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State of South Carolina  
County of Greenville

IN THE COURT OF COMMON PLEAS  
2013-CP-23-2304

John W Goldsmith  
S.C.D.C. No. 281165  
Appellant  
v.

NOTICE OF APPEAL

State of South Carolina,  
Respondent.

**RECEIVED**

JUN 19 2014

**S.C. Supreme Court**

The appellant, John W. Goldsmith, appeals the Trial Court's decision to dismiss his appeal. The appellant, John W. Goldsmith contends that his appeal should not be dismissed because he failed to timely submit the documents or to serve with a proof of service. The appellant is incarcerated and is at the mercy of the system to provide documents to him in a timely fashion. Also, the applicant does not have counsel and would like to have counsel appointed to him to help him with these matters. The appellant has yet to receive the proof of service on either of the documents sent to him, the order of final dismissal nor the order to dismiss to his appeal. The appellant just received the order of dismissal to his appeal on May 24<sup>th</sup>, but was called to pick up mail on April 24<sup>th</sup> when the order was first received, but was not given all of his mail. The appellant contends that the justice system needs reevaluating and that justice be served not only to him, but each of the inmates that have met unjust circumstances. The appellant apologizes sincerely for the inconvenience and contends that the application should not be dismissed. SC Code Ann. Sec. 17-27-45(C) reads: If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of

the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence. John contends that he was not aware that he was not given credit for the time served prior to being sentenced until after the first PCR application had been filed, therefore resulting in newly discovered evidence. When the appellant first discovered that he was not given credit for the time he served, per SC Code Ann. Sec. 24-13-14, he first obtained the time served report for S.C.D.C Transfer from Greenville County Records Division. Secondly, he filed a motion with the Clerk of Court, Paul B Wickensimer, to remedy the issue. Additionally, the appellant, John W. Goldsmith, was not aware that the issue should have been brought forth in first PCR application because he thought that the issue was going to be resolved with the Clerk of Court and the proof of time served. It was not until he did not receive a response from the Clerk of Court that he filed his second PCR application.

Moreover, Case, *State v. Caskey, et al.*, 273 S.C. 325, 256 S.E. (2d) 737 (1979). A party requesting a new trial based on after-discovered evidence must show that the evidence (1) Is such as would probably change the result if a new trial was had. John W. Goldsmith contends that his trial counsel, Stephen Henry, failed to properly inform the trial court of the time served and that if the trial Judge had been made aware of the correct amount of time that he served by Stephen Henry, the trial judge would have given him the credit for the time served and he would not have to request the credit due to him per this PCR.

Furthermore, the punishment that the appellant received does not fit the crime. There are plenty of cases where convicted murders and child molesters get way less time than the appellant received for selling drugs to people that wanted to buy them. The appellant did not take a life nor did he commit sexually heinous acts against a child. The justice system needs revising and the

only thing the appellant is asking for, is to receive credit for the time that he served as per the law.

Wherefore, the foregoing reasons the honorable Court should grant an evidentiary hearing to resolve this case on the merits to best serve the interest of Justice. John W. Goldsmith does not request a new trial; he just wants the credit due to him per SC Code Ann Sec. 24-13-14. The appellant is requesting 17 months be credited to his time. Please let justice prevail and grant John W. Goldsmith credit for the time he served from the date he was arrested to the time he was sentenced, which he is currently serving time for.

June 9, 2014

Respectfully Submitted:

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John W. Goldsmith #281165

Tyger River CI Unit 3B-115

200 Prison Rd

Enoree, SC 29335

**PROOF OF SERVICE OF A NOTICE OF APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

The Honorable Letitia H. Verdin

Case No. 2013-CP-23-2304

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JUN 19 2014

**S.C. Supreme Court**

John W. Goldsmith,

Appellant,

v.

State of South Carolina,

Respondent.

**PROOF OF SERVICE**

I certify that I have serve the Notice of Appeal with the Trial Court by depositing a copy of it in the United States Mail, postage prepaid, on June 9, 2014, addressed to Paul B Wickensimer, Greenville County Clerk of Court, 305 East North St Greenville SC 29601.

June 9, 2014

John W. Goldsmith 281165  
Tyger River CI U3-B -115  
200 Prison Rd  
Enoree SC 29335

**RECEIVED**

JUN 11 2014

**SC Court of Appeals**

To: Jenny Abbott Kitchins  
Clerk of Court  
P.O. Box 11629  
Columbia, SC 29211

From: John W. Goldsmith 281165  
Tyger River CI U3-B -115  
200 Prison Rd  
Enoree SC 29335

RE: 2013-CP-23-2304

Dear Ms. Kitchins,

This is to serve as notice to file an appeal. The appellant, John W. Goldsmith, received an order to dismiss his appeal May 24<sup>th</sup>. He originally filed notice to appeal on March 22, 2014. The applicant, John W Goldsmith, has yet to be served with an affidavit of service. However, the appellant is appealing the final notice of dismissal made by The Honorable Letitia H Verdin. Enclosed are the documents to justify his appeal, request to receive credit for the time served, and reason PCR should be granted.

Respectfully Submitted,

John W Goldsmith  
June 9, 2014

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JUN 19 2014  
S.C. Supreme Court

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JUN 11 2014  
SC Court of Appeals