

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM YORK COUNTY
COURT OF COMMON PLEAS

John C. Hayes, III, Circuit Court Judge

Appellate Case No. 2013- 001239

The State of South Carolina,

Respondent,

v.

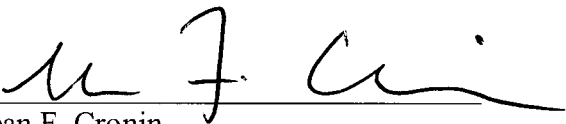
Richard Keith Poe,

Appellant.

MOTION FOR CORRECTION OF THE RECORD

Richard K. Poe filed a Notice of Appeal with this Court appealing his guilty pleas on the charges of Burglary in the 2nd Degree, Petit Larceny, and Conspiracy which were accepted by the Honorable John C. Hayes, III in the Court of General Sessions on June 4, 2013. Movant, Poe's attorney Sean F. Cronin, moves this Court for a correction of the record. The basis for this motion is as follows: The ORDER dismissing appellant's appeal states that Mr. Cronin never responded to the letter from the Court and that he promised to send the necessary documents to the Court. Movant would show that in response to the letter Mr. Cronin spoke with the Clerk's office via telephone on more than one occasion; that Mr. Cronin informed the Clerk that he did not have copies of the sentencing sheets, that the sentencing sheets are not routinely provided to attorneys and that the sentencing sheets are available to attorneys upon request from the Clerk's office. Movant would also show that he informed the Clerk's office that because he did not file the appeal he made no attempts at service for this appeal, and therefore he could not certify service for Mr. Poe's appeal or provide the requested documents. Movant respectfully requests that this Court correct the record in accordance with the above-stated facts.

August 22, 2014


Sean F. Cronin
The Law Offices of Michael L. Brown, Jr.
P.O. Box 1025
Rock Hill, SC 29731
(803)328-8822 p (803)328-0523 f
Attorney for Appellant

Other Counsel of Record:

Richard Keith Poe, #259297
Evans Correctional Institution
610 Highway 9 West
Bennettsville, SC 29512

Mrs. Misti Shelton, Esquire
Assistant Solicitor, 16th Judicial Circuit
1675-1A York Highway
York, SC 29745
(803) 628 – 3020

Mr. Robert Michael Dudek, Esquire
P.O. Box 11589
Columbia, SC 29211

Ms. Salley W. Elliott, Esquire
P.O. Box 11549
Columbia, SC 29211

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM YORK COUNTY
COURT OF COMMON PLEAS

John C. Hayes, III, Circuit Court Judge

Appellate Case No. 2013- 001239

RECEIVED

AUG 25 2014

SC Court of Appeals

The State of South Carolina,

Respondent,

v.

Richard Keith Poe,

Appellant.

**AFFIDAVIT OF SEAN F. CRONIN IN SUPPORT OF MOVANT'S
MOTION FOR CORRECTION OF THE RECORD**

Affiant, being duly sworn, states the following:

1. I, Sean F. Cronin, am a resident of York County, South Carolina, and I am 46 years of age.
2. I am licensed to practice law in the state of South Carolina and I have been so licensed since September 17, 2009.
3. I was appointed to represent defendant Richard Kieth Poe on June 26, 2012.
4. Mr. Poe pled guilty to Burglary in the 2nd degree, Petit Larceny, and Conspiracy on June 4, 2013.
5. At the time of his sentencing I informed Mr. Poe that he had 10 days to appeal his conviction and told him to contact my office if he wished to do so.
6. Mr. Poe did not contact me within the 10 days following his sentencing.


7. I spoke with the clerk's office in the Court of Appeals via telephone in response to their deficiency letter.

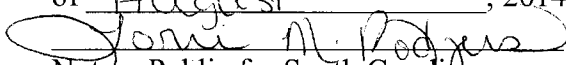
8. I informed the clerk's office that I did not have Mr. Poe's sentencing sheets, that I was not provided with Mr. Poe's sentencing sheets after his plea, and that sentencing sheets were not routinely provided to defense attorneys unless they were requested.

9. I also told the clerk's office that I could not provide the required Proof of Service in this appeal because I did not initiate this appeal, I was not asked to initiate this appeal, and that I would not certify that service had been completed because, up until that point, I had no involvement in this appeal other than being listed as counsel of record in the trial court.

10. The clerk's office asked that I provide something in writing to the Court stating those facts.

11. To the best of my knowledge and recollection, I was not asked to get copies of the sentencing sheets although I stated that I was able to do so if they requested it. I was not asked to do so and I did not promise to do so.


