

RECEIVED  
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INMATE TRUST FUND ACCOUNT REPORT  
for SOUTH CAROLINA COURT FILING FEES

APR 28 2014

MAIL ROOM  
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INSTRUCTIONS TO INMATE: Complete top portion then give to your mailroom. 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. Please include case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

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SEP 25 2014

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

S.C. SUPREME COURT

\*Admission date is noted here if inmate incarcerated less than six months \_\_\_\_\_

[Signature]

5/8/14

Daniel E. Shearouse

P.O. Box [REDACTED] 11330

Columbia, SC 29211

9/19/14

RE: Case no. 2014-001358

Filing of Brief with your office and returning the original to me for filing with the S.C. Appeal Court. Pursuant to SC code Ann § 14-17-530 1976 code.

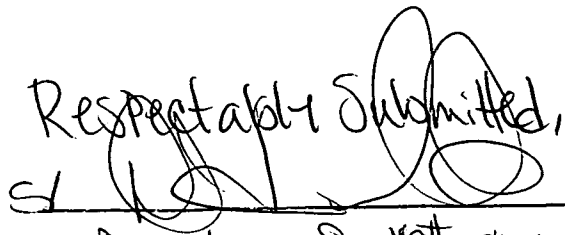
Please also file and return my Notice of Appeal; proof of service.

Dear Mr. Shearouse,

Greetings! This is a formal request

for your office to file the Brief of Appellant pursuant to Rule 267, SCACR. I want to exercise my liberty of ensuring that my appeal is processed, and I am provided with a COPY to preserve issues for appeal to your court. Please file and return this brief back to me as soon as possible. Mr. Shearouse  
Grace. Peace Blessings.

P.S. please forward me my Proof of Service of Notice of Appeal, and Notice of Appeal pursuant to Rule 207, SCACR.

Respectably Submitted,  


Demetrius Small # 2816806

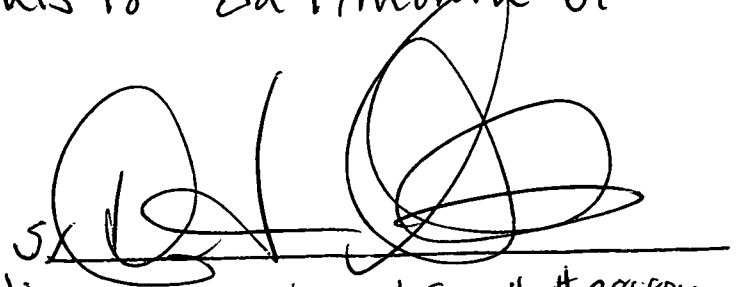
UCC-1-207

"Without prejudice"

Affidavit of Service

I hereby swear that I have serve on Daniel E. Shearouse the original copy of my Brief of Appellant pursuant to Rule 267, SCACR, at P.O. Box 11330, Columbia SC 29211 by placing such Brief in the hands of the mailroom attendant that is notarizing this affidavit on this 18<sup>th</sup> day, month of September 2014.

executed at: LCI P.O. Box 205  
Ridgerville, South Carolina

5X 

Demetrius J. Smalls #2868010  
LCI EA 37 / P.O. Box 205  
Ridgerville, SC 29472  
"Without Prejudice"  
UCC 1-207

SWORN TO AND SUBSCRIBED BEFORE ME  
THIS 19<sup>th</sup> DAY OF Sept  
2014  
Judreas Bryant  
NOTARY PUBLIC  
STATE OF SOUTH CAROLINA  
MY COMMISSION EXPIRES May 26, 2020

CC File: SC Supreme Court, DES  
Ninth Cir. Court of C.P., WA

Attachments: Financial Statement; self addressed envelope  
Affidavit of Service Notice of Intention To Appeal,  
Brief of Appellant, and Proof of Service to Notice of  
Intention To Appeal.

Notice of Intention To Appeal from the Common  
Pleas regarding a Conviction in Magistrate or  
Municipal Court

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The State of South Carolina  
In The Court of Appeals  
[In The Supreme Court]

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Appeal from Charleston County  
Court of Common Pleas  
J.C. Nicholson, Circuit Court Judge

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Case no. 2014-001358

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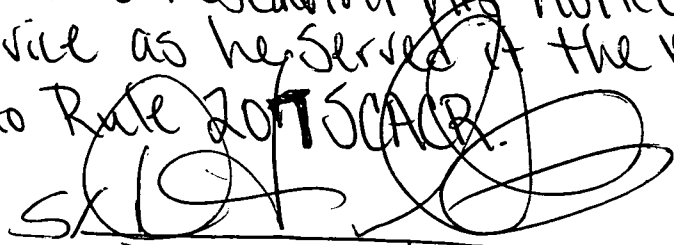
Demetrius Jarod Smalls #286806..... Appellant,  
--VERSUS--  
Town of Municipal Court of Mount Pleasant... Respondent.

