

Berkeley County  
219 N. Hwy. 52, Suite E  
P.O. Box 1687  
Moncks Corner, SC 29461  
(843) 899-2777  
(843) 899-2701 Fax  
David P. Schwacke  
Berkeley County Public Defender

# Ninth Circuit Public Defender

*Berkeley & Charleston Counties*

Cameron J. Blazer, Circuit Defender  
cblazer@charlestoncounty.org  
(843) 958-1850

Charleston County  
O.T. Wallace Building  
101 Meeting Street, 5<sup>th</sup> Floor  
Charleston, SC 29401-2214  
(843) 958-1850  
(843) 958-1860 Fax  
Megan S. Ehrlich  
Charleston County Public Defender

September 13, 2022

Hon. Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

**RE: The State v. David I. Smith**  
**Appellate Case No: 2022-01410**

Dear Madame Clerk:

It has come to my attention that the Court dismissed the above-referenced appeal based on a failure to cure deficiencies in the notice of appeal filed *pro se* by Mr. Smith on October 4, 2022. I am writing to provide context for the posture of the case and to ask that the Court reinstate his *pro se* appeal, since he does not appear to have been represented by counsel at the time of the order from which he is appealing. The information I am providing below was all obtained by my review, in my capacity as Ninth Circuit Public Defender, of the material in the possession of our office and of the Charleston County Clerk of Court; copies of all documents referenced are enclosed with this letter.

Mr. Smith was represented on the underlying criminal matter by Luke Malloy, a lawyer who was then an assistant public defender in the Charleston County Public Defender's Office. Mr. Smith entered a guilty plea on July 10, 2014, at which time he was sentenced to 20 years of imprisonment. One July 16, 2014, Mr. Malloy filed two motions on Mr. Smith's behalf, a motion to vacate the plea and a motion to reconsider the sentence. On that same day, Mr. Smith filed his own *pro se* "motion" to appeal his sentence. The trial court ordered that Mr. Smith be transported for a hearing on the Malloy motions on July 29, 2014. I am not able to verify that the hearing occurred based on the material in the clerk's record.

Thereafter, Mr. Smith filed two more *pro se* motions, first another "motion of appeal" on July 28, 2014, and then a "motion for discovery" on September 10, 2014. Thereafter, the trial court issued another transport order, directing that Mr. Smith be made available for a sentencing reconsideration hearing on November 17, 2014. I cannot find a record of whether that hearing took place within the materials in the possession of the clerk of court.

In August and September of 2015, Mr. Smith wrote to the clerk of court asking for copies of the transcript of the July 2014 hearing and other documents in relation to the case and made reference to an intention to seek post-conviction relief in the case.

Sometime thereafter, but before my recent appointment to be Ninth Circuit Public Defender, Mr. Malloy left this office and relocated to Virginia. Mr. Smith's case does not appear to have ever been reassigned within our office, despite the attorney motion to reconsider appearing to have still

**RECEIVED**  
**Nov 23 2022**  
**SC Court of Appeals**

been pending. Moreover, after 2015, all action taken in the case appears to have been *pro se*; there are no notes in our office's case management system past November 2014.

On November 15, 2021, more than seven years after the first motion to reconsider, the clerk of court recorded another *pro se* motion for reconsideration of the sentence. On April 14, 2022, the clerk filed a *pro se* motion to set a hearing in the matter. On August 3, 2022, the trial court issued a summary order denying reconsideration; that order indicates that a hearing on the motion was, in fact, held on November 17, 2014, but gives no further details regarding representation or the merits of the matter; our case management system does not reflect that a hearing was held, though that is certainly not dispositive of whether the hearing was or was not held.

It is not clear to me when notice of that order made its way to Mr. Smith, but he appears to have promptly filed a *pro se* notice of appeal upon learning of the trial court's order. It does not appear that he received any communication regarding the order from our office.

From all of the above, it appears to me that for all practical purposes, Mr. Smith has been functioning *pro se* since his sentencing in 2014, and it appears that his *pro se* renewals of the pending motions to reconsider prompted the court's August 2022 action.

In light of all of the above, it appears that Mr. Smith has diligently attempted to preserve his appellate rights, that his appeal should be reinstated, and that he should properly be permitted either to proceed *pro se* or to have this court relieve his prior counsel and appoint Appellate Defense to represent him.

If I can be of further assistance in understanding this case's somewhat unusual posture, please do not hesitate to contact me.

With best wishes, I remain

Sincerely,



Cameron Jane Blazer

Cc: Luke Malloy, Esq.  
Jessica Baldwin, Esq.  
Robert Dudek, Esq.  
Alan Wilson, Esq.  
William M. Blich, Esq.

Enclosures as stated

COUNTY OF Charleston  
STATE VS.

David Israel Smith

AKA: \_\_\_\_\_

Race: BLACK Sex: M Age: 36

DOB: 12-22-1977 SS#: 251-37-0702

Address: 305 President St

City, State, Zip: Charleston, SC 29403

DL#: 0007836877 SID#: SC01064700

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was  
TO: Assault and Battery of a High and Aggravated Nature

INDICTMENT/CASE#: 2012GS1002533

A/W#: 1601373

Date of Offense: 10/18/2011

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

CONVICTED OF or  PLEADS

in violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411  
 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 Presentation to Grand Jury. \_\_\_\_\_ (defendant's initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: \_\_\_\_\_ 76294 \_\_\_\_\_ LUKE Malloy \_\_\_\_\_ 100169  
Baldwin, Jessica 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 20 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 \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 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	\$ <u>25.00</u>
§ 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	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

PTUP \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

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

Other: \_\_\_\_\_

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

Clerk of Court/ Deputy Clerk \_\_\_\_\_

Court Reporter: A. Haffner

Presiding Judge \_\_\_\_\_

Judge Code: 2134

Sentence Date: 7/10/14

FILED

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

2014 JUL 16 AM 9:02

JULIE J. ARMSTRONG  
CLERK OF COURT

) IN THE COURT OF GENERAL SESSIONS  
) FOR THE NINTH JUDICIAL CIRCUIT

) Case No(s):  
) Warrant No(s): I601373; W10110325  
) Charge(s): Attempted Murder, Probation  
) Violation

STATE OF SOUTH CAROLINA

vs.

