
B Mangold

BETH A. MANGOLD
Notary Public, State of South Carolina
My Commission Expires 8/10/2028

s/ Dishshi R. Young

Dishshi R. Young #311120
Kirkland C. I. - F3-236B
4344 Broad River Rd.
Columbia, S.C. 29210

June 17, 2019

THE STATE OF SOUTH CAROLINA
In the Court of appeals
In the Supreme courts

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Frank R. Addy Circuit Court Judge

RECEIVED
JUN 21 2019
SC Court of Appeals

Case No. W-32-19-0138
Case No. W-32-19-0139

Probation, Parole, + Pardon ..... Respondent
Dishshi R. Young ..... Appellant

PROOF OF SERVICE

I certify that I have served Notice of appeal on Probation, Parole + Pardon Service by depositing a copy of it in the United states mail postage pre-paid on June 18, 2019 addressed to Honorable Lisa Comer. 205 E. Main St. Lexington, S.C. 29072

Sworn and Subscribed to me
this 19th day of June, 2019.
B Mangold

BETH A. MANGOLD
Notary Public, State of South Carolina
My Commission Expires 8/10/2028

Dishshi Young
Dishshi Young
Kirkland C.I. RE
4344 Broad River Rd
Columbia, S.C. 29210

LEGAL MAIL ONLY

Honorable Jenny Kitchens
South Carolina Court of appeals
P.O. Box 11662
Columbia, S.C. 29211

RE: THE STATE V. DISHSHI R. YOUNG
Warrant(s): W-32-19-0138 / W-32-19-0139
Indict(s)# 17-GS-32-01412 / 18-GS-38-00196

Honorable:

Enclosed is one timely Notice of appeal Upon receipt please file accordingly with the folling parties.

(1) Sal Lugos Scopps
605 West Main st.
Lexington, S.C. 29072

RECEIVED
JUN 21 2019
SC Court of Appeals

(2) Honorable Frank R. Addy
Chief adminstrative Judge elevengly Circuit
General Session Court Lexington County
205 East Main Street
Lexington, S.C. 29072

Sworn and Subscribed to me
this 19th day of June, 2019
[signature]
BETH A. MANGOLD
Notary Public, State of South Carolina
My Commission Expires 8/10/2028

Respectfully sumitted
Dishshi Young
4344 Broad River Rd
Columbia, S.C. 29210

June 18, 2019

Dishshi R. Young #311120-F3/236B
Mailroom
Kirkland Correctional Institution
4344 Broad River Road
Columbia, S.C. 29210

COLUMBIA
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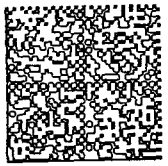

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Jenny Kitchens
S.C. Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

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JUN 21 2019
SC Court of Appeals

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48

29211-162929

The South Carolina Court of Appeals

The State, Respondent,

v.

Dishshi Rodrickus Young, Appellant.

Appellate Case No. 2019-001021

ORDER

The notice of appeal arises out of a probation revocation hearing that occurred on June 7, 2019. The appellant, representing himself pro se, served the notice of appeal on the Clerk of Court for Lexington County but not on counsel for the Department of Probation, Parole, and Pardon Services. Additionally, the notice of appeal that was served only on the Clerk of Court was served on June 18, 2019, which is 11 days after probation was revoked. Accordingly, the appeal is dismissed for failure to timely serve the notice of appeal on the respondent. *See State v. Devore*, 416 S.C. 115, 119, 784 S.E.2d 690, 692 (Ct. App. 2016) ("The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice." (quoting *USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 651, 661 S.E.2d 791, 795 (2008))). The remittitur will be sent pursuant to Rule 221(b) of the South Carolina Appellate Court Rules.

, C.J.
FOR THE COURT

Columbia, South Carolina

cc:

FILED
August 9, 2019

Dishshi Rodrickus Young, 311120
Robert Michael Dudek, Esquire
Robert Douglas Mellard, Esquire
Jason B. Turnblad, Esquire
Matthew C. Buchanan, Esquire

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 29, 2019

The Honorable Winnifa Brown-Clark
PO Box 9000
Orangeburg SC 29115-9000

The Honorable Lisa M. Comer
205 East Main Street
Suite 128
Lexington SC 29072

REMITTITUR

Re: The State v. Dishshi R. Young
Lower Court Case No. 2017GS3201412, 2018GS3800196
Appellate Case No. 2019-001021

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

CLERK

Enclosure

cc: Dishshi Rodrickus Young, 311120
Robert Michael Dudek, Esquire
Robert Douglas Mellard, Esquire
Jason B. Turnblad, Esquire
Matthew C. Buchanan, Esquire

ASHLEY A. MCMAHAN,
Esquire

. Dr. APRIL N. TAYLOR,
Esquire

McMAHAN & TAYLOR
ATTORNEYS LLC

April 7, 2021

Lisa M. Comer
Lexington County Clerk of Court
ATTN: PCRs
205 East Main Street, Suite 128
Lexington, SC 29072

Re: Dishshi R. Young, #311120 v. State of South Carolina
2019-CP-32-03140

Dear Ms. Comer:

Please find enclosed a second Amended PCR Application for filing.

Should you have any questions, I can be reached at the number listed below.

Best regards,

Katie Bennett
Law Clerk for
ASHLEY A. MCMAHAN
ATTORNEY AT LAW

AAM/kmb
Enclosures

cc: Dishshi R. Young
AG (by email)

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	FOR THE 11th JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	Case No.: 2019-CP-32-3140
	)	
Dishshi Young, #311120,	)	
	)	
Applicant,	)	**AMENDED POST-CONVICTION RELIEF APPLICATION**
	)	
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on or about August 6, 2019, to add the following allegations:

1. Ineffective Assistance of Counsel as to Probation Revocation Counsel
   a. Probation Revocation Counsel failed to argue Dishshi Young should get credit towards his probation for time served in Orangeburg Detention Center.

Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. *See* Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,

ASHLEY A. MCMAHAN, ESQUIRE
MCMAHAN & TAYLOR ATTORNEYS, LLC
PO Box 50536
Columbia, SC 29250
803-219-1110
ashley@mcmahantaylor.com
SC Bar No. 71676
ATTORNEY FOR APPLICANT

April 7th, 2021

CERTIFICATE OF SERVICE

I certify that I have served this document via email to:

Taylor Z. Smith
Assistant Attorney General
SC Attorney General's Office
tsmith@scag.gov

This 7th Day of April, 2021.

ASHLEY A. MCMAHAN, ESQUIRE
Attorney for Applicant

State of South Carolina	)	Court of Common Pleas
	)	11th Judicial Circuit
County of Lexington	)	Case No. 2019-CP-32-03140
	)	
	)	
Dishshi Young,	)	
	)	
Applicant,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

April 28, 2021
Lexington, South Carolina
Via WebEx

B E F O R E:

The Honorable Debra R. McCaslin, Judge

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

Ashley A. McMahan, Esquire
Attorney for the Applicant

Taylor Smith, Esquire
Attorney for the State

Proceedings taken down electronically

Transcribed by:
Krystal J. Smith
Official Circuit Court Reporter

I N D E X

WITNESS/DESCRIPTION	PAGE NUMBER
Dishshi Young	
Direct by Ms. McMahan	7
Cross by Mr. Smith	15
Redirect by Ms. McMahan	15
Applicant Rests	16
Kebra Simpson	
Direct by Mr. Smith	17
Cross by Ms. McMahan	22
Redirect by Mr. Smith	29
State Rests	34
Court Reporter Certification	37

STATE'S EXHIBITS

NO.	DESCRIPTION	ID.	EV.
1	Order		33

COURT REPORTER LEGEND

dashes	--	intentional or purposeful interruption or change in thought
ellipses	. . .	trailing off
[*ph*]		phonetically written
[*sic*]		written as said

APRIL 28, 2021

(WHEREUPON, the proceedings began at 3:29 p.m. All parties were present via WebEx taken down through electronic recording.)

THE COURT: Docket Number 2019-CP-32-03140.

Mr. Young, can I get you to raise your right hand for me? Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

THE APPLICANT: Yes, I do.

THE COURT: Okay. Mr. Young, do you see Ms. McMahan on the screen?

THE APPLICANT: Yes, ma'am, I do.

THE COURT: Okay. If at any time you need to speak with your lawyer, please let me know and I'll make sure that we can make some arrangements and have that happen for you. Okay?

THE APPLICANT: Yes, ma'am.

THE COURT: Also, we are on video. You have the right to have your PCR heard in person. However, we're on video, and if you want to waive your right, we will proceed today and go forward with your hearing on video. Do you waive your right?

THE APPLICANT: Yes, ma'am.

THE COURT: Are you sure?

THE APPLICANT: Yes, ma'am. I was just looking at my

lawyer first.

THE COURT: Okay. Well, I mean it's up to you. If you want an in-person hearing, I can make that happen for you. I'll make them bring you to Lexington.

THE APPLICANT: I'm good. I waited long enough.

THE COURT: Okay. All right. Well, let me just tell you this.

That when you ask for post-conviction relief, which is what we're doing here today, there are only two things that can happen. First, if I find you're not entitled to post-conviction relief, you will have to serve whatever part of the sentence you have left to serve. Do you understand that?

THE APPLICANT: Yes, ma'am.

THE COURT: However, if I grant it, I will vacate your conviction and sentence and send this case back for further proceedings, and that starts from scratch. That means if any charges that you pled to were reduced or dropped, you could be facing the original charges again. Do you understand that?

THE APPLICANT: Yes, ma'am.

THE COURT: All right. Knowing all of that, do you still want to go forward with your PCR?

THE APPLICANT: Yes, ma'am.

THE COURT: Okay. Ms. McMahan, I'll let you call your first witness.

MS. MCMAHAN: Yes, Your Honor. If I could just clarify beforehand, he is actually challenging a probation revocation. So his form of relief would be a new probation revocation hearing.

THE COURT: Okay. All right. I apologize.

Do you understand that, Mr. Young, that it's a probation rev? Is this the one from Judge Addy?

THE APPLICANT: Yes, ma'am.

