

"<sup>1722</sup>  
Notice"

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FEB 13 2023

SC Court of Appeals

Return me a copy of

these document

Stamped and filed by this

Courts so I may serve

Respondents there copy as

you stated in the attached

February 1st 2023 Correspondence

to me. Return me a filed copy

so I may served

Respondents this request for

relief and question of law



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
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February 1, 2023

Shaheen Cabbagestalk, 295567  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville SC 29512

Re: Shaheen Cabbagestalk, #295567 v. SCDC  
Appellate Case No. 2022-001560

Dear Mr. Cabbagestalk:

The Court has received your correspondence regarding a request for relief and questions of law. Upon review, you must serve opposing counsel copies of your documents.

Very truly yours,

A handwritten signature in cursive script that reads "V. Claire Allen".

CLERK

cc: Joseph R. Shakibanasab, Esquire

Dear,

Clerk Clack, Stamp, and

file these document and

Notify me You received

these documents, return me  
a copy for my files I represent myself.

Affidavit

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FEB 13 2023

SC Court of Appeals

SCDC General Counsel

Joseph R. Shakibanasab

has been served these

same exact documents

This is my personal affidavit I served the  
respondent

By: Shahen Cabbagestall

2/7/23

Shaheen Cabbagestalk

S.C Court of Appeals

v.

SCDC

RECEIVED

FEB 13 2023

SC Court of Appeals

Appellate case #: 2022-001560

proof and undisputed facts

Now Cometh the (Sovereign) to this Courts in the following regards: (1) The Bre Date document Jan. 6th 2023 in letter Dated (January 20th 2023) same, (2) proof sentencing sheet reflects In correct name James Cabbagestalk, Sentencing Sheet for James Cabbagestalk, until this very day I have not been criminally charged for what I'm held in SCDC for, letter from Appellate Counsel of SCDC South Carolina Indigent Defense Counsel (Katherine H. Hudgins) saying sentencing sheet reflects the incorrect name. (3) SCDC has policies OP-21.04 Inmate Classification plan (section 4.2) and policy OP-21.09 Inmate Records plan section 2.4, 2.5, 2.6, 2.7, as well sections 3.3.2, 3.3.3 they not complying with these sections of there policies which Gives them Jurisdiction to have me in there Jurisdiction

4) As well there's an April 8th 2020 letter stating I never been Predicted meaning sentence is Invalid SCDC policy don't say how, the type or what it states they cannot accept a person with an Invalid South Carolina sentence, or Invalid Commitment order (and the commitment order holds me against my will is Invalid as well the sentence. The relief I asked should be granted

by: Shaheen Cabbagestalk  
 2/7/23

Jan. 6th 2023  
Dead line



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

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January 20, 2023

Ms. Christina Catoe Bigelow, Esquire  
4444 Broad River Road  
Columbia SC 29210

Re: Shaheen Cabbagestalk, #295567 v. SCDC  
Appellate Case No. 2022-001560

Dear Counsel:

According to our records, the initial brief of respondent and designation of matter were due to be served and filed by January 6, 2023. As of today's date we have not received your initial brief, nor have we received a motion for an extension of time in which to serve and file the brief. Within ten (10) days of the date of this letter you must serve and file the initial brief of respondent and designation of matter, or the appeal will proceed without consideration of your brief.

Very truly yours,

Handwritten signature of V. Claire Allen in cursive.

CLERK

cc: Shaheen Cabbagestalk, 00295567



**SOUTH CAROLINA**  
**DEPARTMENT OF CORRECTIONS**

*Safety, Service, and Stewardship*

HENRY McMASTER, Governor  
BRYAN P. STIRLING, Director

January 23, 2023

Via Email to [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

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

**RE: Shaheen Cabbagestalk, #295567 v. South Carolina Department of Corrections**  
**Appellate Case No. 2022-001560**

Dear Ms. Kitchings:

Please accept this letter as undersigned counsel's Entry of Appearance in the above-referenced case. I am mailing Appellant a copy of this letter today.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Joseph R. Shakibanasab, SC Bar #102825  
Staff Attorney  
South Carolina Department of Corrections

cc: Shaheen Cabbagestalk, #295567  
Dorm-Room-Bunk: MB-0103-A  
Evans Correctional Institution  
610 Highway 9 West  
Bennettsville, SC 29512



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332

Joseph L. Savitz, III, Chief Attorney  
Wanda H. Carter, Deputy Chief Attorney

Post Office Box 11330  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

See DATE

April 27, 2009

Mr. Shaheem Cabbagestalk, #295567  
Lieber Correctional Institution  
PO Box 205  
Ridgeville, SC 29472

Dear Mr. Cabbagestalk:

In an attempt to address your concerns expressed in numerous phone calls and letters, I have filed a motion to supplement the record on appeal to include the sentencing sheet that reflects the incorrect name of "James Cabbage." The Court will decide if the Judge properly amended both indictments during the hearing and after you entered a guilty plea where the written amendment only appears on the assault indictment which was dismissed as part of the plea negotiations. If the court has concerns about a specific issue, the Court may ask me to submit further briefs. At this point though, we are simply waiting for the Court to make a decision. I ask for your patience in that regard.