DAVID ISRAEL SMITH,

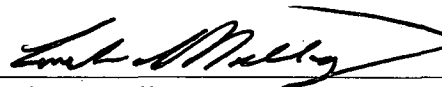
Defendant

)  
)  
) MOTION TO VACATE PLEA & MOTION TO  
) COMPEL  
)  
)  
)  
)

YOU WILL PLEASE TAKE NOTICE THAT the Defendant, **David Israel Smith**, through his undersigned attorney, will move before the Honorable Roger M. Young Sr. for an Order vacating his plea to Assault and Battery of a High and Aggravated Nature. The basis for this motion is the Prosecution's failure to disclose the existence of written statements by the defendant, that were known to the Prosecution and orally presented by the Prosecution and the victim during the plea. This failure is in violation of Rule 5(a)(1), SCRPC

Further, the Defendant moves to compel the disclosure of such written statements, and their content, in order to properly investigate the allegation.

Respectfully submitted,



Luke J. Malloy  
Attorney for the Defendant

Charleston, South Carolina

Dated: July 16, 2014

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

) FOR THE NINTH JUDICIAL CIRCUIT

) Case No(s):

Warrant No(s): I601373; W10110325

Charge(s): Attempted Murder, Probation

Violation

STATE OF SOUTH CAROLINA

)

vs.

)

)

DAVID ISRAEL SMITH,

)

**MOTION TO RECONSIDER SENTENCE**

)

Defendant

)

)

)

)

PLEASE TAKE NOTICE THAT the Defendant, **David Israel Smith**, through his undersigned attorney, will move this Honorable Court for a reconsideration of the sentence imposed on July 10, 2014. The grounds for the motion will be presented at the hearing on July 29, 2014.

Respectfully submitted,



Luke J. Malloy

Attorney for the Defendant

Charleston, South Carolina

Dated: July 18, 2014

BY

JULIE J. ARMSTRONG  
CLERK OF COURT

2014 JUL 18 AM 11:28

FILED

DAVID ISRAEL SMITH  
- VS -

THE STATE OF S. C.

CHARLESTON COUNTY

7TH Judicial Circuit

FILED

CASE# → 11-17/22

2014 JUL 16 AM 8:39

WARRANT# → I601373

CDV HIGH AGGRAVATED NATURE

JULIE J. ARMSTRONG  
CLERK OF COURT

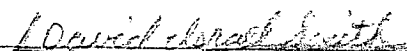
BY 

MOTION OF APPEAL

TO WHOM IT MAY CONCERN:

I DAVID ISRAEL SMITH, BEING OF A SOUND MIND, HERE BY REQUEST AND DEMAND A (DIRECT APPEAL) OF MY SENTENCING, THAT WAS GIVEN TO ME ON THE SAID DAY OF (JULY 10TH 2014) MY REASONS FOR THIS APPEAL, IS THAT FOR ONE, I DID NOT HAVE ADEQUATE REPRESENTATION, I WAS COHERSED BY MY ATTORNEY TO DO AND SAY PARTICULAR THINGS THAT DID NOT BENEFIT ME IN NO WAY PERTAINING TO MY (GUILTY PLEA). I ALSO ONLY MET MY ATTORNEY (3) TIMES IN THE SHORT TIME OF (2) MONTHS, WHICH I TRULY BELIEVE WAS TOO EARLY FOR A GUILTY PLEA APPEARANCE. I WAS TOLD NOT TO SPEAK FOR I KNEW THAT IF I DID, I REALLY COULD HAVE MYSELF. BUT I WAS ILL ADVISED, BY MY COUNSELOR. SO I AM REQUESTING THAT THIS COURT OF APPEAL, WOULD TRULY INVESTIGATE MY CASE AND OVERTURN THIS VERDICT AND TIME. IT IS WAY TOO MUCH TIME. THANK VERY MUCH

SINCERELY



~~DAVID ISRAEL SMITH~~ \* / DAVID ISRAEL SMITH

THE

NOTORAY PUBLIC

CLERK OF COURT

CASE# 11-17122

ATTN: Julie Armstrong

WARRANT# I 601373

9TH Judicial Circuit

CDU HIGH AND DEFA ~~RE~~ ACCREDITED  
NATURE

MRS. ARMSTRONG

I AM REQUESTING MY TRANSCRIPT FROM MY PRELIMINARY HEARING, WHICH I NEVER RECEIVED MY (RULE 5) FROM MY ATTORNEY. I ALSO WOULD LIKE TO HAVE MY TRANSCRIPT FROM MY GUILTY PLEA THAT WAS GIVEN ON 7/10/14, AND ANY OTHER TRANSCRIPT THAT YOUR OFFICE MIGHT HAVE PERTAINING TO MY CASE. (INCLUDING MY BLOOD SAMPLE PACKET FROM SLED). I THANK YOU VERY MUCH.

SINCERELY

David Daniel Smith

NOTORIOUS PUBLIC

THE

BY *[Signature]*

JULIE J. ARMSTRONG  
CLERK OF COURT

2014 JUL 16 AM 8:39

FILED

TO: ESQUIRE MALLOY

DEAR SIR, I PRAY THAT WHEN THIS LETTER ARRIVE TO YOU THAT  
IT FINE YOU IN GOOD HEALTH AND IN GOOD SPIRIT. I AM WRITING YOU  
MR. MALLOY, IN HOPE THAT I CAN GET MY TRANSCRIPT FROM MY GUILTY  
PLEA / MY RULE 5 FOR MY PRELIMINARY HEARING / THE SOLICITOR'S  
DCKET IF POSSIBLE / AND MY BLOOD SAMPLE EVIDENCE. SIR I NEED  
THESE AS SOON AS POSSIBLE. THANK YOU VERY MUCH

SINCERELY

*David Israel Smith*

DAVID ISRAEL SMITH

FILED

2014 JUL 6 AM 8:39

JULIE J. ARMSTRONG  
CLERK OF COURT

BY



DAVID ISRAEL SMITH

-VS-

THE STATE OF S.C

CHARLESTON COUNTY

9TH JUDICIAL CIRCUIT

### CERTIFICATE OF SERVICE

I DAVID ISRAEL SMITH; IS SERVING THIS NOTICE OF CERTIFICATE OF SERVICE, THROUGH U.S. POSTAL SERVICE, PLEASE STAND UPON RECEIVING AND RETURN A COPY OF THIS, LETTER OF CERTIFICATE SHOWING THAT THIS MOTION OF APPEAL HAS BEEN FILE WITHIN YOUR OFFICE, MADAM CLERK OF COURT, THANK YOU VERY MUCH!

