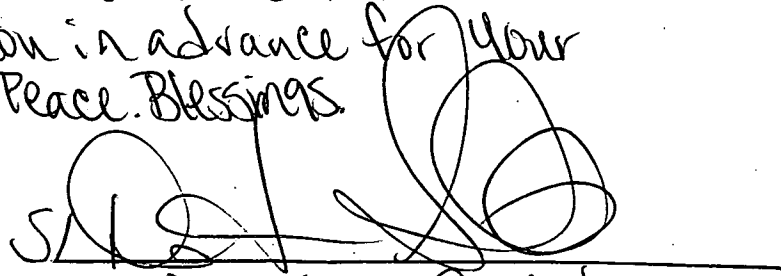


Daniel E. Shearouse
State Supreme Court
P.O. Box 11330
Columbia, SC 29211

7/8/14

RE: Filing and Endorsement, and
Return of Copy of the Attached
Contents Sent to your office.

Dear Mr. Shearouse,
Greetings! Please find enclosed an
Original Copy of my Motion For A New trial, Affidavits of
Service and Facts, Exhibits 1-3, a self-addressed envelope for
your convenience, and a financial statement to account for
the cost of copies. Thanking you in advance for your
Professional Culpability. Grace. Peace. Blessings.



P.S. Please also find enclosed
my Motion To withdraw guilty
Plea. I need a copy of that as
well.

Demetrius Small #286806
LCT EA37
P.O. Box 205
Ridgeway, SC 29472

RECEIVED

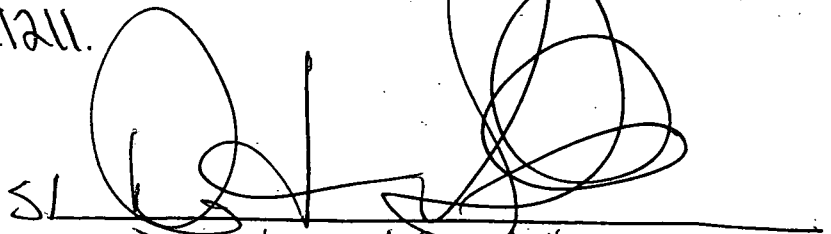
JUL 18 2014

S.C. SUPREME COURT

①

Affidavit of Service

I, Demetrius J. Smalls #286806, having been duly sworn, deposes and says that on this eighth day of July, 2014, I swear that I handed a cover-letter dated 7/8/14, A motion for a New trial, Affidavit of facts, and an affidavit of service, a self-addressed envelope, and a financial statement, to the Lieber Correctional Institution's mailroom attendant, to be sent to the following address: Daniel E. Shearouse, Clerk of State Supreme Court, P.O. Box 11330 Columbia, South Carolina 29211.



Demetrius J. Smalls #286806
LCI EA37
P.O. Box 205
Ridgerville, SC 29472

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 11th DAY OF July

2014
Ludreen Buyant

NOTARY PUBLIC
STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES May 26, 2020

RECEIVED

JUL 18 2014

S.C. SUPREME COURT

CC File: US Dist. Ct., Dist. of S.C., RLB, RMC, WWD
SCCA, Rosalyn Traylor
State Sup. Ct., DES, JHT
Ninth Cir. Court of C.P., JJA, RMD, JT.
State's Atty. Gen. Office, Al Wilson
Ninth Circuit Solicitor's Office, SACW

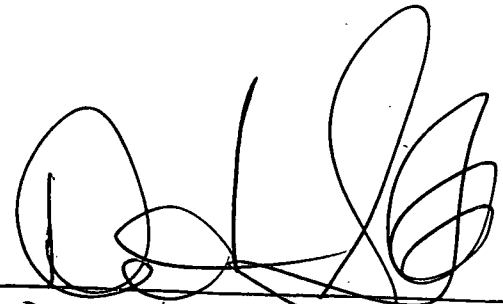
Affidavit of facts

I, Demetrius J. Smalls #286806, having been duly Sworn, deposes, and says, that on this ~~11th~~ day of July, 2014 I swear that everything contained in my motion for A New trial Pursuant to Rule 29(b), SCRIMP, is true and correct to the best of my knowledge. This is also declared under the Penalty of Perjury.

