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**SUPPORTING LEAGL MEMORAUNDUM OF LAW ARGUMENT TO SUPPORT  
GRAINTING WRIT IN A CIVIL CASE**

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Doyet A. Early, Circuit Court Judge

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Case No. 2003-CP-10-4751

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Mr. Wesley Edward Smith, III

Petitioner

v.

Charleston County School District, et al,

Respondent

**RECEIVED**

NOV 12 2014

**SC Court of Appeals**

WRIT OF CERTIORARI SUPPORTING LEGAL MEMORANDUM OF LAW ARGUMENT

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Wesley Edward Smith III  
465 N. Nassau Street  
Charleston, South Carolina 29403  
(843) 723-8598  
Pro Se

## **1. INTRODUCTION**

Mr. Wesley Edward Smith III submits this legal memorandum of law argument, objecting the CCSD and other employees collective or severally acts. An overlooked objectionable inference error of law still exist, that directly pertains to a controversy and or conflict for a citizen protected and afforded legal rights, civil right and or civil liberties. Regarding the practices and work on laws, my right to appeal this court decision and adverse rulings were the one-sided result. The South Carolina Rules of Appellant Rule 203(b)(1) governs all citizens legal rights and the right of citizen who has become the subject of such state law, as CCSD and other collective state employees, implied acts were presumed authorized (perpetrated) to act as the State enforcement official agency on law, its judge, the jury and even the claim of being the victim, to appeal such decisions as docketed and signed on the state court Common Pleas 9th District letterhead.

## **II: COURT OF COMMON PLEAS PROCEDURAL BACKGROUND FACTS**

Related to case 2003-CP-10-4751 for private parties, Wesley Smith v Charleston County School District, governing the ripe authority of the lower court Common Pleas Court for the Ninth (9th) Judicial Circuit, act leaves reason to believe, has prematurely dismissed said case with prejudice, A private citizen complaint with legal issues remains unchallenged ruling with perceived error of material facts under rule 203 and controversy to law in case 2003-CP-10-4751

## **III. SUPPORTING LEGAL ARGUMENT MEMORANDUM**

**In Support, as relevant related to legal rights to appeal pursuant the authority of rule 203 NOTICE OF APPEAL**

**(a) Notice.** A party intending to appeal must serve and file a notice of appeal and otherwise comply with these Rules. Service and filing are defined by Rule 262.

**(b) Time for Service.**

**(1) Appeals From the Court of Common Pleas.** A notice of appeal shall be served on all

respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely motion for judgment n.o.v. (Rule 50, SCRPC), motion to alter or amend the judgment (Rules 52 and 59, SCRPC), or a motion for a new trial (Rule 59, SCRPC) has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion. When a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, a party need not appeal until receipt of written notice of entry of the more complete order or judgment.

Objections not allowed to be raised; According to the court upon on review, as stated in ruling of case 2003-CP-10-4751 on par 10 para 3 as stated in relevant parts **"FURTHER ORDERED AND DECREED** that the Plaintiff Wesley Smith frivolous pleadings are hereby stricken and dismissed with prejudice, including the "Notice of Appeal," Affidavit of Wesley Edward Smith III," my right governing the authority to appeal under the SCRAP rule 203 were "dismissed with prejudice" as perceived impartial adjudicated by a panel of selected judges.

#### **QUESTION PRESENTED**

Was the court of common pleas procedurally obligated to rule fairly and apply equal justice without any perceptions, even in the face adversity, such rulings that were made, absent the respondents required substantive evidence? How is such ruling not perceived error of law rule 203(b), when written facts, as stated and signed by declared/decreed order was final, but on the face, the ruling was "dismissed with prejudice", not be considered to a layman, who doesn't practice on the law each constitutionally offensive to article 24 of the state of South Carolina Constitution favorable to Mr. Wesley Edward Smith III (ex parte)?

**IV. CONCLSUION** Based on the reason given and the rule of law, the respondents collective or independent acts causing an error of law to the court rulings, should be stricken, dismissed and overturned, thus respectfully granting the writ and all other relief granted under rule 269. Based on the alleged error of law and the subsequent frivolous and fraudulent act of the respondents, any and all proceeding fees should be respectfully waive, based on the court review contesting the matter as premature, that denies Mr. Wesley Edward Smith III (ex parte) afforded legal; to appeal and a legal right to proceed Informa Pauperis

**North Carolina v. Alford** 91 S. Ct. 160; 27 L. Ed. 2d 162. As relied upon. A Reply in opposition of respondent's action. Holding: There are no constitutional barriers in place to prevent a judge from accepting a guilty plea from a defendant who wants to plead guilty while still protesting his innocence.