SINCERLY

*David Israel Smith*

DAVID ISRAEL SMITH

FILED  
2014 JUL 16 AM 8:39  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY *[Signature]*

DAVID ISRAEL SMITH

- VS -

THE STATE OF SOUTH CAROLINA

CHARLESTON COUNTY

CERTIFICATE OF SERVICE

July the 10  
th

JULY THE 10, 2014

STATE OF SOUTH CAROLINA )

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON )

NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA )

2014 JUL 17 } PM 2:51

-versus-

JULIE G. ANDERSON  
CLERK OF COURT

TRANSPORT ORDER

David Israel Smith,  
SCDC 360603

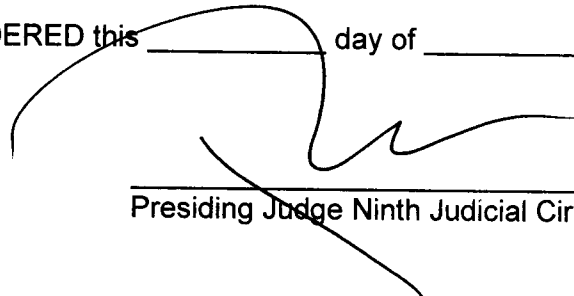
BY  )

WARRANT NUMBER(S): I601373

IT APPEARS that the presence of David Israel Smith, B M; DOB 1977-12-22; is required at the Charleston County Judicial Center, 100 Broad Street, Charleston, South Carolina on July 29, 2014 at 8:30am for the purpose of a **motion to reconsider**. Now, therefore on Motion of the Solicitor Ninth Judicial Circuit, it is

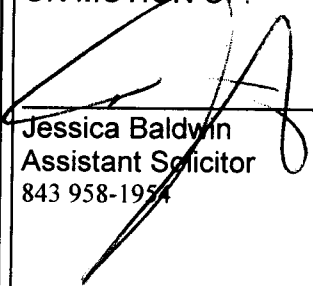
ORDERED, ADJUDGED AND DECREED that Kirkland Correctional Facility, release to the custody of the Charleston County Sheriff's Office, the above-named Defendant for transportation to the CHARLESTON COUNTY DETENTION CENTER.

AND IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_ 2014.



Presiding Judge Ninth Judicial Circuit

Charleston, South Carolina  
ON MOTION OF:

  
\_\_\_\_\_  
Jessica Baldwin  
Assistant Solicitor  
843 958-1954

TRNSPT

# REQUEST FOR TRANSPORT OF SCDC INMATE

FAX TO (803) 896-2750, INMATE RECORDS OFFICE  
S.C. DEPARTMENT OF CORRECTIONS/COURT COORDINATION SECTION  
PHONE # (803) 896-2077/896-1985

Date of Request: July 16, 2014

Inmate Name: **David Israel Smith**

SCDC #: 360603

Sex: M

Race: B

DOB: 1977-12-22

SSN: 251370702

SCDC Location: Kirkland Correctional Facility

***This form is used for SCDC to transport inmates to court for criminal appearances before a judge. Court orders must be submitted for all other transports by SCDC relating to criminal matters. This form can also be used to inform us of your coordination with local law enforcement officials to pick-up inmates from SCDC for court-related matters.***

## REASON FOR TRANSPORT:

To Resolve  
Pending Charges

Appear as

Other (Explain): Motion  
To Reconsider

*If Pending Charges, please list:*

Warrant #/Indictment #(s)

County

Charges(s)

I601373

2012GS102533 / ABHAN

Charleston

## INMATE TO BE TRANSPORTED BY:

**SCDC (Only for an appearance before a judge)**

**X COUNTY/CITY PICKUP (from SCDC facility):**

Date Needed:

Pick-Up Date:

Time:

Time:

Transport To:

Transporting Officers:

**Charleston County Detention Center**

Will Inmate Be Staying Overnight?  Yes  No

## SPECIAL INSTRUCTIONS:

Requesting Official:

Jessica Baldwin 

Title: Assistant Solicitor

County: Charleston

Telephone #: (843) 958-1954

Fax # (843) 958-1905

**\*To ensure transportation, please fax no later than 72 hours prior to hearing date and during normal work hours, 8:00-4:30 PM Monday through Friday.**

**\*ILLEGIBLE OR INCOMPLETE FORMS WILL BE RETURNED TO SENDER.**

DAVID ISRAEL SMITH

CASE# → 11-17122

- VS -


2014 JUL 28 AM 9:04 WARRANT# → T601373

THE STATE OF S. C.

JULIE L. ARMSTRONG  
CLERK OF COURT

C DV HIGH AGGRAVATED NATURE

CHARLESTON COUNTY

BY 

9TH Judicial Circuit

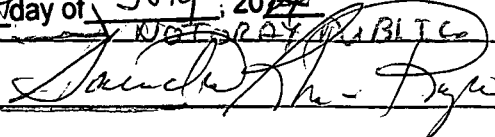
MOTION OF APPEAL

TO WHOM IT MAY CONCERN:

I DAVID ISRAEL SMITH, BEING OF A SOUND MINE, HERE BY REQUEST AND DEMAND A (DIRECT APPEAL) OF MY SENTENCING, THAT WAS GIVEN TO ME ON THE SAID DAY OF (JULY 10TH 2014). MY REASONS FOR THIS APPEAL, IS THAT FOR ONE, I DID NOT HAVE ADDICATE REPRESENTATION. I WAS COHERST BY MY ATTORNEY TO DO AND SAY PARTICULAR THINGS THAT DIDNOT BENEFIT ME IN NO WAY PRETAINING TO MY (GUILTY PLEA). I ALSO ONLY MET MY ATTORNEY (3) TIMES IN THE SHORT TIME OF (2) MONTHS, WHICH I TRULY BELIEVE WAS TO EARLY FOR A GUILTY PLEA APPERANCE. I WAS TOLD NOT TO SPEAK FOR I KNOW THAT IF I DID, I REALLY COULD HAVE MYSELF. BUT I WAS ILL ADVISE, BY MY COUNSELOR. SO I AM REQUESTING THAT THIS COURT OF APPEAL, WOULD TRULY INVESTIGATE MY CASE AND OVERTURN THIS VERDICT AND TIME. IT IS WAY TO MUCH, TIME, THANK VERYMUCH

Sworn to and subscribed  
before me this

18th day of July, 2014

THE  NOTARY PUBLIC

SINCERLY 

David Israel Smith

~~XXXXXXXXXX~~ / DAVID ISRAEL SMITH

DAVID ISRAEL SMITH

-VS-

THE STATE OF S.C.

