

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

MAR - 6 2014

APPEAL FROM SPARTANBURG COUNTY  
Court of General Sessions

**S.C. Supreme Court**

John C. Few, Circuit Court Judge

Case No. 05-GS-42-3629

The State ..... Respondent

v.

Christopher Hampton ..... Appellant Pro Se

NOTICE OF APPEAL

Christopher L. Hampton appeals his conviction and sentence in this case.  
The sentence was imposed by the Honorable John C. Few, on April 3, 2006  
This appeal is taken from this conviction and sentence.

 03/03/14  
Pro Se signature Appellant

Other Counsel of Record:

Suzanne H. White  
Assistant Attorney General  
PO Box 11549  
Columbia, S.C. 29211-1549

Christopher L. Hampton 314697  
BACI SMU-144  
4460 Broad River Road  
Columbia S.C. 29210

cc/ Daniel E. Shearouse Esq.  
Kenneth Richstad Esq.  
Suzanne H White Esq.  
file

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

**RECEIVED**

2005-GS-42-3629

Christopher Lemonte Hampton, #314697 )  
PETITIONER Pro se )

MAR 06 2014

S.C. SUPREME COURT

v.

CERTIFICATE OF SERVICE

STATE OF SOUTH CAROLINA )  
RESPONDENT )  
\_\_\_\_\_ )

I, the Pro se petitioner hereby certifies that I am the Pro se Petitioner and am a person of such age and discretion as to be competent to serve Papers.

That on March 3, 2014 he served a copy of notice of appeal and affidavit to show failure of timeliness of service of notice of appeal on the person(s) named below by placing a copy in a post-paid envelope addressed to the person(s) named below at the place and address stated below by depositing said envelope and contents in the United States Mail.

1. Suzanne H. White, Esq.  
Assistant Attorney General  
PO Box 11549  
Columbia, S.C. 29211-1549

1/5/ Christopher L. Hampton 03/03/14  
Pro se petitioner

2. The south Carolina Court of appeals  
Honorable Kenneth A Richstad, Clerk

Christopher L. Hampton #314697  
BRCI SMU-144  
14460 BROAD RIVER ROAD  
COLUMBIA SC, 29210

3. The Supreme Court of South Carolina  
The Honorable Daniel E. Shearouse, Clerk  
P.O. Box 11330  
Columbia, S.C. 29211

SWORN TO AND SUBSCRIBED BEFORE ME  
THIS 3 DAY OF 3 2014

Eugene Kett  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES APRIL 4, 2016

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY  
Court of General Sessions

John C. Few, Circuit Court Judge

Christopher L. Hampton

Appellant

v.

South Carolina, The State of

Respondent

)  
)  
) Appellant's Affidavit

)  
) Trial Court Case No.

)  
) 2005-GS-42-03629

PERSONALLY APPEARED BEFORE ME, Christopher L. Hampton, #314697,  
who having first been duly sworn, deposes and avers the following:

- 1.) I am the Pro se Appellant in the Case(s) above.
- 2.) I am currently confined at the Broad River Correctional Institution of the South Carolina Department of Corrections.
- 3.) This Court has jurisdiction over the 7th Circuit Court of General Sessions in Spartanburg County South Carolina.
- 4.) I am indigent and need appellate defense.
- 5.) I am currently housed in Segregation, therefore I am extremely limited to law library access and mailroom.
- 6.) I am fully competent to testify to the above and following matters.
- 7.) I was sentenced on April 3, 2006 by the Honorable John C. Few, Circuit Court Judge to Life for Murder 05-GS-42-3629.
- 8.) I pled guilty to the above charge at the advice of my Counsel Michael Bartash Esquire and James Cheeks Esquire. Both of the Spartanburg County Public Defenders Office.

- 9.) The Honorable John C. Few failed to inform me of my right to appeal the sentence after my guilty plea.
- 10.) Due to my illiteracy of the law I was entitled to rely upon my Counsel to make reasonable decisions and notify me of my rights.
- 11.) I had no independent knowledge of my right to appeal.
- 12.) Especially after a guilty plea.
- 13.) After my sentence my counsel said to me: "That wasn't right. Did you see the Judge Crying? I'm gonna appeal this."
- 14.) I did not know this was a "right." If I had knew I had the right to appeal, I would have urged my Counsel to file the appeal that same day and just to be safe, I would have mailed out a letter that next morning to the Spartanburg Clerk of Court informing him of my intent to appeal.
- 15.) However, after I arrived at the Prison Institution I learned that my Counsel suddenly passed away two days after my sentence.
- 16.) I wrote the Spartanburg County Public defenders office asking them if they knew if my late Counsel filed an appeal in my case; they were not sure so they filed an appeal out of time on my behalf that was ultimately denied.
- 17.) I filed for Post-Conviction relief on September 15, 2006 to the Spartanburg Court of Common Pleas. 2006-CP-42-3049.
- 18.) The matter of an evidentiary hearing was Convened on September 17, 2007 at the Spartanburg County Courthouse.
- 19.) The hearing Judge was the Honorable Roger L. Couch.