November 10, 2014

Respectfully Submitted



Mr. Wesley Edward Smith III

**PROOF OF SERVICE**

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Doyet A. Early, Circuit Court Judge

November 29, 2007

Case No. 2003-CP-10-4751

Mr. Wesley Edward Smith, III

Petitioner

v.

Charleston County School District, et al,

Respondent

**RECEIVED**  
NOV 12 2014

**SC Court of Appeals**

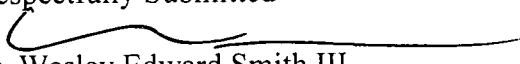
PROOF OF SERVICE

I, Mr. Wesley Edward Smith, III on 10 November 2014 submit's the Petitioner Supporting legal memorandum, of SCRAP 203 to support consideration for granting Writ of Certiorari for being deprive right to appeal and right to proceed Informa Pauperis based on the court rule for granting such entrances or acceptances and Informal brief and notice of court orders on review, by first class mail tp all parties represented as listed in this action to the following;

To; Mr. Daniel Frank Blanchard III  
151 Meeting Street 3rd floor  
Charleston, South Carolina 29403

November 10 2014

Respectfully Submitted

  
Mr. Wesley Edward Smith III  
465 N. Nassau Street  
Charleston, South Carolina 29403  
(843) 723-8598 Pro Se

# EXHIBIT "D"

RULE 203  
WRIT OF CERTEIORARI

**RECEIVED**  
NOV 12 2014  
**SC Court of Appeals**

CASE: Mr. Wesley Edward Smith III (Ex parte) v. Charleston County School District, et al  
Trial CN: 2003-CP-10 4751

**RULE 203**  
**NOTICE OF APPEAL**

**(a) Notice.** A party intending to appeal must serve and file a notice of appeal and otherwise comply with these Rules. Service and filing are defined by Rule 262.

**(b) Time for Service.**

**(1) Appeals From the Court of Common Pleas.** A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely motion for judgment n.o.v. (Rule 50, SCRCP), motion to alter or amend the judgment (Rules 52 and 59, SCRCP), or a motion for a new trial (Rule 59, SCRCP) has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion. When a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, a party need not appeal until receipt of written notice of entry of the more complete order or judgment.

**(2) Appeals From the Court of General Sessions.** After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed. In all other cases, a notice of appeal shall be served on all respondents within ten (10) days after receipt of written notice of entry of the order or judgment. When a timely post-trial motion is made under Rule 29(a), SCRCrimP, the time to appeal shall be stayed and shall begin to run from receipt of written notice of entry of an order granting or denying such motion. In those cases in which the State is allowed to appeal a pre-trial order or ruling, the notice of appeal must be served within ten (10) days of receiving actual notice of the ruling or order; provided, however, that the notice of appeal must be served before the jury is sworn or, if tried without a jury, before the State begins the presentation of its case in chief.

**(3) Appeals From the Family Court.** A notice of appeal in a domestic relations action shall be served in the same manner provided by Rule 203(b)(1). A notice of appeal in a juvenile action shall be served in the same manner as provided by Rule 203(b)(2).

**(4) Appeals From Masters and Special Referees.** The notice of appeal from an order or judgment issued by a master or special referee shall be served in the same manner as provided by Rule 203(b)(1).

**(5) Appeals From Probate Court.** When a direct appeal is authorized by S.C. Code Ann. § 62-1-308(g), the notice of appeal shall be served in the same manner as provided by Rule 203(b)(1).

**(6) Appeals From Administrative Tribunals.** When a statute allows a decision of the administrative law court or agency (administrative tribunal) to be appealed directly to the Supreme Court or the Court of Appeals, the notice of appeal shall be served on the agency, the administrative law court (if it has been involved in the case) and all parties of record within thirty (30) days after receipt of the decision. If a timely petition for rehearing is filed with the administrative tribunal, the time to appeal for all parties shall be stayed and shall run from receipt of the decision granting or denying that motion. If a decision indicates that a more full and complete decision is to follow, a party need not appeal until receipt of the more complete decision.

**(c) Cross-Appeals.** A respondent may institute a cross-appeal by serving a notice of appeal on

all adverse parties, or in the case of an appeal from the administrative tribunal, by serving a notice of appeal on the agency, the administrative law court (if it has been involved in the case) and all parties of record, within five (5) days after receipt of appellant's notice of appeal, or within the time prescribed by Rule 203(b), whichever period last expires.