CHARLESTON COUNTY

9TH JUDICIAL CIRCUIT

2014 JUL 28 AM 9:04

JULIE J. ARMSTRONG  
CLERK OF COURT

BY *AS*

CERTIFICATE OF SERVICE

I DAVID ISRAEL SMITH; IS SERVING THIS NOTICE OF CERTIFICATE OF SERVICE THROUGH U.S. POSTAL SERVICE. PLEASE STAMP UPON RECEIVING AND RETURN A COPY OF THIS, LETTER OF CERTIFICATE SHOWING THAT THIS MOTION OF APPEAL HAS BEEN FILE WITHIN YOUR OFFICE. MADAM CLERK OF COURT, THANK YOU VERY MUCH

SINCERELY *David Israel Smith*

*David Israel Smith*

DAVID ISRAEL SMITH

~~Sworn to and subscribed  
before me this  
day of 20~~

Sworn to and subscribed  
before me this

day of July, 2014

*Steph A. New Degan*

TO: ESQUIRE MALLOY

DEAR SIR, I PRAY THAT WHEN THIS LETTER ARRIVE TO YOU THAT  
IT FIND YOU IN GOOD HEALTH AND ~~IN~~ GOOD SPIRIT. I AM WRITING YOU  
MR. MALLOY, IN HOPE THAT I CAN GET MY TRANSCRIPT FROM MY GUILTY  
PLEA / MY RULES FOR MY PRELIMINARY HEARING / THE SOLICITOR'S  
PACKET IF POSSIBLE / AND MY BLOOD SAMPLE EVIDENCE. SIR I NEED  
THESE AS SOON AS POSSIBLE. THANK YOU VERY MUCH

SINCERLY *David Israel Smith*  
*David Israel Smith*  
DAVID ISRAEL SMITH

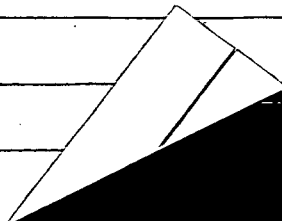
JUL 28 AM 9:01  
JULIE J. ARMSTRONG  
CLERK OF COURT

Sworn to and subscribed

before me this

18th day of July, 2014

*Greenlee Blue-Pye*



CLERK OF COURT

CASE# 11-17122

ATTN: Julie ARMSTRONG


2014 JUL 28 AM 9: 01

WARRANT# T601373

9TH Judicial Circuit

JULIE J. ARMSTRONG  
CLERK OF COURT


CDU HIGH AND DEAF ~~HEAR~~ AGGRAVATED

BY 

NATURE

MRS. ARMSTRONG

I AM REQUESTING MY TRANSCRIPT FROM MY PRELIMINARY HEARING, WHICH I NEVER RECEIVED MY (RULE 5) FROM MY ATTORNEY. I ALSO WOULD LIKE TO HAVE MY TRANSCRIPT FROM MY GUILTY PLEA THAT WAS GIVEN OF 7/10/14, AND ANY OTHER TRANSCRIPT THAT YOUR OFFICE MIGHT HAVE PERTAINING TO MY CASE. (INCLUDING MY BLOOD SAMPLE PACKET FROM SLED). I THANK YOU VERY MUCH.

SINCERELY 

David Lowell Smith

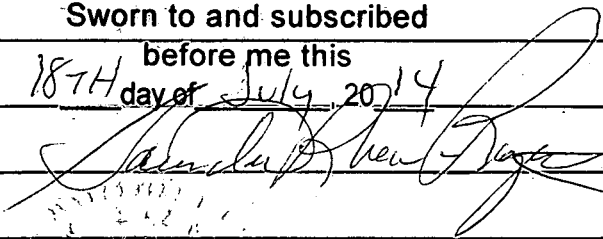
NOTARY PUBLIC

THE

Sworn to and subscribed

before me this

18TH day of July 2014



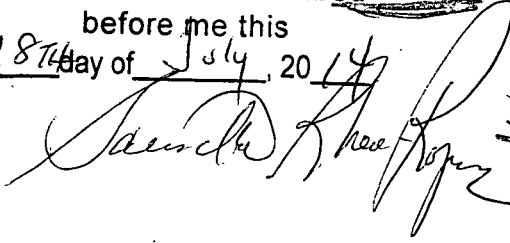
DAVID IBRAEL SMITH  
- VS -  
THE STATE OF SOUTH CAROLINA  
CHARLESTON COUNTY

2014 JUL 28 AM 9:00

JULIE J. ARMSTRONG  
CLERK OF COURT

BY 

CERTIFICATE OF SERVICE

Sworn to and subscribed ~~July the 10~~  
before me this ~~of~~  
18th day of July, 2014  
 JULY THE 10, 2014



STATE OF SOUTH CAROLINA  
CITY OF CHARLESTON

IN THE COURT OF GENERAL  
SESSIONS NINTH  
JUDICIAL CIRCUIT

FILED

STATE OF SOUTH CAROLINA 2014 SEP 10 PM 2:50

VS

JULIE C. STRONG  
CLERK OF COURT

DISCOVERY MOTION

DAVID ISRAEL SMITH # 388663

WARRANT / INDICTMENT NO(S) AND CHARGE(S):  
(1601373 / 2012-GS-1002533) ATTEMPTED MURDER

NOW COME THE DEFENDANT, DAVID SMITH, PRO-SE, WHO MOVES BEFORE THIS COURT PURSUANT TO RULE 5 OF THE SOUTH CAROLINA RULES OF CRIMINAL PROCEDURE REQUESTING COMPREHENSIVE DISCOVERY.

FURTHER, THIS INFORMATION IS REQUESTED PURSUANT TO BRADY VS. MARYLAND. 373 U.S. 83, 10 L. ED. 2D 295, 83 S. CT. 1194 (1963); U.S. VS. ADAMS. 427 U.S. 97, 49 L. ED. 2D 342, 96 S. CT. 2392 (1976); STATE VS. MIXON. 274 S.E. 2D 406 (1981), BERGER VS. UNITED STATE. 295 U.S. 78, (1935); AND KYLES VS. WHITLEY. 514 U.S. 419 (1995). THIS INFORMATION IS REQUESTED / REQUIRED ON THE GROUNDS THAT IT IS ESSENTIAL TO INSURE THE DEFENDANT'S RIGHT TO A FAIR TRIAL, RIGHT TO CONFRONTATION OF WITNESSES, THE RIGHT TO EFFECTIVE COUNSEL AND ~~THE~~ DUE PROCESS OF LAW GUARANTEED BY THE SOUTH CAROLINA CONSTITUTION, AND THE UNITED STATE CONSTITUTION, AND THE CASES LITED. "INTER ALIA"

DEFENDANT WAS A WARRANT FROM THE CITY OF CHARLESTON  
ON / ABOUT: 10-18-2011.