Sincerely,

Kathrine H. Hudgins

Exhibit  
#4.2  
VERY IMPORTANT

see letter  
April 27<sup>th</sup> 2012  
From Kathy  
to  
Hudson  
Appellant  
A-1000  
of Proof  
FNUA  
Sente

3.2 **USE OF AUTOMATION:** Data in the automated system is being enhanced through transfer of information from the manual record; entering additional data in areas such as medical and mental health; and auditing records to increase the accuracy of the information.

**SECTION TWO: RECEPTION AND EVALUATION (R&E) CENTERS**

4. **INITIAL RECEPTION AND EVALUATION PROCEDURES:** All inmates who arrive at an R&E Center will immediately be processed through the following steps of receiving and evaluation (paragraphs 4.1 through 4.15).

4.1 The R&E Records staff will be responsible for creating both an institutional and a central record for each inmate. The institutional record will accompany the inmate upon transfer from R&E and upon every institutional transfer thereafter, with the exception of inmates being transferred to regional court hubsites, medical/doctors appointments, outside (non-SCDC) hospital admissions, and overnight court transports/overnight PCR hearings.

4.2 Each inmate's commitment papers will be reviewed by the receiving person and delivered to the appropriate R&E records person for processing. The R&E Records staff will review the commitment papers to ensure that the inmate has a valid South Carolina sentence. Inmates who do not have valid commitment papers or a valid South Carolina sentence will not be accepted by the SCDC.

INVALID Commitment ORDER

Proof  
FNUA  
Commitment  
OP-21.04

4.3 Each inmate will be searched for contraband as indicated in SCDC Policy OP-22.19, "Searches of Inmates."

4.4 Medical and trained security staff will conduct a medical screen to determine immediate action to be taken if inmate appears to be suicidal (i.e., referral to mental health counselor) and/or identify medical conditions that need immediate attention. Medical, mental health, and dental screening will be conducted in accordance with SCDC Policy HS-18.13, "Health Screening and Exams."

4.5 Inmates arriving at the R&E Center with a GBMI (Guilty But Mentally Ill) conviction will automatically be sent to Gilliam Psychiatric Hospital (males) or to Camille Graham Correctional Institution (Special Needs Facility) (females) for evaluation.

4.6 See SCDC Policy OP-22.16, "Death Row," for information regarding the reception and evaluation process for inmates with death sentences.

4.7 Each inmate's property and money will be processed in accordance with established SCDC procedures. (Refer to SCDC Policy OP-22.03, "Authorized Inmate Property and Disposition of Unauthorized Property," and ADM-15.12, "E.H. Cooper Trust Fund," for further information.)

4.8 Each inmate will receive hygienic attention (shower, shave, hair cut, etc.) and will be issued clothing and any additional items approved for issuance to the newly-arrived inmate. (Refer to SCDC Policy OP-22.13, "Inmate Grooming Standards.")

4.9 Each inmate will be questioned to determine age and any other questions necessary in order to assist in making cell assignment.

4.10 Each inmate will be fingerprinted and photographed (to include notation of identifying marks or other unusual physical characteristics for identification). An Identification Card will be issued to the inmate with assignment of an SCDC number.

4.11 Each inmate will be given assistance in notifying his/her next of kin and family of admission, if necessary.

4.12 **Initial Housing Assignments:** Initial housing assignments at the R&E will be made by the Operations Coordinators in charge on the basis of the inmate's age, physical size, and any other available security-related characteristics, including information received prior to the inmate's arrival or from the law enforcement or jail personnel who transported the inmate to the R&E Center. Housing for inmates undergoing reception and diagnostic processing will be in cells specifically designated for R&E.

**3.3 Legal Name Changes:** The Document Processing Section, Inmate Records Office, will receive and process all Family Court Orders reflecting a legal name change. If a Family Court Order reflecting a legal name change is received by an inmate, the inmate will provide the order to the Warden or designee, who will forward the order to the Document Processing Section, Inmate Records Office.

