

Cover Letter

The Supreme Court of South Carolina
Daniel E. Shearouse, Clerk of Court
Post Office Box 11330
Columbia, S.C. 29211

December 8, 2014

Honorable Clerk,

Please find enclosed 'Writ For Certiorari,'
Appellate case No. 2014-000737. Please file and return
to me a clock stamped copy of Writ and Exhibits 'A
through E.'

Sincerely,


Richard Keith Poe # 259297
Evans Correctional Institution
610 Hwy. 9, West
Bennettsville, S.C. 29512

RECEIVED

DEC 09 2014

S.C. SUPREME COURT

Certificate of Service

As of this day of December 8, 2014 I, Richard Keith Poe have placed in U.S. Regular mail upon the Supreme Court of South Carolina, a 'Writ For Certiorari', with Exhibits 'A through E'.

The Supreme Court of South Carolina
Daniel E. Shearouse, Clerk of Court
Post Office Box 11330
Columbia, S.C. 29211

Richard Keith Poe # 259297
Evans Correctional Institution
610 Hwy. 9, West
Bennettsville, S.C. 29512

RECEIVED

DEC 09 2014

S.C. SUPREME COURT

Sincerely Submitted,



State Of South Carolina
In The Supreme Court

Certiorari To York County
Michael J. Baxley Circuit Court Judge

RECEIVED

DEC 09 2014

Richard Keith Poe

S.C. SUPREME COURT
Petitioner

✓

State Of South Carolina

Respondent

Appellate Case No: 2014-000737

Petition For Writ Of Certiorari

Richard Keith Poe # 259297
Evans Correctional
610 Hwy. 9, West
Bennettsville, S.C. 29512

Statement of Facts

Issue One:

From the very beginning Petitioner was prejudiced by his own defense counsel and Solicitor Shelton. Here, as stated in defense counsel's own words. See App 179. Counsel also stated, "In 'his opinion', he did not see any winnable issues in this case." Furthermore, counsel testified in his own words, "I didn't see any way that we could win." After being questioned, "Did he see any reason to challenge those indictments?" See App 149 '(18-19)'

Issue Two:

Here, shown by Solicitor Shelton's statements, and actions, of the standard of 'unfair prejudice', see App 43 '(5-9)'. Solicitor's statements were founded on 'ungrounded facts'. Further, See App 145 '(15-20)'. Solicitor states, She, "was going to 'make sure' that Poe did some time in jail." And she, "felt he was a danger to the community."

Issue Three:

Furthermore, according to the 'Johnson's Petition For Writ For Certiorari', page 6; "Defense counsel testified that the solicitor insisted that Petitioner do some time because, "She, felt like he was a danger to the community."

Issue Four:

See App 146 '(3-5)'. Sean F. Cronin testified at PCR hearing that, 'the five year offer was conveyed to him at the beginning of 2013 [?]. Furthermore, here, Solicitor Shelton on record June 14, 2013 states, See App 31 '(7-10)'. "I reduced the offer to five years," "That was the plea offer," "I believe about a month ago."

The record clearly shows that defense counsel's verbal testimony does not coincide with Solicitor Misty Shelton's statement pertaining to plea offer of five years.

Issue Five:

Counsel testified that there were an offer of five years as we got closer to trial and Poe rejected it. See App 146 '(3-5)'. Then, on cross-examination, counsel testified, "I don't remember where I communicated that offer to Poe." The record clearly reflects Poe was never granted a bond and was not released from jail facility. See App 110 '(14-20)'

Issue Six:

Here, Counsel testified he turned his attention to preparing for a trial. See App 146 '(6)'. However, 'recap', App 179, Counsel stated, "I did not see any winnable issues in this case." See App 149 '(18-19)', further states, "I didn't see anyway that we could win." But, he states, he began preparing for trial.

"Personal opinion of counsel has no place at trial." 'U.S. v. Bess', C.A. 6. (Ky.) 1979, 593 F. 2d 749, Criminal Law 2091.

'Legal Argument'

The issues over the warrant and indictment could have been resolved during the initial preliminary process, if counsel would have filed for the hearing.

