

STATE OF SOUTH CAROLINA ) COURT OF GENERAL SESSIONS  
: )  
COUNTY OF FAIRFIELD ) SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA, )  
: )  
PLAINTIFF, )  
: )  
VERSUS ) TRANSCRIPT OF RECORD  
: )  
ZAIL GAVIN, )  
: )  
DEFENDANT. )

MAY 27, 2008  
WINNSBORO, SOUTH CAROLINA

B E F O R E:

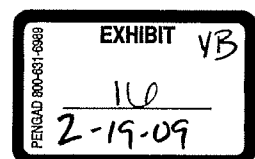
THE HONORABLE KENNETH G. GOODE, JUDGE

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

FOR THE STATE:  
LASHIKA VANDYKE, AGENT  
SOUTH CAROLINA DEPARTMENT OF PARDON, PROBATION AND PAROLE

FOR THE DEFENDANT:  
S. JAHUE MOORE, JR., ESQ.

PHYLLIS S. BARRETT  
CIRCUIT COURT REPORTER



1 THE COURT: IS THIS YOUR CLIENT, MR. MOORE?

2 MR. MOORE: YES SIR, YOUR HONOR, IT IS. MR. ZAIL GAVIN, WHO IS  
3 SEATED RIGHT HERE.

4 THE COURT: IF YOU WOULD, YOU HAVE HIM COME AND STAND  
5 BEFORE THE COURT. MADAM AGENT, IS THERE ANYTHING THAT YOU  
6 WOULD LIKE TO ADD TO YOUR PACKET OF INFORMATION? I HAVE YOUR  
7 PACKET AND I HAVE AN ADDENDUM TO IT, I GUESS, IN THE FORM OF A  
8 LETTER FROM INGRID LEE.

9 MS. VANDYKE: I'M NOT FAMILIAR WITH THAT.

10 THE COURT: WITH THAT LETTER?

11 MS. VANDYKE: SHE'S THE VICTIM IN A PENDING CASE, NOT THE  
12 VICTIM IN THE PROBATION CASE.

13 (PAUSE)

14 MR. MOORE: YOUR HONOR, WE WOULD RESPECTFULLY ASK THAT THE  
15 COURT NOT GIVE THAT LETTER ANY CONSIDERATION. THE PERSON WHO  
16 WROTE THAT IS NOT THE VICTIM TO WHAT MR. GAVIN IS CHARGED HERE, OR  
17 IS ON PROBATION FOR, NOT TO MENTION THE FACT THAT MS. VANDYKE  
18 NEVER FAXED THAT LETTER TO ME PRIOR TO TODAY. SHE TOLD ME SHE  
19 WAS BASICALLY GOING TO FAX OVER TO ME EVERYTHING. SHE  
20 APPARENTLY DID SO, AND THAT WAS NOT INCLUDED WITH IT.

21 MS. VANDYKE: YOUR HONOR, I NEVER RECEIVED THAT. I DON'T HAVE  
22 A COPY OF THAT LETTER.

23 THE COURT: THEN I WON'T CONSIDER IT. IS THERE ANYTHING YOU'D  
24 LIKE TO ADD TO YOUR PACKET?

25 MS. VANDYKE: NOT AT THIS TIME, YOUR HONOR.

1 THE COURT: IF YOU WOULD GIVE ME A MOMENT TO REVIEW IT,  
2 PLEASE, MA'AM.

3 MS. VANDYKE: YES SIR.

4 (PAUSE FOR COURT TO REVIEW MATERIALS)

5 THE COURT: WHAT WAS THE RESOLUTION OF THE DISORDERLY  
6 CONDUCT?

7 MS. VANDYKE: SIR, I HAVEN'T BEEN ADVISED OF ANY DISPOSITION.

8 MR. MOORE: JUDGE, THERE HASN'T BEEN A DISPOSITION OF ANY  
9 PARTICULAR CHARGE, BUT IT ISN'T ANY FAULT OF OUR OWN. THAT CASE  
10 WAS ACTUALLY SCHEDULED FOR A JURY TRIAL ABOUT TWO WEEKS AGO.  
11 MR. GAVIN AND I WERE THERE. WE SHOWED UP. WE WERE NOTICED TO BE  
12 THERE. WE ASKED FOR OUR JURY TRIAL. AND FOR SOME STRANGE REASON  
13 AFTER THE PROSECUTOR TALKED WITH MYSELF AND TALKED WITH THE  
14 VICTIM OF THAT CASE HE DECIDED FOR NO PARTICULAR REASON TO  
15 CONTINUE THE CASE. TO WIT: WE ASKED THE JUDGE TO PLEASE LET US GO  
16 FORWARD, KNOWING THAT THIS HEARING WAS PENDING. WE WANTED TO  
17 GET IT RESOLVED BEFORE TODAY, BUT THE CITY OF COLUMBIA WOULDN'T  
18 ALLOW US TO DO IT.

19 THE COURT: ALL RIGHT, SIR.

20 (PAUSE TO REVIEW MATERIALS)

21 MR. MOORE, ARE YOU SAYING THAT MR. GAVIN HAS BEEN COMPLYING  
22 WITH THE TERMS OF HIS PROBATION?

23 MR. MOORE: JUDGE, WE BELIEVE THAT HE HAS. HE CERTAINLY HAS. IF  
24 YOUR HONOR, WOULDN'T MIND, WE WOULD HAVE SOME QUESTIONS FOR  
25 THE AGENT THAT WE THINK WILL CLEAR UP THINGS.

1 THE COURT: GO RIGHT AHEAD.

2 MR. MOORE: THANK YOU, YOUR HONOR.

3 AGENT, I WANT TO START TODAY WITH ZAIL'S SENTENCE. WHAT WAS  
4 ZAIL'S SENTENCE. WHAT WAS ZAIL'S SENTENCE?

5 MS. VANDYKE: ON THE VIOLATION REPORT PROVIDED IT WAS A  
6 THREE YEAR SUSPENDED SENTENCE UPON THE SERVICE OF SIX MONTHS AND  
7 THREE YEARS' PROBATION.

8 MS. MOORE: ARE YOU SURE THAT'S THE SENTENCE?

9 MS. VANDYKE: THAT'S WHAT'S ON THE SENTENCING SHEET.

10 MR. MOORE: WERE THERE ANY SPECIAL CONDITIONS?

11 MS. VANDYKE: SPECIAL CONDITIONS INCLUDED DISCRETIONARY GPS  
12 FOR TWO YEARS AND A FINE OF \$128.75 TIMES THREE. ALSO, INTENSIVE SEX  
13 OFFENDER COUNSELING.

14 MR. MOORE: AND YOUR JOB IS A PROBATION AGENT. CORRECT?

15 MS. VANDYKE: CORRECT.

16 MR. MOORE: THAT BASICALLY MEANS YOU ARE TO ENFORCE A  
17 JUDGE'S ORDER. CORRECT?

18 MS. VANDYKE: CORRECT.

19 MR. MOORE: YOU'RE NOT SUPPOSED TO MAKE UP PARTICULAR  
20 ORDERS AND ENFORCE THEM ON YOUR OWN, ARE YOU?

21 MS. VANDYKE: CORRECT.

22 MR. MOORE: ALL RIGHT. WELL, LET'S LOOK-- LET ME SHOW YOU  
23 SOMETHING. WHAT'S THAT?

24 MS. VANDYKE: A SCHEDULE FOR A GPS MONITORING PROGRAM.

25 MR. MOORE: WHOSE IS IT?

1 MR. MOORE: RIGHT?

2 MS. VANDYKE: NO, BUT THE JUDGE ORDERED HIM TO  
3 HE'S TO FOLLOW TIMES AND CONDITIONS OF PROBATION AS WELL AS SEX  
4 OFFENDER CONDITIONS OF HIS PROBATION.

5 MR. MOORE: I SEE. SO, THOSE ARE YOUR CONDITIONS. RIGHT?

6 MS. VANDYKE: THOSE ARE THE DEPARTMENT'S CONDITIONS.  
7 CORRECT.

8 THE COURT: I THINK WE CAN LET THE RECORD REFLECT THAT I WAS  
9 THE ORIGINAL SENTENCING JUDGE AND I RETAINED JURISDICTION IN THIS  
10 MATTER.

11 MR. MOORE: YES SIR. LET'S TALK ABOUT THE ACTUAL VIOLATIONS.  
12 THE FIRST ONE, THAT WAS ON FEBRUARY 28. RIGHT?

13 MS. VANDYKE: YES.

14 MR. MOORE: AND YOU'VE GOT HIM LISTED IN THE WARRANT AS  
15 VIOLATING TWO SEPARATE OCCASIONS. CORRECT? THAT PARTICULAR  
16 DAY?

17 MS. VANDYKE: YES.

18 MR. MOORE: AND THE FIRST VIOLATION WAS AT 6:15. RIGHT?

19 MS. VANDYKE: THAT'S WHAT THE WARRANT SAYS. CORRECT.

20 MR. MOORE: AND THAT'S BASICALLY, WHAT THAT MEANS IS HE WAS  
21 AWAY FROM HIS POCKET PART FOR ABOUT FIFTEEN MINUTES. RIGHT?

22 MS. VANDYKE: HE CAME IN AT 6:15, YES. THE ALERT CAME IN AT 6:15.

23 MR. MOORE: OKAY. BUT HE WAS BACK IN COMPLIANCE AT 6:34.  
24 RIGHT?

25 MS. VANDYKE: YES. FOURTEEN MINUTES LATER.

1 MR. MOORE: OKAY.

2 MS. VANDYKE: OVER FOURTEEN MINUTES LATER.

3 MR. MOORE: LET ME SHOW YOU A SUMMARY OF HIS PHONE RECORDS.  
4 WHOSE NUMBER IS THAT RIGHT THERE?

5 MS. VANDYKE: THAT'S MY OFFICE CELL AT 6:31 P.M., AND I GET OFF AT  
6 5:00 P.M.

7 MR. MOORE: SO, AT 6:31 HE CALLED YOU, BUT YOU DON'T KNOW  
8 WHAT HE WAS GONNA SAY, DO YOU?

9 MS. VANDYKE: NO, BUT HE HAS BEEN PROVIDED WITH A GPS ON-CALL  
10 NUMBER WHICH HE COULD HAVE CALLED IF HE HAD AN ISSUE.