See Exhibits 2, 3, and see Brief of Appellant pursuant to White v. State, by Elizabeth Franklin-Best of SCCID

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 11th DAY OF July
CO. 14
Judrean Bryant
NOTARY PUBLIC
STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES May 26, 2020

7/11/14

SL 

Demetrius J. Smalls #286806
LC EA 37
P.O. Box 205
Richieville SC 29472

RECEIVED

JUL 18 2014

S.C. SUPREME COURT

CC File: US District Ct. District of S.C., RLB, RMC, WWD
State Sup. Ct., D.E.S., JAT
SCCA Rosalyn Frierson
Ninth Cir. Court of C.P., JJA, RMD, Jr.
State Atty Gen. Office, Alan Wilson
Ninth Cir. Solicitor's Office, JAW

State of South Carolina
County of Charleston

Demetrius J. Smalls #286804
Prosecution/Appellant,

-- versus --

The State of South Carolina,
Respondent.

In The Court of General Sessions
For The Ninth Judicial Circuit

Case nos): 2000-GS-10-1253-56

Motion For A New Trial

RECEIVED

JUL 18 2014

S.C. SUPREME COURT

To: Above-referenced Court.

You will please take notice that the appellant moves for a New trial based on after-discovered evidence of Extrinsic fraud, and barratry having been committed by the Ninth Circuit Court of General Sessions, the Ninth Circuit Solicitor's office, and trial counsel for the appellant.

The petitioner concedes that trial counsel and the Ninth Circuit Court of General Sessions Judge, R. Markley Dennis Jr., conspiring to deprive the appellant of his United States Constitutional right to timely file an appeal regarding case nos): 2000-GS-10-1253-56 and the opportunity to file an appeal regarding the fact that the prosecution never filed an adversarial motion opposing the defenses pre-trial objections, and the Circuit Court Judge, R. Markley Dennis Jr., ~~_____~~

never issued a written order, substantially setting forth its findings of facts and laws, which influenced the Court's decision to deny the Petitioner's trial Counsel's pre-trial motions, that objected to certain issues. However, Trial Counsel did not object to the fact that there is no competent order of judgment in Cases: 2006-CP-10-1253-56, to appeal from because Circuit Judge, R. Markley Dennis, Jr. never issued any orders of judgment setting forth his grounds for dismissing trial Counsel's pre-trial motions⁽²⁾ when the Solicitor's office filed no adversarial pre-trial motions, objecting to the Circuit Court granting the defense any relief.

(Cause)
Trial Counsel, David Wolf, did not reserve an objection to the fact that the Circuit Judge never gave the defense any grounds to appeal, his denial of the defense lawyer's pre-trial motions. Rule 17, SCRIMP.

Prejudice
Therefore, the Appellant was deprived of his right to appeal the denial of trial Counsel's pre-trial motions. The Appellant is not only procedurally barred from raising these issues on appeal because there was never an objection made to the Circuit Court not providing the defense with the grounds for denying trial Counsel's pre-trial motions, when the adversarial party never objected to the court granting relief to any of the Appellant's trial Counsel's pre-trial motions.

The appellant presents the fact that there is no "valid" waiver of his right to trial by jury, right to confront his accuser, and privileges and/or right against self-incrimination, based on the fact that the court lacked jurisdiction over the subject matter to deny the appellant's Pretrial motions⁽¹⁾ without the state objecting to the relief sought by the defense,⁽²⁾ without giving the court's findings of facts, laws, and giving the grounds for denial and without trial counsel, and, the ~~court~~ informing the appellant that he had within one year to file a Post-Conviction Relief Application under ineffective assistance of trial/Plea counsel for not informing him that there was no grounds to appeal the order of judgment to deny the appellant's trial counsel's Pretrial motions.

Trial Counsel did not inform the appellant that he had within 107 days to directly appeal the fact that the court did not render a competent judgment, setting forth its reason for denying appellant's counsel's motions, and there was no objection made by the executive branch of the Administration of Government.

Trial Counsel, the Circuit Court, and the Solicitors Office, all conspired to ~~keep~~ concealed its intention to defraud the court, and to deprive the appellant of his right to timely file an appeal requesting for a new trial on the basis of the Circuit Court lacking subject matter jurisdiction to accept a "guilty plea" without issuing a "valid" Order of judgment providing grounds for the court's denial of trial counsel's Pretrial motions, and, when the State's Solicitors Office did not contest any objection made by trial counsel in the series of motions he filed and argued at the appellant's Pre-trial on June 25, 2007.

