

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM DARLINGTON COUNTY  
COURT OF GENERAL SESSIONS

HON: J. MICHAEL BAXLEY, CIR. CT. JUDGE

CASE NO. 2012-213363

THE STATE....., RESPONDENT,

v.

LEROY BENNETT....., APPELLANT.

PETITION FOR REHEARING

LEROY BENNETT, 153421  
LEE CI /KER. N 1245  
990 WISACKY HWY.  
BISHOPVILLE, S.C. 29010  
PETITIONER/APPELLANT

OTHER COUNSEL OF RECORD

SALLEY W. ELLIOTT, ESQ.  
Sr. ASSIST. ATTY. GENERAL  
PO BOX 99549  
COLUMBIA, S.C. 29219-1549  
RESPONDENT

RECEIVED  
MAY 20 2013  
DATE

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SC Court of Appeals

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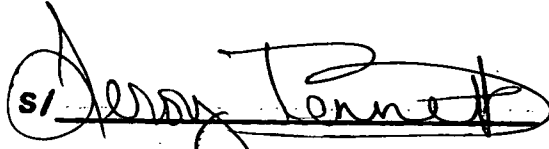
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CERTIFICATE OF COUNSEL

CASE NO. 2012-213363

COUNSEL FOR PETITIONER CERTIFIES THAT THE COURT OF APPEALS  
ISSUED THE ORDER OF DISMISSAL ON 5/14/13, AND THE PETITIONER  
TIMELY FILES FOR A REHEARING ON THIS 20 DAY OF MAY 2013.

MAY 20, 2013

S/ 

LEROY BENNETT, 153421  
LEE CI/KER N 1245  
990 WISACKY HWY.  
BISHOPVILLE, S.C. 29010  
29010  
PETITIONER/APPELLANT

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SC Court of Appeals

# The South Carolina Court of Appeals

EXHIBIT #1.

The State, Respondent,

v.

Leroy Bennett, Appellant.

Appellate Case No. 2012-213363

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## ORDER

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Appellant has filed a notice of appeal from a note of the circuit court judge requesting the clerk to return a motion to the sender. The motion to be sent back to the sender was Appellant's "Motion for Sentences/Clarity by the Sentencing Court, etc." First, Appellant's motion for summary judgment is denied. Second, there has been no final judgment, appealable order, or decision issued with respect to Appellant's "Motion for Sentences/Clarity by the Sentencing Court, etc."; accordingly, this appeal is dismissed. *See* Rule 201(a), SCACR ("Appeal may be taken, as provided by law, from any final judgment, appealable order or decision.").

  
FOR THE COURT

Columbia, South Carolina

cc:

Salley W. Elliott

**FILED**

5-14-13 CA

A

REHEARING REQUEST WITH JUSTIFICATIONS:

F A C T S SUPPORTING REQUEST, etc.

THE HONORABLE COURT OF APPEALS ISSUED AN ORDER TO DISMISS THE APPELLANT'S APPEAL FILED OCTOBER 12, 2012, THE APPELLANT COMESNOW BY WAY WITH A PETITION FOR REHEARING, etc., FOR THE FOLLOWING REASONS, THE COURT'S ORDER ISSUED ON MAY 14, 2013, IS LACKING A DIRECT ORDER RESOLVING THE LACK OF SUBJECT MATTER JURISDICTION TO HEAR THE ISSUES, etc., AND THE COURT FELLED TO COMPEL THE LOWER COURT TO ISSUE A FINAL JUDGMENT TO THE APPELLANT'S MOTION FOR SENTENCES/CLARITY BY THE SENTENCING COURT, etc.

