

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

J. Mark Hayes, II , Circuit Court Judge

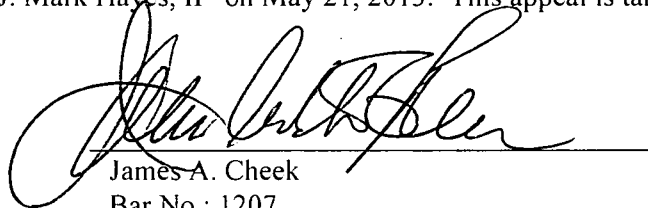
Case No(s): 2013-GS-42-02467, 2013-GS-42-02470

The State Respondent,
v.
Darwin Thomas Sims Appellant.

NOTICE OF APPEAL

Darwin Thomas Sims appeals his/her conviction and sentence in this case. The sentence was imposed by by the Honorable J. Mark Hayes, II on May 21, 2013. This appeal is taken from this conviction and sentence.

May 23, 2013



James A. Cheek
Bar No.: 1207
Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864).596-2561
Attorney for Appellant

Other Counsel of Record:

HunterCBlouin, Esq.
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29306
Attorney for Respondent

RECEIVED

MAY 28 2013

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
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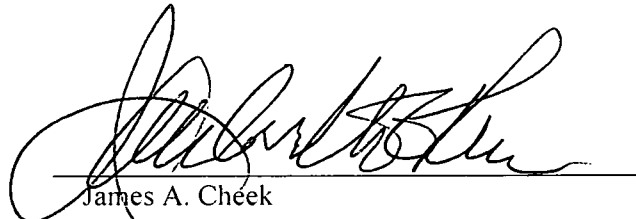
Case No(s): 2013-GS-42-02467, 2013-GS-42-02470

The State Respondent,
v.
Darwin Thomas Sims..... Appellant.
.....

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on May 24, 2013, addressed to its attorney of record, Hunter C Blouin, Esq., Assistant Solicitor, 180 Magnolia Street, Spartanburg, South Carolina 29306.

May 23, 2013



James A. Cheek
Bar No.: 1207
Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

RECEIVED

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SC Court of Appeals

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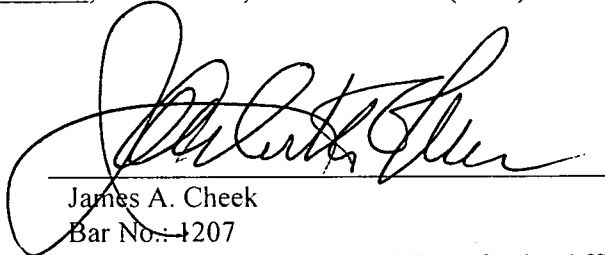
Case No(s): 2013-GS-42-02467, 2013-GS-42-02470

The State Respondent,
v.
Darwin Thomas Sims. Appellant.
.....

EXPLANATION OF APPEAL PURSUANT TO RULE 203(D)(1)(B), SCACR

Pursuant to Rule 203(d)(1)(B), SCACR, Darwin Thomas Sims files this explanation of his appeal of his guilty plea, conviction and sentence in this case. The sentence was imposed by the Honorable J. Mark Hayes, II on May 21, 2013. No issues were raised during the guilty plea; however, the client insisted upon an appeal; therefore, this appeal was filed pursuant to Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995), and State v. Thrift, 378 S.C. 70, 661 S.E.2d 373 (2008).

May 23, 2013



James A. Cheek
Bar No.: 4207
Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

Other Counsel of Record:

HunterCBlouin, Esq.
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29306
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

J. Mark Hayes, II, Circuit Court Judge

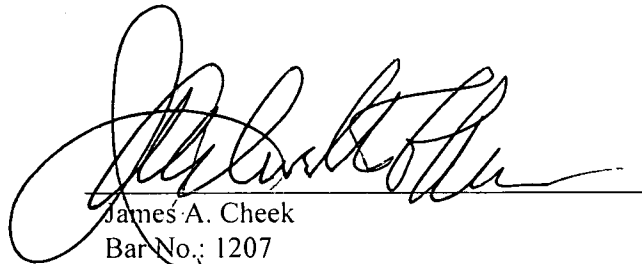
Case No(s): 2013-GS-42-02467, 2013-GS-42-02470

The State Respondent,
v.
Darwin Thomas Sims Appellant.
.....

