

SUPREME COURT OF SOUTH CAROLINA

State v. Picklesimer, 388 S.C. 264

695 S.E.2d 845 (2010) · No. No. 26831 · Decided July 6, 2010

SUMMARY

The Supreme Court of South Carolina reversed the circuit court’s discharge of James Dean Picklesimer’s remaining sentence. The court held that the original sentence for purposes of community supervision revocation includes both suspended and unsuspended portions, and defined successful completion of community supervision as up to two continuous years without violations or a prior determination by the Department that the defendant fulfilled his responsibilities. The court concluded Picklesimer had not successfully completed the program and remained subject to community supervision or probation through the expiration of his original sentence.

CASE DETAILS

|                       |                                                                                                                                                                                                                           |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of South Carolina                                                                                                                                                                                           |
| WRITING FOR THE COURT | Hearn; Toal, C.J.; Hearn, J.; Beatty, J.; Pleicones, J.; Kittredge, J.                                                                                                                                                    |
| JURISDICTION          | South Carolina                                                                                                                                                                                                            |
| DECIDED               | July 6, 2010                                                                                                                                                                                                              |
| DOCKET                | No. 26831                                                                                                                                                                                                                 |
| DISPOSITION           | reversed                                                                                                                                                                                                                  |
| PROCEDURAL POSTURE    | The State appealed the circuit court's order discharging Picklesimer's remaining sentence and probation. The court of appeals appeal was certified to the Supreme Court of South Carolina pursuant to Rule 204(b), SCACR. |
| PRECEDENTIAL VALUE    | Published opinion; binding precedent of the Supreme Court of South Carolina.                                                                                                                                              |
| PARTIES               | State v. James Dean Picklesimer                                                                                                                                                                                           |

TOPICS

- sentencing
- probation
- statutory interpretation
- criminal procedure
- appellate procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether Picklesimer had to be treated as having successfully completed the community supervision program because the Department terminated his participation after incorrectly determining that he had exhausted the available revocation-incarceration period.
2. Whether the court had to distinguish successful completion of the community supervision program from the inability to continue supervision after reaching the maximum incarceration time attributable to CSP revocations.
3. What aggregate period of incarceration, community supervision, and residual probation may be imposed under South Carolina Code section 24-21-560(D) for successive community supervision violations.

## HOLDINGS

1. The original sentence includes both the suspended and unsuspended portions of the sentence imposed by the circuit court. A court may not revoke and impose further incarceration, or lengthen CSP or probation, if doing so would cause the aggregate period of service to extend beyond the end of the original sentence.
2. Successful completion of CSP means completing a maximum of two continuous years in the program without violations or revocations, or the Department's determination that the defendant fulfilled CSP responsibilities before serving two years.
3. When CSP is revoked because of violations, the CSP term begins anew when the defendant is released from revocation incarceration, subject to the outside limit imposed by the original sentence.
4. Picklesimer was not entitled to discharge of his remaining sentence and probation because he had not successfully completed CSP. The circuit court therefore erred in discharging the sentence.

## KEY QUOTATIONS

*“We now definitively state that the “original sentence,” as referenced in section 24-21-560(D), includes both the suspended and unsuspended portions of a circuit court’s sentence; it is, in fact, the total sentence handed down by the court.” (388 S.C. at 268-269)*

*“We now hold “successful completion” of CSP connotes the completion of a maximum of two continuous years of CSP, as mandated by section 24-21-560(B), without any violations or revocations, or a determination by the Department that a defendant has fulfilled his CSP responsibilities prior to two years’ service in the program.” (388 S.C. at 270)*

## FACTUAL BACKGROUND

Picklesimer pleaded guilty to second-degree criminal sexual conduct with a minor and received a split ten-year sentence consisting of five years' imprisonment and five years' probation. After serving eighty-five percent of the unsuspended imprisonment term, he entered the Department's community supervision program, violated its

conditions, served an additional year for a revocation, and was re-enrolled. He committed additional violations, but the Department later closed his CSP based on an erroneous interpretation of *State v. McGrier* and activated his suspended probation. The circuit court treated the CSP as successfully completed and discharged the remaining sentence and probation.

#### PROCEDURAL HISTORY

Picklesimer pleaded guilty to second-degree criminal sexual conduct with a minor and received a ten-year sentence, suspended upon service of five years' imprisonment followed by five years' probation. After repeated community supervision program violations and revocations, the Department closed his community supervision program based on its interpretation of *State v. McGrier* and activated the suspended probation term. The circuit court discharged Picklesimer's remaining sentence and probation, denied the State's motion to reconsider, and the Supreme Court reversed.

#### DISPOSITION

reversed

#### CASES CITED

- *State v. McGrier*, 378 S.C. 320, 663 S.E.2d 15 (2008)
- *State v. Mills*, 360 S.C. 621, 602 S.E.2d 750 (2004)
- *State v. Dawkins*, 352 S.C. 162, 573 S.E.2d 783 (2002)
- *Mathis v. South Carolina State Highway Department*, 260 S.C. 344, 195 S.E.2d 713 (1973)