PETITIONER BENNETT REQUEST FOR THE COURT TO REHEAR HIS APPEAL AND ISSUE AN ORDER COMPELLING THE LOWER COURT TO RESOLVE THE CORE MATTERS OF THE HIS MOTION FILED TO THE LOWER COURT THAT WAS NOT ANSWERED BY THE LOWER COURT IN THE BEGIN WITH, AS IN, THE MOTION FOR SENTENCES/CLARITY BY THE SENTENCING COURT, etc., THE ORDER THAT IS ISSUED BY THE COURT DATED 5-14-13, DOES NOT EVEN INSINUATES BY LANGUAGE OF THE ORDER FOR THE LOWER COURT TO ISSUE A FINAL JUDGMENT TO THE MOTION FILED AND THIS IS LIKE A POINT OF PREJUDICE AGAINST THE PETITIONER AND ALSO VIOLATING HIS 6th AMENDMENT OF THE U.S. CONSTITUTION, etc., THE PETITIONER PROFFERS TO THE HONORABLE COURT THAT THE APPEAL FILED TO IT IS ONE THAT IN THE INITIAL STANCES REPRESENTS HIS MOVING TO THE COURT TO HAVE IT COMPEL THE LOWER COURT TO RESOLVE THE MOTION HE FILED TO IT, AND UNDER NO CIRCUMSTANCES DID THE PETITIONER MISLED THE COURT IN NO WAY WHATSOEVER, THE COURT WAS REQUESTED TO COMPEL THE LOWER COURT TO ISSUE A RULING TO THE MOTION FILED, PETITIONER FURTHER REQUEST FOR REHEARING TO HIS APPEAL DUE TO THE FACTS THAT THE COURT OF APPEALS DOES KNOW THAT IN ORDER FOR THE PETITIONER TO RECEIVE A RULING TO HIS MOTION FOR SENTENCES/CLARITY BY THE SENTENCING COURT AS IT BEING A FINAL JUDGMENT, THE COURT OF APPEALS

MUST INVOKES THE NECESSARY AUTHORITY IT MUST BY STATING IT IN THE ORDER IT ISSUES, etc., AND UNDER THE SCENARIO THAT THE PETITIONER IS PLACED UNDER IF THE COURT DO NOT ISSUE SUCH TYPE OF ORDER THE PETITIONER'S MOTION WILL REMAIN UNANSWERED BY THE LOWER COURT AND THIS WOULD DEFEAT THE WHOLE PURPOSES OF THE PETITIONER SEEKING PROPER ORDER THAT NEEDS TO BE COMMENCED IN THIS CASE MATTERS, etc.

CONCLUSION

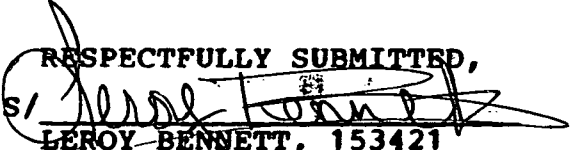
PETITIONER BENNETT REQUEST FOR A H REHEARING AND SEEKS A PROPER ORDER TO DISMISS APPEAL AS TO STATE THAT THE LOWER COURT NEEDS TO ISSUE A FINAL RULING/JUDGMENT TO MOTION FILED BY THE PETITIONER FOR SENTENCES/CLARITY BY THE SENTENCING COURT, etc., PETITIONER FOREVER PRAYS, RESPECTFULLY SUBMITTED ON THIS 20 DAY OF MAY 2013.

MAY 20, 2013

COUNSEL OF RECORD

SALLEY W., ELLIOTT, ESQ  
Sr. ASSIST. ATTY. GENERAL  
PO BOX 11549  
COLUMBIA, S.C. 29211-1549  
RESPONDENT

RESPECTFULLY SUBMITTED,

S/   
LERROY BENNETT, 153421  
LEE CI/KEE N. 1245  
990 WISACKY HWY.  
BISHOPVILLE, S.C. 29010  
PETITIONER/APPELLANT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM DARLINGTON COUNTY  
COURT OF GENERAL SESSIONS

FOR: J. MICHAEL BAXLEY, CIR. CT. JUDGE

CASE NO. 2012-213363

THE STATE....., RESPONDENT,

v.

LEROY BENNETT....., APPELLANT.