11 MR. MOORE: WHAT ABOUT HERE AT 6:59, THAT NUMBER RIGHT THERE,  
12 WHAT'S THAT NUMBER?

13 MS. VANDYKE: THAT'S THE ON-CALL CENTER, NOT THE ON-CALL  
14 AGENT CELL NUMBER---

15 MR. MOORE: OH, I SEE.

16 MS. VANDYKE: ---THAT HE'S PROVIDED.

17 MR. MOORE: I SEE.

18 MS. VANDYKE: THEY ARE TWO DIFFERENT ENTITIES.

19 MR. MOORE: BUT THE BOTTOM LINE IS HE BASICALLY CAME BACK  
20 INTO COMPLIANCE, DIDN'T HE?

21 MS. VANDYKE: WHEN HE RETRIED THE PCU FROM HIS HOME, YES.

22 MR. MOORE: RIGHT. SO, HE BASICALLY FORGOT THE UNIT, BUT HE  
23 WENT BACK AND HE GOT IT, DIDN'T HE?

24 MS. VANDYKE: YES, HE DID.

25 MR. MOORE: AND THAT HAPPENS ON OCCASION, DOESN'T IT?

1 MS. VANDYKE: OKAY. YES, IT DOES.

2 MR. MOORE: OKAY. AND THEN THE NIGHT, LATER ON THAT NIGHT  
3 YOU'VE GOT HIM VIOLATED AT WHAT TIME, 9:15?

4 MS. VANDYKE: YES.

5 MR. MOORE: LET ME SHOW YOU THIS SAME SUMMARY. NOW, 9:15 IS  
6 ACTUALLY WHEN HE VIOLATED. RIGHT?

7 MS. VANDYKE: WHEN THE ALERT CAME THROUGH, YES.

8 MR. MOORE: OKAY. WHAT'S THAT NUMBER RIGHT THERE?

9 MS. VANDYKE: THAT'S THE GPS ON-CALL CENTER.

10 MR. MOORE: ALL RIGHT. AND WHAT TIME DID HE CALL THERE?

11 MS. VANDYKE: AT 9:11.

12 MR. MOORE: AND AT 9:11, HE WASN'T, HE WAS IN FULL COMPLIANCE,  
13 WASN'T HE?

14 MS. VANDYKE: WELL, HE MAY HAVE ALREADY BEEN IN VIOLATION,  
15 BUT THE ALERT TAKES TEN MINUTES TO COME THROUGH. AND REGARDLESS  
16 OF WHAT TIME HE CALLED, HE NEVER SPOKE TO AN ON-CALL AGENT TO  
17 ADVISE WHAT WAS GOING ON.

18 MR. MOORE: WELL, MA'AM, LET'S TALK ABOUT YOUR WARRANT.  
19 WHAT TIME DOES IT SAY THAT HE VIOLATED? THE NOTICE DOCUMENT THAT  
20 I'M SUPPOSED TO HAVE IN ORDER TO PROPERLY DEFEND MY CLIENT, WHAT  
21 TIME DO YOU HAVE HIM VIOLATED?

22 MS. VANDYKE: AT 9:15, WHEN THE ALERT CAME THROUGH.

23 MR. MOORE: AND HE CALLED IN AT 9:11 TO THIS 1-800 GPS CENTER.  
24 RIGHT?

25 MS. VANDYKE: YES, ACCORDING TO THAT.

1 MR. MOORE: DO YOU HAVE ANY IDEA WHAT THEY TOLD HIM?

2 MS. VANDYKE: I CAN LOOK IN MY NOTES.

3 MR. MOORE: OKAY. TAKE YOUR TIME.

4 MS. VANDYKE: AND SEE IF ANYTHING IS DOCUMENTED.

5 MR. MOORE: ALL RIGHT.

6 (PAUSE FOR AGENT TO REVIEW NOTES)

7 MS. VANDYKE: THE DOCUMENTATION FROM THE GPS ON-CALL  
8 CENTER SAYS THAT MR. GAVIN COMMITTED THREE VIOLATIONS. THE FIRST  
9 VIOLATION, WHICH IT STARTED AT 9:15, THE DEFENDANT CONTACTED THE  
10 GOP AND STATED THAT HE LEFT HIS PCU AT SEX OFFENDER COUNSELING.  
11 HE STATED THAT HE LEFT COUNSELING TO GO HOME. ONCE HE GOT DOWN  
12 THE ROAD HE NOTICED THAT HE DID NOT HAVE HIS PCU. HE STATED ONCE  
13 HE RETURNED TO THE BUILDING IT WAS LOCKED. HE WAS ADVISED TO GO  
14 STRAIGHT HOME. AND THE ON-CALL AGENT, WHICH WAS NOT MYSELF, WAS  
15 CONTACTED AT THAT TIME.

16 THE COURT: AND THIS IS THE CALL THAT WAS MADE AT 9:11?

17 MS. VANDYKE: YES SIR.

18 THE COURT: AND YOU CITED HIM AT 9:15?

19 MS. VANDYKE: THIS CALL IS DOCUMENTED AT 9:35, YOUR HONOR.

20 THE COURT: THE CALL TO?

21 MS. VANDYKE: THE ON-CALL CENTER.

22 MR. MOORE: WELL, LET ME ASK YOU THIS: ---

23 MS. VANDYKE: AND I WOULD ADD, YOUR HONOR, THAT THIS PROCESS  
24 WAS NOT ISSUED BY MYSELF. IT WAS ISSUED BY THE ON-CALL AGENT.

25 MR. MOORE: WELL, WHERE ARE THEY?



1 MS. VANDYKE: THEY ARE NOT HERE, YOUR HONOR.

2 MR. MOORE: WHY NOT?

3 MS. VANDYKE: THEY HAVE OTHER OBLIGATIONS TODAY, YOUR  
4 HONOR.

5 MR. MOORE: SO, THEIR OTHER OBLIGATIONS ARE MORE IMPORTANT  
6 THAN MR. GAVIN'S THIS MORNING. IS THAT RIGHT?

7 MS. VANDYKE: I'M MR. GAVIN'S SUPERVISING AGENT; THEREFORE, I'M  
8 PRESENTING THE CASE.

9 MR. MOORE: OKAY. SO, BASICALLY, IF OUR PHONE RECORDS ARE  
10 RIGHT, HE MADE A CALL AT 9:11, BASICALLY TELLING US HE HAD A  
11 PROBLEM. RIGHT?

12 MS. VANDYKE: CORRECT.

13 MR. MOORE: AND THEY TOLD HIM TO GO HOME.

14 MS. VANDYKE: WELL, WHERE WAS HE SUPPOSED TO GO?

15 MR. MOORE: YOU TELL ME.

16 MS. VANDYKE: THEY INSTRUCTED HIM TO GO HOME.

17 MR. MOORE: RIGHT. AND THAT'S WHEN HE VIOLATED AT 9:15. RIGHT?

18 MS. VANDYKE: THEY INSTRUCTED HIM TO GO HOME AFTER 9:15.  
19 WHEN THE VIOLATION CAME THROUGH HE WAS INSTRUCTED TO GO HOME,  
20 PER THE DOCUMENTATION THAT I HAVE. AND THE ON-CALL AGENT WAS  
21 CONTACTED THEN.

22 MR. MOORE: HE DID WHAT THEY TOLD HIM TO DO. IS THAT RIGHT?

23 MS. VANDYKE: BUT THAT DOESN'T MEAN THAT THE VIOLATION WAS  
24 ADDRESSED.

25 MR. MOORE: FOR WHICH YOU ARRESTED HIM?

1 MS. VANDYKE: HE WAS ARRESTED AT HOME.

2 MR. MOORE: HE WASN'T TRYING TO RUN ANYWHERE, OBVIOUSLY,  
3 WAS HE?

4 MS. VANDYKE: NOT TO MY KNOWLEDGE.

5 MR. MOORE: MATTER OF FACT, HE SELF-REPORTED, DIDN'T HE?

6 MS. VANDYKE: AS FAR AS LEAVING IT, YES.

7 MR. MOORE: ISN'T IT TRUE THAT AFTER WE GOT HIM OUT OF JAIL  
8 THAT Y'ALL BASICALLY SWITCHED UNITS WITH HIM, GAVE HIM ANOTHER  
9 POCKET UNIT?