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Notice of Appeal

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Demetrius J. Smalls appeals the Honorable  
v. Claire Allen's order signed on 8/27/2014; filed on  
such date. The appellant is reserving his Notice of  
Appeal and Proof of Service as he served it the very  
first time pursuant to Rule 201 SCACR.



Demetrius J. Smalls #286806  
UCC-1-207  
"Without Prejudice"

CC File - Sup. Ct. 06/05/15  
Ninth Cir. Court of C.P. NA

Proof of Service of A Notice of Appeal  
The State of South Carolina  
In the Court of Appeals  
[In the Supreme Court]

Appeal From Charleston County  
Court of Common Pleas  
J.C. Nicholson, Circuit Court Judge

Case no. 2014 - 001358

Demetrius Jarod Smalls . . . . . Appellant,  
- - versus - -

Town of Mount Pleasant Municipal Court . . . . . Respondents.

Proof of Service

I certify that I have served the notice of Appeal  
on V. Claire Allen, by depositing it in the hands  
of the Mailroom attendant on 1/1. The envelope  
contained my Proof of Service of Notice of Intention  
~~to~~ Appeal, My Notice of Intention ~~to~~ Appeal. It was  
addressed to: P.O. Box 11629, Columbia, SC 29211.



Demetrius Jarod Smalls #286806  
UCC-1-2017  
"Without Prejudice"

CC File: Sup. Ct. of SC IDES  
Ninth Cir. Court of C.P. WA

Please return a copy  
of Appellants Attachments outlined in  
his Affidavit of Service for Appeal no.  
2014-001358

Demetrius Jarod Smalls  
286806  
Lieber Correctional Institution  
PO Box 205  
Ridgeville, SC 29472

77

01

In The South Carolina Court of Appeals  
The State of South Carolina

Appeal From Charleston County  
Court of Commons Pleas  
J.C. Nicholson, Circuit Court Judge

Case no. 2014-001358

Demetrius Jarod Smalls,

Appellant,

vs.

Town of Mount Pleasant Municipal Court,

Respondent.

---

Brief of Appellant

---

Demetrius Jarod Smalls

Prose Appellant

LCE EA37/P.O. Box 205

Ridgelyville SC 29472

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# TABLE OF Authorities

1. Art. 6, Section 5, State Constitution
2. Art. 1, Section 3
3. Rule 12(B)(1) SCRCP
4. Rule 12(B)(3) SCRCP
5. Rule 56(A)(1) SCRCP
6. Rule 203(B)(1) SCACR
7. Rule 232(A) SCACR
8. Rule 232(B) SCACR
9. Rules 37, and 17 SCRIMP.
10. Rule 81 SCRCP
11. Section 17-13-30 1976 Code
12. 5, 6, 14 USCA1
13. Shiflett v. Com. of Va., 447 F. 2d 50 CA. Va. (1971); Gideon v.
14. Wainwright, 372 U.S. 335, 82 S.Ct. 792, 9 L.Ed. 2d, i
15. Memper v. Rha-1, 389 U.S. 128, 88 S.Ct. 254, 19 L.Ed. 336 (Sentencing)
16. Douglas v. California, 372 U.S. 353, 83 S.Ct. 814 9. L.Ed. 2d 811.
17. U.S. versus - Cronin, 466 U.S. at 659, 104 S.Ct. 2039
18. Stovall-versus-Dennis, 388 U.S. 293, 297, 87 S.Ct. 1967, 1970,  
18 L. Ed. 2d 1199;
19. Hill-versus-Lockhart, 474 U.S. 52 (1985);
20. Boykin-versus-Alabama, 395 U.S. 238 (1969);
21. Section 23-17-90 1976 Code
22. Section 22-3-710 1976 Code
23. Bay 17 v. State, 397 SC 290, 724 SE 2d 182 (SC 2012);
24. State v. Praser, 173 SC 284, 175 SE 551 (1934);
25. State v. Oxner, 391 SC 132, 705 SE 2d 51 (2011);
26. Hubbard-versus-Rowe, 129 SC 12, 5 SE 2d 187 (1939);
27. United Dom. Realty Trust v. Walmart Stores, Inc., 307 SC  
102, 413 SE 2d 866 Ct. app. 1992);
28. Dunlap v. Dunlap-versus-Zimmerman, 188 SC 322, 199 SE 296 (1938);
29. C.F. Detreville v. Groover, 219 SC 313, 65 SE 2d 232 (1951);