MS. MCMAHAN: Yes, Your Honor.

THE COURT: I just read that transcript before we got on. Okay.

Do you understand you could go back? It doesn't mean you get out of your probation revocation, you know, if I grant it. It just means you're going to go back and do it all over again. Do you understand?

THE APPLICANT: Yes, ma'am.

THE COURT: Okay. All right. I'm going to leave it to Ms. McMahan then.

MS. MCMAHAN: Your Honor, the applicant calls Mr. Young.

THE COURT: All right. Mr. Young, I'm going to tell you I've already sworn you in. So you're under oath. Okay?

THE APPLICANT: Yes, ma'am.

THE COURT: All right. Let's proceed.

DISHSHI YOUNG, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. MCMAHAN:

Q: Mr. Young, would you state your full name for the record, please?

A: Dishshi Rodrickus Young.

Q: And did you file this application for post-conviction relief?

A: (Indiscernible.)

Q: Okay. But you wanted to file this application; right?

A: Yes, ma'am. I did. I mean I wasn't -- I wasn't notified that she could have, like, where you get time and then you can come back, like, within a certain number of days. I didn't remember Ms. Kebra notifying me at all about this. I would've tried to fill that out or something because I felt like I got too much time.

Q: Okay. We're just going to back up a little bit and then we'll get to that. Okay? So prior to your probation revocation hearing, where were you?

A: With my wife in Columbia.

Q: Okay. But you had been arrested in Orangeburg too, had you not?

A: Yes, ma'am. St. Matthews.

Q: Okay. And so when you had the probation revocation hearing, it involved a Lexington case and the two Orangeburg cases?

A: Yes, ma'am.
Q: Is that right?
A: Yes, ma'am.
Q: Okay. And so today you're challenging Judge Addy's revocation of all three of those charges?
A: Yes, ma'am.
Q: Is that right?
A: Yes, ma'am.
Q: Okay. Prior to the hearing, had you been dealing with Ms. Willm most of the time?

MR. SMITH: I have -- I have a legal issue to take up. I'm sorry.

THE COURT: Okay.

MR. SMITH: Your Honor, I don't think that Mr. Young can challenge his -- all of his probation revocations because two of them were in Orangeburg. For him to be able to do that, he would have to have filed an application in Orangeburg County. He only filed one in Lexington County. So the State's position is that he can only get relief on the Lexington County revocation.

THE COURT: All right. Hold on here because I've got that transcript. Did it encompass --

MR. SMITH: And I'm sorry for jumping in with that. I didn't expect it. So I wanted to make sure we discussed that before we got too -- too much longer along.

THE COURT: All right. But was his -- was he -- was the Orangeburg cases transferred to Lexington?

THE APPLICANT: Yes, ma'am.

MS. MCMAHAN: Your Honor, that was going to be my next question, if I could.

BY MS. MCMAHAN:

Q: Mr. Young, were your case -- your probation matters, were they all transferred to Lexington?

A: Yes, ma'am. I already had --

Q: Were you serving all of your probation in Lexington?

A: I had 18 months left in the Lexington case and then I got the four years.

Q: Okay. But you were -- you were convicted in Lexington for domestic violence, and you were sentenced to probation; correct?

A: Yes, ma'am.

Q: And then you were convicted in Orangeburg County and got probation. Were you reporting to the probation office in Lexington for all of these?

A: Yes, ma'am, I was.

THE COURT: All right. Mr. Smith, what about that?

MR. SMITH: Your Honor, I believe that the probation revocation records from Orangeburg County showed that they're still -- that he was revoked in Orangeburg. I'm looking at it now.

THE COURT: Well, I'm looking at this transcript, and they brought him in. I see a case number W32190064 and then W32190138. Those are the only two cases that I see.

MS. MCMAHAN: Your Honor, if I may?

If you look at my amended application, the first one, I attached all the probation sheets to it. And if you look, Judge Addy signed all of these on June 7th, 2019, in Lexington County.

Related, if you look at the top, it says County of Lexington and then it says Mr. Young. Then it gives you the case number. One of them is 32 for Lexington and then the other shows 38 for Orangeburg, which means that he was being supervised on all of these by Lexington County. Judge Addy revoked these in Lexington County.

We are not challenging the underlying conviction from Orangeburg. We're just challenging the probation revocation.

THE COURT: Probation revocation.

MS. MCMAHAN: All were heard in Lexington County.

MR. SMITH: Judge, I was mistaken about that point, and I concede. Sorry for interrupting.

THE COURT: Okay. Let me -- I just want to make sure that we've got it all and we don't have to do it twice. So it's my understanding we've got all of these Orangeburg and Lexington County concerning the probation revs that we're hearing today.

MS. MCMAHAN: Yes, Your Honor. We -- the applicant concedes that he could not file a PCR on the underlying guilty pleas because they would've been out of the time. They were outside of the statute of limitations of the act.

THE COURT: Okay.

MS. MCMAHAN: But which is why we're just challenging the probation revocation because that was timely filed and challenged.

THE COURT: Okay. Well, the State concedes. So let's go forward.

MS. MCMAHAN: Okay.

BY MS. MCMAHAN:

Q: Mr. Young, so you were meeting with Ms. Hallie Willm, weren't you?

A: Who?

Q: When you were -- prior to the hearing before you met Ms. Simpson, were you talking to an attorney named Hallie Willm --

A: Yes, ma’am.

Q: -- of the Lexington County Public Defender's Office?

A: Yes, I was.

Q: Okay. And had you discussed with her your probation revocation and all the issues that were going to come up?

A: In a short amount of time, I did. I mean I was trying to ask her.

Q: Okay. So when did -- okay. So when did you talk to Ms. Simpson?
A: Like, the day before I went to court. Right?
Q: Were you in the detention center or were you walking in?
A: Yes, ma'am. That was my first and only time since.
Q: Okay. At the time of your probation revocation hearing, were you walking in off the streets or were they bringing you from the detention center?
A: Bringing me from the detention center.
Q: Okay. Did you ever talk to her while you were in the detention center?
A: I called her a couple times. I mean I ain’t never get through.
Q: So how long did you talk to her before this hearing?
A: I didn't talk to her until I went to court and together in court I seen her. I mean I was (indiscernible).
Q: Yeah. So how long was that conversation? Okay. So how long was that conversation with Ms. Simpson?
A: It was probably about 10 minutes, I would say.
Q: Okay. And what did she say to you?
A: Basically, what we was going to go in and shoot for and on the other hand she was telling me Judge Addy wasn't a good judge on probation. So I was trying to get her to set the date back if she could.
Q: Okay. And what did she tell you about that?

A: I really don't recall, to be honest with you.
Q: Okay. So what's your main issue with this whole probation revocation hearing?
A: The 18 months, I was supposed to already went to court and got terminated. I did that. The four years that was added on, I understand that, but it still -- I still had 18 months just on the DV. So I shouldn't be in prison under the DV because 18 months had already ran out. She never took me to court.
Q: Okay. So you're saying that when you were initially sentenced on the domestic violence charge in Lexington, you were sentenced for 18 months' probation; correct?
A: Yes, ma'am.
Q: Okay. So when you came up for this hearing in front of Judge Addy, it had been well over 18 months?
A: Yes, ma'am.
Q: And some of those months you were serving in the Orangeburg Detention Center, weren't you?
A: Well, my probation officer said that I would still get time credit for it.
MR. SMITH: Objection to hearsay.
MS. MCMAHAN: Okay.
THE COURT: (Indiscernible.)
BY MS. MCMAHAN:
Q: You were serving --

MS. MCMAHAN: I'm sorry.

THE COURT: I'm going to -- I'm going to -- let's move on. Go ahead, Ms. McMahan.

BY MS. MCMAHAN:

Q: But you were -- but you were in the Orangeburg Detention Center for some of that time, weren't you?

A: Yes, ma'am. Like, four months.

Q: Okay. And did you ever have a conversation with Ms. Simpson about getting credit for that time towards your probation in Lexington while you were in Orangeburg?

A: I don't recall. I don't -- I don't think so.

Q: Okay. What did you tell her -- or did -- I'm sorry. Let me back up. Did you have a conversation with Ms. Simpson after the hearing?

A: No. Basically, I asked her how much time I got, she said five and a half years and I was like five and a half years. That was the only conversation we had. That was it.

Q: Okay. And did you file your own notice of appeal from your probation revocation hearing?

A: I mean I did, but it was too late, I think. That's why I got help with my PCR.

Q: Okay.

MS. MCMAHAN: Answer any questions Mr. Smith may have.

THE COURT: Mr. Smith?

MR. SMITH: Yes, Judge.

CROSS-EXAMINATION

BY MR. SMITH:

Q: Mr. Young, Ms. Simpson told you -- did Ms. Simpson tell you after your probation revocation hearing that you had the right to appeal and had to file that in 10 days?

A: No, sir.

Q: You deny that?

A: Yes.

Q: Okay.

MR. SMITH: Okay. That's -- that's all the questions. Thank you.

THE COURT: Okay.

REDIRECT EXAMINATION

BY MS. MCMAHAN:

Q: Mr. Williams [*sic*] --

MS. MCMAHAN: I'm sorry.

THE COURT: Yeah. Go ahead, Ms. McMahan.

BY MS. MCMAHAN:

Q: Mr. Williams, is there anything else you'd like the Court to know today about this probation revocation?

A: No, ma'am.

Q: Okay.

MS. MCMAHAN: Nothing further, Your Honor.

THE COURT: All right. I want to make sure I get this right. He's saying that he had 10 minutes to talk to her

before and he's upset that he got 18 -- I think five and a half years on a probation rev; is that right?

THE APPLICANT: Yes, ma'am.

MS. MCMAHAN: That's correct, Your Honor.

THE COURT: And that was for -- because they ran consecutive; right? Eighteen months for a DV and what was the other?

THE APPLICANT: Four years for two forgeries.

THE COURT: Four years on the two forgery charges?

THE APPLICANT: Yes, ma'am.

THE COURT: And that's what -- that's what he's unhappy about?