Issue Seven:

Was defense counsel ineffective for failing to request a preliminary hearing on charges? See App 155 '(1-17)'. Furthermore, when counsel was questioned, pertaining to the initial steps in a criminal prosecution case, his answer was, "No." See App 156 '(5-10)'. Pertaining to arrest warrant and indictments, See Exhibits: 'A', 'B1', and 'B2'. 'Recap', pertaining to indictment and re-indictment, Counsel states, "I don't recall dealing with that." See App 149 '(2-7)'. Counsel, when asked, "Did you see any reason to challenge those indictments?" Sean F. Cronin answered, "I didn't see anyway that we could win." See App 149 '(18-19)'.
 To completely refute Counsel's statements here, I will show relevant substantial facts that prove otherwise.

To completely refute Counsel's statements here, I will show relevant substantial facts that prove otherwise.

Issue Eight:

Here, York County, Sixteenth Circuit Trial Court erred in allowing State to amend Poe's burglary indictment by allowing the adding of the additional aggravating factors of two or more prior burglary convictions. 'State v. Guthrie', 352 S.C. 102, 572, S.E. 2d 309 S.C. App 2002. See App 135 '(1-11)'.
 Issue Nine:

The State amended indictment in which changed the nature of the charge to a more serious one, in violation of § 17-19-100,

showing the circuit court did not have subject matter jurisdiction. See 'Warnhouser v. State', 334 S.C. 327, 513 S.E. 2d 840 S.C. 1999. "Did not have subject matter jurisdiction to accept guilty plea." Counsel failed to challenge amended indictment 'True Billed under Statute of § 16-11-312. Moreover, where amendment to an indictment charges an offense to one with increased punishment, the circuit court is deprived of subject matter jurisdiction, 'State v. Lynch', 344 S.C. 635, 545 S.E. 2d 511 S.C. 2001.

Issue Ten:

Counsel further failed to challenge Grand Jury Indictment. Question here of whether the Grand Jury of York County, which indicted Poe, had been properly impaneled, pursuant to Code § 14-7-1630 Supp. 2003, and Circuit Court would lack subject matter jurisdiction in case. See App 130 '(17-25)', also 131 '(1-2)'.

Issue Eleven:

Counsel was ineffective, failing to investigate crime scene, to obtain necessary measurements to rebuttal the State's assertion of shed (building), within '50' feet of residence. See App 41 '(1-3)'; also App 151 '(20-25)', App 152 '(1-25)'.

Issue Twelve:

Counsel further failed to subpoena witnesses for trial, two of which had critical evidence in which may have tilted juror's mind on burglary first, as the State was going to argue the shed was a dwelling and this indictment showing occurred at night time. See App 179, also App 115 '(10-25)', 116 '(1-25)', App 117 '(1-25)', App 118 '(1-25)', also 119 '(1-25)', 120 '(1-25)', 121 '(1-25)', 122 '(1-23)', and See Exhibits, 'recap', 'C1', 'C2', and 'C3', App 68, 69, 70, 71.

'Evidence'

Issue Thirteen:

Counsel failed to challenge photo's of alleged crime scene, specifically, that was used to imply that the shed, as seen here in photos, was the location of incident, when in fact, residence seen here is where property was retrieved. See App 47 '(23-25)', and also, counsel failed to challenge state's assertions, 'locked storage building'. See App 41 '(1-7)', also App 47 '(13-16)'.

Issue Fourteen:

Counsel failed to challenge the documentary evidence that

was used before Grand Jury to obtain a burglary first on arrest warrant. Such as (two) photos as seen here to imply Jackson residence is where crime occurred. See App 151 '(24-25)', 152 '(1-2)'; See Exhibits 'C1', 'C2', and 'C3'. Also, App 152 '(13-15)';

Issue Fifteen:

Counsel further failed to challenge the legality of Grand Jury which True Billed indictments. See App 130 '(17-25)'; also, 131 '(1-10)'; See App 155 '(13-17)';

Issue Sixteen:

See App 144 '(18-22)'; penalty language used in indictment as read, "Appurtenant: 'annexed to a more important thing' Also, "Appurtenance: 'something that belongs or is attached', and "Curtilage: 'the land or yard adjoining a house', 'within an enclosure'". See photos! Also, See App 153 '(13-17)';

Issue Seventeen:

App 182, according to the original indictment the State intended to argue that the building burglarized was within the curtilage of the residence and indictment occurred at night. App 116 '(12)'. The witnesses testimony would have rebutted.