Sean F. Cronin

SWORN BEFORE ME this 22 day
of August, 2014

Notary Public for South Carolina
My commission expires: February 28, 2023

STATE OF SOUTH CAROLINA)
 COUNTY OF York)
 STATE VS.) *Jail*
 Richard Keith Poe)
 AKA:)
 Race: WHITE Sex: M Age: 44)
 DOB: SS#)
 Address:)
 City, State, Zip:)
 DL#: SID#:)
 *CDL Yes No CMV Yes No Hazmat Yes No

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS4603772
 A/W#: J158017
 Date of Offense: 1/10/2012
 S.C. Code § : 16-17-0410
 CDR Code #: 0049

ORIGINAL

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
 TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

CONVICTED OF or PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049
 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.

ATTORNEY: *[Signature]* 69393 Defendant *[Signature]* 78477 Attorney for Defendant
 Shelton, Misti H SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of FIVE (5) 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. *400 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
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 Set by SCDPPS _____

PTUP _____
 _____ 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: _____

RECEIVED

Recipient: _____

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 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
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$ 130

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

Clerk of Court/ Deputy Clerk *David Hamilton*
 Court Reporter: *Wanda Nelson*
 SCCA/217 (03/2011)

Presiding Judge *John C. Harper*
 Judge Code: 2049
 Sentence Date: 6.4.13

STATE OF York VS. Richard Keith Poe

Jail

INDICTMENT/CASE#: 2012GS4603771
A/W#: J158013
Date of Offense: 1/10/2012
S.C. Code §: 16-11-0311
CDR Code #: 0079

ORIGINAL

SENTENCE SHEET

Handwritten initials

AKA:
Race: WHITE Sex: M Age: 44
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (Violent) (After 06/20/85) - Second degr

CONVICTED OF or PLEADS

in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086
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.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Shelton, Misti H SC Bar# 09393 Defendant
Attorney for Defendant SC Bar# 78477

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 13 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.
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
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPS

PTUP
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:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 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, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments), TOTAL \$130

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

Clerk of Court/ Deputy Clerk David Hamilton
Court Reporter: Wanda Nelson
SCCA/217 (03/2011)

Presiding Judge Judge Code: 2049 Sentence Date: 10-4-13

Vertical stamp: 2014 NOV 19 PM 1:36

STATE OF SOUTH CAROLINA)
 COUNTY OF York)
 STATE VS.) *Jail*
 Richard Keith Poe)
 AKA:)
 Race: WHITE Sex: M Age: 44)
 DOB: SS#)
 Address:)
 City, State, Zip:)
 DL#: SID#:)
 *CDL Yes No CMV Yes No Hazmat Yes No

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#: 2012GS4603769
 A/W#: J158014
 Date of Offense: 1/10/2012
 S.C. Code § : 16-13-0030(A)
 CDR Code #: 3596

ORIGINAL

SENTENCE SHEET

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Larceny / Petit or Simple \$2,000 or less (Enhancement per 16-1-57)

in violation of § 16-13-0030(A) of the S.C. Code of Laws, bearing CDR Code # 3596
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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.
 ATTORNEY: *MSA* Shelton, Misti H SC Bar# *69393* Defendant *h. J. Wei* Attorney for Defendant SC Bar# *78477*

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of *ten (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: *6/4/13*
 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. *400 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
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 Set by SCDPPPS _____

PTUP _____ 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: _____

Recipient: _____

*Fine:		\$	
§ 14-1-206 (Assessments 107.5 %)		\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	<i>100</i>
§ 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	\$	<i>25</i>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$	
§ 50-21-114(BUI Breath Test Fee)	\$50	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	<i>5</i>
3% to County (if paid in installments)		\$	
TOTAL		\$	<i>130</i>

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

Clerk of Court/ Deputy Clerk *David Hamilton*
 Court Reporter: *Wanda Nelson*
 SCCA/217 (03/2011)

Presiding Judge *John Hampton*
 Judge Code: *2049*
 Sentence Date: *6.4.13*

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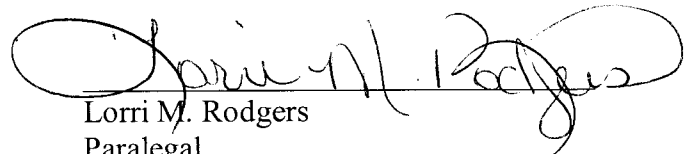
Appellant.

