

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM FLORENCE COUNTY

2013-CP-21-874

Honorable Michael G. Nettles

Jimmy D. Meggs Jr., # 277400,

Appellant,

-vs-

State of South Carolina,

Respondent.

NOTICE OF APPEAL

I hereby appeal the September, 13th 2013 decision of the Honorable Michael G. Nettles. I received this decision on September, 19 2013. I have served a copy of this appeal on the Respondent's Counsel of Record.

COUNSEL FOR RESPONDENT:

South Carolina Attorney General's Office
Hon. Alan Wilson, Attorney General
Post Office Box 11549
Columbia, SC 29211

Jimmy D. Meggs Jr.
SCDC # 277400
E.C.I. F-2-B-234
610 Hwy 9 West
Bennettsville, SC
29512

RECEIVED

SEP 03 2013

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM FLORENCE COUNTY

2013-CP-21-874

Honorable Michael G. Nettles

Jimmy D. Meggs Jr., # 277400,

Appellant,

-vs-

State of South Carolina,

Respondent.

RECEIVED

OCT 03 2013

S.C. SUPREME COURT

CERTIFICATE OF SERVICE

I Certify that I have served my Notice of Appeal, Proof of Service and Explanation on the Respondent Counsel of record [South Carolina Attorney General's Office, Hon. Alan Wilson, Attorney General, Post Office Box 11549, Columbia, SC 29211 by depositing it in the United States Mail, Postage prepaid and addressed to the following. Rule 59e, Designation of Matter

Counsel for Respondent:

South Carolina Attorney General's Office
Hon. Alan Wilson, Attorney General
Post Office Box 11549
Columbia, SC 29211

Jimmy D. Meggs Jr.
E.C.I. F-2-B-234
610 Hwy 9 West
Bennettsville, SC
29512

THIS 1ST DAY OF Oct., 2013.

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM FLORENCE COUNTY

2013-CP-21-874

Honorable Michael G. Nettles

Jimmy D. Meggs Jr.,

Appellant,

-vs-

State of South Carolina,

Respondent.

EXPLANATION BRIEF

The State has created a roadblock for the Applicant by their non response and now trying to block the Applicant from presenting his newly discovered claim. The Prison Law Library was updated on March, 4 2013 to include the cases mentioned in the 2013 action.

The Courts 12 (b) (8) motion was improper in that it does involve the "same parties" However, it does not involve the "same issue". Therefore the Order of Dismissal pursuant to SCRPC Rule 12 (b) (8) was improper. Further, the State nor the Court gave the Applicant an opportunity to respond to the proposed dismissal prior to making it's ruling. Further, the fraud perpetrated by the state that the 2009 PCR being pending is an attempt to not allow the Applicant to have an adjudication on the newly discovered claim's discovered as a results of the Institutional Law Library being updated on March, 4 2013. As such, In Re Redmond 678

S.E.2d. 409 was not decided until June, 1 2009, also, the decisions mentioned in the 2013 were not discoverable until such updates were made to allow the Applicant to be able to discover the "factual predicate" of his claims compare Easterwood v. Champion 213 F.3d. 1321.

The Applicant was represented by Kenard Redmond at trial on August 9-12 2001, Subsequently in December of 2007, The Applicant had his first PCR hearing, which he claimed that Counsel Redmond was Ineffective for not investigating and ensuring that the State met their burden of proof as it relates to the elements of S.C. Code Ann. § 16-3-810. At the PCR, Counsel Redmond said that he knew or no case law to determine the Applicability of this State Statute (§16-3-810). In all, the Court rule that Counsel was acting within professional norms required by Counsel in criminal matter. However, it was discovered in 2013 as a results of the March, 4 2013 update in the prison Law Library that Counsel sometime after the PCR Hearing (June, 1 2009) that Counsel Redmond conceded that he was ineffective and that he did not provide Representation [Respondent stipulated that, by his misconduct, he violated the following provisions of the rules of professional conduct, Rule 407, SCACR Rule 1.1, Futher the Conduct that counsel Redmond admitted to fell between the time he represented the Applicant (1998-2005). Futher, Redmond failed to respond to Disciplinary Counsel as required by Rules. As a point of clarity, The Applicant could not have had this case and been privy to these cases until June, 1 2009. The Applicant was tried and convicted on August, 11 2001 in Florence County and the Applicant could not have known or had the benefit of introducing the In Re Redmond 678 S.E.2d. 409, until well after his PCR. It is the Applicant's position that had this been considered in light of the lack of case law to determine the Applicability of § 16-3-810, and the Statutory language counsel was Constitutionally ineffective for not so raising this objection. In light of the other Ineffectiveness, that Counsel Redmond Admitted to being Ineffective, the PCR Court would have viewed Counsels failures in a different light.