Issue Eighteen:

The State claims that no appeal was filed, by Poe, App 108 '(8-9)'; also, See 176. However, the State is incorrect, See Exhibits 'D', 'D1', 'D2', and 'D3'. Petitioner requested for Counsel to file an appeal, and Counsel refused, saying, 'he saw no issues for filing an appeal.'

Issue Nineteen:

Pertaining to conviction and sentencing; moreover, here, the five year plea that was 'never relayed' to Poe, clearly displayed a personal prejudice coming from Counsel. Cronin said, "you plead guilty". Implying Poe had no right to appeal, indicating here also, that same prejudice. To appeal from a guilty plea: Herein, "Roe v. Flores Ortega", 528 U.S. 470. 120 S.Ct. 1029 U.S. 2000, "defendant claims ineffective assistance of counsel and that counsel's representation fell below objective standard of reasonableness and that counsel's deficient performance deprives defendant of appeal that he otherwise would have had, petitioner has made out successful ineffective assistance of counsel claim." In *Anders v. State of Cal.*, 386 U.S. 738 S.Ct 1396 U.S. Cal. 1967. "Appointed counsel's role as advocate requires

that he support his client's appeal to the best of his ability." Furthermore, counsel must advise defendant of the right to appeal from a guilty plea when applicant inquires about appeal." 'Jones v. State', 677 S.E. 2d 20 S.C. 2009.

Issue Twenty:

In Post Conviction relief hearing, January 22, 2014 Honorable Judge Michael J. Baxley failed to address issue claim in PCR Application pertaining to counsel's failure to file appeal or even comply to the Court of Appeals for necessary documentation as requested to do so by the court. See 'Remittur.' "Here, our Supreme Court in 'Pruitt v. State', 423 S.E. 2d. 127, held that order denying Post Conviction relief improperly failed to address allegations raised in Application for Post Conviction relief," also, 'Marlar v. State', 644 S.E. 2d. 769 and 653 S.E. 2d 266. See Code 1976 § 17-27-80.

Issue Twenty One:

Judge Baxley failed to address the indictment issue put before him during the PCR hearing.

Issue Twenty Two:

Judge John C. Hayes sentenced petitioner Poe to a term of 15 years in 2002 and made a statement saying, "if Poe was ever brought back before him", Hayes would "sink his ship". Petitioner Poe filed a PCR and a direct appeal from which Hayes denied the PCR, as he was the presiding judge, thereby, reflecting a conflict of interest as the same Judge sentenced Poe to this instant case for a 13 year violent sentence, at which point, Poe informed counsel, and counsel replied that it did not make any difference.

Issue Twenty Three:

Moreover, in 'McCray v. State', 408 S.E. 2d 241 S.C. 1991. "States failing to address the issues in Post Conviction relief application does nothing to alleviate these problems, but rather exacerbates them. Without making findings of facts on specific allegations raised violating statute and precluding appellate review."

Issue Twenty Four:

Post Conviction appointed counsel Michael Hemplepp also failed to address issue after being questioned by Poe, pertaining to claim, according to 71.1 § 17-27-10-120 'd'. "Counsel shall insure that all available grounds for relief are

included in the application and shall amend application if necessary."

Issue Twenty Five:

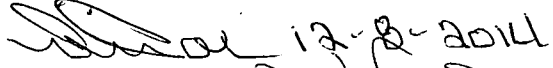
Post Conviction relief Appellate's Counsel, "Chief Appellate Defender Robert M. Dudek, has failed to brief arguable legal issues which arose during the Post Conviction relief process.

Here, Counsel on appeal from denial of Post Conviction relief is "required to brief" arguable issues, despite Counsel's belief that appeal is frivolous, to safeguard the right to appeal Rule 71.1 (g).