MS. MCMAHAN: Yes, Your Honor, and also that it was not appealed for him on his behalf in time. That he had to do -- he tried to do it himself.

THE COURT: Okay. Okay. All right. I've got it.

All right. Any other witnesses, Ms. McMahan?

MS. MCMAHAN: None, Your Honor.

THE COURT: Okay. Are y'all resting?

MS. MCMAHAN: Yes, Your Honor, we are resting. Thank you.

THE COURT: All right. Let me go to Mr. Smith.

Mr. Smith, do you want to call a witness?

MR. SMITH: Yes, Your Honor. I only have one. It's Ms. Kebra Simpson.

THE COURT: Ms. Simpson, do you want to raise your right hand? Do you -- do you swear or affirm that you will give the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE COURT: You're under oath.

KEBRA SIMPSON, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q: Ms. Simpson, when were you admitted to practice law?

A: It had to be in January of -- not January. I'm sorry. November of 2017.

Q: Okay. How much of your professional experience as a lawyer has been devoted in the -- to the field of criminal law?

A: All of it.

Q: Okay. How did you come to be involved in Mr. Young's probation revocation case?

A: So it looks as though based on my file Mr. Young was arrested on April the 3rd of 2019. He was interviewed by my office on April the 11th of 2019, and I had my first attorney/client conference with Mr. Young on April the 18th of 2019.

Q: Okay. Do you know which county Mr. Young was in when he

was arrested for violating his probation?
A: I do not. I only came into contact with him when he was at the Lexington County Detention Center.
Q: Okay. How much time did you spend meeting with him before his hearing?
A: So I met with Mr. Young on our initial conference on April the 18th of 2019, and that meeting was about an hour. And then he called me on May the 13th, 2019, and we were on the phone for about 15 minutes. And then I had another in-person meeting with him on June the 4th, 2019, and that was about a 45-minute meeting.
Q: Okay. And all of that was before his hearing? Did you --
A: Yes, sir.
Q: Did you speak with him any on the day of his probation revocation hearing before the hearing began?
A: Yes, I did.
Q: How much -- what was the length of that meeting?
A: Maybe about 10 or 15 minutes.
Q: Okay. Okay. And you said you -- someone from your office met with him on April the 11th of 2019?
A: It was via video. They screened him to open up the file in our office.
Q: Okay. To the best of your knowledge, did Mr. Young spend time in the Orangeburg County Detention Center due to a

hold from Lexington County?
A: I'm not sure.
Q: Okay. When you represented Mr. Young, did he ever tell you that he spent time in the -- in the Orangeburg Center -- Orangeburg County Detention Center because of his Lexington County case?
A: No, sir.
Q: Okay. Did you at any point inform Mr. Young that he had the right to appeal his probation revocation?
A: I did. It was immediately after Judge Addy sentenced him to consecutive time, and I remember because it was my first client ever getting consecutive time. So I wanted to make sure he was okay, and then I also wanted to let him know if he didn't agree with the sentence, he had 10 days from that day to get in touch with me and let me know that it was something that he wanted to do, and he let me know he wanted to think about it.
Q: Okay. Within the next ten days, did you hear from Mr. Young about this appeal?
A: No, sir.
Q: Okay. Did you at any point hear from him about an appeal?
A: I heard from him. He sent me a letter from Kirkland. Give me one second. I can tell you the date it was. It was on August the 6th of 2019, and he asked for a copy of his

sentencing sheets and that's -- he asked for a copy of his sentencing sheets on that day.

And then I believe I may have gotten another letter. I take that back. I'm going backwards.

On June the 21st, I sent him a letter thanking him for his letters on June the 16th, and that is when he asked for -- he said that I was ineffective and he was asking for an appeal, and I let him know that his ten days had passed when I sent him that letter on June the 21st.

Q: Okay. When did you receive the letter from him saying that he wanted to appeal?

A: Give me one second. I received the letter from him that was dated June the 16th from him on June the 21st.

Q: And the letter was dated June the 19th?

A: June the 16th.

Q: June the 16th. Okay. Of 2019?

A: I'm sorry. It was -- it looks as though it was sworn and subscribed by a notary on June the 17th.

Q: Okay. And so was it still dated at the top as the 16th?

A: Let me double check.

Q: The reason I'm asking is because I think you said the 16th. So I wanted to make sure --

A: Yes.

Q: -- I was clear on the date.

A: At the top, it says June. It says 6/16/2019.

Q: Okay. And the date of -- the date on which it was notarized was the 17th?
A: Yes, sir.
Q: Okay. And you received it on the 21st?
A: Yes, sir.
Q: Okay. And what was the date again at which you responded by letter?
A: June the 21st. I responded the day I got it.
Q: Okay. And so in that letter does he say he wants to appeal?
A: She did, yes.
Q: Okay. So who is she?
A: No. Yes, he did. So he said in his letter I want to appeal the judge's decision on my sentence of reconbiliation [*ph*] and see if I can get it ran together.
Q: Okay. If he -- if Mr. Young had asked you to appeal within the 10-day window, would you have done so?
A: Yes.
Q: Okay. Were you aware of any reason that Mr. Young would have been entitled to sentencing credit for his -- in his Lexington County revocation due to time spent at the Orangeburg County Detention Center?
A: No.
Q: Okay.
MR. SMITH: Okay. Thank you. No more questions.

CROSS-EXAMINATION

BY MS. MCMAHAN:

Q: Ms. Simpson, what do you -- when you first meet with clients that are there for probation revocation, what do you initially tell them?

A: I let them know if I do not have their probation violation packet, which sometimes we more than likely do not have at that first meeting. I ask them why are they -- why is Probation, Pardon and Parole violating them, how long do they have hanging over their head, if they know who their agent is, and I also let them know what it is that they're facing if they go up in front of a judge and are seen to be -- seem to have violated.

Q: So did -- so he didn’t tell you that he had been in the Orangeburg Detention Center not for a hold from Lexington County, but rather he had been serving time for those forgeries that he had pled with -- pled to?

A: No, ma'am.

Q: Okay. And so when he got picked up and put in the detention center in Lexington, was that based on a probation warrant that was issued for him?

A: Yes, ma'am.

Q: Okay. And so that warrant was issued sometime around the beginning of April of 2019?

A: Yes, ma'am.

Q: Does that sound correct? Okay. And also -- and I'm sorry about saying "okay" a lot. My bad.

So when you guys first met, was there any conversation about, hey, look, I've already actually been out for 18 months or so I shouldn't have to get probation? Did he ever bring that up with you?

A: No, ma'am.

Q: So he felt like he was done with the 18 months? Okay. Do you recall what your conversations were about or have any notes from those?

A: I do. I have notes from every conversation. So the very first one I let him know what his -- what Probation, Pardon and Parole was saying his violations were, and it was -- the first one was his wife actually called his agent and said that he had threatened her, and he says she called back recanting the statement.

I let him know what I -- he gave me a number for his wife. I tried to call her and left her a voicemail. I never got a phone call back from her.

And then I -- he called me on May the 13th. So that was in '19. He said he had his admin hearing that day, and the hearing officer wanted to send him back to the Department of Corrections.

And he said that he wanted to -- I let him know that I got his referral letter back from LRADAC because I had him

screened because he said he had a drug dependency issue, and I let him know I was coming to see him later on and I had just -- but I hadn't gotten a court date yet for his probation violation hearing.

And then on June the 4th, 2019, I let him know that his hearing was going to be on June the 7th, and I was still waiting on his packet from Probation, Pardon and Parole, and that his -- I let him know his wife had yet to return my phone call, and I told him that I would get with the judge and kind of use mitigating factors to see about getting him into LRADAC, especially because Mr. Young felt as though he needed it.

And then on -- I spoke to him on June the 7th. I let him know I had gotten his packet. We went over his probation packet. I let him -- and we spoke and he asked was his wife outside. I let him know that she was not. She wasn't present that day, and I let him know that at the bottom of that packet, his agent, who was Agent Baker, was asking for a full revocation.

Q: Okay. And normally, what's in the packet? Like, the recommendations from the probation agents and all that and the paperwork related to it?

A: So it's generally all the sentencing sheets for each charge he pled to. It is the probation sheets basically letting him know the addresses he's been -- he's stayed at,

any violations he may have had in the past, if he's behind on money, if he's supposed to be in any type of programs, and then there also is the trans -- not the transcript, but a summary of what happened with the hearing officer, and at the bottom is the hearing officer's recommendation for that particular defendant.

Q: Okay. Do you recall what he might've stated to you after you informed him Agent Baker wanted a full revocation?

A: He said that it was being unfair and that if -- yeah, she shouldn’t be asking for a full revocation because he needs drug treatment.

Q: So what did the LRADAC thing say?

A: Basically, that he -- she was -- her name was Erin Poulson [*ph*], and she was recommending that upon release from the detention center, if he was released, that he be referred for in-patient treatment with Morris Village not to exceed 28 days.

THE COURT: All right. Y’all, I don't mean to interrupt you, but I think we just lost Mr. Young.

Mr. Young?

THE LAW CLERK: Mr. Young, can you hear us?

THE APPLICANT: Yes, sir, I can.

THE LAW CLERK: So, Judge, it's not that we lost him. We just -- his bandwidth is not strong enough to support the video connection. So he's there and he can hear us, but he

-- we can't --

THE COURT: All right. Let me make sure.

Mr. Young, have you been able to hear everything?

THE APPLICANT: Yes, ma'am, I have.

THE COURT: Okay. I'm sorry. Just listen. All right? And I'll check in on you and make sure that you're hearing everything. Okay?

THE APPLICANT: Yes, ma'am.

THE COURT: All right. Go ahead, Mr. Smith. I'm sorry.

BY MS. MCMAHAN:

Q: So, Ms. Simpson, you were saying that the recommendation was that he be released -- upon release from the detention center that he be released directly to in-patient at Morris Village?

A: No. He be referred to in-patient treatment at Morris Village.

Q: Okay. Oh, okay, okay, okay. Sorry. That's a -- that's a big difference, isn't it? And so that means that he would have to wait for bed space to become available --

A: Yes, ma'am.