3.3.1 Upon verification of the authenticity of the Family Court Order, if not received directly from the Family Court clerk's office, the designated Records Office staff member will enter the inmate's new legal name into the automated system. The entry will be made in the "legal name" field of the "Alias Screen." The inmate's commitment name will not be changed in the automated system. Any previous legal names/spellings found on the Family Court Order will be listed as aliases on the automated system.

*proof SCDC got wrong person 2*

\* 3.3.2 Since the commitment name is assumed to be the inmate's legal name upon admission to the SCDC, (no entry will be made on the Alias Screen under the "legal name" field.) An entry is made in the legal name field only upon a legal name change by a Family Court.

\* 3.3.3 Neither the inmate central nor institutional records will be changed upon a legal name change (i.e., these Records will continue to reflect the inmate's commitment name) on the facesheet, labels, etc. In addition, the inmate's ID card will continue to reflect his/her commitment name to include his/her legal name that will appear below the commitment name when a new ID card is issued. See SCDC Policy/Procedure OP-21.06, "Inmate Identification Cards," for additional information.

3.3.4 SCDC employees will use the new name in all written correspondence. The inmate may be verbally addressed by the name of commitment.

**4. INMATE NUMBER ISSUE:** Each inmate committed to the jurisdiction of the South Carolina Department of Corrections will be assigned a number for identification.

4.1 The Assistant Division Director, Inmate Records Office, will be responsible for the establishment of the inmate number code structure. The Inmate Records Office will assign numbers to inmates received for admission; maintain a catalog of numbers issued; distribute file folders for the manual records; and reactivate recidivist files for manual and automated records.

4.1.1 A new number will be assigned to an inmate at the time of his/her initial commitment to the SCDC.

4.1.2 After the number and record are activated for inmates returning to SCDC, the R&E *Inmate* Records Section will enter the sentencing information into the automated record and file the new commitment information into the reactivated central/institutional records.

4.1.3 Safekeeper "County" inmates or Safekeeper "Death Row" inmates admitted into the custody of the SCDC under a Governor's Order or Commitment Order, respectively, will be assigned four (4) digit inmate numbers from the R&E Records Section.

4.1.4 The responsible institution (i.e., Lee or *Camille Griffin Graham Correctional Institution (CGGCI)* for County and Lieber or *CGGCI* for Death Row) will call the R&E *Inmate* Records Section upon receipt of the Governor's or Commitment Order to have the number assigned and activated. A copy of the Governor's or Commitment Order and all other paperwork received with the Order (warrant, etc.) will be FAXED to the R&E *Inmate* Records Section. The receiving institution will enter Safekeeper intake information on the on-line intake screen. Standard procedure will be followed and a Safekeeper number will be assigned.

4.1.5 After hours admissions will be placed in the institution's adjusted count and the inmate number will be assigned the next day, to include weekends and holidays.

4.2 When the South Carolina Department of Juvenile Justice (SCDJJ) receives a juvenile(s) sentenced in General Sessions Court, SCDJJ will FAX the commitment order(s) and the SCDJJ generated face sheet to the R&E Center to the attention of the R&E *Inmate* Records Supervisor. As of July 1998, juveniles are no longer transferred to the SCDC prior to age 17 in order to process their commitment order under a "straight time" or Youthful Offender Act sentence.

4.2.1 All documents will be FAXED within 24 hours of the juvenile's arrival at the SCDJJ. The R&E Records Section Supervisor will serve as the contact person for ensuring that all necessary documents are received and processed in a timely manner.

4.2.2 The inmate will be placed on the on-line intake list as a new intake and an SCDC number will be assigned. The inmate's records will be processed as normal (a central and institutional record will be created along with the automated record). The R&E *Inmate* Records Section Supervisor keeps the Warden's Jacket until the juvenile physically arrives at the SCDC. The central record will be forwarded to the audit section for processing.

4.2.3 The inmate will remain in the custody of the SCDJJ until s/he reaches the age of 17 at which time s/he will be transferred to an R&E Center where s/he will be in-processed in the same manner as any other adult committed to the SCDC. The inmate's central record will be returned to the R&E *Inmate* Records Section for processing. The institutional record is kept at the respective R&E Center until the inmate is transferred to his/her assigned institution. The central record, upon final completion, will be returned to Inmate Records Office along with the inmate's SCDJJ institutional record. It will be re-audited, and re-filed in the Active Records Section of the Inmate Records Office.