Based on after-discovered evidence of "Barratry" and "Extrinsic Fraud", and an abuse of discretion by the Circuit Court and, [REDACTED] the Appellant's trial Counsel's deficient performance, which deprived the Appellant of the opportunity to timely file an appeal when the Appellant demanded for a jury-trial, to challenge the Jurisdiction over the Subject-matter, based on the fact that the Case agent in Cases: 2005-000-275, 2005-000-979, exercised an Unauthorized Practice of Law, by violating the Messervy Exception as expressed, in Case No. 2004-000174 State v. Sossaman, 298 SC 72, 378 SE2d 259; State v. Messervy, 258 SC 110, MChod v. Seaborn 270 SC 696, 244 SE2d 317 (1978); 187 SE2d 524 (1972);

See Smith v. NCT, INC. (SC App. 2006) 369 SC 236, 631 SE2d 268, reh. denied, Appeal and Error Key 242111, "when a trial Court does not explicitly rule on an argument raised, and the Appellant makes no motion to obtain a ruling, the Appellate Court may not address the issue."

Based on the fact the trial Court did not explicitly rule on the Appellant's trial Counsel Pre-trial motions, and trial Counsel failed to reserve an objection based on the Circuit Court Judge, R. Markley Dennis Jr.'s abuse of discretion by denying the Appellant's trial Counsel, David Wolf's Pre-trial objections without giving grounds for the denial, so the Appellant could appeal the Court's decision, (2) by denying such motions, when the State never denied any of the genuine issue of material facts provided by trial Counsel.

Based on ineffective assistance of Plea Counsel, the Appellant was deprived of his right to timely file an appeal, motioning the Court for a new-trial by Plea Counsel's failure to inform the Appellant that there is no order of judgment giving grounds to the Appellant to appeal from (2) and, that the Appellant had

within a prescribed time-limit to appeal his conviction under the applicable time-line to file a motion for a new trial based on after-discovered evidence of Extrinsic fraud and/or abuse of discretion. Rule 29(B), SCRTMP, § 14 USCA

Did the trial Court have jurisdiction over the subject-matter to not explicitly rule on an argument raised, to ~~deprive~~ the appellant of his right to appeal? Smith v. NCCI, Inc. (SC App. 2006)

369 SC 236, 631 S.E.2d 268, reh. den. Appeal and Error Key 242(1).

And,

was trial Counsel ineffective for not rendering assistance of Counsel by not encouraging the appellant to appeal the Circuit Court's abuse of discretion in a timely fashion by not informing him of statute of limitation to timely file a motion for a new trial, not reserving an objection to the fact that the Circuit Court denied the appellant's trial Counsel's pre-trial motions without giving grounds to appeal from it by advising the appellant to waive his right to timely appeal this, without ~~the~~ the appellant knowing that the Court had entered a void judgment?

The appellant demands by virtue of his right to Due Process of Law, to have a new trial based on Ineffective assistance of trial Counsel, and abuse of discretion by the Circuit Court Judge, R. Markley Dennis, Jr.

51 

Demetrius J. Smalls #286806
LEI EA 37
P.O. Box 205
Richieville, SC 29472

CC File: U.S. Dist. Ct. Dist. of S.C. Clerk, R.L.B., R.M.G., WWD
State Sup. Ct., DES, JHT

p.5.

State of South Carolina
County of Charleston

Demetrius J. Smalls # 28006
Prosecution / Appellant

-- versus --

The State of South Carolina,
Respondent.

In THE Court of General Sessions
For THE Ninth Judicial Circuit

Case nos: 2006-GS-10-1253-56

Motion To Withdraw
Guilty Plea

RECEIVED

JUL 18 2014

S.C. SUPREME COURT

To: Above-referenced Court.

You will please take notice that the undersigned motions the Court to withdraw Guilty Pleas to indictment nos: 2006-GS-10-1253-56, based on after-discovered evidence of Plea Counsel being ineffective.

The undersigned received after-discovered evidence that the Ninth Circuit Court of General Sessions did not exclusively rule on the series of pre-trial motions that Plea Counsel stated were denied by Circuit Judge, R. Markley Dennis Jr. on June 25, 2007.

The appellant concedes that Court-appointed trial Counsel forfeited his right to appeal the Pre-trial Objections that were "never" explicitly ruled on by the trial Court. Trial Counsel and the appellant did discuss appealing such objections based on Plea Counsel stating that he felt such objections warranted greater consideration than what the trial Court gave them.