Q: -- for him and then continue on probation?

A: Yes.

Q: Okay. Released to in-patient would mean he's held in the detention center until a bed becomes available and he would be moved to Morris Village; correct?

A: Correct. So if he -- if the judge would have continued him on probation, he would've been held there at the jail until bed space opened at Morris Village.
Q: Okay. And so did you make any comments to him about Judge Addy and his proclivities towards probation revocation hearings?
A: I did. I let him know that Judge Addy was very tough against probation violation hearings.
Q: And was this a situation where you could have asked for it to be rescheduled to a later date or was that just not possible basically?
A: From my understanding, it was not a possibility. He had already been at the jail for three months. So I had been asking for his case to be scheduled.
Q: So it was just kind of like the luck of the draw that week?
A: Yes. So Probation makes their own docket, and we get notice just as the defendants do.
Q: Oh, okay. So in Lexington, Probation makes their own docket in front of a judge and then they give those to you guys?
A: Yes, ma'am.
Q: And so they had scheduled it in front of Judge Addy?
A: Correct.
Q: Okay. So is there a certain judge that's just kind of

given the probation revocation docket? Are they assigned this every week or it's just Probation doesn't ask the judges? How does that work over there?

A: No. It's just whomever is scheduled for that week, and Judge Addy at the time was our admin. So he was here a lot.

Q: Okay. I gotcha. I was curious. That's not the way it works in other counties. So that's why I was wanting to know.

Okay. So you met with him several times. Did you explain to him the possibility that he could get consecutive sentences?

A: Yes, I did. I let him know that that was the judge's decision to do concurrent or consecutive. He is not entitled to either one.

Q: And if his wife had showed up for the hearing, would you have spoken to her beforehand about the possibility of using her as a mitigating factor at the hearing?

A: Yes, ma'am.

Q: But she never called you back; is that correct?

A: No. I never received a phone call back from her.

MS. MCMAHAN: Court's indulgence, Your Honor.

THE COURT: Sure.

Mr. Young, are you still with us?

THE APPLICANT: Yes, ma'am, I am.

THE COURT: Okay. I'm just checking on you.

BY MS. MCMAHAN:

Q: Just briefly, Ms. Simpson, so when you said he had his admin hearing on May 13th, is that an internal hearing within Probation, Pardon and Parole where they kind of decide their recommendations?

A: Yes, ma'am. So it'll be -- Mr. Young would have been there, his agent, who was Agent Baker, and whomever the hearing officer was. Whoever the hearing officer is, they kind of play the mediator and hear both sides.

Q: And then they make their recommendations based off of that?

A: Yes, ma'am.

Q: And at that admin hearing, they can't revoke his -- any part of his probation. Only a circuit court judge can do that; correct?

A: Correct.

Q: And after that hearing is when Agent Baker said they had recommended a full revocation?

A: Yes.

Q: Okay.

MS. MCMAHAN: I have nothing further, Your Honor.

THE COURT: Okay. Anything, Mr. Smith?

MR. SMITH: Yes, Your Honor. I do have some questions.

REDIRECT EXAMINATION

BY MR. SMITH:

Q: Ms. Simpson, do you know if Mr. Young's probation term had been extended at any point?
A: No, I do not.
Q: Okay.
MR. SMITH: I beg the Court's indulgence for just a moment.
THE COURT: Sure.
BY MR. SMITH:
Q: Ms. Young [*sic*], can you explain to me what were some of the ways in which Mr. Young violated the terms of his probation?
A: So from my understanding in my case, he had been terminated for the third time from the domestic abuse counseling center. He had moved to -- or excuse me -- had left and went to Greenville. He says he was there for a funeral. His agent says that he didn't have permission to leave. So he had missed a meeting with her, and then from my understanding he also tested positive for marijuana, methamphetamines, and amphetamines, and he had failed to pay money.
Q: Okay. And the probation agent laid out all of those issues at the hearing before Judge Addy; right?
A: Yes, sir.
Q: Okay.
MR. SMITH: Okay. Judge, I have an exhibit here. I

have not shown it to Ms. McMahan or discussed it with her. I think we received it maybe a day or two ago from Orangeburg County.

So I'm going to see if I can try to share my screen, but I'd be happy to email a copy to her at this point too before we -- before I start questioning Ms. Simpson about it, but I just wanted to bring that to your attention that this is not something she's seen, I don't think. Maybe she has.

THE COURT: Okay.

MS. MCMAHAN: By she, do you mean Ms. McMahan, Mr. Smith?

MR. SMITH: That's right.

THE COURT: All right. I'm a little worried about Mr. Young seeing it.

THE APPLICANT: I'm all right.

MS. MCMAHAN: Mr. Smith, while you're trying to share it, would it be possible for you to describe the document that you have?

MR. SMITH: Yes. It is an order signed by a judge in the 11th Judicial Circuit on December 14th, 2017. The case number is the 1412, which would be the Lexington County case.

Admittedly, I cannot tell which judge signed this order. It's a good -- one of those good old-fashioned doctor signatures, but -- and it seems to extend the probation term to 30 months.

And I was going to try to see if I can share it, but I apologize. I have many documents open. So I'm trying to make sure I get the right one. Okay. I believe I have it now.

MS. MCMAHAN: I'm only seeing a little tiny square.

MR. SMITH: Let me see if that's --

THE WITNESS: Can you zoom in a little bit, Mr. Smith?

MR. SMITH: I'm trying to see if I can share -- if I can make the document full-screen. Is that better?

THE WITNESS: If you zoom in on it, I think we'll be able to see it. I think that's just the best you're going to get with trying to share a screen.

THE COURT: That looks like it's dated December of '17.

THE WITNESS: That's Judge Cooper's signature, and that looks like a probation violation back in 2017.

MR. SMITH: Okay.

BY MR. SMITH:

Q: And the case number on that is the case number as far as the Lexington County case that we're talking about, isn't it?

A: Yes, sir. That -- I'm looking at our system right now. That was a probation violation that he had with another attorney in our office, and that looks like it was handled on December -- or the case was closed on December 14th, 2017.

Q: Okay. And the order extends his probation term to 30 months, doesn't it?

A: Yes, sir. That's what I'm seeing.
Q: Okay. And so that would explain why he was still -- he may have still been on probation even after 18 months?
A: Yes, sir, it should.
Q: Okay.
MR. SMITH: Your Honor, I'm happy to email a copy of this to everyone here and the court reporter, but I would move -- move for the admission of this into evidence at this time.
THE COURT: All right. Any objection?
MS. MCMAHAN: Your Honor, I can't tell if it's clocked in or not.
Hey, look, Mr. Smith, could you zoom in just a little bit on the top for me?
THE COURT: It's clocked in.
MS. MCMAHAN: Well, it's a clocked document. So --
THE COURT: It's clocked in.
MS. MCMAHAN: It's a court document. So I've got no --
THE COURT: Okay. Well, then there's no --
MS. MCMAHAN: I have no objection.
THE COURT: It's admitted.
(WHEREUPON, State's Exhibit No. 1, order, was admitted into evidence.)
THE COURT: If you could send it to everybody, Mr. Smith, that ought to answer everybody's question about the 18

months on the DV. The problem was is he violated his probation again and it got extended for 30 months.

Do you -- do you remember that, Mr. Young?

THE APPLICANT: No, ma'am, I really don't. I was -- I was -- there be so many things going on in the court. I don't pay attention to some of them as I should be.

THE COURT: Yeah. Well, they extended your probation. They might've gotten your attention if they revoked you, but they extended it for 30 months. And so that's why -- when Judge Addy revoked you, that's why you're doing the 18 months because that's what I'm assuming was left.

Okay. Anything else, Mr. Smith?

MR. SMITH: No, Your Honor. That's all the evidence I have.

THE COURT: Ms. McMahan?

MS. MCMAHAN: No, Your Honor, other than to let Mr. Young know I'll mail him a copy of this once it's emailed to me.

THE COURT: Okay. Well, let me tell you something. I want to make sure that I've got all the issues.

I think the 18 -- the 18 months on the DV has been answered with the filing of that exhibit. He was on probation before, and he violated it and the judge extended it.

As far as this appeal goes, I'm looking at a letter that

y'all -- that was in my packet that says the South Carolina Court of Appeals. Even before he wrote Ms. Simpson, he went ahead and filed this with the Court of Appeals, and it reached the Court of Appeals before it reached Ms. Simpson.

It appears that this revocation hearing was held on June the 7th, and he served the clerk on June 18th after his probation was revoked, and they're saying it was 11 days after and they weren't going to hear it.

Ms. Simpson has testified she didn't even receive it until the 21st. So obviously, that tells me he knows that he had a time limit for it to get where it was supposed to go. So I think he was advised of a time limit by Ms. Simpson.

THE APPLICANT: No, ma'am. By an inmate.

THE COURT: Because you went ahead and sent notice to the Court of Appeals, Mr. Young.

THE APPLICANT: Yes, ma'am. That's not my handwriting. If you'll look, that's -- I could have unique handwriting. That was written by the same guy who did my PCR because I went down there and asked him questions. I was really thinking. I actually forgot about that.

THE COURT: This isn't handwriting. This is a letter from the South Carolina Court of Appeals that outlines the dates.

THE APPLICANT: Yes, ma'am.

THE COURT: So as to why they kicked it back, you know,

and it appears to me that I guess he revoked him in full and ran it consecutive. That's in a judge's discretion.

All right. Mr. Smith, if you could get me a proposed order.

MR. SMITH: I'll do that, Judge.

THE COURT: Same with you, Ms. McMahan, probably by the end of the week, which would suit me fine, Mr. Smith. If y'all need more time, let me know. Other than that, I'll take it under advisement.

Anything else, Ms. McMahan?

MS. MCMAHAN: I have nothing further, Your Honor.

THE COURT: Anything else, Mr. Smith?

MR. SMITH: No, Your Honor.

THE COURT: Mr. Young, I want to thank you for coming.

THE APPLICANT: You're welcome.

THE COURT: I'll let -- your attorney will let you know my decision.