PROOF OF SERVICE

I certify that I served the Explanation of Appeal Pursuant to Rule 203(d)(1)(B), SCACR, on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on May 24, 2013 addressed to its attorney of record, Hunter C Blouin, Esq., Assistant Circuit Solicitor, 180 Magnolia Street, Spartanburg, S.C. 29306.

May 23, 2013



James A. Cheek
Bar No.: 1207
Seventh Judicial Circuit Public Defender Office
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303
(864) 596-2561
Attorney for Appellant

RECEIVED

MAY 28 2013

SC Court of Appeals

WITNESSES

Sheriff's Office

Handwritten notes and signatures in the witness section, including the word "ampute" written vertically.

ARREST WARRANT NUMBER

2013A4210100671

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

13-GS-42-2470

The State of South Carolina
County of Spartanburg
Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 16 2013

TERM

THE STATE
vs.

Darwin Sims

Indictment for

FORGERY < \$10,000

SC Code: 16-13-10 (A), 16-1-57
CDR Code: 3612
Class FEL/F

A CERTIFIED COPY
M. Hope Blackwell
CLERK OF COURT
SPARTANBURG COUNTY
BY *W. Saucy*, D.C.
DATED 5/23/13

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

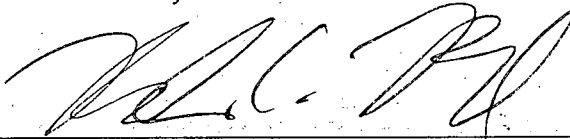
MAY 03 2013

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

FORGERY < \$10,000

That the defendant, Darwin Sims, did in Spartanburg County on or about February 15, 2013, knowingly and with the intent to defraud: (1) falsely make, forge, counterfeit, cause or procure to be falsely made, forged, or willfully act or assist in the false making, forging or counterfeiting of any writing or instrument of writing; and/or (2) utter or publish as true any false, forged, or counterfeited writing or instrument of writing; and/or (3) willingly act or assist in any of the above activities, said writing or instrument of writing being: a check (#1126) in the amount of \$180.00, in violation of §16-13-10(A) and §16-1-57, THE CODE OF LAWS OF SOUTH CAROLINA (1976), as amended.

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



ASSISTANT SOLICITOR

WITNESSES

Sheriff's Office

13-05-42-2469
DOCKET

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 16 2013

TERM

ARREST WARRANT

2013A4210100670

ACTION OF GRAND JURY

THE STATE

vs.

Darwin Sims

Indictment for

PETIT LARCENY

Foreperson of Grand Jury

Date:

VERDICT

SC Code: 16-13-0030 (A); 16-1-57

CDR Code: 3596

Class FEL

Foreperson of Petit Jury

Date:

A CERTIFIED COPY
M. Hope Blackley
CLERK OF COURT
SPARTANBURG COUNTY
BY: [Signature] D.C.
DATED: 5/23/13

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAY 13 2013 the Grand
Jurors of Spartanburg County present upon their oath:

PETIT LARCENY

That the Defendant, Darwin Sims, did in Spartanburg County, on or about February 15, 2013, feloniously take and carry away goods from Tonya Smalley, valued at less than Two Thousand Dollars, described as follows: checkbook, in violation of Section 16-13-30 (A), 16-1-57 Code of Laws of South Carolina (1976, as amended).