10 MS. VANDYKE: WE GAVE HIM NEW EQUIPMENT BECAUSE HE HAD TO  
11 BE TRACKED.

12 MS. MOORE: AND NEW EQUIPMENT, WHY'D YOU GIVE HIM NEW  
13 EQUIPMENT?

14 MS. VANDYKE: BECAUSE WE DIDN'T HAVE THE ONE THAT HE LEFT.

15 MR. MOORE: WHERE DID YOU FIND THAT PIECE OF EQUIPMENT?

16 MS. VANDYKE: ACTUALLY, HE BROUGHT IT INTO THE OFFICE AS  
17 INSTRUCTED.

18 MR. MOORE: AS INSTRUCTED?

19 MS. VANDYKE: WHEN HE WAS TOLD THAT HE WOULD HAVE TO PAY  
20 FOR IT IF HE DIDN'T.

21 MR. MOORE: LET'S TALK ABOUT THIS NEXT VIOLATION. THIS WAS AN  
22 ARREST FOR THE CITY OF COLUMBIA. RIGHT?

23 MS. VANDYKE: YES.

24 MR. MOORE: WHO TOLD YOU THAT HE'D BEEN ARRESTED?

1 MS. VANDYKE: THE CITY OF COLUMBIA ADVISED ME THAT THEY HAD  
2 A WARRANT.

3 MR. MOORE: AND HE WAS ARRESTED. RIGHT?

4 MS. VANDYKE: CORRECT.

5 MR. MOORE: NOW, YOU BASICALLY VIOLATED HIM FOR THE ARREST.  
6 CORRECT?

7 MS. VANDYKE: FOR THE INTENT OR THE NATURE OF THE ARREST, YES.

8 MR. MOORE: WERE YOU THERE?

9 MS. VANDYKE: NO, BUT I DO HAVE A WARRANT ISSUED AND GIVEN TO  
10 ME FROM THE COLUMBIA POLICE DEPARTMENT.

11 MR. MOORE: OKAY. SO, YOU DON'T KNOW WHAT HAPPENED THAT  
12 PARTICULAR DAY, DO YOU?

13 MS. VANDYKE: NO, I'M NOT SURE WHAT HAPPENED THAT DAY.

14 MR. MOORE: BUT YOU DO KNOW THAT WE'VE REQUESTED A JURY  
15 TRIAL ON THAT ONE, DON'T YOU?

16 MS. VANDYKE: I KNOW NOW.

17 MR. MOORE: OKAY.

18 MS. VANDYKE: THAT WASN'T AN ISSUE THAT I KNEW WHEN THE  
19 PROCESS WAS ISSUED.

20 MR. MOORE: THAT'S FAIR ENOUGH. ANOTHER VIOLATION THAT  
21 YOU'VE GOT IN HERE IS THAT HE WAS AT 138 WHISPERING PINES CIRCLE AND  
22 HE WASN'T SUPPOSED TO BE THERE. RIGHT? THAT'S WHAT YOU'VE GOT IN  
23 THE WARRANT.

24 MS. VANDYKE: CORRECT.

25 MR. MOORE: WHY WASN'T HE SUPPOSED TO BE THERE?

1 MS. VANDYKE: MR. GAVIN WAS ADVISED AFTER THE FIRST VIOLATION  
2 THAT HE IS TO SUBMIT A WEEKLY ITINERARY. YOUR HONOR, I HAVE THOSE  
3 IF YOU WOULD LIKE TO SEE THEM. IT CONSISTS OF WORK, MAYBE THE  
4 GROCERY STORE, MAYBE THE BANK. BUT IT'S TIMES THAT HE'S SUPPOSED  
5 TO BE IN THESE PLACES. WHISPERING SPRINGS IS NOT ON THIS ITINERARY.  
6 AND ESPECIALLY IF THE INDIVIDUAL AT WHISPERING SPRINGS HAS A CHILD  
7 IN COMMON WITH MR. GAVIN, HE IS NOT HAVE CONTACT WITH ANYONE  
8 UNDER EIGHTEEN.

9 MR. MOORE: DID HE HAVE CONTACT WITH ANYBODY UNDER THE AGE  
10 OF EIGHTEEN? DO YOU KNOW THAT?

11 MS. VANDYKE: I'M NOT SURE OF THAT.

12 MR. MOORE: OKAY. WELL, LET ME---

13 MS. VANDYKE: YOUR HONOR, 138 WHISPERING SPRINGS WAS NOT AN  
14 APPROVED ADDRESSED PER THE ITINERARY THAT MR. GAVIN SUBMITS  
15 EVERY WEEK.

16 MR. MOORE: WASN'T AN APPROVED ADDRESSED. BUT YOU'VE GOT  
17 DOWN HERE, YOU'VE GOT ON THE ARREST WARRANT THAT IT WAS 138  
18 WHISPERING PINES, OR WHATEVER IT WAS, WAS A PROHIBITED AREA. SHOW  
19 ME DOCUMENTATION WHERE YOU HAVE PROHIBITED MR. GAVIN FROM  
20 BEING AT 138 WHISPERING PINES.

21 MS. VANDYKE: ACTUALLY IT SAYS, FAILED TO ABIDE BY APPROVED  
22 GPS ITINERARY FOR THE WEEK BY BEING IN UNAUTHORIZED AREA.  
23 UNAUTHORIZED MEANING NOT PREVIOUSLY APPROVED PER THE ITINERARY  
24 SUBMITTED.

25 MR. MOORE: OKAY.

1 MS. VANDYKE: HAD THE ADDRESS BEEN APPROVED IT WOULD HAVE  
2 BEEN DENIED BECAUSE OF THE FACT THAT A MINOR CHILD DOES STAY AT  
3 THIS RESIDENCE, AND HAVING CONTACT.

4 MR. MOORE: LET ME ASK YOU THIS: YOU'VE GOT ON THE WARRANT,  
5 THIS IS THE PIECE OF PAPER THAT BASICALLY SIGNED ON 2/7/08. AND THIS  
6 WAS THE PIECE OF PAPER THAT PROHIBITED HIM FROM BEING IN THAT  
7 PARTICULAR LOCATION. RIGHT?

8 MS. VANDYKE: (PAUSE TO REVIEW MATERIALS) YOUR HONOR, THIS  
9 PIECE OF PAPER DOES NOT PROHIBIT HIM FROM BEING AT 138 WHISPERING  
10 CIRCLE, BUT THE CONDITIONS OF HIS SUPERVISION DO.

11 MR. MOORE: OKAY.

12 MS. VANDYKE: IT'S SEX OFFENDER CONDITIONS AS WELL AS GPS  
13 CONDITIONS PROHIBIT HIM FROM BEING IN UNAUTHORIZED PLACES.

14 MR. MOORE: NOW, IN THE CHARGING DOCUMENT YOU SAID THAT THIS  
15 IS THE PIECE OF PAPER THAT HE IS IN VIOLATION. RIGHT? THAT'S WHAT IT  
16 SAYS IN THE WARRANT.

17 MS. VANDYKE: THERE ARE NUMEROUS GPS SCHEDULES---

18 MR. MOORE: SURE.

19 MS. VANDYKE: ---THAT I HAVE.

20 MR. MOORE: BUT THIS IS THE ONLY ONE THAT SAYS 2/7/08. RIGHT?

21 MS. VANDYKE: THAT'S THE ONLY ONE THAT SAYS, 2/7/08, YES.

22 MR. MOORE: AND THERE AIN'T NOTHING IN HERE THAT PROHIBITS HIM  
23 FROM BEING AT 138, IS IT?

24 MS. VANDYKE: THERE'S NOTHING IN ANY OF THEM. IT'S PART OF HIS  
25 CONDITIONS.

1 MR. MOORE: NOTHING IN ANY OF THEM?

2 MS. VANDYKE: I MEAN, 138 IS NOT LISTED ON ANY OF HIS SCHEDULES.

3 MR. MOORE: I SEE. LET'S TALK ABOUT THE 30TH.

4 MS. VANDYKE: BUT NEITHER ARE DAY CARES, NEITHER ARE SCHOOLS,  
5 NEITHER ARE LIBRARIES, BUT HE KNOWS HE'S NOT SUPPOSED TO BE THERE.

6 MR. MOORE: LET'S TALK ABOUT THE 30TH. AFTER HE'S BEEN  
7 ARRESTED TWICE, NOW, YOU BASICALLY HAD HIM GIVE A WEEKLY WORK  
8 SCHEDULE. CORRECT?

9 MS. VANDYKE: CORRECT.

10 MR. MOORE: AND THIS LAST VIOLATION, HE BASICALLY SUBMITTED A  
11 WORK SCHEDULE, DID HE NOT?

12 MS. VANDYKE: CORRECT.

13 MR. MOORE: AND HE TOLD YOU THAT ON THIS PARTICULAR DAY THAT  
14 HE WAS GONNA BE TAKING HIS ELDERLY PARENTS TO THE DOCTOR AT 9:00  
15 A.M. RIGHT?

16 MS. VANDYKE: THE SCHEDULE SAYS-- HE DIDN'T TELL ME ANYTHING.  
17 THE SCHEDULE SAYS FROM 9:00 TO 11:30 A.M., SENIOR PRIMARY CARE.

18 MR. MOORE: WHAT TIME DO YOU HAVE HIM VIOLATED?

19 MS. VANDYKE: AT 7:47. HE WAS NOT AUTHORIZED TO LEAVE PRIOR TO  
20 9:00 A.M. YOUR HONOR, IF I MAY SUBMIT THESE ITINERARIES TO YOU. MR.  
21 GAVIN'S WEEKLY, DAILY IS SCHEDULED OUT FROM 7:00 TO 7:00 PER THIS  
22 ITINERARY. 7:00 A.M. HE KNOWS THAT HE DOES NOT-- AND IT HAS NOT  
23 BEEN AN ISSUE. HE DOES NOT LEAVE PRIOR TO 7:00 A.M., WHEN HE GOES TO  
24 NEWBERRY TO HIS SHOP. THIS DATE IN QUESTION, HE LEAVES AT 7:47. THIS  
25 IS NOT WHAT THE ITINERARY SAYS. THIS IS THE ITINERARY THAT HE FAXED

1 TO THE OFFICE. OR, MAY I SAY, HIS GIRLFRIEND FAXED IT TO THE OFFICE.  
2 WHEN ASKED DID HE NOT HAVE A COPY, HE SAID, OH, WELL, LUCY FAXES  
3 THOSE IN; I DON'T EVEN REALLY KNOW WHAT SHE PUTS ON IT.

4 SO, THAT'S IGNORANCE ON HIS PART, THAT HE DOES NOT EVEN HAVE  
5 A COPY OF TIME THAT HE SUBMITS TO THE DEPARTMENT TO GO OUT.

6 MR. MOORE: WHAT I WANT TO KNOW IS WHAT TIME DID THE  
7 APPOINTMENTS START?

8 MS. VANDYKE: IT HAS ON THIS PAPER FROM 9:00 TO 11:30 A.M. THAT'S  
9 ALL I KNOW.

10 MR. MOORE: AND YOU VIOLATED HIM FOR LEAVING AT 7:45 TO TAKE  
11 TWO ELDERLY PEOPLE TO THE DOCTOR?

12 MS. VANDYKE: HE WAS NOT AUTHORIZED TO LEAVE HIS RESIDENCE  
13 PRIOR TO 9:00 A.M. AS STATED ON THE ITINERARY THERE. THAT'S IT.