And, Ms. Simpson, it's a joy to always have you.

THE WITNESS: Yes, ma'am. I'll see you later.

THE COURT: Yes, ma'am. Thank you.

I think that ends everything for today.

(WHEREUPON, the proceedings ended at 4:17 p.m.)

--- END REQUESTED TRANSCRIPT ---

State of South Carolina)

) Certificate

County of Florence)

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 36, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of Common Pleas for Lexington County, South Carolina, on the 28th day of April, 2021, to the best of my ability based upon the audio and notes provided.

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

s/*Krystal J. Smith*

Court Reporter

Florence, South Carolina

August 21, 2021

STATE OF SOUTH CAROLINA
County of LEXINGTON

STATE VS.

AKA: DISHSHI R. YOUNG
Race: B Sex: M
DOB: [redacted]
SSN: [redacted]
SID# 1398242

2018 JAN -4 AM 8:45
LISA M. COUNTER
CLERK OF COURT
LEXINGTON S.C.

IN THE COURT OF GENERAL SESSIONS
Indictment Number:
17 - GS - 32 - 1412
Probation C/W#s: W-32-17-0439

Name of Original Offense: DV 2nd
Original A/W#: 2016A3210202087
Date of Original Offense: 11/7/16
Conviction S.C. Code §: 16-25-0020 (C)
Conviction CDR Code #: 3 / 8 / 1 / 2
Original Sentence: 18m SS 18m prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 3 / 29 / 17 in the Court of General Sessions of LEXINGTON County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on _____, as set forth in the attached warrant(s) or citation(s) dated 10/26/17 _____. 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)*

Therefore, IT IS ORDERED that:

☐ the suspended sentence be revoked and the above named defendant be required to serve _____ 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 48 DAYS ~~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:
CTS 48 DAYS, EXTEND PROBATION TO 30 MONTHS,
DV CONDITIONS APPLY EXCEPT # 3

☐ The defendant is given credit for pre-revocation 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 14 day of DEC, 2017, LEXINGTON, SC

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
Day Month Year City

DPPPS Form 9 (Stock) Revision: F Revision Date 11-28-2016 Copy Distributions: White-Clerk of Court; Yellow-SCDC; Pink-Offender File; Gold-Offender

STATE OF SOUTH CAROLINA COUNTY OF LEXINGTON	IN THE COURT OF COMMON PLEAS FOR THE ELEVENTH JUDICIAL CIRCUIT
Dishshi Rodrickus Young, #311120, Applicant, v. State of South Carolina, Respondent.	Case No. 2019-CP-32-3140 **ORDER OF DISMISSAL**

FILED
2021 MAY -3 PM 3:03
CLERK OF COURT

This matter comes before the Court by way of an application for Post-Conviction Relief filed by Dishshi Young ("Applicant") on August 6, 2019. The State ("Respondent") filed its return on March 6, 2020, wherein it moved to partially dismiss Applicant's claims and requested an evidentiary hearing to resolve the remaining claim. An evidentiary hearing in this matter was held on April 28, 2021, with the parties appearing by WebEx due to the ongoing COVID-19 pandemic.[1] At the hearing, Applicant was represented by Ashley A. McMahan, Esquire, and Assistant Attorney General Taylor Z. Smith represented Respondent. Applicant testified on his own behalf, and Assistant Public Defender Kebra N. Simpson testified as a witness for Respondent. Based upon a thorough review of the record in its entirety and the testimony and evidence presented at the evidentiary hearing, this Court finds that Applicant has failed to prove that he is entitled to post-conviction relief and therefore denies the application with prejudice.

PROCEDURAL HISTORY

Applicant is presently incarcerated in the South Carolina Department of Corrections. On June 7, 2019, Applicant appeared before the Honorable Frank R. Addy, Jr., for a probation hearing because Applicant had violated the terms of probation imposed upon him by the Honorable

[1] Applicant expressly waived his right to an in-person hearing and agreed to proceed over WebEx.

Thomas W. Cooper, Jr., on March 29, 2017, after Applicant pleaded guilty to second-degree domestic violence (2017-GS-32-1412), and had violated the terms of probation imposed upon him by the Honorable Edgar W. Dickson on November 6, 2018, after Applicant pleaded guilty to two counts of forgery, under $10,000 (2018-GS-38-196; -197).[2, 3] At the June 7, 2019, probation revocation hearing, Probation Agent Lisa Baker stated that there had already been two determinations that Applicant had violated the terms of probation. Prob. Tran. 4. Agent Baker informed Judge Addy that Applicant had again violated the terms of probation, and provided the following recitation of facts:

> On W-32-19-0064, [Applicant] changed his residence without his agent's permission. I spoke to his wife. She is the victim. And she confirmed that he left the residence on 2/9/19. Was refrained from the use of illegal substances. He tested positive on 1/18/19 for marijuana and he tested positive and voluntarily admitted to using amphetamines, methamphetamines, and marijuana on 1/25/19.
>
> He failed to pay his monies. Then on the W-32-19-0138, he failed to report to group on 3/19/19 and an office visit that day. He changed his residence to an unknown location in Greenville.
>
> He failed to allow his agent to do a home visit; he absconded supervision; he violated the special conditions of domestic violence offenders by failing to report and changing his residence without permission.
>
> He was also terminated from the domestic anger counseling. This is the third time he's tried. The victim on the above case . . . came into the office on 3/27/19 and signed an affidavit.
>
> . . . .
>
> She came to the office on 3/27/19 and signed an affidavit in which he threatened to hurt her. She also said he took her phone so she couldn't call for assistance. She stated he had also threatened to set her on fire and break every bone in her face and

[2] Although the two forgery convictions were from Orangeburg County, the two probation cases from Orangeburg County were transferred to Lexington County.

[3] McMahan stated that Applicant was not raising any post-conviction relief claims in this matter regarding the two forgery convictions from Orangeburg County (2018-GS-38-196; -197) or the domestic violence conviction from Lexington County (2017-GS-32-1412) because the statute of limitations would serve as a procedural bar to such claims.

that will be a good reason for him to go to jail.

Prob. Tran. 5-6. Judge Addy revoked the probation for the domestic violence charge and the forgery charges in full, with the two forgery sentences running concurrent to one another but consecutive to the domestic violence sentence, gave Applicant credit for time served, and ordered that Applicant be screened for the Addiction Treatment Unit and for batterer's treatment.

On June 21, 2019, Applicant filed a *pro se* notice of appeal with the South Carolina Court of Appeals. In an order issued on August 9, 2019, the Court of Appeals dismissed the appeal because Applicant did not serve his *pro se* notice of appeal on the South Carolina Department of Probation, Parole, and Pardon Services and did not serve the notice of appeal within ten days of the probation revocation hearing. The remittitur was issued on August 29, 2019.

CURRENT PROCEEDING

In his application for post-conviction relief, filed on August 6, 2019, Applicant alleges that his counsel at his guilty plea hearing before Judge Cooper was constitutionally ineffective in multiple respects and that he did not knowingly and voluntarily waive his right to direct appellate review of his conviction and sentence. On April 10, 2020, Applicant filed an amended application, raising the claim that Applicant was denied the right to counsel at his probation revocation hearing. On April 13, 2021, Applicant filed a second amended application, raising the claim that Simpson was constitutionally ineffective for not arguing that Applicant should get sentencing credit against his criminal domestic violence sentence in Lexington County for the time that he served in the detention center in Orangeburg County. At the start of the evidentiary hearing before this Court, McMahan stated that Applicant would be proceeding upon two claims only: (1) that Simpson was constitutionally ineffective for not arguing that Applicant should get sentencing credit against his criminal domestic violence sentence in Lexington County for the time that he served in the detention center in Orangeburg County and (2) that Applicant did not knowingly and voluntarily

waive his right to direct appellate review of his three probation revocations. This Court finds that Applicant has waived all other claims.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The record before the Court includes: the records of the Lexington County Clerk of Court regarding Applicant's conviction and sentence for domestic violence; the three probation revocation orders issued by Judge Addy; the transcript from Applicant's guilty plea hearing before Judge Cooper; the transcript from Applicant's probation revocation hearing before Judge Addy; Applicant's records from the South Carolina Department of Corrections; the parties' filings in this matter; and the exhibit admitted into evidence at the evidentiary hearing. Set forth below are the relevant findings of facts and conclusions of law with regards to the claims that Applicant advanced at the evidentiary, as required by S.C. Code Ann. §17-27-80 (1985).

Summary of the testimony presented at the evidentiary hearing.

Applicant testified on his own behalf at the hearing, and testified that, prior to his probation revocation hearing, he was with his wife in Columbia. Applicant testified that he was arrested in Orangeburg. He further testified that the probation revocation hearing before Judge Addy concerned his probation from the Lexington County case and the cases from Orangeburg County. Applicant testified that he wanted to challenge all three of those probation revocations in this case. He further testified that his probation cases from Orangeburg County were transferred to Lexington County and that he was reporting to a probation agent in Lexington County for all three cases.

Applicant testified that he was meeting with Hallie Willm and that they discussed all of the issues of his case and the probation revocation. He further testified that he first saw Simpson at the Lexington County Courthouse right before his probation revocation hearing began. Applicant testified that he and Simpson had talked on the phone once before that for about ten minutes, discussing what would happen at the probation revocation hearing. Applicant testified that he

wanted to get his hearing date pushed back in order to avoid having to appear before Judge Addy, but he does not remember what Simpson said in response to that request.

Applicant testified that he did not have a conversation with Simpson after the probation revocation hearing, except that she told him about the amount of time that he would have to serve. He further testified that he is angry that he was sentenced to eighteen months' imprisonment for a probation violation. Applicant testified that he filed his own appeal afterwards.

On cross-examination, Applicant denied that Simpson told him that he had only ten days in which to appeal the probation revocations.

Simpson testified before this Court for Respondent. Simpson testified that she was admitted to practice law in November of 2017, with all of her work since then had been devoted to the field of criminal law. She further testified that she became involved in Applicant's case after he was arrested on April 3, 2019. Simpson testified that someone from the public defender's office interviewed Applicant by videoconferencing technology on April 11, 2019. She further testified that she had her first meeting with Applicant on April 18, 2019.

