

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM KERSHAW COUNTY  
Court of General Sessions

R. Ferrell Cothran, Jr., Circuit Court Judge

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Case No. 2006-GS-28-00116

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The State,

Respondent,

v.

Clifton D. Cooke,

Appellant.

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SC Court of Appeals

**STATEMENT OF BASIS OF APPEAL FROM GUILTY PLEA PURSUANT  
TO RULE 203(d)(1)(B)(iv)**

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Clifton D. Cooke appeals his conviction and sentence in this case. The sentence was imposed by the Honorable R. Ferrell Cothran on March 6, 2014. Pursuant to Rule 29(a) of the South Carolina Rules of Criminal Procedure Mr. Cooke filed a MOTION TO RECONSIDER. That motion was denied on May 20, 2014 and clocked by the Kershaw County Clerk of Court on May 23, 2014.

Pursuant to the requirements of South Carolina Appellate Court Rule 203(d)(1)(B)(iv), Defense Counsel offers the following explanation for his appeal of this guilty plea. Appellant was originally tried and convicted of Murder in 2007 but later had his case overturned through post-conviction relief. Appellant then entered an *Alford* plea to Voluntary Manslaughter after having his case reopened by the Fifth Circuit Solicitor's Office. Just moments prior to his plea, the State revealed that the co-defendant, who originally testified against Appellant in his murder trial, was no longer going to be cooperating with the State in Mr. Cooke's prosecution. Mr. Cooke proceeded with his *Alford* plea but then asked counsel to file a Motion to Reconsider in order to introduce new mitigation based on the disclosure regarding the co-defendant's unwillingness to cooperate. Judge Cothran did not grant a hearing for the Motion to Reconsider based on the fact that the State's disclosure, even if it was minutes before the plea, was before the plea and Appellant could have introduced whatever he wanted to at that time. Additionally, Appellant was dissatisfied with his sentence, and insisted on appealing. Defense Counsel is of the opinion that if the client insists on appealing, he is constrained to file an appeal. *Weathers v. State*, 319 S.C. 59, 459 S.E.2d 838 (1995).

[signature block on next page]

June 12, 2014

A handwritten signature in black ink, appearing to read "Jason D. Kirincich", written over a horizontal line.

Jason D. Kirincich,  
Assistant Public Defender  
Kershaw County Public Defender's Office  
1121 Broad Street  
Camden, SC 29020  
(803) 425-7237

Opposing Party:  
Curtis R. Hutchinson,  
Assistant Solicitor  
Kershaw County Solicitor's Office  
1121 Broad Street  
Camden, SC 29020  
(803) 425-7672

**PROOF OF SERVICE OF A BASIS OF APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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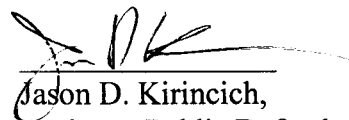
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**PROOF OF SERVICE**

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I certify that I have served the Basis of Appeal on the State of South Carolina by personally delivering a copy of it to its attorney of record, Curtis R. Hutchinson, at his office at 1121 Broad Street, Camden, South Carolina 29020, on June 12, 2014.

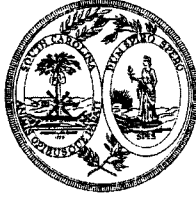
June 12, 2014



Jason D. Kirincich,  
Assistant Public Defender  
Kershaw County Public Defender's Office  
1121 Broad Street  
Camden, SC 29020

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JUN 12 2014  
SC Court of Appeals

THE STATE OF SOUTH CAROLINA



PUBLIC DEFENDER  
FIFTH JUDICIAL CIRCUIT

DOUGLAS S. STRICKLER  
CIRCUIT PUBLIC DEFENDER

NEIL J. RILEY  
CHIEF PUBLIC DEFENDER, KERSHAW COUNTY

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June 12, 2014

Ms. V. Claire Allen,  
Deputy Clerk  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**Re: The State v. Clifton D. Cooke**  
**Appellate Case No. 2014-001175**

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Dear Deputy Clerk Allen:

Please accept my sincerest apologies for not filing the Basis of Appeal from a Guilty Plea with my original Notice of Intent to Appeal. I spoke with Jacklyn in your office on Thursday, June 12, 2014 and I faxed a copy of this paperwork before I mailed the original. I've also sent copies to the Fifth Circuit Solicitor's Office, the South Carolina Attorney General's Office and the South Carolina Commission on Indigent Defense's Division of Appellate Defense. If you need anything else from me, please contact me at (803) 425-7237.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jason D. Kirincich".

Jason D. Kirincich

Enclosures

Jason D. Kirincich  
Kershaw County Public Defender's Office  
1121 Broad Street  
Camden, SC 29020

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JUN 18 2011

SC Court of Appeals

Ms. V. Claire Allen,  
Deputy Clerk  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211