14 MR. MOORE: SO, YOU WERE GONNA HAVE HIM LEAVE HIS HOUSE  
15 AFTER THE APARTMENT HAD ALREADY STARTED?

16 MS. VANDYKE: 9:00 TO 11:30, I'M NOT SURE WHAT TIME IT STARTED. IT  
17 COULD HAVE STARTED AT 11:00. 9:00 TO 11:00 WOULD HAVE BEEN ENOUGH  
18 TIME FOR HIM TO GET HIS PARENTS THERE.

19 MR. MOORE: THAT'S THE SCHEDULE HE GAVE YOU. RIGHT?

20 MS. VANDYKE: CORRECT.

21 MR. MOORE: IN COMPLIANCE, FULL COMPLIANCE WITH WHAT YOU  
22 ASKED HIM TO DO. RIGHT?

23 MS. VANDYKE: CORRECT. BUT HE DID NOT FOLLOW THE SCHEDULE  
24 THAT HE FAXED IN.

1 MR. MOORE: WHAT DAY OF THE WEEK DID YOU ARREST HIM ON THIS  
2 ONE?

3 MS. VANDYKE: IT WAS A FRIDAY.

4 MR. MOORE: A FRIDAY?

5 MS. VANDYKE: UH-HUH.

6 MR. MOORE: WHAT TIME DID HE HAVE HIS BOND HEARING?

7 MS. VANDYKE: I'M NOT SURE.

8 MR. MOORE: WOULD YOU SURPRISE YOU IF IT WAS 10:00 AT NIGHT AT  
9 THE ALVIN S. GLENN DETENTION CENTER?

10 MS. VANDYKE: NO, IT WOULDN'T.

11 MR. MOORE: ALL RIGHT.

12 MS. VANDYKE: DEPENDING ON WHAT TIME HE CAME TO THE OFFICE.

13 MR. MOORE: LET ME ASK YOU THIS: WHERE'D YOU ARREST HIM?

14 MS. VANDYKE: HE WAS ARRESTED AT THE OFFICE.

15 MR. MOORE: DID Y'ALL HAVE TO GO GET HIM?

16 MS. VANDYKE: NO, HE REPORTED AS INSTRUCTED. HE HAS NO  
17 PROBLEMS WITH FOLLOWING INSTRUCTIONS AFTER HE VIOLATES. HE  
18 ALWAYS REPORTS AND IS ALWAYS HOME WHEN HE'S SUPPOSED TO BE.

19 MR. MOORE: JUDGE, I THINK THAT'S ALL.

20 MS. VANDYKE: AND YOUR HONOR, I DO HAVE THAT ITINERARY AND  
21 SEVERAL OTHER ITINERARIES IF YOU WOULD LIKE TO SEE THE TIMES  
22 THAT...

23 THE COURT: I ACCEPT YOUR REPRESENTATION AS A AGENT FOR THE  
24 SOUTH CAROLINA DEPARTMENT OF PROBATION, PARDON AND PAROLE. AND  
25 AS I UNDERSTAND, YOU ARE THE SUPERVISING AGENT?



1 MS. VANDYKE: YES SIR.

2 MR. MOORE: JUDGE, ALL WE WANT TO SAY IS THIS: WE'RE  
3 DESPERATELY TRYING TO COMPLY WITH THE GPS. IT'S DIFFICULT TO DO,  
4 BUT WE'RE TRYING TO DO. WE REPORT WHEREVER THEY TELL HIM TO  
5 REPORT. WE HAVE TURNED OURSELVES IN ON THREE DIFFERENT  
6 OCCASIONS. I CAN'T DO ANYTHING ABOUT THE ARREST. WE TRIED TO SO  
7 SOMETHING ABOUT THAT TWO WEEKS AGO WITH THE CITY OF COLUMBIA  
8 CHARGE. BUT WE CAN'T DO ANYTHING ABOUT IT NOW AT THIS HOUR. WE  
9 TRIED AND WE FAILED.

10 THE COURT: DOES HE WORK?

11 MR. MOORE: HE DOES WORK.

12 THE COURT: WHAT DOES HE DO

13 MR. MOORE: ZAIL, TELL HIM.

14 MR. GAVIN: I OWN A PAINTING COMPANY AND I HAVE FOR THE LAST  
15 SEVEN YEARS.

16 THE COURT: PAINTING?

17 MR. GAVIN: YES SIR, HOUSE PAINTING.

18 THE COURT: HOUSE PAINTING?

19 MR. GAVIN: YES SIR.

20 MR. MOORE: BASICALLY, WHAT THEY WANT HIM TO DO IS FILL OUT  
21 AN ITINERARY A WEEK OR TWO IN ADVANCE FOR THE THINGS THAT HE  
22 WOULD BE PAINTING IN THE FUTURE. HE HAS NO IDEA. HIS LIFE IS JUST  
23 EXTREMELY DIFFICULT FOR THIS MAN TO-- IT'S ALMOST IMPOSSIBLE---

24 MR. GAVIN: IT IS.

1 MR. MOORE: ---WITH WHAT THEY'RE HAVING HIM TO DO. NOT TO  
2 MENTION THE FACT THAT HE WAS NEVER ORDERED TO BE ON HOUSE  
3 ARREST. AND HE IS HOME EVERY SINGLE SUNDAY, ALL DAY LONG. AND  
4 THAT WAS NOT PART OF THE ORIGINAL ORDER. BUT HE'S TRYING TO  
5 COMPLY.

6 AND IF HE HAS A PROBLEM WITH THE GPS, THE MAN DOESN'T RUN.  
7 THE MAN DOESN'T GO TO A CHURCH OR A SCHOOL. HE CALLS PROBATION.  
8 HE CALLS THE 800 NUMBERS THAT THEY GIVE HIM. HE CALLS AGENT  
9 VANDYKE; SHE WON'T ANSWER THE PHONE. HE'S JUST LOOKING FOR HELP  
10 AND ASSISTANCE AND IT'S NOT GIVEN TO HIM.

11 AND THIS LAST VIOLATION, TO BE ON A FRIDAY MORNING, THE MAN  
12 TAKING HIS PARENTS TO THE DOCTOR---

13 \* THE COURT: THAT DOESN'T BOTHER ME. THAT'S FIFTEEN MINUTES, OR  
14 AN HOUR AND THIRTEEN MINUTES. I'M NOT CONCERNED ABOUT THAT.

15 MR. MOORE: JUDGE, ALL WE ASK---

16 THE COURT: HAS THIS GENTLEMAN DONE SOMETHING THAT CAUSES  
17 YOUR DEPARTMENT TO HAVE-- I MEAN, THESE ARE MUCH STRICTER  
18 RESTRICTIONS THAN I ENVISIONED WHEN I-- I MEAN, I SENT HIM TO JAIL FOR  
19 SIX MONTHS.

20 MS. VANDYKE: YES SIR.

21 THE COURT: WHY, SUNDAY, DOES HE HAVE TO BE HOME ALL DAY  
22 LONG?

23 MS. VANDYKE: YOUR HONOR, IT'S JUST THE WAY THE GPS SCHEDULE  
24 IS MADE UP. LIKE I SAID, THEY'RE ALLOWED OUT FOR WORK PURPOSES  
25 ONLY BECAUSE THE GPS IS THE STRICTEST FORM OF HOUSE ARREST.

1 ELECTRONIC MONITORING FOR A SEX OFFENDER. BECAUSE OF THE NATURE  
2 OF-- I MEAN, WHEN WE WERE BEFORE YOU IN NOVEMBER HE WAS VIOLATED  
3 FOR PEEPING TOM, IN WHICH HE GOT ARRESTED WITH THREE NEW CHARGES  
4 OF INDECENT EXPOSURE FOR STANDING IN THE WINDOW OF HIS NEXT-DOOR  
5 NEIGHBOR.

6 SO, IT'S JUST THE TYPE OF OFFENDER THAT HE IS. BECAUSE HE IS ON  
7 CONTAINMENT LEVEL, THE HIGHEST LEVEL OF SEX OFFENDER THERE IS.  
8 THERE ARE PRECAUTIONARY MEASURES TAKEN WHEN IT COMES TO  
9 SUPERVISING HIM. HIS SCHEDULE, AND AS FAR AS GPS IS CONCERNED, HE IS  
10 NOT SUPERVISED ANY DIFFERENTLY FROM ANY OTHER OFFENDER. THEY'RE  
11 ALLOWED OUT FOR WORK, FOR WORK PURPOSES ONLY. THEY AREN'T  
12 ALLOWED TO GO TO CHURCH UNLESS THE SEX OFFENDER COUNSELOR  
13 DEEMS APPROPRIATE, IN WHICH THIS IS NOT THE CASE.

14 SO, I MEAN, THEIR ACTIVITY AS FAR AS BEING OUT OF THE HOUSE IS  
15 LIMITED. MR. GAVIN HAS MORE TIME OUT THAN MOST SEX OFFENDERS.  
16 EVERY DAY TO TRAVEL TO ANOTHER COUNTY TO WORK.

17 AND AS FAR AS BEING HOME ON SUNDAY, THAT'S NOT THE ISSUE  
18 HERE. THE ISSUE IS WHEN HE'S ALLOWED OUT AND---

19 THE COURT: YOU KNOW WHAT THE ISSUE IS? WHATEVER I SAY THE  
20 ISSUE IS. OKAY? I GAVE YOU DISCRETION. I DIDN'T GIVE YOU CONTROL. I  
21 MAINTAIN THE CONTROL. IS THERE ANYTHING ABOUT THAT THAT YOU  
22 DON'T UNDERSTAND?

23 MS. VANDYKE: NO SIR. I WAS SPEAKING IN REFERENCE TO THE  
24 THINGS THAT MR. MOORE SAID. I'M JUST SPEAKING ABOUT WHEN HE IS OUT  
25 AND THE THINGS THAT HE IS DOING.