Simpson testified that she did not know what county Applicant was in when he was arrested. She testified she met with Applicant in April of 2019 for about an hour, talked with Applicant by phone for about fifteen minutes on May 13, 2019, and then met with Applicant in person for about forty-five minutes on June 4, 2019. She testified that all of those conversations or meetings took place before Applicant's probation revocation hearing was held. She testified that she met with Applicant for about ten or fifteen minutes on the day of the probation hearing before it began.

Simpson testified that she does not know if Applicant spent any time in the detention center in Orangeburg County due to a hold being placed upon him by Lexington County. She testified

that Applicant did not mention his spending time at the detention center in Orangeburg due to his Lexington County probation violation. She testified that she was not aware of any reason that Applicant would be entitled to sentencing credit against his Lexington County sentence for any time spent in the detention center in Orangeburg County.

Simpson testified that she told Applicant immediately after his probation revocation hearing that he had the right to appeal and that he would have to let her know within ten days. She testified that the conversation was memorable to her because Applicant was the only client she has ever represented who was given consecutive sentences for probation violations. She testified that Applicant told her during that conversation that he needed to think about it. She testified that she received a letter from Applicant on June 21, 2019, in which Applicant stated that he wanted to appeal the probation revocations. She testified that the letter was dated June 16, 2019, but that Applicant's signature on the letter had been notarized on June 17, 2019. She testified that she sent a reply to Applicant by mail on the same day on which she received his letter, telling him that it was too late for her to appeal. She testified that she would have appealed on Applicant's behalf if he had requested that she do so within the ten-day window.

On cross-examination, Simpson testified that Applicant never told her that he had been in the detention center in Orangeburg County. She testified that Applicant was arrested after a warrant was issued for his arrest in April of 2019.

Simpson testified that she did not discuss with Applicant that he had already been on probation in his domestic violence case for eighteen months. She testified that Applicant's wife called the probation agent to threaten them, but then retracted her threats.

Simpson testified about her conversations with Applicant about his wife and the probation agent's position on Applicant's revocation. She testified that she told Applicant that his wife was

not present for the revocation hearing and that the agent was going to ask for a full revocation of his probation. She testified that Applicant told her that it was unfair because he needed drug treatment. She testified that she informed Applicant that Judge Addy could make him serve consecutive sentences. She testified that, had Applicant's wife shown up at the revocation hearing, she would have used her as mitigation, but she could not do so and Applicant's wife never returned her phone call.

On-redirect, Simpson testified that she did not know if Applicant's probation for domestic violence had ever been extended. She testified about the ways in which Applicant violated his probation. An exhibit was admitted into evidence at Respondent's request. It was a probation revocation order issued on December 14, 2017. Simpson testified that she recognized the signature of the issuing judge, and agreed that the order extended the length of Application's probation to thirty months.

Applicant has failed to prove that Simpson was constitutionally ineffective for not arguing that Applicant should get sentencing credit against his criminal domestic violence sentence in Lexington County for the time that he served in the detention center in Orangeburg County.

Applicant argues that he is entitled to sentencing credit against his Lexington County sentence for time that he spent in the detention center in Orangeburg County. Applicant, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. *Strickland v. Washington*, 466 U.S. 668 (1984); *Lomax v. State*, 379 S.C. 93, 665 S.E.2d 164 (2008). Applicant has the burden of proving the allegations in his post-conviction relief action, and when alleging that counsel was constitutionally ineffective, he must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result." *Strickland*, at 686. In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel's performance

was deficient. *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, at 117, 386 S.E.2d at 625 (quoting *Strickland*, at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Counsel is presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Id.* (citing *Strickland*, 466 U.S. at 690). Applicant must overcome this presumption to receive post-conviction relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625.

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Strickland*, at 670. Moreover, *Strickland* does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, *Strickland* requires the post-conviction relief applicant to prove "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." *Id.* at 697. Therefore, the function of this Court is to determine if "in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance" required of a criminal defense attorney. *Id.* at 690.

In *Turner v. State*, 384 S.C. 451, 455-56, 682 S.E.2d 792, 794 (2009), the South Carolina Supreme Court held that defendants have the right to counsel in probation revocation hearings, thereby allowing defendants to raise claims that they received the ineffective assistance of counsel from the lawyers who represented them in the revocation proceedings. When those claims are raised in a post-conviction relief application, the courts are to determine whether the lawyers were constitutionally ineffective under the South Carolina Supreme Court's *Strickland* jurisprudence. *Id.* Thus, this Court will consider Applicant's argument that Simpson was ineffective in light of the foregoing authorities.

The Supreme Court has previously affirmed a post-conviction relief court's order that an applicant was entitled to credit against a sentence in one county for time served in another county if the applicant was being held in the second county at the request of the first county or because the first county had issued an arrest warrant for the applicant. *Blakeney v. State*, 339 S.C. 86, 88-89, 529 S.E.2d 9, 11 (2000). In this case, however, Applicant has failed to prove that he is entitled to such relief. Applicant did not present any evidence that he was held for any length of time at the detention center in Orangeburg County due to a hold being placed upon him by Lexington County or the issuance of an arrest warrant for him by Lexington County, as was the case in *Blakeney*. Applicant testified that he had been in the detention center in Orangeburg County for some months, but he presented no evidence linking that time to his Lexington County case. He further testified that he was arrested in Orangeburg County, but did not link that arrest to his Lexington County domestic violence case. Applicant also testified that, prior to his probation revocation hearing, he had been with his wife in Columbia. Thus, Applicant's testimony failed to prove that he spent any length of time in the detention center in Orangeburg County due to his Lexington County case. Simpson's testimony did not support Applicant's claim, either. She did not know if Applicant

spent any time in Orangeburg County due to the Lexington County case, and she testified that Applicant did not tell her that he had spent time in Orangeburg County due to his Lexington County case and that she had no reason to think that he was entitled to that kind of cross-county sentencing credit. Applicant has not proven any deficiency in Simpson's performance because he has not established that she should have asked for cross-county sentencing credit, and even if he had done so, Applicant has failed to establish any resulting prejudice because he has not established that he would have received such credit if Simpson had asked for it. This claim is therefore denied and dismissed with prejudice.

Applicant has failed to prove that he did not knowingly and voluntarily waive his right to direct appellate review of his probation revocations.

Applicant claims that he did not knowingly and voluntarily waive his right to direct appellate review of his probation revocations. When an applicant raises this claim against his probation revocation lawyer, the post-conviction relief court must determine whether the lawyer was constitutionally ineffective under the South Carolina Supreme Court's *Strickland* jurisprudence. *Turner*, at 455-56, 682 S.E.2d at 794. "Probation revocation counsel is not required to inform a probationer of the right to an appeal absent extraordinary circumstances. *Fleming v. State*, 399 S.C. 380, 381, 731 S.E.2d 889 (2012) (per curiam) (citing *Turner v. State*, 384 S.C. 451, 455-56, 682 S.E.2d 792, 794 (2009)). When a defendant requests an appeal, but counsel fails to file a notice of appeal, counsel is deficient and the defendant is entitled to a belated appeal without having to show that the appeal likely would have had merit. *Fleming*, at 381, 731 S.E.2d 889 (citations omitted).

After hearing the testimony presented at the hearing, this Court finds that Simpson informed Applicant of his right to appeal the probation revocations. Applicant denied that Simpson informed him of his right to appeal and of the ten-day deadline for filing a notice of appeal, but in

light of the other testimony present, finds that his testimony at the hearing was not credible. Simpson credibly testified that she informed Applicant of his right to appeal immediately after the conclusion of his probation revocation hearing, and that Applicant told her that he needed to think about it. Applicant was warned that the appeal would have had to be undertaken within ten days of his hearing. Judge Addy revoked Applicant's probation at the hearing on June 7, 2019. Simpson received a letter from Applicant on June 21, 2019, requesting an appeal; however, at that point it was already too late for Simpson to appeal on Applicant's behalf. When Applicant had the opportunity to notify Simpson that he wanted to appeal, he did not take advantage of that opportunity. By the time that he changed his mind and notified Simpson of that fact, it was too late. This Court finds that Applicant knowingly and voluntarily waived his right to a direct appeal. This claim is denied and dismissed with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds that Applicant has failed to prove any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief is denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal, through counsel, within thirty days from the receipt of this order to secure the appropriate appellate review. *See* Rule 203 and 243, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453 (1991), an applicant has a right to the assistance of appellate counsel in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that, if the applicant wishes to seek appellate review, he must serve and file a notice of appeal. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State within the South Carolina Department of Corrections.

IT IS SO ORDERED this 3 day of May, 2021.

Debra R. McCaslin
Debra R. McCaslin
Presiding Judge

Lexington, South Carolina

RECEIVED
MAY 20 2021
APPELLATE DEFENSE

ARREST WARRANT

2016A3210202087

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Lexington

THE STATE

against

ORIGINAL

Dishshi Rodrickus Young

Address: [redacted]

Lexington, SC 29073-7728

Phone: [redacted] SSN:

Sex: M Race: B Height: 6 Weight: 185

DL State: SC DL #:

DOB: Agency ORI #: SC0320000

Prosecuting Agency: Lexington County Sheriff

Prosecuting Officer: Scott L Zylstra - A12379

Offense: Domestic / Domestic violence of a high and aggravated nature

Offense Code: 3814

Code/Ordinance Sec: 16-25-0065(A)

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Dishshi Young on 11-8-16

Correll

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Lexington County Summary Court Center
139 East Main Street
Lexington, SC 29072

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

106

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Lexington)

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

AFFIDAVIT

Personally appeared before me the affiant Scott L Zylstra T. Parcher Sr who being duly sworn deposes and says that defendant Dishshi Rodrickus Young did within this county and state on or about 11/ 7/2016 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Lexington) in the following particulars:

DESCRIPTION OF OFFENSE: Domestic / Domestic violence of a high and aggravated nature

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

On 11-07-2016, while at [redacted]., in the Lexington area of Lexington County, Dishshi R. Young did commit the crime of DVHAN when his actions exhibited an extreme indifference to life when he impeded the victims normal breathing and blood flow twice during their physical altercation. Dishshi R. Young used his hands to strangle his wife of three years, [redacted], to the point where she could not breathe and was close to unconsiousness, which caused her to feel as though she was going to die. These facts are supported by witness statements and LCSD incident report # 16-022476.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Lexington)

Affiant's Address 521 Gibson Road
Lexington, SC 29072-

Affiant's Telephone (803)785-8230

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 11/ 7/2016 defendant Dishshi Rodrickus Young did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Lexington) as set forth below:

DESCRIPTION OF OFFENSE: Domestic / Domestic violence of a high and aggravated nature

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 11/ 8/2016

(L.S.)

