

Dear Chief Justice Toal.

10-29-13

RECEIVED

S.C. SUPREME COURT

NOV 04 2013

My name is Jimmy Jones. I am incarcerated at Kershaw Corr. Inst at Kershaw, S.C. I had filed a declaratory judgment motion in Spartanburg County last year and attended a hearing on my motion in April of 2013. The subject of my motion was that I was erroneously being labeled on SCDC's website and on the internet as a sex offender and was required to register as such due to a kidnapping conviction I received in 2000. At my declaratory judgement hearing, I presented evidence that my crimes did not contain any form whatsoever of criminal sexual conduct nor any attempted sexual conduct. However, I am still being required to register. Administrative Judge Derham Cole denied my motion and to which I appealed. This is the subject of my letter to you. I have included copies of my notice of appeal, certificate of service, two letters from the Court of Appeals for South Carolina and a copy of a financial statement from SCDC headquarters showing my indigency. I have written two letters to the Appellate Defense office to Mrs. Sherry Graham and Mrs. French, both of whom appoint counsel to indigent litigants on appeal. I have not however heard anything from their office in over three months. Their phone receptionist did however check her computer and informed me that no appellate case number was assigned under my name or under Asst. Atty General Kristin Simons of the Attorney Generals office. As such,

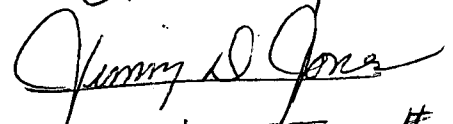
I am informing you of this matter and seeking any help you may give me in seeing that counsel be appointed for my appeal.

As you can understand Justice Toal, to be labeled as a sex offender especially in a prison environment, is a constant threat to my safety. This is an erroneous label which has been attached to me just because of a kidnapping conviction. The legislature needs to Amend this law, Especially in light of the recent ruling in HAZEL v. State.

In closing, I would ask that you or your clerk please contact Appellate Defense and inquire as to my appointment of counsel for my appeal as I cannot get any reply from their office.

Thank you

Sincerely



Jimmy D. Jones #240330

Kershaw Corr Inst

MA-37

4848 Goldmine Hwy

Kershaw, SC

29067

October 30, 2013

Mr. Robert Dudek, Chief Attorney  
S.C. Office of Appellate Defense

RE: Appeal / Appellate Case No: 2013-001598

Dear Mr. Dudek,

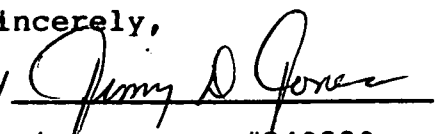
Please find enclosed copies of my Notice of Appeal, certificate of service, two letters from the South Carolina Court of Appeals, and a financial statement from our accounting office at SCDC headquarters. Also included is Judge Coles order. As you can see the court has assigned me the above referenced case number. Ms. Claire Allen has told me to contact your office concerning this appeal. As such, I have tried to reach Ms. Sherry Graham, and Ms. French concerning appointment of counsel, however I have received no reply from either of them. I have talked with the receptionist at appellate defense who in turn checked the computer and informed me that this appellate case number was not showing. As it has been over three months, appointment of counsel should have already been made.

As I am indigent and receive no funds due to the fact that most of my family is deceased, it will be necessary for your office to appoint me counsel. I would appreciate hearing from you or either Ms. Graham or Ms. French as I have previously written to both of them.

I plan on sending copies of this letter to Asst. Attorney General Kristin Simons and to the Chief Justice, Jean Toal's Office for assistance in this matter. I look forward to hearing from your office soon.

Sincerely,

s/



Jimmy Jones #240330  
Kershaw C/I Mag-A 37  
4848 Goldmine Hwy.  
Kershaw, SC 29067

IN THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

---

APPEAL FROM SPARTANBURG COUNTY  
COURT OF COMMON PLEAS

Hon. J. Derham Cole, Administrative Judge

---

Case No: 2012-CP-42-0538

---

Jimmy D. Jones, . . . . . Appellant,

V.