30. Section 23-15-100 1976 Code
31. Section 23-15-50 1976 Code
32. Section 23-6-145 1976 Code
33. UCC 1-207 (without Prejudice)
34. Rule 14(A), SC RIMP.
35. In re-Unauthorized Practice of Law Rules proposed by SC-Bar, 309 SC 304, 422 SE2d 123. (SC 1992)
36. State Ex. Rel. McLeod v. Seaborn, 270 SC 696, 244 SE2d 317 (1978);
37. State v. Sossamon, 298 SC 72, 378 SE2d 259 (1989);
38. State v. Messervy, 258 SC 110, 187 SE2d 524 (1972);
39. Rule 4, South Carolina Supreme Court Rules
40. 40-5-310 1976 Code

End of Table of Authorities

## Statement of Issues on Appeal

1. Whether Smalls did knowingly and voluntarily plead guilty to the offenses of 56-1-20 1976 Code, No Drivers license, and 61-13-860 1976 Code, when counsel was not appointed to appellant when demanded for assistance of counsel? Exhibits: 1, 2

2. Does the record support the Town's contention that the appellant plead guilty to the above underlying offenses knowingly and voluntarily? 3, 4

3. Can the lack of subject-matter jurisdiction be raised at any time and for the first time on appeal?

## Statement of the case

The appellant has had his, and is perpetually having his liberty restrained in case 2004-010174, and the court had a constitutionally imposed duty under Art. 6, § 4, and Art. 6, § 5, SC Constitution, as officers of the State Court, to protect, preserve, and defend the Constitution of the State and of the United States of America. However, the appellant is denied of his liberty to have summary judgment as a matter of law, and to have the court reconsider depriving the appellant of such liberty to have summary judgment as a matter of law.

## Procedural Background

On January 27, 2005, the appellant was arrested at his place of employment, Town & Country upholstery and Customs in Dorchester County, by the Charleston County Sheriff's Deputies, § 23-15-50 1976 Code, § 23-15-100 1976 Code, § 22-3-710 1976 Code, § 2-5-190 1976 Code, § 23-17-90 1976 Code, All Codes violated by the Charleston County Sheriff's office.

The State's attorney General was assisted by the ~~Mount Pleasant~~ Municipal Court in prosecuting the appellant in violation of the Messery ~~exception~~ pursuant to State v. Messery, 258 SC 110, 187 SE2d 524 (SC 1972); State v. Sossamon, 298 SC 72, 378 SE2d 259 (1989); In re Unauthorized Practice of Law Rules Proposed by South Carolina Bar, 309 SC 304, 402 SE2d 123 (SC 1992); State Ex. Rel. McLeod v. Seaborn, 270 SC 696, 244 SE2d 317 (1978); Rule 4, South Carolina Supreme Court Rules, and Section 40-5-310 1976 Code

Detective Peters, of the Summerville Police Department,  
was attached to the Charleston County Metro Narcotics  
Unit, when he arrested the appellant in such case no.  
2004-010174, on January 27, 2005, at 1400hrs. SEE Exhibit. 5, 6, 7

Off. C. Morrell, of the Mount Pleasant Police Department is the  
Prosecuting officer of Case no. 2004-010174, whom prosecuted  
in violation of the "Messervy exception" on February 3, 2005,  
for violating sections 56-1-20 1976 Code, and 16-5-50 1976 Code.  
5, 14 USCA Exhibits: 8, 9, 10

Appellant was formally charged with violating sections  
61-13-860 1976 Code, and 56-1-20 1976 Code, but was  
found guilty of 16-5-50 1976 Code, and 56-1-440 1976 Code,  
at the Mount Pleasant Municipal Court on February 3, 2005,  
where Off. C. Morrell prosecuted such case. 5, 14 USCA Exhibits: 1, 11, 12

The Town of Mount Pleasant Municipal Court's, witnesses,  
Off. Christopher Morrell, and Rebbecca Thomas, are not competent  
witnesses, based on there not existing a complaint which have  
been filed with the Summary Court substantially setting forth  
and plainly setting forth the offense charged, in order for the  
issuing magistrate to issue an arrest warrant as prescribed by  
laws, sections 22-3-70 1976 Code, 23-17-90 1976 Code, 23-15-50 1976  
code, and 23-15-100 1976 Code; Rule 603 SCRE; Rule 601 SCRE.  
Exhibit: 3 5, 14 USCA

