

The South Carolina Court of Appeals

The State, Respondent,

v.

Ernest Smalls, Jr., Appellant.

Appellate Case No. 2014-000572

ORDER

Appellant has filed a motion for remand for a reconstruction hearing, requesting reconstruction of the trial record because the records were destroyed pursuant to Rule 607, SCACR. Appellant was tried in his absence and sentenced November 18, 2004; however, his sentences remained sealed until he appeared before the circuit court in 2014. Respondent filed a return and a cross-motion to dismiss the appeal, contending Appellant is not entitled to the requested relief and requesting the appeal be dismissed.

After careful consideration of the parties' filings, Appellant's motion to remand for reconstruction is denied and Respondent's motion to dismiss is granted. *See State v. Serrette*, 375 S.C. 650, 654 S.E.2d 554 (2007) (dismissing defendant's appeal because the defendant's willful decision to remain a fugitive from justice for nearly eleven years following his conviction presented an obstacle to orderly appellate review in the decision led to the destruction of trial transcript pursuant to Rule 607(i), and thus, on appeal, defendant was not entitled to remand for reconstruction hearing).


FOR THE COURT

Columbia, South Carolina

FILED

10/21/14

cc:

M. Gregory McCollum, Esquire

Robert Michael Dudek, Esquire

Jimmy A. Richardson, II, Esquire

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