

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
The Honorable J.C. Nicholson, Presiding Judge

Appellate Case No: 2013-002496

THE STATE,

Respondent,

vs.

SAMUEL BROWN,

Appellant.

MOTION TO DISMISS APPEAL

Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

I.

On September 12, 2013, Appellant was convicted and sentenced to ten (10) years for trafficking cocaine.

II.

Appellant, *pro se*, served Notice of Appeal on the South Carolina Attorney General's Office on November 15, 2013. (See Attachment A). In the *pro se* Notice of Appeal dated

November 15, 2013, Appellant states that he is appealing his conviction and sentence which occurred on September 13, 2013. (See Attachment B [Sentence Sheet] showing the date of sentence was September 12, 2013).

III.

Pursuant to the long-standing rules of appellate procedure, a notice of appeal from a criminal conviction must be served upon the State within ten (10) days of imposition of the sentence. See Rules 203(b)(2), 262(b), SCACR. The timely service is a jurisdictional requirement and this Court has no authority to extend or expand the time within which the notice of appeal must be served. State v. Hinson, 303 S.C. 92, 399 S.E.2d 422 (1990); Mears v. Mears, 287 S.C. 168, 337 S.E.2d 206 (1985); Miller v. State, 269 S.C. 113, 236 S.E.2d 422 (1977).

IV.

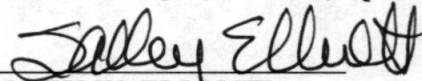
Appellant's notice of appeal should have been served upon Respondent on or before September 22, 2013. It was not served until November 15, 2013. The failure of Appellant to timely serve written notice of appeal upon the State deprives this Court of jurisdiction over this appeal and entitles Respondent to a dismissal of the appeal, regardless of the reasons for the failure to timely serve the notice.

WHEREFORE, Respondent respectfully prays that this Court dismiss the appeal; that the time limits for this appeal be held in abeyance until this Court's disposition of this motion; and for such other and further relief as this Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

BY: 
SALLEY W. ELLIOTT
S.C. Bar No: 1871

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

May 27, 2013

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
The Honorable J.C. Nicholson, Presiding Judge

Appellate Case No: 2013-002496

RECEIVED

MAY 27 2014

SC Court of Appeals

THE STATE,

Respondent,

vs.

SAMUEL BROWN,

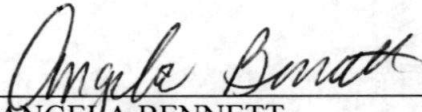
Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the Motion to Dismiss Appeal on appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to Samuel Brown, 254907, MacDougall Correctional Institution, 1516 Old Gilliard Road, Ridgeville, SC 29472, and Robert M. Dudek, Esquire, South Carolina Commission on Indigent Defense, Division of Appellate Defense, P.O. Box 11589, Columbia, South Carolina 29211.

I further certify that all parties required by Rule to be served have been served.

This 27th day of May, 2014.



ANGELA BENNETT
Administrative Assistant

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTACHMENT A

In The Court of Appeals
South Carolina

Samual Brown,
Appellant,

v.

State of South
Carolina,

Indictment Number:

Notice of Appeal

I, Appellate, Samual Brown, do hereby state I am filing my Notice of Intent to Appeal the Judgment of the Honorable Judge J.C. Nicholson, Jr., convicting me of Trafficking Cocaine 2nd, and sentencing me to a Term of Imprisonment for 10 (ten) years, on 9/13/13 Charleston County Circuit Court of General sessions on September 13, 2013.

Respectfully submitted,

Samual Brown
Samual Brown, #254907
Mac Dougal C.I., 1516 Old -
Gilliard Rd, Ridgeville, SC 29472
Appellant, Pro se

Nov. 15, 2013

In The Court of Appeals
State of South Carolina

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NOV 21 2013

Referred to Elliott?/dm
Answered _____

Samual Brown,
Appellant,

Indictment Number:

v.

State (South Caro-
lina), Respondent

Proof of Service

I, Samual Brown, Appellant, above named
do hereby Certify I have this 15th day
of November, 2013, service/served a
Copy of my Notice of Appeal, upon the
Office of the Attorney General, Respondent,
deposited in the United States Mail, sufficient
postage prepaid, properly addressed
To. S.C. office of Attorney General
P.O. Box 11549
Columbia, S.C. 29211

Nov. 15, 2013

Ridgeville, sc

Samual Brown

Samual Brown

254907

MacDougal C.I.

1516 Old Gilliard Rd,

Ridgeville, S.C. - 29472

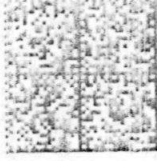
Appellant - Pro se

Samuel Brown 254907

MCI CI 11A

1516 Old Gilliard Rd

Ridgeville, S. C 29472



UNITED STATES POSTAGE
02 1P
0003167719
MAY 2013
MAFFREVERON Z CODE 72
USA
Bank Swallow

S. C office of Attorney General

P.O Box 11549

Columbia, S.C 29231

2921181549



ATTACHMENT B

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.

SAMUEL BROWN JR

AKA: _____

Race: BLACK Sex: M Age: 39

DOB: _____ SS#: _____

Address: _____

City, State, Zip: _____

DL#: _____ SID#: SC00858043

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
TO: Trafficking in Cocaine, 10 to 28 grams, 1st offense

in violation of § 44-53-0370(e)(2)(a)+3 of the S.C. Code of Laws, bearing CDR Code # 0278 0387
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Stoney, Randell SC Bar# 78683 Defendant Juan Gomez Attorney for Defendant SC Bar# 40312

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 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. 90 days
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 Set by SCDPPPS _____

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 \$ _____
§ 56-1-286 (DUI Breath Test) \$25 \$ _____
Proviso 47.9 (Public Def/Prob) \$500 \$ _____
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150.00
§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$ 8.40
TOTAL \$ 288.40

_____ 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: _____

Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk Caroline L. Armstrong
Court Reporter: Karen Anderson
SCCA/217 (03/2011)
WITNESSETH: A TRUE COPY
JULIE L. ARMSTRONG (SEAL)
CLERK, C.P., G.S. § 3-FC
BY [Signature]
DEPUTY CLERK

Presiding Judge [Signature]
Case Code: _____
Sentence Date: 9/15/13



ALAN WILSON
ATTORNEY GENERAL

RECEIVED

MAY 27 2014

May 27, 2014

SC Court of Appeals

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

Re: The State v. Samuel Brown
Appellate Case N: 2013-002496

Dear Mr. Kitchings:

Enclosed please find the original and six copies of the Motion to Dismiss Appeal along with proof of service in the above-referenced case.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General
S.C. Bar No: 1871

SWE/ab
Enclosures

cc: Samuel Brown, 254907
Robert M. Dudek, Esquire
Ms. Trisha Allen