AN INITIAL BRADY / RULE 5 MOTION WAS FILED ON HIS BEHALF  
ON: 8-25-2014.

THE DEFENDANT HEREBY REQUESTS THAT THE STATE:

1. MAKE AVAILABLE FOR DEFENDANT ANY AND ALL WRITTEN AND ORAL STATEMENTS BY THE DEFENDANT WHICH ARE KNOWN OF, OR MAY COME TO BE IN THE POSSESSION OF THE STATE.
2. MAKE AVAILABLE FOR PURPOSES OF INSPECTION AND COPYING, ANY AND ALL POLICE REPORTS RELATING TO THE INVESTIGATION AND CIRCUMSTANCES SURROUNDING THE CRIME WHICH THE DEFENDANT IS CHARGED WITH, INCLUDING ANY AND ALL STATEMENTS TAKEN FROM WITNESSES AND THE DEFENDANT.
3. MAKE AVAILABLE TO THE DEFENDANT ALL TANGIBLE OBJECT DURING THE INVESTIGATION OF THIS CASE, INCLUDING, BUT NOT LIMITED TO: (A) ALL TANGIBLE OBJECTS OBTAINED FROM THE SCENE OF THE CRIME; (B) ALL TANGIBLE OBJECTS OBTAINED FROM THE STATE'S WITNESSES IN THIS CASE; AND (C) ALL TANGIBLE OBJECTS THE STATE INTENDS TO INTRODUCE INTO EVIDENCE AT TRIAL WHICH ARE RELEVANT TO THE OFFENSE CHARGED.
4. MAKE AVAILABLE ANY WITNESSES KNOWN TO THE STATE WHO HAVE KNOWLEDGE OF FACTS WHICH MIGHT BE FAVORABLE TO THE DEFENDANT.
5. MAKE AVAILABLE ANY PROMISES MADE OR ACTIONS TAKEN BY THE STATE WHICH CAUSED OR MIGHT HAVE CAUSED ANY WITNESSES FOR THE STATE TO TESTIFY ON BEHALF OF THE STATE.
6. MAKE AVAILABLE ANY INCONSISTENT STATEMENTS MADE BY WITNESSES FOR THE STATE OR ANY STATEMENTS MADE BY WITNESSES FOR THE STATE WHICH TEND TO EXCULPATE DEFENDANT OR TO NEGATE PARTICIPATION BY DEFENDANT IN THE ALLEGED CRIME.
7. MAKE AVAILABLE TO DEFENDANT ALL RESULTS OF LABORATORY TEST, SCIENTIFIC TESTS, OR PHYSICAL EXAMINATIONS CONDUCTED IN CONNECTION WITH THIS CASE, INCLUDING, BUT NOT LIMITED TO: (A) ANALYSIS OF HANDWRITING; (B) COLOR PHOTOGRAPHS SECURED AT THE SCENE OF THE CRIME; AND (C) COMPARISON OF FINGERPRINTS.
8. MAKE AVAILABLE ANY FACTS WHICH TEND TO EXCULPATE DEFENDANT.

9. MAKE AVAILABLE ANY AND ALL SCIENTIFIC OR MEDICAL, PSYCHIATRIC, LEGAL OR OTHER INFORMATION, REPORTS OR RECORDS WHICH MIGHT TEND TO REFLECT ON THE CREDIBILITY OR COMPETENCY OF ANY OF THE PROSPECTIVE WITNESSES FOR THE STATE.
10. MAKE AVAILABLE THE TRIAL TRANSCRIPT OF RECORDS.
11. MAKE AVAILABLE TO DEFENDANT THE NAMES AND ADDRESSES OF ALL PERSONS WHO HAVE KNOWLEDGE OF THIS CASE, OR HAVE BEEN INTERVIEWED BY THE INVESTIGATING OFFICERS IN CONNECTION WITH CASE.
12. MAKE AVAILABLE ALL SLED, FBI, AND LOCAL ARREST AND CONVICTION RECORDS OF ALL PERSONS, INCLUDING DEFENDANT AND STATE'S WITNESSES, NAMED IN CONNECTION WITH THIS PROCEEDING.
13. MAKE AVAILABLE AND PROVIDE COPIES OF ANY AND ALL NOTES, VIDEO AND/OR AUDIO RECORDINGS FROM POLICE RUN REPORTS AND POLICE 911 TAPES RELATED TO ANY OF THE INCIDENT(S) RELATED TO THE ABOVE-ENUMERATED WARRANT(S).
14. ANY AND ALL WITNESS STATEMENT(S) WHO SAW THE ALLEGED CRIME TAKE PLACE.
15. MAKE AVAILABLE ANY ABOVE-MENTIONED INFORMATION, REPORTS, RECORDS OR OTHER REQUESTED EVIDENCE NOT YET PROVIDED TO THE DEFENDANT, AS WELL AS ANY SUBSEQUENT INFORMATION, REPORTS, RECORDS OR OTHER REQUESTED EVIDENCE OBTAINED SUBSEQUENT TO THE ORIGINAL DISCOVERY MOTION.

WHEREFORE, DEFENDANT PRAYS:

(A) THAT PURSUANT TO AND IN COMPLIANCE WITH THE U.S. SUPREME COURT DECISIONS ABOVE, THE SOLICITOR BE ORDERED TO PRODUCE ALL INFORMATION DESCRIBED HEREIN EITHER SPECIFICALLY OR BY REFERENCE AND ALLOW THE DEFENDANT THE RIGHT TO EXAMINE, INSPECT, COPY AND PHOTOGRAPH, SUCH MATERIALS AND INFORMATION AT A SPECIFIC TIME AND PLACE TO BE FIXED BY THE COURT. (B) THAT THE INFORMATION BE PROVIDED NO LATER THAN 30 DAYS FROM THE DATE OF THIS REQUEST, AS REFLECTED BY THE CLERK OF COURT'S TIME-STAMP APPEARING ON THE FACE OF THIS DOCUMENT. (C) THAT PURSUANT TO AND IN COMPLIANCE WITH THE U.S. SUPREME COURT AND SOUTH CAROLINA SUPREME COURT DECISION(S) ABOVE THE COURT ENTER AN ORDER REQUIRING THE SOLICITOR'S OFFICE TO MAKE CONTINUING DISCLOSURE OF ALL MATTER REQUESTED HEREIN UP TO AND DURING THE TRIAL OF THE CHARGES AGAINST THE DEFENDANT.