1 THE COURT: WELL, I GAVE YOU DISCRETION; I DIDN'T GIVE YOU  
2 CONTROL. WHEN WAS HE SENTENCED?

3 MS. VANDYKE: NOVEMBER 8 OF 2007.

4 THE COURT: I'M GOING TO CONTINUE HIM ON PROBATION. I'M EVEN  
5 GOING TO ALLOW YOU TO MAINTAIN THE RESTRICTIONS THAT YOU'VE  
6 PLACED AGAINST HIM. BUT I THINK THAT YOU'VE TO VIEW THE TOTALITY  
7 OF CIRCUMSTANCES. AND IF SOMEBODY CALLS YOU ELEVEN MINUTES  
8 AFTER WHEN IT'S DETERMINED THAT THEY'RE OFF GPS, AND SAYS, LOOK I'M  
9 OFF GPS, AND HERE'S WHY, I DON'T THINK THAT MERITS A VIOLATION. I  
10 THINK YOU'RE BEING OVERLY STRICT ON MR. GAVIN.

11 BUT, IN ANY EVENT, I'M GOING TO CONTINUE HIM ON PROBATION AND  
12 STILL MAINTAIN JURISDICTION IN THIS CASE.

13 MR. MOORE: THANK YOU, YOUR HONOR.

14 THE COURT: AND MR. GAVIN.

15 MR. GAVIN: YES SIR.

16 THE COURT: I FIND YOUR HISTORY AND YOUR OFFENSES TO BE  
17 EXTRAORDINARILY OFFENSIVE.

18 MR. GAVIN: YES SIR.

19 THE COURT: I DON'T WANT YOU TO THINK THAT THE FACT THAT I'M  
20 ALLOWING YOU TO STAY ON PROBATION DIMINISHES MY FEELINGS OF-- I  
21 CAN'T USE THE WORDS THAT I WOULD NORMALLY USE. BUT  
22 DISAPPOINTMENT IN ANY HUMAN THAT WOULD DO THE THINGS THAT YOU  
23 HAVE DONE. YOU'VE GOT TO DO WHAT THEY SAY.

24 MR. GAVIN: YES SIR.

1 THE COURT: I DON'T WANT YOU TO TIGHTEN THEM ANY MORE. IF YOU  
2 FEEL LIKE THERE'S A REASON FOR THERE TO BE ADDITIONAL RESTRICTIONS  
3 PLACED ON THIS MAN, I DIRECT YOU AS THE SUPERVISOR OF WHO'S OVER  
4 HIM TO RUN THEM PAST ME AND EXPLAIN TO ME WHY. AND WHEN AND IF  
5 THIS MATTER IN RICHLAND COUNTY COMES TO TRIAL, I DON'T WANT YOU TO  
6 VIOLATE HIM FOR IT. WE CONSIDERED THAT TODAY. THEY'VE GONE DOWN.  
7 THEY'VE TRIED TO ADDRESS IT. AND THROUGH NO FAULT OF THEIR OWN,  
8 THEY WEREN'T ALLOWED TO.

9 SO, AS FAR AS VIOLATIONS WE'RE STARTING A CLEAN SLATE TODAY.  
10 IS THAT FAIR ENOUGH?

11 MS. VANDYKE: FAIR ENOUGH. THANK YOU, YOUR HONOR.

12 THE COURT: YES MA'AM.

13 MR. MOORE: THANK YOU, JUDGE.

14

15

16

17

18

19

20

21

22

23

24


25

CERTIFICATE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

I, THE UNDERSIGNED PHYLLIS S. BARRETT, OFFICIAL COURT REPORTER FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE HEARING HELD IN THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR THE SIXTH JUDICIAL CIRCUIT, FAIRFIELD COUNTY, SOUTH CAROLINA, ON THE 27TH DAY OF MAY, 2008.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, INTEREST, NOR COUNSEL TO ANY PARTY HERETO.

  
PHYLLIS S. BARRETT

STATE OF SOUTH CAROLINA  
COUNTY OF Highland

IN THE COURT OF GENERAL SESSIONS  
ORDER FOR DESTRUCTION OF ARREST RECORDS

THE STATE OF SOUTH CAROLINA

Race W Sex M Age 50  
DOB 3/5/1958 SSN 574-54-0155  
SID # SC00193006 23299 NA6

vs.

Zail Gavin  
Defendant

Charges were disposed of in the court indicated below:

Magistrate  Municipal  General Sessions

AKA

IT APPEARS that the defendant is entitled to have all records relating to this offense expunged and destroyed according to the applicable section of the South Carolina Code of Laws indicated below:

Warrant/GS No. 1-891993-95 Date of Arrest 7/24/08 Place of Arrest Highland County, S.C.

Arrest Charge Sex/Indecent exposure, Sex/Indecent exposure

- § 17-1-40. The charge was dismissed, *not prossed* or the defendant was found not guilty on 9/19/2008
- § 17-22-150(a). The charge was *not prossed* on \_\_\_\_\_ by the Solicitor because the defendant successfully completed the Pre-Trial Intervention Program. (*PTI Director must attest to eligibility for expungement*).
- § 17-22-530(A). The charge was *not prossed* on \_\_\_\_\_ by the Solicitor because the defendant successfully completed the Alcohol Education Program. (*AEP Director must attest to eligibility for expungement*).
- § 34-11-90(e). The defendant was convicted of a first offense misdemeanor under the Fraudulent Check Law on \_\_\_\_\_ and no additional criminal conviction as defined by § 34-11-90(e) has taken place in one year from date of conviction.
- § 44-53-450(b). The defendant was charged with first offense simple possession of marijuana or hashish on \_\_\_\_\_, received a conditional discharge and has successfully complied with the terms as set forth by the court.
- § 22-5-910. The defendant was convicted of a first offense in a magistrate or municipal court on \_\_\_\_\_, that offense did not involve the exceptions enumerated in § 22-5-910, and no additional criminal conviction as defined by § 22-5-910 has taken place within three years from date of conviction or five years from the date of conviction for criminal domestic violence. (*Summary Court Judge must attest to eligibility*).
- § 22-5-920. The defendant was convicted of a first offense as a youthful offender on \_\_\_\_\_, that offense did not involve the exceptions enumerated in § 22-5-920, and no additional criminal conviction as defined by § 22-5-920 has taken place during a fifteen- year period following the first offense conviction as a youthful offender.
- § 56-5-750(F). The defendant was convicted of a misdemeanor first offense failure to stop motor vehicle on \_\_\_\_\_ and no additional criminal conviction has taken place for three years after completion of the sentence.

SLED verifies the offense listed above is eligible for expungement:  Yes  No SLED B. Dan Date 10/13/08

IT IS ORDERED that all records relating to such arrest and subsequent discharge pursuant to the above-referenced section be dismissed, expunged and immediately destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except nonpublic information retained on each person accepted for Pre-Trial Intervention pursuant to § 17-22-130, nonpublic information retained by SC Law Enforcement Division (SLED) pursuant to § 34-11-90(e), nonpublic information retained by the Department of Narcotic and Dangerous Drugs Under SLED pursuant to § 44-53-450, nonpublic information retained by SLED pursuant to § 22-5-910 and § 22-5-920, and nonpublic information retained by SLED and Department of Public Safety pursuant to § 56-5-750 (F).

- Solicitor:  Consents  
 Declines to Consent  
 Determined ineligible for expungement

W. Barney Hesse  
Circuit Solicitor

Signed this 15<sup>th</sup> day of October, 2008.

I attest that the defendant is eligible for expungement pursuant to S.C. Code §17-22-150(a) (successful completion of PTI), §17-22-530(A) (successful completion of AEP), § 22-5-910 (summary court conviction) or § 44-53-450(b) (conditional discharge).

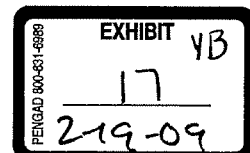
**Not Applicable**

[Signature]  
Circuit Court Judge  
Defendant / Attorney for Defendant (Circle One)

Director PTI / Director AEP/Summary Court Judge (circle one) [Signature]

Expunged by SLED by: \_\_\_\_\_ Date: \_\_\_\_\_ (For SLED internal use only)

SCCA 223 (08/2007)



Attorney

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

Warrant#: **W-40-08-2228, C-40-08-1889, W-40-08-2441, W-GPS-40-08-0008**

Offender's Name: **Zail Gavin**  
SID#: **793006**

Date of Birth: **03-05-1958**  
SCDC#:

**Indictment Numbers:**  
07-GS-40-08451  
07-GS-40-08452  
07-GS-40-08454

**Offense and Offense Code:**  
Indecent Exposure  
Indecent Exposure  
Indecent Exposure

Supervision Program: **Probation** Begin Date: **02-07-2008** End Date: **02-06-2011**  
Supervision Level: **Sex Offender Containment**  
Sentencing Judge: **Goode** Sentencing County: **Richland**  
Sentencing Date: **11-08-2007**  
Location (Beld Response): ~~SCDC~~ Jail **Community**

**Sentence:**  
3 years suspended upon service of 6 months and 3 years probation.

*July  
see  
attached*

**Special Conditions:**  
Discretionary GPS for 2 years  
Fine (x3) \$128.75

**Current Address and Summary of Residence:**  
This offender reports residing at 525 Georgia Street, Columbia, SC 29201.

**Reporting:**  
Since subject has continued to violate his supervision and is currently unemployed, subject has been instructed to report every week.