Exhibit # (2) PCRT, pg. 68 Lines 6-23

See exhibits: 1, 2, 3, 4

Trial Counsel saw that ~~the~~ appellant was adamant about appealing such Pre-trial objections, that Counsel "lied" about being denied. Counsel advised the appellant to accept the negotiated Plea, and, the Pre-trial Objections would be an issue for the higher Courts to assess. Consequently, the appellant pled as advised and trial Counsel did not appeal the objections as he promised. See exhibits: - (5) PCRT, pg. 65 lines 2-8; (6) PCRT, pg. 66 lines 8-10; (7) PCRT, pg. 67, Lines 3-20; (8) see D. Wolf's corresp. dated 10/13/12 (2 paragraphs)

(5-8) PCRT, pg. 67, Lines 3-20; (9) see D. Wolf's corresp. dated 10/13/12 (2 paragraphs)

The appellant maintains that trial Counsel was ineffective for the foregoing reasons: (1) trial Counsel did not reserve an objection for the fact that there was never a written order of judgment substantially setting forth the trial Court's findings of fact, law, and grounds for denying such Pre-trial objections for the appellant to appeal from as rule 17, SCRIMP, and Rules 72 and 78 SCRCiv.P. provides. See exhibits: 8, 4

Rule 17 SCRIMP, requires trial Counsel to object at least once to the fact that no written order of judgment giving the appellant grounds to appeal from was filed with the Clerk's Office, of the Ninth Circuit Court of General Sessions, to reserve such issue for Appellate review.

RECORD OF TESTIMONY FROM PCR: CORRESPONDENCES

1. Trial/Plea Counsel stated in letter of Correspondence dated 8/17/10, that he felt his Pre-trial motions warranted greater consideration than what Circuit Judge R. Markley Dennis Jr. gave them at the Pre-trial hearing on June 25, 2007. See exhibit: 3, 7
 2. Trial/Plea Counsel testified that he did inform me of my right to appeal. See exhibit: 1 → (see PCR Tr. pg. 60 lines 11-16)
 3. Trial/Plea Counsel testified that he did not inform me of my right to appeal. See exhibits: 6 → See PCR Tr. pg. 66 lines 17-20
 4. Trial/Plea Counsel stated that he did inform me that by Pleading guilty, he was waiving his right to Challenge his Pre-trial Objections to the State using "illegal" evidence to convict me at trial, that was never granted or denied by virtue of a written order. See exhibit: ~~1~~
 5. Trial/Plea Counsel waived my right to appeal the fact that the trial court never issued an order of judgment setting forth the grounds for granting or denying trial Counsel's Pre-trial motions without informing me & consulting with me first. See exhibits: 6, 3
See Exh. (6) (PCR Tr. pg. 67 lines 11-20) Violates Rule 17, SCRMP, 5.14 USCA
 6. Trial/Counsel advised that Pleading guilty would not serve as a waiver to trial Counsel's Pre-trial motions, that were not ruled upon explicitly by virtue of a written order giving forth grounds for appeal. See exhibits: 8, 3
Violates 5.14 USCA
- see exh. (8) (PCR Tr. pg. 66 lines 5-10) ↑ Cause

7. Trial Counsel/Plea Counsel failed to inform me that if I ever felt that he rendered "ineffective" assistance of trial Counsel I could file a (PCR) application stating such claim and setting forth all available grounds for relief on such claim within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal whichever is later; and, that he would have within one year of the date of after-discovered evidence to file a (PCR) application on newly or after-discovered evidence pursuant to SC Code of Laws of 2003 Supp., SC Code Ann. § 17-27-45 (a), and § 17-27-45(C) before advising me to plead guilty to indictment nos. 2006-GS-10-1253-56. See exhibits: 6 (PCR, pg. 67 lines 11-20)

Prejudice

8. With there not existing an order of judgment, granting grounds for appeal for me, I am deprived of my Constitutional right to appeal which my USCA, 14th attaches itself to. 6, 14 USCA; Rules 12(b)(1), 12(b)(3), Rule 72, 74 SC Civ. P.; SC Civ. Proc.