Signature of Issuing Judge

Arthur L Myers

Judge Code: 7252

Judge's Address 139 East Main St
Lexington, SC 29072-

Judge's Telephone

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

A TRUE COPY
Lex. Co. C.C.C.P., Q.S. & P.C.

ORIGINAL ORIGINAL ORIGINAL

Durnblack

WITNESSES

Lexington County Sheriffs Department

Scott L Zylstra

Law Enforcement Case #: 16022476

SAD

ARREST WARRANT NUMBER

2016A3210202087

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS3201412

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MARCH TERM 2017

THE STATE
vs.

Dishshi Rodrickus Young

CDR #: 3812

Indictment for

DOMESTIC VIOLENCE 2ND DEGREE

§ 16-25-0020(C)

S.R. Hubbard III, SOLICITOR

After being fully advised as to my legal rights, I hereby waive my rights to presentment to the Grand Jury.

Dishshi Young
Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to
DV 2nd degree

Defendant

Witness
C.C.C. PLS. and G.S.

A TRUE COPY
Lex. Co. C.O.O.P., G.S., & F.O.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
DOMESTIC VIOLENCE 2ND DEGREE

§ 16-25-0020(C)

At a Court of General Sessions, convened on MARCH 2017, the Grand Jurors of Lexington County present upon their oath:

That **Dishshi Rodrickus Young** did in Lexington County, South Carolina on or about **November 7, 2016**, unlawfully cause physical harm or injury to a household member, namely D. Y. [redacted]; or offered or attempted to cause physical harm or injury to a household member with apparent present ability, under circumstances reasonably creating fear of imminent peril; and moderate bodily injury to a household member resulted or the act was accomplished by means likely to result in moderate bodily injury to a household member; and/or the defendant has one prior conviction of domestic violence within ten years from the date of the current offense; and/or the offense was committed by impeding the victim's breathing or air flow; in violation of Section 16-25-20 of the South Carolina Code of Laws (1976), as amended.

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

ASSISTANT SOLICITOR

A TRUE COPY
Lex. Co. C.C.C.P., G.S. & F.C.

C-3y+/ar $2500-5000 109

STATE OF SOUTH CAROLINA)
COUNTY OF Lexington)
STATE VS.)
Dishshi Rodrickus Young)
AKA:)
Race: Black Sex: M Age: 32)
DOB: SS#:)
Address: [redacted])
City,State,Zip: Lexington, SC 29073-7728)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS3201412
A/W#: 2016A3210202087
Date of Offense: 11/7/2016
S.C. Code § : 16-25-0020(C)
CDR Code #: 3812

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Domestic / Domestic Violence, 2nd degree

in violation of § 16-25-0020(C) of the S.C. Code of Laws, bearing CDR Code # 3812
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. DRY (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Solicitor 78342 SC Bar# D Young Defendant [signature] Attorney for Defendant 76366 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 18 ~~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 7/5 days/months/years and/or payment
of $ ___; plus costs and assessments as applicable*; the balance is suspended with **probation** for 18
~~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 the State Department of Corrections.
☐ 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**
Total: $ ___ plus 20% fee: $ ___
Payment Terms:
☐ Set by SCDPPPS
Recipient:

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$ 500
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114 (BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$
TOTAL		$ 625

PTUP
___ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp.
May serve W/E begining
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: Mental Health Counselling - DAC.

☐ Appointed PD or appointed other counsel, §Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge [signature]
Judge Code: 054
Sentence Date: 3/29/17

Clerk of Court/ Deputy Clerk Debra Comer/BW
Court Reporter Stacey Livingood

A TRUE COPY
Lex. Co. C.C.P. G.S. & FC

SCCA/217 (07/2016)

2017 [redacted]

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ORANGEBURG

THE STATE
against

DISHSHI RODRICKUS YOUNG

FILED FOR RECORD
WINNIFA B. CLARK
2017 DEC 20 P 2:1
CLERK OF COURT
ORANGEBURG S.C.

Address: [redacted]
LEXINGTON SC 29073
Phone: _____ SSN: [redacted]
Sex: M Race: B Height: 6-0 Weight: 200
DL State: SC DL#: [redacted]
DOB: [redacted] Agency ORI#: SC0380100
Prosecuting Agency: ORANGEBURG DEPARTMENT OF
Prosecuting Officer: DETECTIVE DELORES FELDER
Offense: FORGERY LESS THAN $10,000
Offense Code: 3436
Code/Ordinance Sec. 16-13-0010(A)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☒ Municipality of
ORANGEBURG. The accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date: _____
Date Time

RETURN

A copy of this arrest warrant was delivered to defendant DISHSHI RODRICKUS YOUNG on 12-15-17

_____
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
ORANGEBURG MUNICIPAL COURT
PO BOX 1425
1320 MIDDLETON STREET
ORANGEBURG, SC 29116

110

STATE OF SOUTH CAROLINA)
☐ County/ [illegible])
ORANGEBURG)

AFFIDAVIT

Approved by Attorney General 7/21, 2003 SCCA 618

Personally appeared before me the affiant DET DELORES FELDER who being duly sworn deposes and says that defendant DISHSHI RODRICKUS YOUNG did within this county and state on 06/19/2017 to 06/19/2017 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ORANGEBURG) in the following particulars:

DESCRIPTION OF OFFENSE: 16-13-0010(A) / FORGERY LESS THAN $10,000

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

ON 06/19/2017 DURING BUSINESS HOURS DEFENDANT NAME DISHSHI RODRICKUS YOUNG DID VIOLATE SC CODE OF LAW SECTION 16-13-0010(A) FORGERY LESS THAN $10,000, MR YOUNG DID WITH THE INTENT TO DEFRAUD PUBLISH AS TRUE A COUNTERFEIT CHECK #4076 IN THE AMOUNT OF $520.18 MADE PAYABLE TO HIM FROM DON'S CAR CRUSHING DRAFTED FROM WELLS FARGO BANK ACCOUNT ENDING #1745 DATED 06/19/2017 IN WHICH HE KNEW IT WAS COUNTERFEIT. MR YOUNG UTTERED THIS CHECK FOR CASHING AT PIGGLY WIGGLY #179 ALONG WITH HIS SCDMV CREDENTIALS AS PROOF OF IDENTITY AND DID RECEIVE FUNDS FROM THIS CHECK MINUS CHECK CASHING FEE. MANAGEMENT OF DON'S CAR CRUSHING WAS NOTIFIED AND CONFIRMED THAT THIS CHECK WAS COUNTERFEIT AND MR YOUNG IS NOT AN EMPLOYEE OF THIS BUSINESS, NOR DID THEY KNEW OF HIM AND HE HAS NEVER CONDUCTED ANY TRANSACTIONS WITH THIS BUSINESS. THE CHECK WAS RETURNED ON 06/22/2017 WITH REASONING OF "ALTERED/FICTITIOUS". PIGGLY WIGGLY #179 IS AT A MONETARY LOSS IN THE AMOUNT OF $520.18 PLUS RETURN CHECK FEES. COPY OF RETURNED CHECK AS WELL AS OTHER SUPPORTING DOCUMENTS WERE LOGGED INTO EVIDENCE TO SUPPORT THE FACTS OF THIS CASE. THIS INCIDENT TOOK PLACE AT 2060 COLUMBIA RD(PIGGLY WIGGLY #179) WHICH IS IN THE CITY LIMITS OF ORANGEBURG, STATE OF SC.

Signature of Affiant _____

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
ORANGEBURG)

Affiant's Address 1320 MIDDLETON ST
ORANGEBURG SC 29115
Affiant's Telephone 8035335940

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 06/19/2017 defendant DISHSHI RODRICKUS YOUNG did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ORANGEBURG) as set forth below:

DESCRIPTION OF OFFENSE: FORGERY / FORGERY, VALUE LESS THAN $10,000

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 12/25/17 (L.S.)
Date Time
BARNEY M. HOUSER

Judge Code: 6460

Judge's Address 1320 MIDDLETON STREET
ORANGEBURG SC 29115
Judge's Telephone 803-533-5902
Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

Case: 17-01483

...RE ...NT

17A3[redacted]00237

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

FILED FOR RECORD
WINNIFA D. CLA...
2017 DEC 20 P 1
CLERK OF COURT
ORANGEBURG, SC

THE STATE

against

DISHSHI RODRICKUS YOUNG

Address: [redacted]

LEXINGTON SC 29073

Phone: _____ SSN: [redacted]

Sex: M Race: B Height: 6-0 Weight: 200

DL State: SC DL#: [redacted]

DOB: [redacted]/1984 Agency ORI#: SC0380100

Prosecuting Agency: ORANGEBURG DEPARTMENT OF

Prosecuting Officer: DETECTIVE DELORES FELDER

Offense: FORGERY LESS THAN $10,000

Offense Code: 3436

Code/Ordinance Sec. 16-13-0010(A)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of

ORANGEBURG . The accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date: _____
Date Time

RETURN

A copy of this arrest warrant was delivered to defendant DISHSHI RODRICKUS YOUNG on 12-15-17

_____
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

ORANGEBURG MUNICIPAL COURT
PO BOX 1425
1320 MIDDLETON STREET
ORANGEBURG, SC 29116

...CAROLINA)
☒ Municipality of)
...EG)