STATE OF SOUTH CAROLINA  
CITY OF CHARLESTON

FILED

IN THE COURT OF GENERAL  
SESSIONS NINTH  
JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA  
VS

SEP 10 PM 2:50  
JULIE STARBUCK  
CLERK OF COURT

WARRANT- 16D1373

INDICTMENT- NO(S) 2012-GS-1002533

DAVID ISRAEL SMITH # 360603

CERTIFICATE OF SERVICE BY MAIL

I CERTIFY THAT ON:

25<sup>TH</sup> DAY OF AUGUST, 2014

I SERVED A COPY OF THE ATTACHED MOTION IN THIS CRIMINAL  
MATTER ON; AND LETTER OF GUILTY PLEA WITHDRAWAL ON:

JESSICA BALDWIN by

DEPOSITING A COPY OF IT IN THE UNITED STATES MAIL,  
POSTAGE PREPAID ON THE ABOVE DATE ADDRESS TO THE CITY  
CHARLESTON SOLICITOR LISTED ABOVE TO THE ADDRESS LISTED  
AS FOLLOWS:

JESSICA BALDWIN; ASSISTANT SOLICITOR  
ASSISTANT SOLICITOR'S (OFFICE)  
CHAS. County

LUKE MALLOY  
PUBLIC DEFENDER  
CHARLESTON COUNTY

101 MEETING ST. (5TH FLOOR)  
CHARLESTON, SC 29401

DATE Documented Printed:

Employee Signature

September 1, 2014

FILED

By: David Israel Smith

2014 SEP 10 PM 2:50

To: JULIE ARMSTRONG CLERK OF COURT

JULIE ARMSTRONG  
CLERK OF COURT

Correspondance to

July 28, 2014

BY 

To whom it may concern, I was rushed in R3E. When I sent the Motion to "Appeal"... Which should have been a withdrawal of PLEA! The clerk at R3B made me give my rough draft, which I planned to correct...

Yet, given no choice, and because of the ten days allowed to do so, I mailed the rough draft.

Titled as or stated as Direct Appeal, yet the body of my motion is vivid in stating that I didn't want to PLEA! I turned in this motion in correct time.

Two days before I mail that same motion, I spoke to Esquire Malloy, who told me that I would be sent to Charleston from Columbia for the "withdrawal of PLEA" TRIAL... In short I was transported, went to the court building. I seen my name on the DOCKET titled under Reconsideration, which I knew nothing of...

This all happening in the 2nd & 3rd weeks of July, I seen no Judge no lawyer (Malloy). I'm totally

Continued:

in the blind. I hope that I'm understood & I'm still requesting for the withdrawal of PLEA, in which I fully know and understand that I will be going to trial. Which I wanted to do in the first place... I also humbly request for my sentencing sheet and indictment.

The included motion is DETAILED.

Haines vs. Kerner, 404 US 519.520 (1972) (per curiam) (pro se) complaint held to less stringent standards than formal papers drafted by lawyer).

Respectfully, *David Israel Smith*  
DAVID ISRAEL SMITH  
JURIS PRUDENCE  
Sovereign

FILED  
2014 SEP 10 PM 2:50  
JULIE S. ANDERSON  
CLERK OF COURT  
BY *[Signature]*

COURT OF COMMON PLEAS  
AND GENERAL SESSIONS  
100 BROAD STREET, SUITE 106  
CHARLESTON, S.C. 29401-2258  
(843)958-5000  
(843)958-5020 FAX  
www3.charlestoncounty.org



JULIE J. ARMSTRONG  
CLERK OF COURT  
CHARLESTON COUNTY

FILED  
2014 SEP 10 PM 7:51  
FAMILY COURT OF THE  
NINTH JUDICIAL CIRCUIT  
CHARLESTON COUNTY  
100 BROAD STREET, SUITE 143  
CHARLESTON, S.C. 29401-2265  
(843)958-4400  
(843)958-4434 FAX  
www3.charlestoncounty.org  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY

RE: Motion to Appeal, transcripts, and copies

July 28, 2014

TO: David Smith  
This office has received your request.

In order to provide you with the copies you are requesting you must 1.) Pay the \$5.00 fee or 2.) provide us with a statement from the SCDC East Cooper Trust Fund which shows the financial status of your account. If your account reflects no monies have been received you will not be charged the fee.

If copies are requested, you must submit copies with original document. Include a self-addressed stamped envelope for return.

Warrant/Indictment number is required for request.

No record of referenced case in Charleston County Court of General Sessions.

Jail time should be requested through your caseworker.

You need to contact the court reporter for your transcript.

You will need to contact the agency placing the detainer. This office cannot release a detainer.

Research completed. Documents enclosed.