PROOF OF SERVICE

I certify that I have served the **Motion for Correction of the Record** and **Affidavit in Support of Motion** on Misti Shelton by depositing a copies of them in the United States Mail, postage prepaid, on August 22, 2014, addressed to Mr. Poe at:

Mrs. Misti Shelton,
Assistant Solicitor
16th Judicial Circuit
1675-1A York Highway
York, SC 29745

August 22, 2014



Lorri M. Rodgers
Paralegal

The Law Offices of Michael L. Brown, Jr.
P.O. Box 1025
Rock Hill, SC 29731
(803)328-8822 p (803)328-0523 f

**THE STATE OF SOUTH CAROLINA
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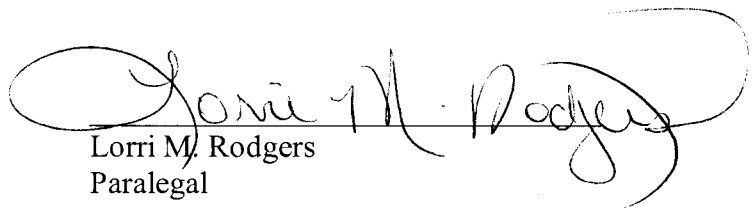
Appellant.

PROOF OF SERVICE

I certify that I have served the **Motion for Correction of the Record** and **Affidavit in Support of Motion** on Salley W. Elliott by depositing a copies of them in the United States Mail, postage prepaid, on August 22, 2014, addressed to Mr. Poe at:

Ms. Salley W. Elliott
P.O. Box 11549
Columbia, SC 29211

August 22, 2014



Lorri M. Rodgers
Paralegal

The Law Offices of Michael L. Brown, Jr.
P.O. Box 1025
Rock Hill, SC 29731
(803)328-8822 p (803)328-0523 f

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM YORK COUNTY
COURT OF COMMON PLEAS**

John C. Hayes, III, Circuit Court Judge

Appellate Case No. 2013- 001239

The State of South Carolina,

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v.

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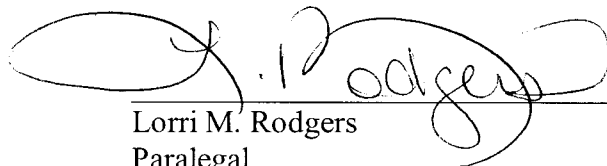
Appellant.

PROOF OF SERVICE

I certify that I have served the **Motion for Correction of the Record** and **Affidavit in Support of Motion** on Robert Michael Dudek by depositing a copies of them in the United States Mail, postage prepaid, on August 22, 2014, addressed to Mr. Poe at:

Mr. Robert Michael Dudek
P.O. Box 11589
Columbia, SC 29211

August 22, 2014



Lorri M. Rodgers
Paralegal
The Law Offices of Michael L. Brown, Jr.
P.O. Box 1025
Rock Hill, SC 29731
(803)328-8822 p (803)328-0523 f

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM YORK COUNTY
COURT OF COMMON PLEAS**

John C. Hayes, III, Circuit Court Judge

Appellate Case No. 2013- 001239

The State of South Carolina,

Respondent,

v.

Richard Keith Poe,

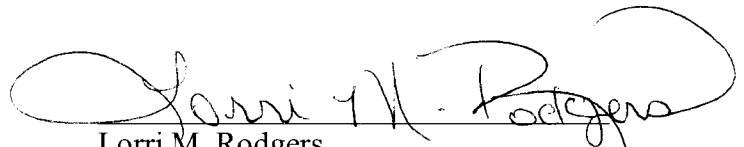
Appellant.

PROOF OF SERVICE

I certify that I have served the **Motion for Correction of the Record** and **Affidavit in Support of Motion** on Richard Keith Poe by depositing a copies of them in the United States Mail, postage prepaid, on August 22, 2014, addressed to Mr. Poe at:

Richard Keith Poe, #259297
Evans Correctional Institution
610 Highway 9 West
Bennettsville, SC 29512

August 22, 2014



Lorri M. Rodgers
Paralegal
The Law Offices of Michael L. Brown, Jr.
P.O. Box 1025
Rock Hill, SC 29731
(803)328-8822 p (803)328-0523 f

The Law Offices of
MICHAEL L. BROWN, JR.

223 Main Street, Suite 550, Rock Hill, SC PO Box 1025, Rock Hill, SC 29731

Telephone: (803)328-8822

Facsimile: (803)328-0523

August 22, 2014

Ms. Jenny Abbot Kitchings
Clerk of Court
The South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: *The State of South Carolina vs. Richard Keith Poe*, Appellate Case Number: 2014-001239

Dear Ms. Kitchings;

Enclosed for filing is a motion for correction of the record in the above case and six copies. Also enclosed, please find the affidavit in support of the motion, the redacted sentencing sheets for Richard K. Poe, and the proof of service.

Sincerely,



Sean F. Cronin

Encl./9

cc: Richard Keith Poe
Robert Michael Dudek
Salley W. Elliot
Misti Shelton

RECEIVED

AUG 28 2014

SC Court of Appeals

The Law Offices of Michael L. Brown, Jr.

223 Main Street
One Law Place, Suite 550
Post Office Box 1025
Rock Hill, SC 29731

RECEIVED

AUG 26 2014

SC Court of Appeals

Ms. Jenny Abbot Kitchings
Clerk of Court
The South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