**Employment Records While Under Supervision:**

Employer	Dates (from -to)	Reason(s) for Leaving	Earnings
Self Employed	06-04-03 to present.	n/a	\$2,400.00/m

**Financial Conditions:**

	Total Amount ordered	Pay Period	Total Paid	Date Last Paid	Arrearage	Balance Due
Fine	\$128.75 (x3)	\$25.00 per month (x3)	\$128.75 (x3)	4/1/08	\$0.00	\$0.00
Supervision Fee	\$3,140.00	\$20.00 per week	\$700.00	10/28/08	\$180.00	\$2,440
GPS	\$4,200.00	\$40.00 per week	\$1,430.00	10/28/08	\$330	\$2,770.00

EXHIBIT YB  
18  
2-19-09  
PEN/GAD 800-651-6889



Offender's Name: Zail Gavin

Prior Violation Dates	Prior Violations	Prior Violation Disposition
2/28/08	<p><b>W-GPS-40-08-0002</b> By failing to comply with the terms of the Department's Global Positioning Satellite System (GPS) Monitoring Program in that the defendant committed the following violation(s): Cuff Leave; Willful Evasion of Tracking System; by failing to keep PTU on his person at all times, having cuff leave violations from 615pm to 634pm having left PTU at his residence when he left and then from 915pm until arrested having failed to keep the PTU on his person upon leaving 1728 Main Street thus not being tracked anytime since 915pm, and by failing to follow the advice and instructions of the Agent.</p>	<p><b>05/27/08 Per Judge Goode:</b> Continue on Probation. Maintain restrictions of GPS. Additional GPS restrictions must be brought before Judge Goode. Pending Disorderly Conduct disposition is not to violate present case. <b>Judge Goode retains jurisdiction.</b></p>
3/26/08	<p><b>W-40-08-1848</b> Zail Gavin has failed to follow the advice and instructions of his supervising agent in that: there is reason to believe that Zail Gavin has committed the offense of Disorderly Conduct as evident of warrant K-333256 issued by Columbia Police Department on 03/24/2008 stating that Zail Gavin "...threatened to do anything I have to..." in reference to getting to see a child he has in common with the affiant; failed to abide by approved GPS itinerary for the week by being in an unauthorized area of 138 Whispering Pines Circle on 03/24/2008 between 18:21-18:35 as evident of warrant K-333256 issued by Columbia Police Department.</p>	
4/18/08	<p><b>W-GPS-40-08-0003</b> By failing to comply with the terms of the Department's Global Positioning Satellite System (GPS) Monitoring Program in that the defendant committed the following violation(s): Inclusion Zone; to wit, Zail Gavin left residence at 07:47 and was not allowed out until 09:00 and by failing to follow the advice and instructions of the Agent.</p>	

**Details of the Present Violation:**

**W-40-08-2228 (issued on 7/23/08 and served on 7/24/08):** Zail Gavin had failed to follow the advice and instructions of his supervising agent in that: there is reason and sufficient evidence to believe that Zail Gavin has violated Local, State, and Federal laws by being charged with Indecent Exposure (x3) as evident of warrant #'s I-891993, I-891994, and I-891995, all issued by Richland County Sheriff's Department on 07/23/2008. It is believed that Zail Gavin exposed himself to his neighbors from his home windows on 07/04/2008. Zail Gavin is currently on Probation for 3 counts of Indecent Exposure and is considered a threat to the community in that he continues to be a repeat offender, failed to pay Intensive Supervision fees by being in arrears \$100.00 with an unpaid balance of \$2,780.00; failed to pay GPS Active by being in arrears \$290.00 with an unpaid balance of \$3,570.00

**C-40-08-1889 (issued and served on 10/16/08):** By being in violation of subject's GPS monitoring. Subject had a willful cuff leave violation on 10/16/08 from approximately 9:56 am to 10:26 am. Subject left his residence without his PTU causing him to not have any tracking points to be monitored during that approximate time period. Subject has already been instructed verbally and in writing that he must always carry his PTU on him when he leaves his residence. Such actions constitute willful violations of subject's original Probation agreement and GPS agreement.

**W-40-08-2441 (issued and served on 10/23/08):** Failure to follow advice and instructions of Agent. Subject has received both verbal and written conditions of supervision and has failed to comply. Failure to refrain from any contact with minors. During a home visit conducted on 10/23/08 subject was found to be in his residence alone with his son who is under 10 years of age. Subject has been instructed already that he cannot have contact with his minor children until it is approved by his Sex Offender Counselor and his Agent. Such actions constitute violations of subject's original supervision agreement.

**W-GPS-40-08-0008 (issued and served on 11/7/08):** By failing to comply with the terms of the Department's Global Positioning Satellite System (GPS) Monitoring Program in that the defendant committed the following violation(s): Cuff Leave; On 11/4/08, subject left his residence without his PTU. This violation resulted in subject not being traceable from 8:21 am to 8:48 am, approximately 27 minutes. On 11/7/08, subject received a Cuff Leave violation. Subject's PTU was reportedly 'not in motion' from 1:01 pm to 1:20 pm, approximately 19 minutes, thus being untraceable once again. Subject has been advised verbally and in writing of his GPS rules. Such actions constitute willful violations of subject's supervision and GPS monitoring agreements. and

*Prob. Officer*

by failing to follow the advice and instructions of the Agent. Such actions constitute a condition #10 and additional conditions of the supervision agreement ordered in cause numbers 07-GS-40-08451, 07-GS-40-08452, 07-GS-40-08454 and specifically agreed to by the defendant on 02/29/08. Subject is a registered sex offender on the highest level of supervision, thus this is a community safety violation.

**Agent Recommendation:**

Revocation of suspended balance (2 years and 6 months).

**Agent Justification:**

Zail Gavin is no stranger to probation and what is expected of him while under supervision. This is subject's 3<sup>rd</sup> time under this Department's supervision since 2002. Zail Gavin has been given numerous opportunities to comply with the orders of the court, conditions of his supervision, as well as the instructions of his agent, but all to no avail. Zail Gavin continues to do what is convenient for him, ignoring the consequences of his actions. Since being released on probation in February 2008, Zail Gavin has violated the strictest form of house arrest for sex offenders on 3 separate occasions. Despite intense sex offender counseling, Zail Gavin has again re-offended with 3 new Indecent Exposure charges, while currently being under supervision for Indecent Exposure. Although Mr Gavin was not convicted of those new charges due to subject not being in the street or on victim's property, he did admit to his behaviors in the window, which shows his guilt in knowing it was inappropriate. Zail Gavin is assessed at the highest level of supervision there is for a sex offender and is deemed a community safety risk. It is the duty of the state to protect minors, adults and all potential victims of all crimes, especially sex crimes. This agent respectfully request a revocation at this time.

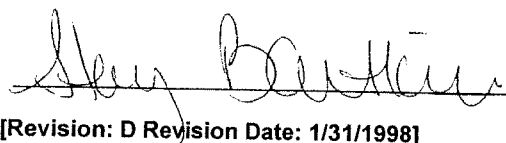
**History:**

Arrested 08-28-1982 for Driver's License Violation—Convicted 12-10-1982  
Arrested 03-23-1984 for Driving while License Suspended—Convicted 03-15-1985  
Arrested 04-12-1991 for DUI—Convicted 03-23-1993  
Arrested 12-09-1993 for Driving under Suspension—Convicted unknown date  
Arrested 01-24-1994 for Possession of Cocaine and Drug Paraphernalia—Unknown disposition  
Arrested 04-07-1994 for Possession of Heroin—Convicted 10-25-1994  
Arrested 10-03-1995 for Violating a Morals law (misdemeanor)—Dismissed 08-29-1996  
Arrested 02-08-1996 for **Disturbing Schools and Indecent Exposure—Convicted** 03-25-1996 (Greenwood County Sheriff)  
Arrested 02-09-1996 for **Disturbing Schools—Convicted** 03-25-1996 (Ninety Six Police Department)  
Arrested 08-06-1998 for **Criminal Trespass and Indecent Exposure—Convicted** 04-27-2004  
Arrested 08-21-1998 for **Indecent Exposure and Criminal Trespass—Convicted** 04-27-2004  
Arrested 06-30-1999 for **Sexual Misconduct with Minor** and **Fail to register as Sex Offender—Plea** agreement (see next charge)  
Arrested 08-19-1999 for **Sexual Misconduct with Minor—Convicted** 01-18-2000  
Arrested 07-01-2000 for DUI 2<sup>nd</sup> Offense—Convicted 07-10-2001  
Arrested 01-26-2001 for **Peeping, Voyeurism, Aggravated Voyeurism and Burglary 3<sup>rd</sup> Degree—Convicted** 04-12-2001  
Arrested 01-27-2001 for Possession of Crack Cocaine 2<sup>nd</sup> Offense—Convicted 04-12-2001  
Arrested 03-23-2005 for **Peeping, Voyeurism, Aggravated Voyeurism and Fail to Register—Convicted** 02-14-2006  
Arrested 08-11-2005 for **Sex Offender Registry Violation 1<sup>st</sup>**—Convicted 02-14-2006  
Arrested 12-18-2006 for Traffic/ Permit Unauthorized Person to Drive—Convicted 01-10-2007  
Arrested 12-18-2006 for Operating Uninsured Motor Vehicle—Convicted 01-10-2007  
Arrested 12-18-2006 for Careless Operation of Motor Vehicle—Convicted 01-10-2007  
Arrested 08-29-2007 for **Indecent Exposure (x3)—Convicted** 11/08/2007

**Pending Charges:**

Disorderly Conduct- 03/24/08- dismissed  
Indecent Exposure (x3) 7/23/08- not guilty

Brittany A Sirmon  
Supervisor's Signature



Date: December 11, 2008  
Date: December 11, 2008

Form 1106 (Template) [Revision: D Revision Date: 1/31/1998]  
Page 3 of 3

*Law Offices of  
Jack B. Swerling*

*1720 Main Street, Suite 301  
Columbia, South Carolina 29201*

*Telephone 803-765-2626  
Fax 803-799-4059*

**February 19, 2009**

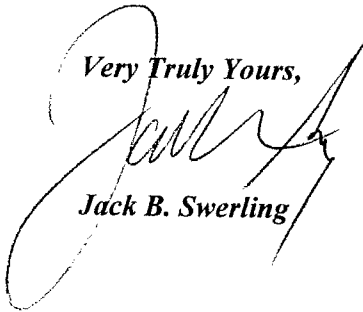
**HAND DELIVERED**

**Judicial Merit Selection Commission  
1101 Pendleton Street  
Room 102  
Gressette Building/State House Grounds  
Columbia, South Carolina 29202**

**Dear Commission Members:**

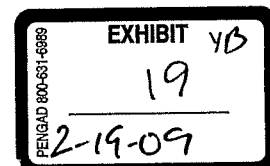
**Enclosed herewith is my Affidavit regarding Judge Goode and the Gavin case. I am available for further questioning or testimony on February 19, 2009.**

**Very Truly Yours,**



**Jack B. Swerling**

**JBS:ese**



STATE OF SOUTH CAROLINA     )  
  ) AFFIDAVIT OF JACK B. SWERLING  
COUNTY     OF    RICHLAND     )

IN THE MATTER OF JUDGE KENNETH G. GOODE  
BEFORE THE JUDICIAL MERIT SELECTION COMMITTEE

Personally appeared before me, Jack B. Swerling who, after being duly sworn states as follows:

My name is Jack B. Swerling and I am an attorney licensed to practice in the State of South Carolina. I was admitted to the South Carolina Bar in 1973. My law practice is primarily devoted to the defense of criminal cases in state and federal court. I am one of the attorneys for Zail Gavin. I am submitting this Affidavit to the Judicial Merit Selection Committee in an effort to assist them in the hearing regarding Judge Goode set for February 19, 2009. I am also willing to appear and testify.