9. Plea Counsel advised me to waive my right to appeal; the trial Court's acceptance of a negotiated guilty plea, without explicitly ruling upon Plea Counsel's pre-trial objections without informing me of the consequences of entering a negotiated guilty plea. 6, 14 USCA;

10. The trial Court lacked jurisdiction over the subject-matter to deny my trial Counsel's pre-trial objections, without setting forth its grounds for ~~the~~ to except my appellate avenues, and, when the State of ~~South~~ Carolina failed to reserve an objection to my trial Counsel's pre-trial objections. Rule 12(b)(1), Rule 12(b)(3), SC Civ. Proc.; Rules 72, and 74, SC Civ. Proc.; 6, 14 USCA;

11. The trial Court lacked jurisdiction over the subject-matter to hear and decide indictment nos. 2006-GS-10-1253-56. Based on the State's key witness R. Thomas, of MPPD committing acts of perjury, fraud, conspiracy, an unauthorized practice of law, and the Chief Magistrate Judge over Summary (6)

Court, not compliance with the Administrative Order dated: December 16, 2004, by Jean Hoefler Toal, C.J., making it a mandatory requirement to file all bail orders of Commitment, Preliminary hearings and Criminal trial for case no. 2004-010174, with the office of South Carolina Court Administration ~~and~~ to be approved for consistency with Statewide Administrative Policies, before such orders can become effective, to render judgments of the Court. See exhibits:

5-14 USCA; Rules 12(B)(1);
12(W)3; SCRCiv. Proc.

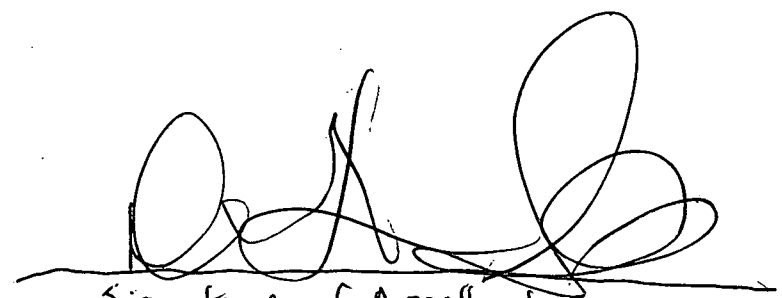
12. If I had known I would be waiving my right to challenge the Court not rendering a decision to deny my trial Counsel's Pre-trial motions, when the State was not objecting to the defense table's Pre-trial objections to "illegal" evidence being admitted in my "illegal trial" for indictment nos. 2006-CR-10-1253-56, I would not have pled guilty. I would have insisted on going to trial.

See exhibits: 6, 3

See PERT Tr. pg. 67 lines 11-201
(6)

6-14 USCA;

Hill v. Lockhart, 474 US 52 (1985).



Signature of Appellant

Demetrius J. Smalls #286806
LCI EA37
P.O. Box 205
Ridgeville, SC 29472

State's Atty. Gen. Office, A.W.
CC File: SCCA, R, F
State Sup. Ct., DES, JHT
US Dist. Ct., Dist. of S.C., WWD, RLB, RMCY

RECEIVED
MAY 1 4
MAIL ROOM
LIEBERG

Lieber
RECEIVED

INMATE TRUST FUND ACCOUNT REPORT
for SOUTH CAROLINA COURT FILING FEES

APR 28 2014

MAIL ROOM
LIEBERG

INSTRUCTIONS TO INMATE: Complete top portion then give to your mail room. When returned from Accounting, you must mail this form with any payment to the Court.

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print): Demetrius Smalls EA 37

SCDC # 206806 INMATE SIGNATURE: [Signature]

I plan to file this action in the SC County of Charleston

The section below is for SCDC - Financial Accounting Branch's use ONLY.

- (1) Total deposits to inmate's account for preceding six months' period* \$ 0
- (2) Twenty percent (20%) of line 1 \$ 0
- (3) Account balance - current date \$ 0
- (4) PAYMENT AMOUNT **
(lesser of line 2 or line 3)
Enclosed check # _____ \$ 0

**NOTE to COURT: If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections
Financial Accounting - Room 254
PO Box 21787
Columbia, SC 29221-1787

RECEIVED

JUL 18 2014

* Admission date is noted here if inmate incarcerated less than six months _____ S.C. SUPREME COURT

[Signature]

5/8/14

Demetrius Smalls #286806

LCI EA 37

P.O. Box 205

Ridgerville, SC 29472

RECEIVED

JUL 15 2014

MAILROOM
LEBERCI

Daniel E. Shearouse
State Supreme Court

P.O. Box 11330

Columbia, SC 29211