4.3 When the South Carolina Department of Juvenile Justice receives a juvenile sentenced in a Family court, the juvenile will remain in the custody of the SCDJJ until s/he reaches the age of 17 if convicted for a violent offense listed in S.C. Statute 16-1-60 or for the offense of assault and battery of a high and aggravated nature if the individual has not been paroled or released from the custody of SCDJJ prior to his/her 17th birthday. The juvenile will be transferred to the custody and authority of the South Carolina Department of Corrections, Division of Young Offender Services. The SCDJJ will send a Memorandum of Transport listing the juvenile's convictions with the juvenile. A juvenile who has not been paroled or released from the custody of the SCDJJ by his/her 19th birthday must be transferred to the custody and authority of the SCDC, Division of Young Offender Services, if convicted for a non-violent offense.

4.3.1 The juvenile will transfer to *the Kirkland* Reception and Evaluation Center where s/he will be in-processed. The inmate's central record will be sent to the Inmate Records Audit Section for a complete record audit and then filed. The institutional record is kept at the respective Reception and Evaluation Center until the inmate is transferred to his/her assigned institution.

4.3.2 The juvenile's records from the SCDJJ will be forwarded to the SCDC at the time of transfer and become a part of his/her *institutional* record.

## 5. COUNTY AND DEATH ROW SAFEKEEPER RECORDS INTAKE PROCEDURES:

5.1 General Information: A "county" Safekeeper (S/K) is an individual awaiting trial who has been deemed to be in a high profile/high risk status and who cannot be housed in a county facility. The individual is approved, through a Governor's Order, to be housed in the SCDC until trial. Male S/Ks will be housed at Lee Correctional Institution and female S/Ks will be housed at the *Camille Griffin Graham* R&E. A "death

10-30455

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Dillon  
STATE VS.

INDICTMENT/CASE#: 2007 -GS- 17-364

AKA: James Cabbage stalk  
Race: BW Sex: M Age: \_\_\_\_\_  
DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: Dillon, SC 29536  
DL# \_\_\_\_\_ SID# \_\_\_\_\_

AAA#: K1296628  
Date of Offense: \_\_\_\_\_  
S.C. Code §: 16-11-330(A)  
CDR Code #: 011319  
 CASE RESTORED  
SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Armed Robbery 10-30455  
in violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 011319  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

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: [Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 18 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 §15-13-13.

SPECIAL CONDITIONS:  
 RESTITUTION:  Heard,  Waived,  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  
Random Drug/Alcohol Testing  
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: \_\_\_\_\_

Recipient: \_\_\_\_\_  
\*Fine: \_\_\_\_\_  
\$14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_  
\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00  
\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_  
\$56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
\$ 35.13 (Public Def/Prob) \$500 \$ 25.00  
\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ \_\_\_\_\_  
\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ \_\_\_\_\_  
\$50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
\$56-5-2942(J) (Vehicle Assessment) \$40/lea \$ 37.5  
3% to County (if paid in installments) \$ \_\_\_\_\_  
TOTAL \$ 128.75

Appointed PD or appointed other counsel, \$35.13 TP Requires \$500 be paid to Clerk during probation.

[Signature]  
Clerk of Court/ Deputy Clerk  
Court Reporter: [Signature]

PRESIDING JUDGE [Signature]  
Judge Code: 21110717  
Sentence Date: 8/28/07

FILED  
CLERK OF COURT  
DILLON COUNTY  
AUG 28 PM 3:35  
SWEET T. HYATT

GENERAL WORKER	12/10/2009	02/05/2010	PLACED IN ST/SP CUSTODY	3F5
GENERAL WORKER	04/30/2009	06/01/2009	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	04/27/2006	05/19/2006	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	09/22/2005	03/18/2006	PLACED IN ST/SP CUSTODY	3F5
SENIOR GROUNDSKEEPER	06/07/2005	08/26/2005	UNSAT JOB PERFORM	3F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
BONUS 8-11 HRS/WK	01/31/2006	03/18/2006	PLACED IN ST/SP CUSTODY
LVL 3 - FULL TIME(NO EWC)	04/21/2005	05/19/2005	PLACED IN ST/SP CUSTODY
LVL 3 - FULL TIME(NO EWC)	02/25/2005	03/29/2005	PLACED IN ST/SP CUSTODY
LVL 2 - FULL TIME(NO EWC)	01/27/2005	02/24/2005	ASLT/DRUG/MAJOR DISC
LVL 2 - FULL TIME(NO EWC)	11/02/2004	12/22/2004	PLACED IN ST/SP CUSTODY
LVL 2 - FULL TIME(NO EWC)	02/06/2004	10/13/2004	PLACED IN ST/SP CUSTODY
LVL 3 - FULL TIME(NO EWC)	01/30/2004	02/05/2004	MI ELIGIBLE FOR LEVEL 2
LVL 2 - FULL TIME(NO EWC)	10/03/2003	01/29/2004	ASLT/DRUG/MAJOR DISC
LVL 3 - FULL TIME(NO EWC)	09/30/2003	10/02/2003	MI ELIGIBLE FOR LEVEL 2