THE MAY 27, 2009 HEARING  
BEFORE JUDGE GOODE IN FAIRFIELD COUNTY

Zail Gavin's case begins prior to November 7, 2007, but for purposes of this Affidavit I will begin there. On November 7, 2007, in Richland County, Judge Goode sentenced Zail Gavin to three (3) years on three (3) counts of indecent exposure, provided that upon the service of six (6) months, the balance would be suspended with probation for three (3) years. Mr. Gavin was also ordered to undergo sexual violator counseling and discretionary GPS monitoring for two (2) years.

On May 27, 2008, the defendant appeared before Judge Goode in Fairfield County for a probation violation hearing. Appearing for Mr. Gavin was S. Jahue Moore, Jr., Esquire. Appearing on behalf of the Department of Pardon, Probation and Parole was Agent Lashika Vandyke (hereinafter referred to as DPPP).

After hearing a presentation by the probation agent, a review of her report, and hearing arguments of Mr. Moore, Judge Goode continued Mr. Gavin on probation. The Court noted that under the totality of the circumstances, the GPS

violations, did not merit a revocation. The Court opined that the agent was being overly strict on Mr. Gavin, but also admonished Mr. Gavin that he found his history and offenses to be "extraordinarily offensive" and to do what the probation officer said. The Court also instructed the agent that if there were to be any additional restrictions imposed on Mr. Gavin, they were to bring those before the Court and explain why.

**ADDITIONAL RESTRICTIONS IMPOSED ON MR. GAVIN  
SUBSEQUENT TO THE MAY 27, 2008 HEARING WITHOUT  
NOTICE TO THE COURT AS ORDERED**

Despite the Court's admonition, Mr. Gavin has informed the undersigned that additional restrictions were placed on him without prior approval of Judge Goode.

Prior to the hearing, Mr. Gavin was allowed to travel to Ninety-Six, South Carolina to visit his elderly and infirm parents, and also to travel to his workshop located on his parents property. Mr. Gavin states that after the hearing he was verbally prohibited from doing so. Prior the hearing he was allowed out of his residence from 7:00 a.m. to 7:00 p.m., Monday through Saturday upon providing an itinerary a week before as to where he would be and when. On July 25, 2008, he was informed in writing that he would only be allowed out of his residence from 8:00 a.m. to 3:00 p.m., Monday through Friday.

Prior to the hearing he was allowed to travel to pursue job prospects without any geographic limitation, but Mr. Gavin informs me that he was verbally told he could no longer leave Richland County to do so.

Mr. Gavin is a paint contractor and at one time had a fairly lucrative business. Mr. Gavin informs me that as a result of the reduction in his hours and restrictions on the geographic area he may go to, his business has failed. Furthermore, Mr. Gavin informs me that the very nature of his business requires him to go out and solicit work and it is virtually impossible for him to inform his probation officer where he will be and when prior to his leaving his residence as he does not know where job prospects will take him.

### **JULY 4, 2008 INCIDENT**

Attorney Greg Harris and I were retained to represent Mr. Gavin as the result of an arrest for three (3) counts of indecent exposure on July 23, 2008. On or about September 19, 2008, the charges against Mr. Gavin were dismissed at a preliminary hearing and Mr. Gavin's record was ordered to be expunged on October 15, 2008. Despite the dismissal, Mr. Gavin's probation agent continued to list this offense as a violation on her probation violation report dated December 11, 2008 (on the report she states that he was found "not guilty.")

### **ATTEMPTS AT SUBSTANCE ABUSE TREATMENT OCTOBER 2008**

In early October 2008 Mr. Gavin called the undersigned and stated that he was in danger of relapsing into substance abuse and was in need of treatment. Attorney Greg Harris and I prepared an Order for Judge Goode to sign allowing Mr. Gavin to be admitted to Fellowship Hall, a treatment center for substance abuse in Greensboro, North Carolina on October 7, 2008 (at his expense). Mr. Gavin's agent, Brittany Sirman, said she could not consent to the Order because the facility was out of state and he was on GPS monitoring. She assured us that her office would work toward similar treatment for Mr. Gavin here in South Carolina. That was in early October; it is now February 17, 2009, and Mr. Gavin has still not been admitted for such treatment. According to Mr. Gavin, Ms. Sirman said this would have to wait until after his probation violation hearing which was originally set for December 11, 2008 and delayed until February 2, 2009.

### **THE FEBRUARY 2, 2009 PROBATION VIOLATION HEARING**

The hearing was originally scheduled for December 11, 2008, but continued until February 2, 2009. Present at the hearing was the undersigned, attorney Gregory Harris and Attorney S. Jahue Moore, Jr. Present also was Mr. Gavin's probation agent Brittany Sirmon.

Ms. Sirmon alleged four (4) violations for which Mr. Gavin had been arrested:

1. The arrest for three (3) counts of indecent exposure on July 23, 2008.
2. A GPS monitoring violation on October 16, 2008 where Mr. Gavin was off monitor for thirty (30) minutes when he left the unit as his residence.

3. A GPS monitoring violation on November 4, 2008 where Mr. Gavin was off monitor for twenty-seven (27) minutes when Mr. Gavin left his residence without the unit, and on November 7, 2008 for nineteen (19) minutes, when the unit was not in motion.
4. On October 23, 2008 Mr. Gavin was found to be alone with his son at Mr. Gavin's residence.

Our position at the hearing was that Mr. Gavin's probation should not be revoked, and that the Court should ease some of the restrictions that had been imposed on Mr. Gavin. Based on records and what Mr. Gavin told me it was my contention then, and it is still my contention, that the restrictions imposed on Mr. Gavin set him up for failure by limiting his ability to earn a living; by impeding his ability to see and care for his mother and father; by not allowing him to get proper counseling from Dr. Thomas Martin, and by isolating him from his children when his offenses had nothing to do with him and his children. It was my contention then and it is still my contention now that, while probation has an important and necessary function in the criminal justice system, restrictions on an individual while on probation, should not be applied with a wide brush, but should be individualized to the person on probation depending on the facts and circumstances of each particular case.

We raised the following issues before Judge Goode:

1. Mr. Gavin's arrest on July 23, 2008 for indecent exposure could not be considered because the case had been dismissed on September 19, 2008 at a preliminary hearing, and the record was expunged by Court Order dated October 15, 2008.
2. Mr. Gavin's alleged off monitor violations did not rise to the level of warranting a probation revocation. On the alleged violation of October 16, 2008, he was off monitor for thirty (30) minutes. On the alleged violation of November 4, 2008 he was off monitor for twenty-seven (27) minutes, and on the alleged violation on November 7, 2008, he was off monitor for nineteen (19) minutes. The undersigned concedes that GPS monitoring is a valid and important method of tracking a defendant who has been convicted of a crime, especially a crime of a sexual nature. However without proof that being off monitor was willful or intentional, and without proof that a defendant did anything wrong while off monitor for brief periods, revoking a



defendant's probation is a punishment that does not fit the alleged violation.

3. Mr. Gavin's common law wife Lucy McCravey and his son Tucker came by his residence on October 23, 2008. According to Mr. Gavin and Lucy, they were anticipating Mr. Gavin being admitted to a center for substance abuse treatment the following week, and they stopped by to say goodbye. Lucy left the house briefly to go to the store leaving Mr. Gavin with his son. At this time, the probation officers showed up and arrested him. The encounter with his son was brief. Tucker was born on May 21, 2005. I am informed by Mr. Gavin and Lucy that while Mr. Gavin was on probation in Lexington County, he was allowed to reside with Lucy and Tucker, however when his probation was moved to Richland County, he was prohibited, not only from living with them, he was prohibited from even seeing Tucker. I am informed that Mr. Gavin has not been allowed to see Tucker for over two (2) years even in a supervised visitation arrangement and the reasons are still not clear to me. Mr. Gavin has committed no crime against his children, yet he has not seen his child in over two (2) years. This makes no sense despite the rules of DPPP.

Furthermore, Mr. Gavin has a daughter named Kylee from a prior relationship who is almost six years old. Despite a Family Court Order and a Bond Order allowing him visitation with Kylee, Mr. Gavin has not been allowed even supervised visitation with Kylee for over two years, and again the reasons are not clear to me. In short, the defendant has been isolated from his children for over two years and his crimes were in no way related to his children.

4. Despite the Court's ruling on May 27, 2008, that the probation office could not further restrict Mr. Gavin's activities without conferring with the Court, the probation office had done just that. We pointed out that the additional restricted hours, not being able to go to his shop in Ninety-Six, and not being able to travel outside of Richland County had essentially destroyed his paint contracting business. We also pointed out, based on information from Mr. Gavin, that he was no longer allowed to go to his parents home in Greenwood County, despite the fact that they were elderly and ill. At the hearing, Ms. Sirmon acknowledged that she did not have the authority to modify

what the Court had Ordered on May 27, 2008, and that she was unaware of the Court's ruling, despite the fact that a representative from her office, Ms. Vandyke, attended the hearing.