State Of South Carolina, . . . . . Respondent.

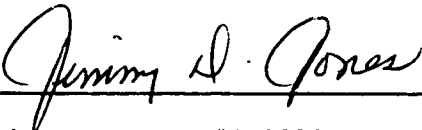
---

NOTICE OF APPEAL

---

Jimmy D. Jones Appeals the order of the Honorable J. Derham Cole dated July 9, 2013 which denied his motion to be excluded from the Sexual Offender Registry. Appellant received written notice of the order on July 16, 2013.

Other Counsel Of Record:  
Ms. Kristin M. Simmons  
S.C. Attorney Generals Office  
P.O. BOX 11549  
Columbia, S.C. 29211-1549

  
Jimmy D. Jones#240330  
Plaintiff  
Kershaw Corr. Inst.  
HD-144  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

July 23 2013

IN THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

---

APPEAL FROM SPARTANBURG COUNTY  
COURT OF COMMON PLEAS

Hon. J. Derham Cole, Administrative Judge

---

Case No: 2012-CP-42-0538

---

Jimmy D. Jones, . . . . . Appellant,

V.

State Of South Carolina, . . . . . Respondent.

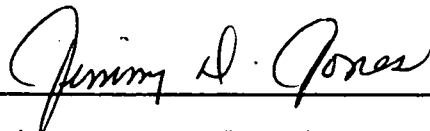
---

NOTICE OF APPEAL

---

Jimmy D. Jones Appeals the order of the Honorable J. Derham Cole dated July 9, 2013 which denied his motion to be excluded from the Sexual Offender Registry. Appellant received written notice of the order on July 16, 2013.

Other Counsel Of Record:  
Ms. Kristin M. Simmons  
S.C. Attorney Generals Office  
P.O. BOX 11549  
Columbia, S.C. 29211-1549

  
Jimmy D. Jones#240330  
Plaintiff  
Kershaw Corr. Inst.  
HD-144  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

July 23 2013



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

July 29, 2013

Jimmy Dean Jones # 240330  
Kershaw Corr. Institution  
4848 goldmine Hwy.  
Kershaw, SC 29067

Re: State v. Jimmy D. Jones  
Appellate Case No. 2013-001598

Dear Counsel:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at [www.sccourts.org/courtreg](http://www.sccourts.org/courtreg). Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at [www.sccourts.org/courtOrders/HTMLFiles/2007-08-13-02.htm](http://www.sccourts.org/courtOrders/HTMLFiles/2007-08-13-02.htm). Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Kristin M. Simons



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

September 30, 2013

Jimmy Dean Jones, 00240330  
Kershaw Correctional Institution  
4848 Goldmine Hwy  
Kershaw SC 29067

Re: State v. Jimmy D. Jones  
Appellate Case No. 2013-001598

Dear Mr. Jones:

This Court is in receipt of your letter dated September 23, 2013. You may contact the Commission on Indigent Defense, Appellate Division, at P.O. Box 11589, Columbia, SC 29211-1589 regarding the handling of your appeal.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Kristin M. Simons  
Robert M. Dudek

*Sherry Graham - Appellate Def.*

Kershaw C.I.  
Kershaw

RECEIVED

FINANCIAL CERTIFICATE

AUG 13 2013

FOR THE

DISTRICT OF SOUTH CAROLINA

KerCI  
MAILROOM

(for use in § 1983, Bivens, and non-habeas civil actions filed by prisoners)

PP  
174

I request that an authorized officer of the institution in which I am confined, or other person designated to review financial information in relation to inmate trust funds, complete this Certificate. If I have insufficient funds in my account that prohibit me from paying the full filing fee required by 28 U.S.C. § 1914, I will send with my complaint an initial installment payment, required by 28 U.S.C. § 1915, equal to the amount calculated and entered on line four by the authorized officer signing this form.