Based on the fact that the appellant was not appointed  
counsel, upon request for counsel he was deprived of  
the opportunity to challenge the subject matter of the  
cause which required a verified complaint being filed by  
this witnesses. Thomas lacks personal knowledge of the accused  
"actually" committing a crime in case no. 2004-010174, however  
such detective, appeared at the bond hearing testifying to actually  
having personal knowledge, and arresting and serving arrest  
warrants, that she was never prescribed by law to service  
upon the appellant in case no. 2004-010174, 5, 14 USCA.  
Exhibits: 3, 13, 14, 15, 16

The end of statement of the case

## Argument

(1) Smalls did not knowingly and voluntarily plead guilty to the offenses of 56-1-20 1976 Code, No Driver's License, and 61-13-860 1976 Code, when Counsel was not appointed after the "indigent" demanded for Counsel. Exhibit (1)

Smalls qualified and demanded for Counsel when he was screened by the Charleston County Jail Screener. For case no. 2004-D10174. However, appointment of Trial Counsel was denied for such case, but was appointed for cases: 2005-000-275, and 2005-000-979.

(2) Smalls did not knowingly and voluntarily enter a guilty plea to offense of section 61-13-860 1976 Code, because Smalls did not know that Section 13 of Title 61 was repealed and recodified under Chapter 2 of Title 61 by act no. 415 section 1. Such repeal did not become effective until January 1, 1996. <sup>56,14 USCA.</sup>

(3) By Trial Counsel not being present and/or appointed to inform and consult with the Appellant about the fact that a reservation of an objection needed to be reserved for the Appellant being convicted of an offense, that is no longer an offense, under such Chapter of Title 61, and such offense not conforming to the subject matter of DFC C. Morrell's incident report, to vest the court with jurisdiction to hear and decide case no. 2004-D10174. <sup>5,14 USCA</sup> 6 USCA; Rule 203(B)(1) SCACR; Rules 17:37 SCRIMP. (Cont'd on page 6(2) Exhibit 1. <sup>Exhibit (2).</sup>

Smalls did not knowingly and voluntarily waiver his rights, Constitutional; to: Trial by Jury; right against self-incrimination; Right to confront accuser, based on there not existing a record of the relinquishment of such rights before the municipal Court Judge, David Michel at his Criminal trial on February 3, 2005 or about March, 2005. Additionally, Trial Counsel was not present to inform and consult with the appellant about the consequences of relinquishing such rights before pleading guilty to such offenses. 5, 14 USA LeUSA; Boykin v. Alabama, 395 U.S. 238 (1969); Shiflett v. Com. of Va., 447 F. 2d 50 CA Va. (1971); Gideon v. Wainwright 372 U.S. 335, 83 S. Ct. 792, 9 L. Ed. 2d. i Mempa v. Rhay, 389 U.S. 128, 88 S. Ct. 254, 19 L. Ed. 336 (Sentencing) and Douglas v. California, 372 U.S. 353, 83 S. Ct. 814 9 L. Ed 2d 811 (Presenting Appeals). U.S. v. Cronie, 466 US at 659, 104 S. Ct. 2039; and Stovall v. DENNO, 388 US 293, 297, 87 S. Ct. 1967, 1970, 18 L. Ed. 2d 1199; Hill v. Lockhart, 474 U.S. 52 (1985), Exhibit: 11

Smalls present the fact that Charleston County Sherriff's deputies arrested the appellant, formally charged him with violating sections 61-13-860 1976 Code Repeated by Act no. 415 Section 1 - Repealed under Section 61-13-210 1976 Code by Act no. 415 section 1, effective January 1, 1997, and 56-1-20 1976 Code, but was convicted of violating sections 56-1-440 1976 Code, and 16-5-50 1976 Code. 5, 14 USA; Bull 12/13/03, SCRCiv.P; Rule 12(B)(1), SCRCiv.P; sections 23-17-90 1976 Code, and 22-3-710 1976 Code, Exhibits: 5, 6, 7, 11  
p. 5(2)

The appellant poses the following Constitutional questions: Does the Municipal Court have jurisdiction over the subject-matter to accept a guilty plea from the appellant for violating sections 56-1-20 1976 Code and [REDACTED] 134.02, on 2/3/05, when the

