

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

MAY 17 2023

APPEAL FROM OLOONEE COUNTY

SC Court of Appeals

Court of General Sessions

R. Lawton McIntosh, Circuit Court Judge

Case No. 2022-65-37-515

The State,.....Respondent,

vs.

Michael Kenneth Cox,.....Appellant.

Motion to Rescind Order and  
Reinstate Appeal

Michael K Cox #389638  
Evans Correctional Institute  
610 Hwy 9 West  
Bennettsville SC 29512  
-Appellant, Pro Se

## Reasons to Rescind Order

#1

-On November 28<sup>th</sup> 2022 I, Michael K Cox, entered a guilty plea for Criminal Sexual Misconduct with a minor. On same day, my retained attorney, Mr. Bruce A. Byrholdt, esq., filed two separate motions under rule 29, SCRCrimp. The motion to reduce sentence was denied on December 6<sup>th</sup> 2022 and the written notice of the order denying Cox's Motion to Reconsider was filed on December 20<sup>th</sup> 2022 and received on January 5<sup>th</sup> 2023.

#2

-On January 12<sup>th</sup> 2023, Attorney Byrholdt, timely forwarded notice of appeal in this case, dated January 12<sup>th</sup> 2023.

#3

-On February 15<sup>th</sup> 2023, this court issued an erroneous order dismissing Cox's appeal on a false premise of Cox failing to timely serve the notice of appeal. This order correctly quotes Rule 29(a), SCRCrimp, where it states, "the time to appeal shall be stayed and shall begin to run from receipt of written notice of an order granting or denying such motion."

## Requested Relief

- This court's February 15<sup>th</sup> 2023 order is error because it overlooks the above stated fact that the order denying Cox's motion to reconsider was received on January 5<sup>th</sup> 2023, and counsel, Byrholdt, timely forwarded by mail the notice of appeal on January 12<sup>th</sup> 2023, clearly within the ten (10) days time limit for filing a notice of appeal under rule 203(b)(2), SCACR.
- This court should therefore rescind the prospective operation of the February 15<sup>th</sup> 2023 order and reinstate Cox's direct appeal forthwith, in the interest of justice.

5/11/23  
Date

s/ Michael K Cox  
Michael K Cox #389638  
Evans Correctional Institute  
610 Hwy 9 West  
Bennettsville SC, 29512

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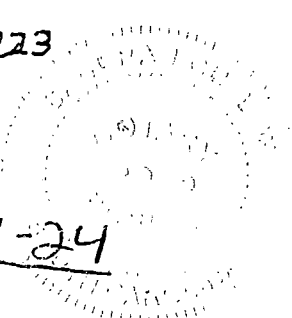
Case No. 2022-65-37-515

The state,.....Respondent.  
vs  
Michael Kenneth Cox,.....Appellant.

Affidavit of service.

I, Michael K Cox, do swear as true before below signed notary public that I did deposit an original draft and copy of my "Motion to rescind order and reinstate appeal" herewith into the custody of the Evans C.I. mail room clerk (below signed notary public), for said materials to be immediately forwarded by sufficient U.S. Postage to: Clerk, South Carolina Court of Appeals, P.O. Box 11629, Columbia, SC 29211; Bruce A. Byrholdt, Byrholdt Drawdy LLC, 2315 N. Main street, Suite 117, Anderson, SC 29621.

Sworn and Subscribed to  
as True before me  
this 11th day of May, 2023  
s/ Sarah A. Outlaw  
Notary Public, South Carolina  
\* My commission expires: 2-17-24



s/ Michael Cox  
Michael K Cox #389638  
Evans Correctional Institute  
610 Hwy 9 West  
Bennettsville SC 29512

Michael Cox #589698  
Evans Correctional Institute  
510 Hwy 9 West  
Bennettsville SC 29512



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Columbia, SC 29211

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