

STATE OF SOUTH CAROLINA)
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 COUNTY OF GREENVILLE)
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IN THE COURT OF GENERAL SESSIONS
 THIRTEENTH JUDICIAL CIRCUIT

STANDING ORDER

Re: Probation Revocations based on Failure to Pay Restitution, Fines or Other Financial Conditions

CLERK OF COURT
 GREENVILLE, SC
 MAR 17 10 02 AM '16

When cases are brought to court for violation hearings based on a probationer's alleged failure to pay Restitution, fines or other financial obligations, the court may only revoke probation upon finding the defendant failed to make a bona fide effort to pay. *Bartlet v. State*, 288 S.C. 481, 343 S.E.2d 620 (1986); *Bearden v. Georgia*, 461 U.S. 660 (1983).

It appears that many cases are being brought to court when the State lacks evidence of the defendant's ability to pay. Probation may be revoked for violating a financial condition only when the court finds the probationer "made a willful choice not to pay," i.e. that the probationer (1) had the funds to pay and chose not to do so, or (2) lacked the funds to pay and did not make a bona fide effort to acquire the funds. *State v. Spare*, 374 S.C. 264, 647 S.E.2d 706 (Ct. App. 2007). Even if the court makes such findings, the defendant may still only be imprisoned if there are no alternatives adequate to meet the State's interest in punishment and deterrence. *State v. Coker*, 397 S.C. 244, 723 S.E.2d 619 (Ct. App. 2012).

To avoid unnecessary hearings, lessen the burden on victims, decrease the demanding caseload of agents, and accord fairness to probationers, effective immediately the court will not hold revocation hearings based solely on a probationer's failure to comply with a financial condition unless:

- 1. The court is presented with verified documentation concerning the defendant's ability to pay. This can be in the form of the attached financial declaration, or

other evidence that has been verified by the probationer or independently corroborated by the State. At a minimum, the documentation must inform the court of the probationer's monthly income, monthly expenses, assets and liabilities, and net worth.

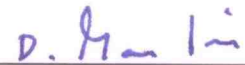
Failure to comply with this Order may result in sanctions.

IT IS SO ORDERED.


Greenville, South Carolina
~~December~~ _____, 2015
MARCH 17, 2016



Perry H. Gravely
Circuit Judge




D. Garrison Hill
Circuit Judge



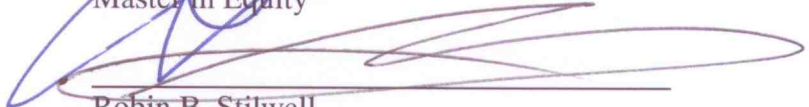
Edward W. Miller
Circuit Judge




C. Victor Pyle
Circuit Judge



Charles B. Simmons
Master in Equity



Robin B. Stilwell
Circuit Judge



Letitia H. Verdin
Circuit Judge

RECEIVED

South Carolina Department of Probation, Parole and Pardon Services
 Declaration of Financial Ability

Please print, complete in full and return at the time of your first interview.

Full Name	Marital Status			Number of Dependents
	<input type="checkbox"/> Single	<input type="checkbox"/> Divorced	<input type="checkbox"/> Widowed	
	<input type="checkbox"/> Married	<input type="checkbox"/> Separated	<input type="checkbox"/> Common Law	

EMPLOYMENT	Yours	Spouse
Employer		
Address		
Type of Job		
How Long Employed	_____ Yrs. _____ Mos.	_____ Yrs. _____ Mos.
Currently Working	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Gross Salary	\$_____ <input type="checkbox"/> Month <input type="checkbox"/> Week	\$_____ <input type="checkbox"/> Month <input type="checkbox"/> Week
Net Salary (Take Home Pay)	\$_____ <input type="checkbox"/> Month <input type="checkbox"/> Week	\$_____ <input type="checkbox"/> Month <input type="checkbox"/> Week

MONTHLY NET INCOME STATEMENT		Enter income from all sources as listed:	
(1) Yours	(2) Spouse	Sources of Income	
\$	\$	Salary and Wages	
\$	\$	Pension and Retirement	
\$	\$	Unemployment and Disability	
\$	\$	Social Security	
\$	\$	Public Assistance (Welfare, AFDC, etc.)	
\$	\$	Child Support	
\$	\$	Veterans Benefits	
\$	\$	Workman's Compensation	
\$	\$	Rent Income	
\$	\$	Dividends and Interest Income	
\$	\$	All Other Sources (specify)	
\$	\$	Anticipated Income (new job, etc.)	
\$	\$	TOTAL MONTHLY INCOME (1+2)	\$

South Carolina Department of Probation, Parole and Pardon Services
 Declaration of Financial Ability

MONTHLY EXPENSES		(Do not include Payroll Deductions)
\$		Rent/Mortgage Payments
\$		Real Property Taxes
\$		Food
\$		Utilities
\$		Telephone
\$		Laundry and Cleaning
\$		Clothing
\$		Medical /Dental
\$		Insurance Payments
\$		Child Care / Babysitting
\$		Child Support Payments
\$		Entertainment
\$		Auto Payments
\$		Auto Expenses (Oil, gas, etc.)
\$		Miscellaneous
\$		Alimony
\$		Other Expenses (List)
\$		TOTAL EXPENSES

*Investigator to denote items with an asterisk that appear excessive and can be decreased or eliminated.

ASSETS	
Cash on hand	\$
Cars/Boats/etc.	\$
Real Estate	\$
Stocks/Bonds/Securities	\$
Household Furnishings	\$
Money owed to me	\$
Other personal property	\$
Other Assets - List	\$
	\$

BANKS		List all banks you do business with
Name	Address	

I certify that this information is true and correct to the best of my ability.

Executed on _____ (Date) in _____ County, in the State of _____

Signature _____ Name of person completing form _____