- 20.) I was represented at Post Conviction relief hearing by W. Jeffrey McGurk, Esquire.
- 21.) The state was represented by Assistant Attorney General S. Prentiss Counts, Esquire.
- 22.) An Order of dismissal was handed down from the Honorable Roger L. Couch on October 19, 2007.
- 23.) However, the Honorable Roger L. Couch did grant me a belated appeal of my Conviction.
- 24.) My PCR Counsel assured me that I would get an appeal.
- 25.) I received the order of dismissal of my PCR hearing on November 11, 2007.
- 26.) I wrote a letter to my PCR Counsel asking him questions about my appeals and mailed the letter on November, 12 2007. He never responded back.
- 27.) As I waited to be called up for my appeal, the weeks, months and years passed, My Counsel never responded to any of my letters concerning my appeal.
- 28.) After never hearing anything from my PCR Counsel or anything from the Court concerning my belated appeal, I wrote a letter to the Spartanburg Clerk of Court M. Hope Blackley and she wrote me back saying an appeal was never filed by my PCR Attorney W. Jeffrey McGurk Esquire. (see exhibit 'C' attached)
- 29.) I filed a Pro se notice of appeal on April, 3 2013. (Please see exhibit 'A' attached.)
- 30.) I received the order that was handed down on June 26, 2013 (Please see exhibit "B").

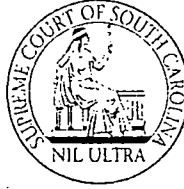
- 31.) The Supreme Court Clerk of Court Daniel E. Shearouse sent a letter to my Counsel W. Jeffrey McGurk questioning the timeliness of my pro se notice of appeal, however, Mr. McGurk failed to provide any information. (see exhibit "B")
- 32.) My Counsel ~~is~~ Jeffrey McGurk according to the letter from Supreme Court Clerk Daniel E. Shearouse dated April 17, 2013 to my Counsel Mr. McGurk. (see exhibit "A")
- 33.) Therefore, since W. Jeffrey McGurk is my Counsel of record, I can't file anything on my behalf and he won't respond to me or anyone that writes concerning this very important matter.
- 34.) Because of my plea Counsel's sudden death two days after my plea and my illiteracy of the law, I did not voluntarily waive my right to appeal in which I was never given notice by the Judge or my late Counsel that I even had the right to appeal my guilty plea.
- 35.) Furthermore, my PCR Counsel W. Jeffrey McGurk failed to file my appeal after dismissal of PCR to the Supreme Court for Writ of Certiorari.
- 36.) I was granted a belated direct appeal by the Honorable Roger L. Couch but my Counsel ~~hasn't~~ enlightened me on further proceeding with the belated appeal or PCR appeal.
- 37.) Therefore, since Mr. McGurk is still my Counsel of record, I can't file anything on my behalf for that matter, hindering my progress on my rights to appeals in the Court.
- 38.) I have in no way voluntarily waived my rights to direct appeal, appeal from PCR to Supreme Court for Writ of Certiorari or my belated appeal.
- 39.) Due to my illiteracy to the law, I trusted and depended on my Court appointed Attorneys who have continuously prejudiced me and my case by their ineffective assistance.
- 40.) I therefore submit this affidavit to establish my failure for timeliness of the service of my notice of appeal.
- 41.) I respectfully request my belated direct appeal as well as a belated appeal of my PCR which I have in no way voluntarily waived.

FURTHER AFFIANT SAYETH NOT

15/ [Signature] 03/03/14  
Petitioner

CC: Daniel E. Shearouse, Esquire  
Suzanne H. White, Esquire  
Kenneth Richstad, Clerk

SWORN TO AND SUBSCRIBED BEFORE ME  
THIS 3 DAY OF 3 2014  
Eugene Keith  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES April 4, 2016



~~EXHIBIT~~  
Exhibit  
A

## The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211  
1231 GERVAIS STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1080  
FAX: (803) 734-1499  
www.sccourts.org

April 17, 2013

Mr. William Jeffrey McGurk  
PO Box 3213  
Spartanburg SC 29304

Re: Christopher Hampton v. State  
Appellate Case No. 2013-000699  
Lower Court Case No. 2006-CP-42-003049

Dear Counsel:

Please be advised that your client has filed a *pro se* notice of appeal dated April 3, 2013. I remind you that under Rule 71.1(g) of the South Carolina Rules of Civil Procedure that you remain his counsel of record before this Court.