**(d) Filing.**

**(1) Appeals from the Circuit Court, Family Court and Probate Court.**

**(A) Where to File.** The notice of appeal shall be filed with the clerk of the lower court and with the Clerk of the Supreme Court in the following cases:

**(i)** Any final judgment from the circuit court which includes a sentence of death.

**(ii)** Any final judgment involving a challenge on state or federal grounds to the constitutionality of a state law or county or municipal ordinance where the principal issue is one of the constitutionality of the law or ordinance; provided, however, in any case where the Supreme Court finds that the constitutional issue raised is not a significant one, the Supreme Court may transfer the case to the Court of Appeals.

**(iii)** Any final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the State, its agencies, political subdivisions, public service districts, counties, and municipalities, or any other indebtedness now or hereafter authorized by Article X of the Constitution of this State.

**(iv)** Any final judgment from the circuit court pertaining to elections and election procedure.

**(v)** Any order limiting an investigation by a State Grand Jury under S.C. Code Ann. § 14-7-1630.

**(vi)** Any order of the family court relating to an abortion by a minor under S.C. Code Ann. § 44-41-33.

In all other cases, the notice of appeal shall be filed with the clerk of the lower court and the Clerk of the Court of Appeals.

**(B) When and What to File.** The notice of appeal shall be filed with the clerk of the lower court and the clerk of the appellate court within ten (10) days after the notice of appeal is served. The notice filed with the appellate court shall be accompanied by the following:

**(i)** Proof of service showing that the notice has been served on all respondents;

**(ii)** A copy of the order(s) and judgment(s) to be challenged on appeal if they have been reduced to writing;

**(iii) A filing fee as set by order of the Supreme Court; [1] this fee is not required for criminal appeals or appeals by the State of South Carolina or its departments or agencies;**

**(iv)** If the appeal is from a guilty plea, an Alford[2] plea or a plea of nolo contendere, a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s).

If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal. If the appellant fails to make a sufficient showing, the notice of appeal may be dismissed;

(v) If the notice of appeal is from a post-conviction relief case and the lower court determined that the post-conviction relief action is barred as successive or being untimely under the statute of limitations, the written explanation required by Rule 243(c), SCACR; and,

(vi) If the notice of appeal is from a habeas corpus proceeding and the lower court determined that habeas corpus relief was improper because the issues could have been raised in a timely application under the Post-Conviction Relief Act (see *Simpson v. State*, 329 S.C. 43, 495 S.E.2d 429 (1998)), a written explanation as to why this determination was improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper. If the appellant fails to make a sufficient showing, the notice of appeal may be dismissed.

**(2) Appeals from Administrative Tribunals.**

**(A) Where to File.** Appeals from a decision of the Public Service Commission setting public utility rates pursuant to Title 58 of the South Carolina Code of Laws shall be filed with the Clerk of the Supreme Court. Unless otherwise required by statute, all other appeals from administrative tribunals shall be filed with the Clerk of the Court of Appeals.

**(B) When and What to File.** The notice of appeal shall be filed with the clerk of the appellate court within the time required to serve the notice of appeal under Rule 203(b)(6). The notice filed with the appellate court shall be accompanied by the following:

(i) Proof of service showing that the notice has been served on the agency, the administrative law court (if it has been involved in the case), and all parties of record;

(ii) A copy of the decision(s) to be challenged on appeal; and

(iii) A filing fee as set by order of the Supreme Court; [3] this fee is not required for criminal appeals or appeals by the State of South Carolina or its departments or agencies.

**(3) Effect of Failure to Timely File.** If the notice of appeal is not timely filed or the filing fee is not paid in full, the appeal shall be dismissed, and shall not be reinstated except as provided by Rule 260.

**(e) Form and Content.** The notice of appeal shall be substantially in the form designated in the Appendix to these Rules.

**(1) Appeals from the Circuit Court, Family Court and Probate Court.** In appeals from lower courts, the notice of appeal shall contain the following information:

**(A)** The name of the court, judge, and county from which the appeal is taken.

**(B)** The docket number of the case in the lower court.

**(C)** The date of the order, judgment, or sentence from which the appeal is taken; and if appropriate for the determination of the timeliness of the appeal, a statement of when the appealing party received notice of the order or judgment

from which the appeal is taken, or, if a cross-appeal, when the respondent received appellant's notice of appeal.