Appellant was formally charged with violating offenses 6-13-860 1976 Code, Interference with officer, and 56-1-20 1976 Code, No Driver's License. Exhibits: 1, 14, 12

(2) Does the Municipal court have jurisdiction to adjudicate the subject matter, when the Charleston County Sheriff's office, and the Mount Pleasant Police Department arrested the appellant in case no. 2004-010174, without enforcing and executing an order of the court. 4, 5, 14 USCA; §23-17-90 1976 Code; §23-15-100 1976 Code; §23-15-50 1976 Code; §17-13-30 1976 Code. Exhibits: 5, 6, 7, 13

(3) Did the Municipal Court have jurisdiction, to adjudicate the subject matter, when there is no complaint filed under oath, for the offense of driving without working taillights as provided by Section 22-3-710 1976 Code? 4, 5, 6, 14 USCA; Section 22-3-710 1976 Code; Barth v. State, 397 SC 290, 724 SE2d 182 (SC 2012); State v. Praser 173 SC 284, 175 SE 551 (SC 1934). Exhibit: 3

(4) Can the lack of subject-matter jurisdiction be raised at any time and for the first time on appeal? 5, 14 USCA; State v. Oxner 391 SC 132, 705 SE2d 51 (SC 2011); Hubbard v. Rowe, 129 SC 12, 5 SE 2d 187 (1939); United Dom. Realty Trust v. Walmart Stores, Inc., 307 SC 102, 413 SE 2d 866 (Ct. App. 1992); Dunlap v. Dunlap v. Zimmerman, 188 SC 322, 199 SE 296 (1938); cf. Defreville v. Groover, 219 SC 313, 65 SE 2d 232 (1951);

5). Did the appellant properly preserve the issues outlined in 1-3, in the Circuit Court, before Circuit Court Judge, J.C. Nicholson where he filed a Motion For Summary Judgment, and a Motion To Reconsider Pursuant to Rules 56(b), and 59(e), SCRCiv. P. Both were denied by Circuit Judge, J.C. Nicholson? 5, 14 USCA; P. 54) exhibits 18, 19, 20, 21, 22, 23, 24

### Conclusion

"All this court ever required is that the questions presented for its decision must first have been fairly and properly raised to the lower court and passed upon by that court." Hubbard v. Rowe, 192 SC 12, 5 SE 2d 187 (1939); "An argument that is not raised to an intermediate appellate court is not preserved for review by this court." United Dom. Realty Trust v. Walmart Stores Inc., 307 SC SE 2d 866 (Ct. App. 1992); "Even though subject matter jurisdiction may be raised at any time, there is no error preservation exception allowing a party to by pass calling an erroneous ruling to the tribunal making it before appealing that ruling to a higher court." Compare Dunlap v. Zimmerman, 186 SC 322, 199 S.E. 296 (1938) (once the issue of subject matter jurisdiction has been decided adversely to a party, he must preserve his exception or be barred from raising the issue later); C.F. Detreville v. S. Groover, 219 SC 313, 65 SE 2d 232 (1957); (Party abandoned subject-matter jurisdiction issue by failing to argue it in brief) State v. Dyer, 391 SC 132, 705 SE 2d 51 (2011 SC). (18-24) exhibits

appellant was arrested, and formally served charge papers  
for violating sections 61-13-860 1976 code, and 56-1-20  
1976 code, on 1/27/05. 5,14 USCA;

The Appellant moves the South Carolina Court of Appeals to vacate the orders of Judgments in Case no. 2013-CP-10-4956. Pursuant to Rule 232(B), SCACR, and, vacate and dismiss Case no. 2004-010174, Pursuant to Rule 232(a) SCACR. Exhibits 1-24



Signature of Appellant

Demetrios Jarod Smalls #286806  
LCI EA37/P.O. Box 205  
Ridgeway, SC 29472

(UEC - 1-207) (without prejudice)

CC File: State Attorney General's Office, AW.  
SC Court of Appeals, VCA  
4th Circuit Court of Appeals  
SC Supreme Court, DES, JHT

p 6 (2)

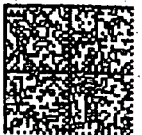
Demetrius J. Small # 286806  
LEI EA 37 R, P.O. Box 205  
Pickensville, SC 29147a

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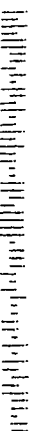
Daniel E. Sharrow  
Supreme Court of SC.  
P.O. Box 11330  
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