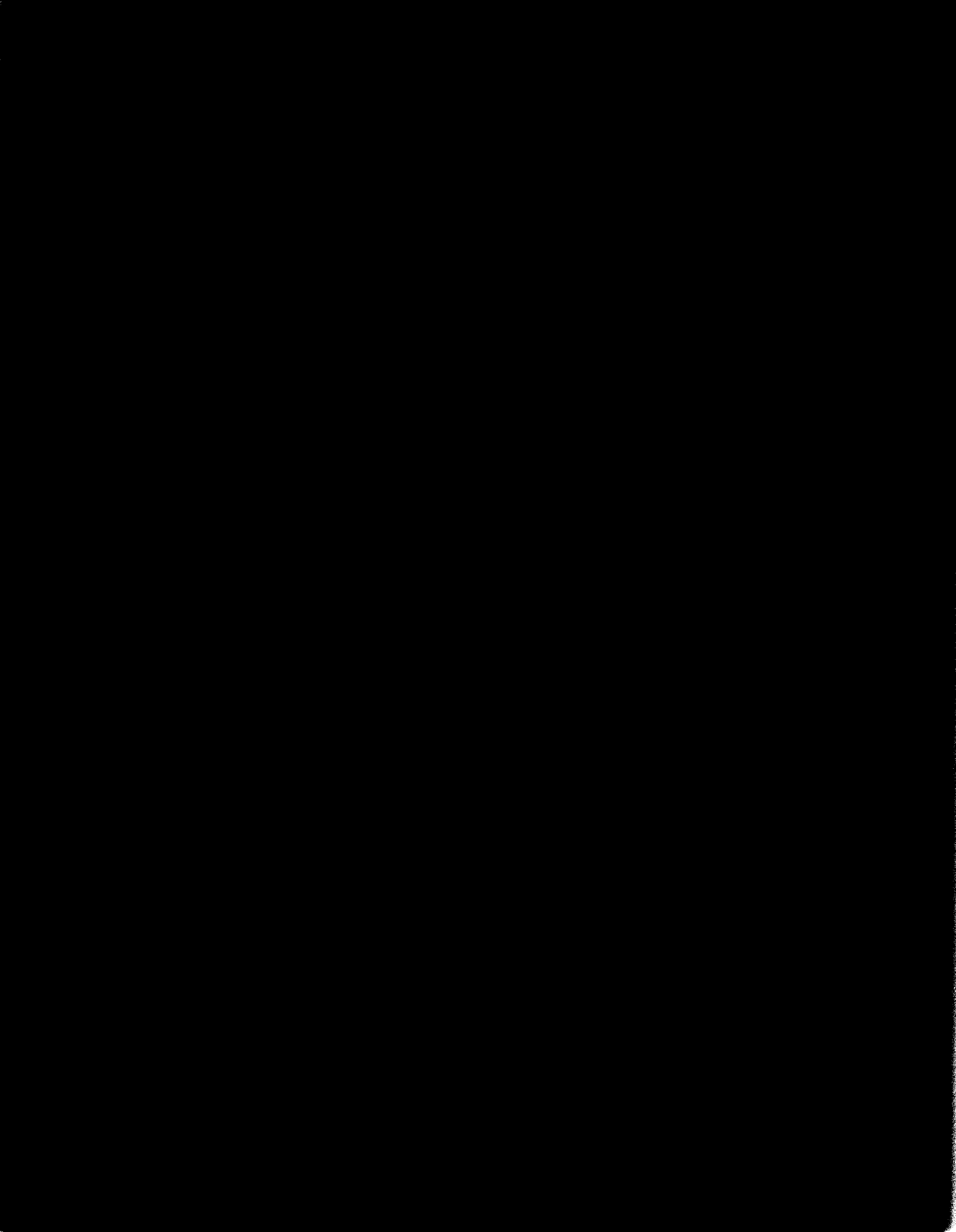
Other:

Your request has been received and a copy is included for your records. A copy of your Rule 5 is included. You must contact the court reporter for your transcript. The court reporter's contact information from your guilty plea hearing is included. There are no court reporters/transcripts for preliminary hearings. This office would not have your blood sample information. Thank you.

Please return this letter with your correspondence.

JJA/AS

You did not send...  
I need the Actual Material  
NOT the Motion...  
ARE YOU SERIOUS???





# REQUEST FOR TRANSPORT OF SCDC INMATE

FAX TO (803) 896-2750, INMATE RECORDS OFFICE  
S.C. DEPARTMENT OF CORRECTIONS/COURT COORDINATION SECTION  
PHONE # (803) 896-2077/896-1985

November 12,

Date of Request: 2014

Inmate Name: **David Israel Smith**

SCDC #: 360603

Sex: M

Race: B

DOB: 1977-12-22

SSN: 251370702

SCDC Location: MCCORMACK CORRECTIONAL FACILITY

*This form is used for SCDC to transport inmates to court for criminal appearances before a judge. Court orders must be submitted for all other transports by SCDC relating to criminal matters. This form can also be used to inform us of your coordination with local law enforcement officials to pick-up inmates from SCDC for court-related matters.*

## REASON FOR TRANSPORT:

To Resolve

Pending Charges

Appear as

Other (Explain):

If Pending Charges, please list:

Warrant #/Indictment #(s)

County

Charges(s)

I601373

2012GS102533/ABHAN

Charleston

2014 NOV 13 AM 8:54

FILED

CLERK OF COURT  
J. STRONG

## INMATE TO BE TRANSPORTED BY:

SCDC (Only for an appearance before a judge)

COUNTY/CITY PICKUP (from SCDC facility):

Date Needed:

Pick-Up Date:

Time:

Time:

Transport To:

Transporting Officers:

**Charleston County Detention Center**

Will Inmate Be Staying Overnight?

Yes

No

## SPECIAL INSTRUCTIONS:

Requesting Official:

Jessica Baldwin

Title: Assistant Solicitor

County: Charleston

Telephone #: (843) 958-1900

Fax # (843) 958-1905

\*To ensure transportation, please fax no later than 72 hours prior to hearing date and during normal work hours, 8:00-4:30 PM Monday through Friday.

\*ILLEGIBLE OR INCOMPLETE FORMS WILL BE RETURNED TO SENDER.

August 17th, 2015

DEAR CLERK,

AT YOUR EARLIEST CONVIENCE WOULD YOU PLEASE SEND ME THE NAME AND CONTACT INFORMATION OF THE COURT REPORTER OR COURT REPORTERS WHO WERE RESPONSIBLE FOR THE TRANSCRIPTS TRANSCRIBED ON THE DATE OF July 10th 2014 IN REGARD TO THE INDICTMENT FOR ATTEMPTED MURDER (NUMBER - 2012-GS-1002533)

I AM TRYING TO OBTAIN THESE TRANSCRIPTS FOR MY RECORDS SO THAT I CAN PROCEED WITH A PCR THOROUGHLY INFORMED.

Thank you very much for your assistance

David David  
Respectfully Submitted  
DAVID ISRAEL SMITH  
SCDC # 360603

FILED

2015 AUG 24 AM 11:44

JULIE J. ARMSTRONG  
CLERK OF COURT

BY MS

Sworn to and subscribed before me this 17<sup>th</sup> day of August, 2015  
Notary Public Kenny G. Martin  
My Commission Expires Feb 28, 2018

August 18th, 2015

Dear Clerk,

Please Return to me a clock stamped  
copy of the letter enclosed in addition  
to any response to the letter. Thank  
you very much for your assistance.

Respectfully  
DAVID ISRAEL SMITH  
SUCC# 360603

FILED

2015 AUG 24 AM 11:44

JULIE J. ARMSTRONG  
CLERK OF COURT

BY MA

August 17th, 2015

DEAR CLERK,

At your EARLIEST CONVENIENCE would you please send me a copy of the TRUE BILLED INDICTMENT (NUMBER 2012-BS-1002533) FOR ATTEMPTED MURDER ALSO THE...