\*\*\*\*\* END OF REPORT \*\*\*\*\*

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 [Version: 1.4.12 Built: 02/03/2015 11:57:23 AM Time: 08:57:21 AM]



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Facsimile: (803) 734-1346

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

September 8, 2020

Mr. Shaheen Cabbagestalk, #295567  
Crawshaw Correctional Institution  
48 Gold Mine Highway  
Crawshaw, SC 29067

Re: Your case

Dear Mr. Cabbagestalk:

Thank you for your letter, which I received August 26, 2020. Having talked to Appellate Defender Susan Hackett, here is what I understand to have occurred in your case.

Dillon County indicted "James Cabbagestalk" for armed robbery and assault and battery with intent to kill. You were arrested on those charges, and the indictments were served on you. The state called you to testify. The alleged victim testified and identified you as the person who robbed him. The alleged victim said he knew you by sight and knew your last name, which he gave to the police immediately after the armed robbery. *Sgt. Stockhouse of Cabbagestalk (invocably)*

During the middle of trial, you decided to enter a guilty plea. The state dismissed the assault and battery with intent to kill charge, and you admitted guilt to the armed robbery. During the guilty plea hearing, your lawyer told the judge that the name on the indictment was "James," not "Shaheen." Your lawyer said, "Shaheen was never indicted." Your lawyer said he was not complaining about the sufficiency of the indictment, but wanted to let the judge know in case he wanted to amend the indictment. The judge announced he was amending the indictment to say "James Cabbagestalk a/k/a Shaheen Cabbagestalk." Your counsel did not object, and said that you did not object. You then objected. When asked why you objected, you said "use that's not my name." The judge amended the indictment anyway. However, only the assault and battery with intent to kill indictment was physically amended. (The armed robbery indictment was not.)

Prior to amending the indictment, the judge obtained your social security number from you voluntarily. The solicitor said that it was the social security number for "James Shaheen Cabbagestalk," and he was filing to the National Crime Information Center. You then denied that your first name is James. Your lawyer admitted that he saw your birth certificate and that the name "James" was not on there.

On direct appeal, Appellate Defender Kathrine Hudgins raised the amendment issue in an Anders motion. The issue presented was whether the judge erred in amending the indictment by changing the name. The motion was dismissed. The challenge to the indictment was not made until after the jury was sworn, which is a key consideration for Ms. Hudgins and the Court of Appeals.

Shaheen Cabbagestalk, #295567

e 2

September 8, 2020

Clouk

During the post-conviction relief hearing, you claimed the plea lawyer told you that the court did not have subject matter jurisdiction over you due to the erroneous names. Also, James Cabbagestalk testified during the PCR hearing. He said he was your uncle. (However, he was never asked if he was the person who committed the offense, and he never admitted to being the person who committed the offense.

Doc

Appellate Defender Hackett told me she did not raise anything related to the name issue on the indictment in the PCR appeal. (She raised the issue about sentencing advice.) Regarding the name, she said it was noted that the ability of the judge to amend the indictment was resolved on appeal. Also, when the judge was announced on the record that he was amending the indictment, he said, "The Court has amended the indictment by accepting the guilty plea." In light of the guilty plea being to armed robbery, (she believes the Court of Appeals would understand that the judge was amending the armed robbery indictment,) despite the fact that the armed robbery indictment was not physically amended. (Only the dismissed assault and battery with intent to kill indictment was.) The judge also concluded that you were put on notice of the charges, which is all the that was required to do. She also believes that your admission of guilt to the charges would be automatic given a challenge to the sufficiency of the indictment due to the wrong name.

How? Can  
accept plea  
for crimes  
Amended as  
P/B/W/P/  
(not)  
Armed Rob

Given this information, I am not aware of any other action that can be taken, regarding your complaints about the indictment.

Sincerely,

Robert M. Dudek  
Chief Appellate Defender

W/hek

Shahreen Cabbagesta W #295567  
Evans C.F. (Kiawah-A#196)  
610 Hwy 9 west  
Bennettsville S.C. 29512



**RECEIVED**

FEB 13 2023  
SC Court of Appeals

S.C. Court of Appeals

P.O. Box 11629

Columbia SC 29211