Jimmy D. Jones  
INMATE NAME (PRINTED)

240330  
INMATE (PRISONER) NUMBER

Jimmy D. Jones  
INMATE SIGNATURE

Kershaw C.I.  
PLACE OF CONFINEMENT

- ◆ (1) Average monthly deposits to the inmate's account.....\$ 0
- ◆ (2) Average monthly balance in the inmate's account calculated for the prior six months period. ....\$ 0
- ◆ (3) Current Balance .....\$ 0
- ◆ (4) Initial Installment Payment (Take 20 percent of the greater of lines 1 or 2).....\$ 0

I hereby certify that as of this date, the above financial information is accurate for the above named inmate.

[Signature]  
Authorized Officer's Signature

8/8/13  
Date

J. Smith Fin. Acty  
Authorized Officer's Name and Title

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

COUNTY OF SPARTANBURG

Case No. 2012-CP-42-5038

State of South Carolina,

Plaintiff,

vs.

Jimmy Dean Jones, #240330,

Defendant.

ORDER

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2013 JUL 10 PM 1:50  
M. HOPE BLACKLEY

This matter came before the Court on April 15, 2013, upon Defendant's Motion for Exclusion from Sexual Offender Registry. Present at the hearing were Assistant Attorney General Kristin M. Simons on behalf of the State of South Carolina, and *pro se* Defendant Jimmy Dean Jones.

**Procedural History and Findings of Fact**

Mr. Jones was convicted of kidnapping on or about September 26, 2001, for which he is currently serving a 20 year sentence. His projected release date is December 29, 2018. Mr. Jones filed this Motion for Exclusion from the Sexual Offender Registry on September 19, 2012, alleging that the kidnapping did not include a criminal sexual or attempted sexual offense, and seeking an order of this court that he is not required to register as a sex offender. After considering the pleadings filed in this action, the oral arguments of the parties, and applicable law, the Court denies Defendant's Motion for the reasons set forth below.

SCANNED

Conclusions of Law

The South Carolina Sex Offender Registry Act requires sex offender registry kidnapping of "a person eighteen years of age or older, except when the court makes a finding on the record that the offense did not include a criminal sexual offense or attempted criminal sexual offense." S.C. Code Ann. § 23-3-430(C)(15) (2011). There is no finding on the record as to whether Plaintiff's kidnapping offense included a criminal sexual offense or attempted criminal sexual offense. Nonetheless, Plaintiff is not entitled to adjudication of whether he will be required to register as a sex offender at this time.

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2013 JUL 10 AM 1:30  
M. HOPE BLACKLEY

The South Carolina Sex Offender Registry Act has no effect upon Mr. Jones during his incarceration, as he will not be required to register as a sex offender until his release. S.C. Code Ann. §§ 23-3-440, 23-3-450 (2011), *Hazel v. State*, 377 S.C. 60, 63-64, 659 S.E.2d 178,179 (2008). The *Hazel* Court made clear that the statute that governs sex offender registration is the statute in effect "at the time of...release from prison." *Hazel, id.* at 64, 659 S.E.2d at 139. Accordingly, the appropriate time for Mr. Jones to seek relief from the requirements of the Sex Offender Registry is upon his release from incarceration, when registry is required. See *id.*; *Johnson v. Lloyd*, 399 S.C. 470, 732 S.E.2d 198 (Ct. App. 2012) (declaratory judgment action filed after completion of probationary sentence and upon learning that registry was not merely a condition of probation but required for life).

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2013 JUL 10 AM 8:51  
M. HOPE BLACKLEY  
VOID


Order

For the reasons set forth above, Defendant's Motion is denied.

**AND IT IS SO ORDERED.**

Spartanburg, South Carolina

July 9, 2013

  
J. DERHAM COLE  
Presiding Judge

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2013 JUL 10 PM 1:50  
M. HOPE BLACKLEY

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2013 JUL 10 AM 8:51  
M. HOPE BLACKLEY