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 618

Pe...ppeared before me the affiant DET DELORES FELDER who ...ly sworn deposes and says that defendant DISHSHI RODRICKUS YOUNG did within this county and state on 06/19/2017 to 06/21/2017 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ORANGEBURG) in the following particulars:

DESCRIPTION OF OFFENSE: 16-13-0010(A) / FORGERY LESS THAN $10,000

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

BETWEEN 06/19/2017-06/21/2017 DURING BUSINESS HOURS DEFENDANT NAME DISHSHI RODRICKUS YOUNG DID VIOLATE SC CODE OF LAW SECTION 16-13-0010(A) FORGERY LESS THAN $10,000. MR YOUNG DID WITH THE INTENT TO DEFRAUD PUBLISH AS TRUE A COUNTERFEIT CHECK #4074 IN THE AMOUNT OF $296.38 MADE PAYABLE TO HIM FROM DON'S CAR CRUSHING DRAFTED FROM WELLS FARGO BANK ACCOUNT ENDING #1745 DATED 06/19/2017 IN WHICH HE KNEW IT WAS COUNTERFEIT. MR YOUNG UTTERED THIS CHECK FOR CASHING AT THE BUSINESS OF MAGNOLIA LIQUORS & CHECK CASHING ALONG WITH THIS SCDMV CREDENTIALS AS PROOF OF IDENTITY AND DID RECEIVE FUNDS FROM THIS CHECK MINUS CHECK CASHING FEE. MANAGEMENT OF DON'S CAR CRUSHING WAS NOTIFIED AND CONFIRMED THAT THIS CHECK WAS COUNTERFEIT AND MR YOUNG IS NOT AN EMPLOYEE OF THIS BUSINESS, NOR DID THEY KNEW OF HIM AND HE HAS NEVER CONDUCTED ANY TRANSACTIONS WITH THIS BUSINESS. THE CHECK WAS RETURNED ON 06/22/2017 WITH REASONING "REFER TO MAKER". MAGNOLIA LIQUORS & CHECK CASHING IS AT A MONETARY LOSS IN THE AMOUNT OF $296.38 PLUS RETURN CHECK FEE. COPY OF RETURNED CHECK AS WELL AS OTHER SUPPORTING DOCUMENTS WERE LOGGED INTO EVIDENCE TO SUPPORT THE FACTS OF THIS CASE. THIS INCIDENT TOOK PLACE AT 2194 MAGNOLIA ST (MAGNOLIA LIQUORS & CHECK CASHING) WHICH IS IN THE CITY LIMITS OF ORANGEBURG, STATE OF SC.

Signature of Affiant _____

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
ORANGEBURG)

Affiant's Address 1320 MIDDLETON ST
ORANGEBURG SC 29115

Affiant's Telephone 8035335940

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 06/19/2017 defendant DISHSHI RODRICKUS YOUNG did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ORANGEBURG) as set forth below:

DESCRIPTION OF OFFENSE: FORGERY / FORGERY, VALUE LESS THAN $10,000

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)
on 8/25/17)
Date Time (L.S.))
BARNEY M. HOLLER

Judge Code: 6460

Judge's Address 1320 MIDDLETON STREET
ORANGEBURG SC 29115

Judge's Telephone 803-533-5902

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

Case: 17-01529

ES

Delores A Felder

Orangeburg Police Department

ARREST WARRANT NUMBER
2017A3820800235

Arrested: December 15, 2017

ACTION OF GRAND JURY

TRUE BILL

Date MAR 14 2018
Foreperson of Grand Jury
Date: March 14, 2018

VERDICT

Foreperson of Petit Jury
Date:

112

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

March 19, 2018 TERM

THE STATE
vs.

Dishshi Rodrickus Young

Indictment for

FORGERY, VALUE LESS THAN $10,000

SC Code: **16-13-0010(A)**

Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
WINNIFA B. CLARK
2018 MAR 14 AM 11:42
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2018GS38-0196

At a Court of General Sessions, convened on March 14, 2018 the Grand Jurors of Orangeburg County present upon their oath:

FORGERY, VALUE LESS THAN $10,000

The defendant, Dishshi Rodrickus Young, did in Orangeburg County on or about June 19, 2017 unlawfully, willfully and falsely make, forge, or counterfeit, or did cause or procure to be falsely made, forged, or counterfeited or did act or assist in the false making, forging, or counterfeiting, or did utter or publish as true a forged, false or counterfeit writing, or check described as counterfeit check #4076 drawn on the account in the amount of $520.18. This offense being in violation of Section 16-13-10 of the South Carolina Code of Laws, as amended.

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

Ted Lupton, Solicitor

WI

Delores A Felder

Orangeburg Police Department

ARREST WARRANT NUMBER
2017A3820800237

Arrested: December 15, 2017

ACTION OF GRAND JURY

TRUE BILL

Date MAR 14 2018

Foreperson of Grand Jury

Date: March 14, 2018

VERDICT

Foreperson of Petit Jury
Date:

DOCKE

The State of South C ina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

March 19, 2018 TERM

THE STATE
vs.

Dishshi Rodrickus Young

Indictment for

FORGERY, VALUE LESS THAN $10,000

SC Code: **16-13-0010(A)**

g fully ad
, I hereby waive
Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
WINNIFA B. CLARK
2018 MAR 14 AM 11:43
CLERK OF COURT
ORANGEBURG, SC

114

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2018GS38-0197

At a Court of General Sessions, convened on March 14, 2018 the Grand Jurors of Orangeburg County present upon their oath:

FORGERY, VALUE LESS THAN $10,000

The defendant, Dishshi Rodrickus Young, did in Orangeburg County on or about June 19, 2017 unlawfully, willfully and falsely make, forge, or counterfeit, or did cause or procure to be falsely made, forged, or counterfeited or did act or assist in the false making, forging, or counterfeiting, or did utter or publish as true a forged, false or counterfeit writing, or check described as counterfeit check #4074 drawn on the account of Don's Car Crushing Inc in the amount of $296.38. This offense being in violation of Section 16-13-10 of the South Carolina Code of Laws, as amended.

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

Ted Lupton, Solicitor

116

0 - 5 yrs

Prob w Rest

STATE OF SOUTH CAROLINA)
COUNTY OF Orangeburg)
STATE)
VS. Dishshi Young)
AKA:)
Race: B Sex: M Age: 33)
DOB: [redacted] SS#:)
Address:)
City, State, Zip:)
DL# SID#)
*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018-GS-38-196
A/W#: 2017A3820800235
Date of Offense: 6-19-17
S.C. Code §: 16-13-10
CDR Code #: 3436

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☑ PLEADS
TO: Forgery under $10,000
In violation of § 16-13-10 of the S.C. Code of Laws, bearing CDR Code # 3436
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or Lewd Act)
The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☑ Defendant Waives Presentment to Grand Jury. JRY (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Solicitor [illegible] SC Bar # 9517 Defendant Dishshi Young Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☑ State Department of Corrections ☐ County Detention Center
for a determinate term of 4 ~~days/months/years~~ or ☐ under the Youthful Offender Act not to exceed ___
and/or to pay a fine of $ ___ ; provided that upon the service of Time served ~~days/months/years~~ and or p...
of $ ___ ; plus costs and assessments as applicable*; the balance is suspended with probation for 2
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, wh... incorporated by reference.
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: 11/6/18
☑ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 189 day
☐ The Defendant is to be placed on 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**

Total: $ ___ plus 20% fee: ___ $ ___

Payment Terms: See Restitution Order

☐ Set by SCDPPPS

Recipient: ___

*Fine:		$ ___
§14-1-206 (Assessments 107.5%)		$ ___
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	$100	$ ___
§56-5-2995 (DUI Assessment)	$12	$ ___
§56-1-286 (DUI Breath Test)	$25	$ ___
Proviso 61.6 (Public Def/Probation)	$500	$ 500.00
§14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§14-1-213 (Drug Court Surcharge)	$150	$ ___
§50-21-114 (BUI Breath Test Fee)	$50	$ ___
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$ ___
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 643.75
		$ ___

Clerk of Court/Deputy Clerk: [signature]
Court Reporter: Hattie O. Gordon

___ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. ___

May serve W/E 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: ___

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge [signature]
Judge Code: 2153
Sentence Date 11/6/18

SCCA/217 (07/2016)

0 - 5 yrs

Concur

STATE OF SOUTH CAROLINA)
COUNTY OF Orangeburg)
STATE)
VS.)
Dishshi Young)
AKA:)
Race: [redacted] Sex: M Age: 33)
DOB: [redacted] SS#:)
Address:)
City, State, Zip:)
DL# * SID#)
*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018-GS-38-197
A/W#: 20178382080237
Date of Offense: 6-21-17
S.C. Code §: 16-13-10
CDR Code #: 3436

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Forgery under $10,000
In violation of § 16-13-10 of the S.C. Code of Laws, bearing CDR Code # 3436
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-
(CSC w/minor 1st or Lewd Act)
The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. DLY (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST: 7517 Dishshi Young

Solicitor Meadors W. Lupo SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 4 ~~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 Time served days/months/years and or payment
of $ ____ ; plus costs and assessments as applicable*; the balance is suspended with probation for 2
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: 11/6/18
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 187 days
☐ The Defendant is to be placed on 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**

Total: $ ____ plus 20% fee: ____ $ ____

Payment Terms: see Restitution Order

☐ Set by SCDPPPS

Recipient: ____

PTUP ____

____ days/hours Public Service Empl.

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. ____

May serve W/E 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: ____

*Fine:		$ ____
§14-1-206 (Assessments 107.5%)		$ ____
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	$100	$ ____
§56-5-2995 (DUI Assessment)	$12	$ ____
§56-1-286 (DUI Breath Test)	$25	$ ____
Proviso 61.6 (Public Def/Probation)	$500	$ ____
§14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§14-1-213 (Drug Court Surcharge)	$150	$ ____
§50-21-114 (BUI Breath Test Fee)	$50	$ ____
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$ ____
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75
		$ ____

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk Heather O. Gordon
Court Reporter: ____

Presiding Judge ____
Judge Code: 2153
Sentence Date 11/6/18