Had Counsel Conducted an Investigation both factual and legal he would have reasonable discovered the 1991 Att Gen Opinion. Futher, The Allegations before trial did not change at trial as the alleged victims testimony was that I though coercion caused two minors to commit a sexual act upon each other, while this testimony was that one pulled a T-Shirt over the others head thereby not allowing anyone to see this act. Including supposedly the Applicant. South Carolina Code Ann. § 16-3-810 Specifically states:

§16-3-810 ENGAGING CHILD FOR SEXUAL PERFORMANCE, PENALTY:

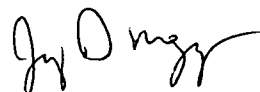
- (a) It is unlawful for any person to employ, authorize or induce a child younger than eighteen years of age to engage in a sexual performance. It is unlawful for a parent or Legal Guardian or Custodian of a child younger than eighteen years of age to consent to the participation by a child in a sexual performance.
- (b) Any person violating the provisions of subsection (a) of this section is guilty of Criminal Sexual Conduct of the second degree and upon conviction shall be punished as provided in § 16-3-653.

Where the Attorney General of South Carolina said in his 1991 Attorney General's opinion that (1991 WL 474776) Another Circumstance of the Criminal Offense of Criminal Sexual Conduct in the Second Degree is set forth in S.C. Code Ann. § 16-3-810 involving Engaging a Child (under the age of 18) for Sexual Performance. Similarly, it is Criminal Sexual Conduct in the third degree to produce, direct or promote sexual performance by a child pursuant to section § 16-3-820, But see Section § 16-15-395, 405 (First and second degree Sexual Exploitation of a minor). There is a reasonable probability that is a probability that had Counsel Investigated he would have reasonably known of

this Published 1991 Attorney General's Opinion and would have required the same Attorney General's Office to 1) Re-Submit the Indictment to the grand jury or Objected to the sufficiency of the Indictment to the Grand Jury with the reference to (§16-3-653 Criminal Sexual Conduct Second Degree). The Grand Jury would have reasonable not returned a True Bill on this Charge. 2) Reasonable Counsel would have Objected and raised in his Directed Verdict, The States Failure to Allege What would constitute § 16-3-653 as required by Law. Had such Objections been made the Appeals Court would have had an Opportunity to review and determine the Applicability and/or Constitutionality of § 16-3-810.

Where during deliberations, the jury sent a note to the Court regarding what constituted that (§ 16-3-810) Offense, coupled with the fact of absolutely no case law concerning this untested Criminal Statute. This Error was compounded because even if the Court ruled against the Appellant he would have had an opportunity to raise this Novel Issue on Direct Appeal.

There is a reasonable probability that had Counsel raised the proper Objections and/or Direct Verdict at the Conclusion of the States case in chief and at the conclusion of trial. The Court would have ruled that the State failed to put forth any evidence that would constitute the Legislative Intent of § 16-3-810, or, had the Trial Court ruled against the Defense Motion. The Issue would have been preserved for Direct Review. Where the South Carolina Attorney General Opinion (1991 WL 474776 states that [Another example of Criminal Sexual Conduct Second Degree is § 16-3-810]. In 1991, The Attorney General Richard E. McLawhorn gave his (A.G.'s) Opinion in which he says another circumstance of CSC 2nd is set forth in S.C. Code Ann. § 16-3-810. Considering it was this same S.C. Attorney General's Office that prosecuted the Appellant. There is more than a reasonable probability that the outcome would have been different.



STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM FLORENCE COUNTY

2013-CP-21-874

Honorable Michael G. Nettles

Jimmy D. Meggs Jr.,

Appellant,

-vs-

State of South Carolina,

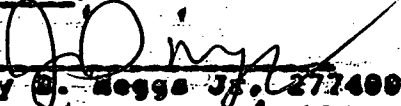
Respondent.

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

1. 2013-CP-21-874 Application.
2. 2013-CP-21-874 Affidavit.
3. 2013-CP-21-874 Request from SCDC.
4. 2013-CP-21-874 Memorandum of Law.
5. Second Amendment to PCR 2013-CP-21-874

Materials mentioned herein are relevant to the appeal

This 15th Day of Oct, 2013.


Jimmy D. Meggs Jr. 277400
Evans C.I. P-2-B-234
610 Hwy 9 West
Bennettsville, SC 29512

Jimmy D. Meggs Jr. 277400
ECI F26-234
610 Hwy 9 west
Bennettsville SC 29512

South Carolina Supreme
P.O. Box 11330
Columbia, SC 29211



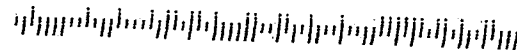
UNITED STATES POSTAGE
EAGLE
ONLY BOWES
02 1M \$ 00.66⁰
0008002055 CCT 01 2013
MAILED FROM ZIP CODE 29512

legal mail

OCT 01 2013

ONLY

2921133030



STATE OF SOUTH CAROLINA
 COUNTY OF FLORENCE
 IN THE COURT OF COMMON PLEAS

FORM 4
FILED

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2013CP2100874

2013 SEP 16 AM 11:27

Jimmy D Meggs Jr

South Carolina State Of

CONNIE REEL-SHEARIN
 CCCP & GS
 FLORENCE COUNTY, SC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge

Judge Code

9/16/2013

Date

For Clerk of Court Office Use Only

CERTIFIED: A TRUE COPY
Connie Reel-Shearin
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

This judgment was entered on **September 13, 2013**, and a copy mailed first class or placed in the appropriate attorney's box on **September 16, 2013**, to attorneys of record or to parties (when appearing pro se) as follows:

Jimmy D Meggs 610 Hwy 9 West Bennettsville, SC 29512

ATTORNEY(S) FOR THE PLAINTIFF(S)

Joshua Lee Thomas PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Connie Reel-Shearin

Connie Reel-Shearin - Clerk of Court

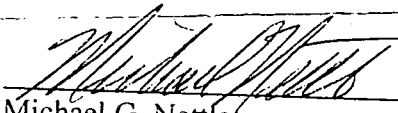
Court Reporter

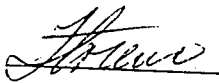
ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

This Court notifies Applicant that he must file and serve a notice of appeal within thirty days after receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Applicant's attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

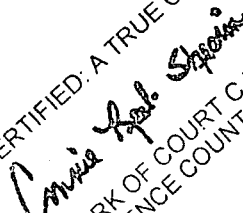
AND IT IS SO ORDERED!


Michael G. Nettles
Chief Administrative Judge
12th Judicial Circuit

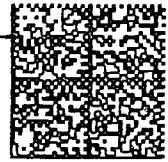
 , South Carolina

9-13 , 2013

FILED
2013 SEP 13 PM 2:25
CONNIE REEL-SHEPARD
CCJP & BS
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Jimmy D. Meggs Jr., 277400
ECI F26-234
610 Hwy 9 west
Bonnettsville, SC 29512



UNITED STATES POSTAGE
Eagle logo
PITNEY BOWES
02 1M
0008002055
MAILED FROM ZIP CODE 29512
\$ 00.20⁰
OCT 11 2013



The Supreme Court of South Carolina
Daniel E. Shearouse, clerk of Court
P.O. Box 11330
Columbia, SC 29211

OCT 11 2013

legal mail

29211133030