To determine the timeliness of the notice of appeal, I ask that you please advise this Court of the date on which you received written notice of the final order in this matter. From information provided by the clerk of the circuit court, this order is dated November 2, 2007 and was filed with the clerk of the circuit court on November 5, 2007. This information should be provided within ten (10) days of the date of this letter.

Sincerely,

Daniel E. Shearouse

cc: Suzanne Hollifield White, Esquire  
Mr. Christopher Hampton, #314697

# The Supreme Court of South Carolina

Christopher Lemonte Hampton, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2013-000699

The Honorable Roger L. Couch  
Spartanburg County  
Trial Court Case No. 2006CP4203049

---

## ORDER

---

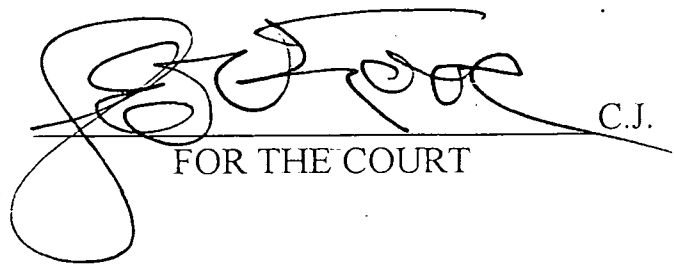
Petitioner has filed a *pro se* notice of appeal from an order of the circuit court dated November 2, 2007, and filed with the clerk of the circuit court on November 5, 2007. The notice of appeal was not served on counsel for the respondent until April 3, 2013. Although requested to provide this Court with the date on which he received written notice of entry of the order on appeal, petitioner's counsel has failed to provide this information.

Accordingly, based on petitioner's failure to establish the timeliness of the service of the notice of appeal, the notice of appeal is dismissed. To the extent petitioner may be asking this Court to grant him a belated appeal under *Austin v. State*,<sup>1</sup> that request is denied without prejudice since *Austin* relief must be sought by filing a

---

<sup>1</sup> 305 S.C. 453, 409 S.E.2d 395 (1991).

new application for post-conviction relief in the circuit.<sup>2</sup> The remittitur will be sent as provided by Rule 221(b), SCACR.

  
C.J.  
FOR THE COURT

Columbia, South Carolina  
June 26, 2013

cc: Suzanne Hollifield White, Esquire  
William Jeffrey McGurk, Esquire  
Mr. Christopher Hampton, #314697

---

<sup>2</sup> See *King v. State*, 308 S.C. 348, 417 S.E.2d 868 (1992) (discussing appellate procedure to be followed depending on findings of PCR judge on the *Austin* claim).

February 07, 2011

Christopher Hampton  
B.R.C.I mur/208  
4460 Broad River Rd  
Columbia, S.C. 29210

Exhibit C

CASE NO. 2005-GS-42-03629

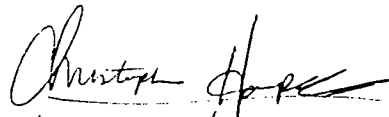
TO: Clerk of Court

RE: PCR status/Attorney.

Dear ma'am:

My name is Christopher Hampton, I had a PCR hearing September 17, 2007 (CASE NO. 2006-CP-42-3049) I was granted a belated Appeal and I am writing to find out the status on that or could you please let me know if I am still in my PCR process. I wrote my PCR Attorney several times since my PCR appearance with no response or information into the matter and I was wondering if I am still represented by MR. Jeffrey McGurk or do I have another Attorney for the belated appeal.

Very truly yours,



Christopher Hampton,

February 07, 2011.

I don't see where an appeal was filed. Your Attorney on this case

is W Jeffrey McGurk

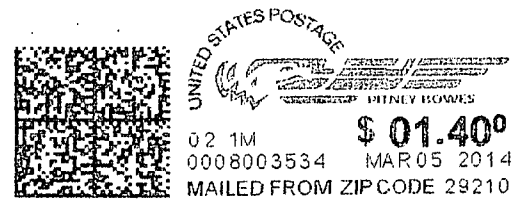
P.O. Box 3213

Spartanburg 29304

RECEIVED BY MAIL

2011 FEB -9 PM 4:19

Christopher Hampton # 314697  
BRCI - SMU - 144  
4460 Broad River Road  
Columbia, S.C. 29210



**RECEIVED**  
MAR 10 15 2014  
BRCI  
MAIL ROOM

Kenneth A. Richstad, Clerk  
The South Carolina Court of Appeals  
P.O. Box 11330  
Columbia, S.C. 29210