(2) SENTENCING SHEET FOR THIS SAME ATTEMPTED MURDER CONVICTION (WHICH WAS IMPOSED ON JULY 10th 2014)... AND

(3) THE ARREST WARRANT FOR THIS SAME ATTEMPTED MURDER CHARGE (NUMBER 1601373) THE DATE OF THIS ARREST WAS DECEMBER 22, 2011.

I NEVER RECEIVED THESE REQUESTED DOCUMENTS FROM MR. J. MALLOY III WHO WAS MY COURT APPOINTED COUNSEL AT THAT TIME AND THIS INFORMATION IS REQUIRED

MY P.C.R. THANK YOU VERY MUCH.

Respectfully Submitted

DAVID ISRAEL SMITH

SLDC # 360603

FILED

2015 SEP 23 AM 9:01

JULIE W. ARMSTRONG  
CLERK OF COURT

BY

Sworn To And Subscribed Before Me

This 17th Day of August 2015

Notary Public Lenny G. Marton

My Commission Expires Feb 28, 2018

August 17th, 2015

Dear Clerk,

Please Return to Me A Check  
Stamped Copy of the letter enclosed  
in addition to any response to the  
letter. Thank you very much for  
your assistance.

Respectfully,

DAVID ISRAEL SMITH

SDC # 36080

HILL & ARMSTRONG  
CLERK OF COURT

2015 SEP 23 AM 9:01

FILED

THE STATE OF SOUTH CAROLINA  
CHARLESTON COUNTY

Court of General Sessions  
Ninth Judicial Circuit

DAVID ISRAEL SMITH, Petitioner

Vs.

STATE OF SOUTH CAROLINA, Respondent

Motion for Reconsideration and Modification  
of Sentence. # 2012GS1002533

FILED  
2021 NOV 15 PM 4:39  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

Please take note that Petitioner above named hereby moves this court to alter, modify, or rescind its Previous order imposing sentence upon Petitioner which violates state law, as well as Federal State constitution as follows:

First Cause

Under Apprendi v. New Jersey 530 U.S. 466 (2000) Petitioner contends that in order for the court to impose sentence. Facts justifying sentence as Violent would have to be established.

Second Cause

A guilty Plea does not wave inaccurate fact, or a Courts erroneous rule that is not clearly supported by the Record of the Court.

Third Cause

During guilty Plea nothing in record supports inference that Petitioner was legally sentenced to a violent offense, when facts show and support non-violent offense.

Fourth Cause

Direct consequences should include the maximum penalty to which the defendant is agreeing including any enhancements. Petitioner could not make an intelligent assessment of the relative advantages of pleading guilty without notice of enhancements.

Fifth Cause

In State v. Grooms Op. No 25211 (S.C.Ct. Filed Nov. 7<sup>th</sup> 2000) (Shearhouse Adu. Sh. No. 40 at 39) the Supreme Court of South Carolina decided what burden of proof a defendant must use to establish acredible history of domestic violence.

Sixth Cause

The Grooms language implies the Court believes Apprendi applies to cases that put the sentence outside the maximum Penalty for a crime. Rather than simply sentences which increase the Penalty.

Seventh Cause

South Carolina Code. Ann. Sec. 16-3-500 (A) (cum. Supp. 20) applies to Apprendi as the Sentence is squarely one for which Grooms indicated would trigger Apprendi Rule.

Wherefore it is Prayed Court grant relief.

Respectfully Submitted,

S/ David Israel Smith

David Israel Smith

November 08, 2021

FILED  
2021 NOV 15 PM 4:39  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

The State Of South Carolina  
Charleston County Courthouse

David Smith

Applicant.

vs.

State Of South Carolina,

Respondent.

Chief Administrative Judge:

General Sessions Court  
Ninth Judicial Circuit Court

Motion To Docket Case On Court  
Calendar

# 2012-GS-10-02533

2022 APR 14 PM 3:32  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY KLH

FILED

Please Take Notice, defendant hereby moves this court for an order Pursuant to applicable rules or statutory provisions, to Place the motion filed in this court on 13 the day NOVEMBER, 2021, to reconsider sentence imposed by this court.

Accordingly, defendant avers that the respondent does not have authority or control over criminal court dockets. As such, defendant asks this court to order clerk of court to Place motion on court non-jury calendar to be so heard.

Under State v. Langford, 400 S.C. 421 (2012) court has authority over the General Sessions Court docket, and under Langford court has right to have the clerk place case on court docket.

Wherefore, it is Prayed court Grant relief.

Date: 22 day of MARCH, 2022.

Respectfully Submitted:

sl David Sand

Your Name / Pro Se

FILED

2022 APR 14 PM 3:32

JULIE J. ARMSTRONG  
CLERK OF COURT

BY KLH

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

NINTH JUDICIAL CIRCUIT

FILED

2022 AUG -3 AM 9:54

JULIE J. ARMSTRONG  
CLERK OF COURT

STATE OF SOUTH CAROLINA

**ORDER DENYING SENTENCE  
RECONSIDERATION**

vs.

Arrest Warrant #I601373

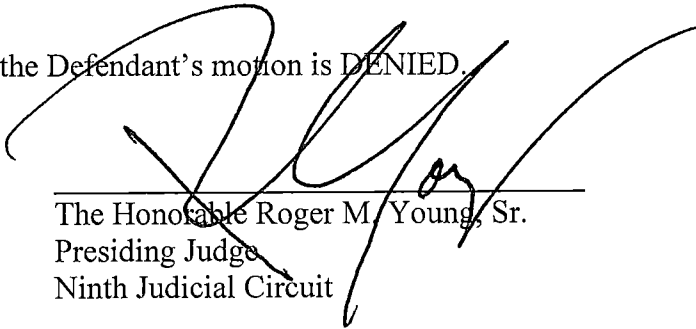
DAVID ISRAEL SMITH,

Indictment #2012GS1002533

DEFENDANT.

Defendant in the above-captioned case pleaded guilty to Assault and Battery of a High and Aggravated Nature on July 10, 2014. He received an active sentence of 20 years. On November 17, 2014, Defendant appeared before the court on a motion to reconsider his sentence. After hearing arguments from both parties:

IT IS HEREBY ORDERED that the Defendant's motion is DENIED.



The Honorable Roger M. Young, Sr.  
Presiding Judge  
Ninth Judicial Circuit

Charleston, South Carolina

Dated: 7/27, 2022