(D) The name of the party taking the appeal.

(E) The names, mailing addresses, and telephone numbers of all attorneys of record and the names of the party or parties represented by each.

(2) **Appeals from Administrative Tribunals.** In appeals from administrative tribunals, the notice of appeal shall contain the following information:

(A) The name of the agency and the name of the administrative law judge (if applicable).

(B) The docket number of the case before the administrative law court, or if the appeal is from an agency, the docket number before the agency.

(C) The date of the decision from which the appeal is taken; and if appropriate for the determination of the timeliness of the appeal, a statement of when the appealing party received the decision from which the appeal is taken, or, if a cross-appeal, when the respondent received appellant's notice of appeal.

(D) The name of the party taking the appeal.

(E) The names, mailing addresses, and telephone numbers of all attorneys of record and the names of the party or parties represented by each.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

[1] By order dated April 17, 1990, this filing fee was set at one hundred (\$100.00) dollars.

[2] North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970)

[3] By order dated April 17, 1990, this filing fee was set at one hundred (\$100.00) dollars.

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## **RULE 269**

### **FRIVOLOUS APPEALS, PETITIONS, MOTIONS, OR RETURNS**

Where an appeal, petition, motion or return is frivolous or taken solely for the purposes of delay, or is not in compliance with these Rules, the appellate court may upon its own motion or that of a party, after ten (10) days notice, impose upon offending attorneys or parties such sanctions as the circumstances of the case and discouragement of like conduct in the future may require. This Rule does not apply to any matters where counsel is required by law to pursue an appeal or petition for writ of certiorari even though the matter may be frivolous.

Amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

# EXHIBIT “F”

North Carolina v. Alford 91 S. Ct. 160; 27 L. Ed. 2d 162.

**Citation.** 91 S. Ct. 160, 27 L. Ed. 2d 162, 1970 U.S.

**Brief Fact Summary.** Appellee, facing the death penalty for first-degree murder, accepted a guilty-plea for murder, while maintaining his innocence. The Court of Appeals found that the plea was involuntary based on his fear of the death penalty.

**Synopsis of Rule of Law.** “An individual accused of crime may voluntarily, knowingly, and understandingly consent to the imposition of a prison sentence even if he is unwilling or unable to admit his participation in the acts constituting the crime.”

**Facts.** Appellee Alford was indicted for first-degree murder, and faced the death penalty if convicted by a jury. Substantial evidence pointed to his guilt. He accepted a guilty plea for second-degree murder, thus avoiding the death penalty. He did not admit any guilt, but the court heard substantial eye-witness testimony. On review, the Court of Appeals found that the plea was involuntary because it was motivated by fear of the death penalty.

**Issue.** “[Whether a guilty plea [made out of fear of the death penalty] can be accepted when it is accompanied by protestations of innocence

**Holding:** There are no constitutional barriers in place to prevent a judge from accepting a guilty plea from a defendant who wants to plead guilty while still protesting his innocence.

*Wesley E. Smith III*

465 North Nassau Street  
Charleston, South Carolina 29403  
(843)723-8598

**LETTER OF LEAGL MEMORANDUM TO CLERK OF LOWER COURT  
SUPPORTING MR. WESLEY EDWARD SMITH III ACTIONS LEAVE OF COURT IN  
FILING A SUPPORT TO HIS WRIT OF CERTOIRIRA**

November 10, 2014

CLERK  
Honorable Jenny A. Kitchens  
South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

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**SC Court of Appeals**

RE: Wesley Smith, Plaintiff v Charleston County School District, Defendant Case 2003-10-CP-4751

Dear Honorable Kitchens;

Below is the petitioner additional question in support of consideration for concerning the granting Writ of Certiorari and Informal Brief to support issue on the notice of appeal opposed to and dissenting the lower case ruling of case 2003-CP-10-4751 . The case of the honorable Doyet A Early is to be taken as liberally construed, given a reason to believe the ruling is purely speculated and merely presumed but liberal construing the case which is not without any legal, law or enforcement agency supporting memorandum,

Sincerely, Person of legal Interest in that case

Mr. Wesley Edward Smith III  
Wesley Edward Smith III  
465 N. Nassau Street  
Charleston, South Carolina 29403  
(843)723-8598  
Petitioner Pro Se

cc: Mr. Daniel F. Blanchard, III  
151 Meeting Street 3rd floor  
Charleston, South Carolina 29403  
Attorney for Respondent