As a result of the presentation made to the Court by the defense and the probation officer, Judge Goode declined to revoke Mr. Gavin's probation. Furthermore, Judge Goode felt it was appropriate to remove the GPS monitoring and shorten his probation by one year. He also directed that Mr. Gavin have supervised visitation with his children as directed by DPPP, and that he be allowed to visit his parents at their home. The Court concluded that while he wanted the probation department to be zealous, too many restrictions can "sometimes be a formula for failure and I think that is what we became faced within (sic) this situation." The Court also expressed its sentiment that everyone needs to work together – to help Mr. Gavin, his parents, and his children as well as the mothers of his two children.

I believed then and I believe now that Judge Goode's ruling was an appropriate one under the circumstances. Mr. Gavin's GPS violations were minor infractions. There was no evidence that Mr. Gavin's off monitor events were connected to any wrongdoing on his part. The restrictions imposed by DPPP as to the days and hours and under what circumstances he was allowed to leave his residence essentially destroyed his ability to operate his paint contracting business. The limitations on visits to his parents home, and the lack of contact with his children isolated Mr. Gavin from any support mechanisms and were a certain formula for failure.

### **FEBRUARY 9, 2009 HEARING**

Judge Goode *sua sponte* decided to reconsider his rulings of February 2, 2009. I was not able to attend the hearing due to my appearance in federal court. My co-counsel Greg Harris attended the hearing, but I have reviewed the transcript of the hearing. The Court modified the rulings of February 2, 2009 in the following particulars:

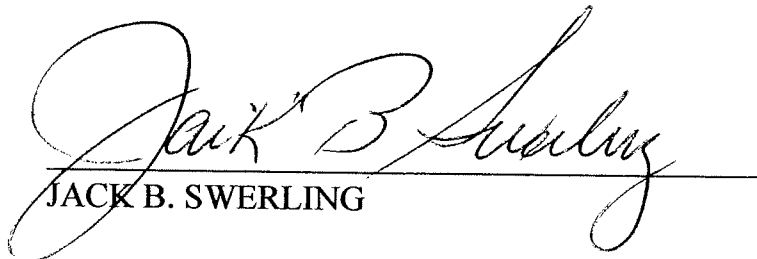
1. GPS monitoring was restored.
2. Mr. Gavin was prohibited from visiting with his parents at their home.

3. Mr. Gavin was allowed to work from 7:00 a.m. to 8:00 p.m. and is to see a mental health counselor or sexual predator counselor.
4. Mr. Gavin was required to give Ms. Sirmon a schedule.
5. Mr. Gavin's original probation term was reinstated.
6. The Court relinquished jurisdiction of the case.

For the most part, with some exceptions, the Court reinstated the terms and conditions of Mr. Gavin's probation as they existed prior to the February 2, 2009 hearing. I believe that the Court's ruling on February 2, 2009 was appropriate under the circumstances, however, I recognize and respect the Court's authority to reconsider its Order.

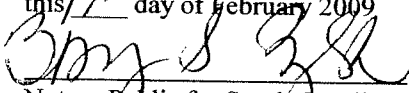
### CONCLUSION

I have known Judge Goode for over twenty-five (25) years. I have appeared before him many times. He is a man of impeccable integrity and great character. He brings an excellent perspective to the Bench. He has the ability to hear a presentation by the state and the defense and reach a conclusion that in most cases seeks to be just to both sides. While Judge Goode would not hesitate to impose a severe sentence in a case that called for it, he seeks also to temper justice with mercy under appropriate circumstances as well. While I may not agree with every sentence he has imposed on one of my clients, I respect his judgment, ability, sense of fairness, temperament, demeanor and intellect.

  
\_\_\_\_\_  
JACK B. SWERLING

Sworn to and subscribed before me

this 17<sup>th</sup> day of February 2009

  
\_\_\_\_\_  
Notary Public for South Carolina

My Commission Expires 04/27/2017

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF GENERAL SESSIONS

State of South Carolina, )  
 )  
 vs. )  
 )  
Zail Gavin, )  
 )  
 Defendant. )  
\_\_\_\_\_ )

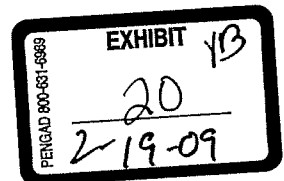
**ORDER**

07-GS-40-08451  
07-GS-40-08454

This matter is before the Court upon the motion of defendant Zail Gavin by and through his counsel Jack B. Swerling for an Order temporarily suspending the terms and special conditions of his probation.

On November 8, 2007, this Court committed defendant Gavin to the supervision of the Richland County Office of Probation. The defendant has remained on probation since that day. On October 6, 2008, attorneys for the defendant notified the Court of defendant Gavin's request that he immediately be placed into an inpatient facility for the purpose of substance abuse rehabilitation. Specifically, the defendant requests immediate admission to Fellowship Hall in Greensboro, North Carolina for a period not to exceed sixty (60) days. Gavin has been accepted into this facility pending authorization from the Court. I find that this request is appropriate and hereby temporarily suspend all previously imposed terms and special conditions of probation.

IT IS THEREFORE, ORDERED that Zail Gavin immediately be allowed to turn himself into Fellowship Hall in Greensboro, North Carolina for the purpose of inpatient treatment, and that he remain there for a period of time not to exceed sixty (60) days or until further Order of the Court.



IT IS FURTHER ORDERED that until the date of his release from Fellowship Hall, all previous orders relating to his probation are suspended.

IT IS FURTHER ORDERED that upon discharge from Fellowship Hall, the defendant Gavin report to his probation agent within 24 hours and that all previously imposed terms and special conditions relating to his probation are reinstated.

AND IT IS THEREFORE ORDERED.

---

Presiding Judge  
Fifth Judicial Circuit

Columbia, South Carolina

October 6, 2008



October 3, 2008

Mr. Jack Swirling  
Attorney at Law  
FAX: 803-799-4059

Re: Zail Ray Gavin

Dear Mr. Swirling:

Zail Ray Gavin has applied for voluntary admission to Fellowship Hall for the treatment of chemical dependency, and has an appointment for assessment on October 7, 2008, at 4:00pm.

During his treatment program, Mr. Gavin will be involved in intensive individual and group counseling, self-analysis, and an extensive educational program on the disease of addiction.

With the help of his counselor, Mr. Gavin will develop a follow-up program to be implemented upon his return home. We feel this is adequate, and he should have the tools and knowledge with which to abstain from the use of alcohol and drugs.

It is anticipated that Mr. Gavin's treatment program will be approximately four weeks, and he will be under the care of Dr. R. Dewayne Book, M.D. Upon admission, we will obtain a release from Mr. Gavin such that you or Judge Goode would be able to obtain information related to his treatment.

Sincerely,

*Connye M. Post*

Connye M. Post  
Admissions Counselor



October 3, 2008

Mr. Jack Swirling  
Attorney at Law  
FAX: 803-799-4059

Re: Zail Ray Gavin

Dear Mr. Swirling:

Zail Ray Gavin has applied for voluntary admission to Fellowship Hall for the treatment of chemical dependency, and has an appointment for assessment on October 7, 2008, at 4:00pm.

During his treatment program, Mr. Gavin will be involved in intensive individual and group counseling, self-analysis, and an extensive educational program on the disease of addiction.

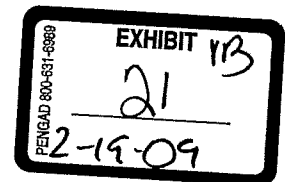
With the help of his counselor, Mr. Gavin will develop a follow-up program to be implemented upon his return home. We feel this is adequate, and he should have the tools and knowledge with which to abstain from the use of alcohol and drugs.

It is anticipated that Mr. Gavin's treatment program will be approximately four weeks, and he will be under the care of Dr. R. Dewayne Book, M.D. Upon admission, we will obtain a release from Mr. Gavin such that you or Judge Goode would be able to obtain information related to his treatment.

Sincerely,

*Connye M. Post*

Connye M. Post  
Admissions Counselor



*Working Together, Providing Exceptional Care*

P.O. Box 13890 • Greensboro, NC 27415 • 336.621.3381 • 800.659.3381 • FAX 336.621.7513

JUDICIAL MERIT SELECTION COMMISSION )  
)

In the Matter of: Kenneth G. Goode )  
Candidate for Circuit Court At-Large Seat #8 )  
)

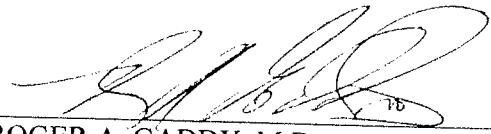
WITNESS AFFIDAVIT  
FORM

I, Roger A. Gaddy, being duly sworn, am writing this in support of Judge Kenneth Goode in his re-election process for Circuit Court Judge. I have known Judge Goode for 30 years since I came to Winnsboro to practice medicine. During my tenure in Winnsboro I have served on the Hospital Board, President of the Winnsboro Rotary Club, President of the S.C. Medical Association and am presently Mayor of Winnsboro.

I have known Judge Goode socially and professionally and know him to be of high moral character, compassionate and sensitive to the needs of his fellow man.

In mid December 2008, I evaluated Judge Goode because of fatigability, lethargy and weakness. My evaluation discovered that his blood sugar was markedly elevated and he was started on appropriate treatment. During the course of his evaluation, he had brain scans which showed no evidence of stroke or tumor, had cardiac evaluation which showed no evidence of any significant coronary artery disease and other than his blood sugar being elevated, there were no other significant metabolic abnormalities. Since December with the appropriate medication and dietary regimen, his blood sugars have been under excellent control and he currently checks his blood sugar twice a day. It has been under excellent control. Since control of his blood sugars, his previously mentioned symptoms have completely resolved.

It is without hesitation that I would support his re-election to Circuit Court Judgeship.

  
\_\_\_\_\_  
ROGER A. GADDY, M.D.

Sworn to before me this 13 day of  
February, 2009.

Elyse Lee Alan (L.S.)  
Notary Public for S.C.  
My Commission Expires: 12/20/2017