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS. Darwin Thomas Sims

INDICTMENT/CASE#: 13-65-42-2470
A/W#: 2013A4210100671
Date of Offense: 2/15/2013
S.C. Code §: 16-13-0010(A)
CDR Code #: 3612

AKA:
Race: B Sex: M Age: 44
DOB: 01-30-1969 SS#: 251-57-8251
Address: 24 Bruce Rd
City, State, Zip: Greenville, SC 29605-4836
DL#: 009320320 SID#:

SENTENCE SHEET

*CDL Yes No CMV. Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Forgery / Forgery, value less than \$10,000 (Enhancement per 16-1-57) (0-10 yr)

in violation of § 16-13-0010(A) of the S.C. Code of Laws, bearing CDR Code # 3612
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: BLOUIN, HUNTER C SC Bar# 80145 Defendant Darwin Sims Attorney for Defendant SC Bar# 1207

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 6 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 days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

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

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$

Other: A.T. Clerk in Hope Blackley
A CERTIFIED COPY
CLEK OF COURT
SPARTANBURG COUNTY
BY: D.C.
Appointed PD or appointed on the basis of § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk:
Court Reporter:
SCCA/217 (03/2011)

Presiding Judge:
Judge Code: 2132
Sentence Date: 5/21/13

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

INDICTMENT/CASE#: 13-65-42-2467

Darwin Thomas Sims

A/W#: 2013A4210100670

AKA:
Race: B Sex: M Age: 44

Date of Offense: 2/15/2013

DOB: 01-30-1969 SS#: 251-57-8251

S.C. Code §: 16-13-0030(A)

Address: 24 Bruce Rd

CDR Code #: -3596

City, State, Zip: Greenville, SC 29605-4836

SENTENCE SHEET

DL#: 009320320 SID#:
*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Larceny / Petit or Simple Larceny - \$2,000 or less (Enhancement per 16-1-57) (0-10)

in violation of § 16-13-0030(A) of the S.C. Code of Laws, bearing CDR Code # 3596
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: BLOUIN, HUNTER C 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 6 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 days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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 (Criminal 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

PTUP days/hours Public Service Employment

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling

CERTIFIED COPY
A. Hope Blackley
CLERK OF COURT
SPARTANBURG COUNTY
D.C.
DATED

Table with columns for Fine, Assessment, and Total. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$390, TOTAL \$13390

Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive pmts. of \$ beginning
\$ paid to Public Defender Fund

Other: ATTU while in DOC

Appointed PD or appointed/other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: Court Reporter: SCCA/217 (03/2011)

Presiding Judge: Judge Code: Sentence Date:

SEVENTH JUDICIAL CIRCUIT PUBLIC DEFENDER

CLAY T. ALLEN
CIRCUIT PUBLIC DEFENDER

366 NORTH CHURCH STREET
SUITE 3000
SPARTANBURG, SC 29303



TELEPHONE (864) 596-2561
FAX (864) 596-2284
FAX (864) 562-4412

May 23, 2013

The Honorable Jenny A. Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. Darwin Thomas Sims
Case No(s): 2013-GS-42-02467, 2013-GS-42-02470

Dear Ms Kitchings:

Enclosed for filing is the original Notice of Appeal in the above case. Also enclosed are the Proof of Service of the Notice of Appeal on the Respondent, the Explanation of Appeal and Proof of Service, and a copy of the indictment, verdict, and sentence to be challenged on appeal.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'James A. Cheek', written over the typed name.

James A. Cheek

Enclosures

cc: Office of Seventh Judicial Circuit Solicitor
Office of Attorney General
Office of Appellate Defense

RECEIVED

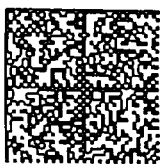
MAY 28 2013


SC Court of Appeals

Seventh Judicial Circuit Public Defender
366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303

**RETURN SERVICE
REQUESTED**

**PRESORTED
FIRST CLASS**



UNITED STATES POSTAGE

PRIMEV BOWERS
02 1R
0006556657
MAY 24 2013
MAILED FROM ZIP CODE 29303
\$ 00.433

RECEIVED

MAY 23 2013

The Honorable Jenny A. Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Courts of Appeals

38 DRURY 29211