PROOF OF SERVICE

I, THE UNDERSIGNED CERTIFY THAT I DID SERVED THE RESPONDENT  
A TRUE COPY OF THE PETITION FOR REHEARING ON THIS 20 DAY OF MAY  
2013, BY WAY OF U.S. MAIL, POSTAGE PREPAID, AT HER OFFICE ADDRESS  
AS: PO BOX 11549, COLUMBIA, S.C. 29211-1549, BY PERSONALLY  
DELIVERING IT TO THE PRISON MAILROOM POSTAL DIRECTOR ON THIS 20 DAY  
OF MAY 2013, FOR VERIFICATION AND EXTRA POSTAGE AS NEEDED.

MAY 20, 2013

S/ Leroy Bennett  
LERoy BENNETT  
LEE CI/KER N 1245  
990 WISACKY HWY.  
BISHOPVILLE, S.C. 29010

COUNSEL SERVED:

SALLEY W. ELLIOTT, ESQ.  
Sr. ASSIST. ATTY. GEN.  
PO BOX 11549  
COLUMBIA, S.C. 29211-1549  
RESPONDENT

RECEIVED  
MAY 20 2013  
DATE



**South Carolina Court of Appeals**  
 JENNY ABBOTT KITCHINGS, CLERK  
 POST OFFICE BOX 11629  
 COLUMBIA, SOUTH CAROLINA 29211

**RECEIVED**

MAY 15 2013

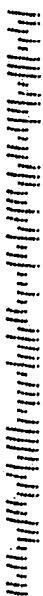
LEE CI MAIL ROOM

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*[Signature]*  
 HERBY BENNETT, 00153421  
 LEE CORRECTIONAL INSTITUTION  
 990 WISACKY HWY  
 BISHOPVILLE SC 29010

**RECEIVED**  
 DATE  
 MAY 20 2013

*Key*  
*1245*



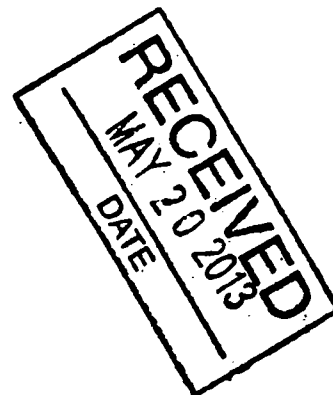
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FIRST-CLASS MAIL  
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LEROY BENNETT, 053420  
LEE CI/KER N 1245  
990 WISACKY HWY.  
BISHOPVILLE, S.C. 29000



MAY 20, 2013

HON: J.A. KITCHINGS, CLERK  
SC COURT APPEALS  
PO BOX 99629  
COLUMBIA, S.C. 29209

RE: STATE V. BENNETT, 2002-203363, etc., ENCLOSED REHEARING  
REQUEST AND PROOF OF SERVICE, etc.

DEAR MS. KITCHINGS:

PLEASE SEE ENCLOSED MY PETITION FOR REHEARING AND THE PROOF  
OF SERVICE SHOWING THE RESPONDENT IS SERVED THE SAME ON THE  
INDICATED DATED DISPLAYED ON THE PROOF OF SERVICE.

I AM FURTHER REQUESTING FOR YOU TO SEND ME THE PREVIOUS  
COPIES OF MY PLEADINGS THAT I PROVIDED TO YOUR RESPECTFUL OFFICE  
TO BE RETURNED TO ME IN THE PAST, I ALSO HAD INCLUDED A STAMPED  
ENVELOPE SELF ADDRESSED TO ME FOR THIS ACTIVITY TO BE DONE BY.

THANKING YOU IN THE ADVANCE FOR YOUR TIME AND HELP GIVEN TO ME  
IN THIS CRUX MATTER AND I LOOK FORWARD IN HEARING FROM YOU IN  
THIS VERY NEAR FUTURE.

AGAIN THANK YOU!!


MAY 20, 2013

ENCLOSURES:

ELB/cm

cc: HON: SALLEY W. ELLIOTT, ESQ.  
SCCA/CT. SERV. DEPT.  
FILES/elb

RESPECTFULLY SUBMITTED,

  
S/ LEROY BENNETT, 153421  
LEE CI/KER N 1245  
990 WISACKY HWY.  
BISHOPVILLE, S.C. 29010  
PETITIONER/APPELLANT

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MAY 30 2013

SC Court of Appeals