'Conclusion'

For the foregoing legal factual argument, petitioner's writ for certiorari should be granted and guilty plea and sentence remanded back to the trial court with specific instruction to reinstate the negotiated 5 year plea that was not relayed initially. Any logical thinking person with applicable common sense, would have accepted the five year plea, especially when the person admitted a crime of third degree with a maximum of a 5 year sentence. Or, vacate sentence.

Respectfully Submitted,

 12-8-2014

Richard Keith Poe

ARREST WARRANT

J-158013

STATE OF SOUTH CAROLINA

York

County/ Municipality of

THE STATE 2012-1050

against

Richard Keith Poe

Address: 1526 Eaves Rd VB

Shelby, NC 28152

Phone: M Race: W DL #: 003490248 SSN: 215-88-8804

Sex: M Race: W DL #: 003490248 Agency ORI #: SC0460000

DOB: 1/10/1969 York County Sheriff

Prosecuting Agency: York County Sheriff

Prosecuting Officer: R J Gurganus - G0626

Offense: Burglary / Burglary (After June 20, 1985) - First degree

Offense Code: 0079

Code/Ordinance Sec: 16-11-0311

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

is to be arrested and brought before me to be dealt with according to the law. The accused

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Richard Keith Poe on 6-11-12

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions 1675 York Hwy York, SC 29745

DEFENDANT COPY DEFENDANT COPY

STATE OF SOUTH CAROLINA County/ Municipality of York

Personally appeared before me the affiant R J Gurganus

being duly sworn deposes and says that defendant Richard Keith Poe

did within this county and state on or about 01/10/2012

State of South Carolina (or ordinance of York County/ Municipality of York violate the criminal laws of the

in the following particulars:

DESCRIPTION OF OFFENSE Burglary / Burglary (After June 20, 1985) - First degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The defendant did willfully and unlawfully violate the laws of this state by entering a locked storage building at 3339 Filbert Highway, Clover, York County, South Carolina, with the intent to commit the crime of Larceny. The storage building was located directly behind victim's house. While inside the building the defendant stole the victim's air compressor, battery charger, numerous hand tools, and fishing gear. The crime was committed during the nighttime hours. This being against the peace and dignity of this state and all such laws made and provided for.

Probable cause is based on: Police Investigation, Defendant's Verbal Statement, Witness Statement, and Recovery of Evidence.

Signature of Affiant

STATE OF SOUTH CAROLINA County/ Municipality of York

on or about 1/10/2012

did violate the criminal laws of the State of South Carolina (or ordinance of York) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY: If appearing from the above affidavit that there are reasonable grounds to believe that

on or about 1/10/2012 defendant Richard Keith Poe

did violate the criminal laws of the State of South Carolina (or ordinance of York) as set forth below:

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me on 01/18/2012

Signature of Issuing Judge: [Signature] (L.S.) Judge's Address: Moss Justice Center York, SC 29745-7423

Signature of Affiant: [Signature] (L.S.) Judge's Telephone: (803)628-3029

Judge Code: 5806 Issuing Court: [X] Magistrate [] Municipal [] Circuit

AFFIDAVIT

DEFENDANT COPY

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Exhibit A

10,000

5

WITNESSES

D/Gurganus

DOCKET NO. 2012-GS-46-03771

The State of South Carolina

County of York

EXHIBIT B-1

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

November 15, Term 2012

ARREST WARRANT NUMBER

J-158013

THE STATE

Defendant

ACTION OF GRAND JURY

TRUE BILL

RICHARD KEITH POE

Witness:

C.C.C. PLS. AND G.S.

Foreperson of Grand Jury
Date: 11/15/12

Paul G. VA

VERDICT

Indictment for

BURGLARY 1ST DEGREE

Foreperson of Petit Jury
Date:

SC Code: 16-11-311
CDR Code: 079

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on November 15, 2012, the Grand Jurors of York County present upon their oath:

BURGLARY 1ST DEGREE

The Defendant, Richard Keith Poe, did in York County, South Carolina, on or about January 10, 2010, willfully and unlawfully enter a locked storage building which is located on the curtilage of and appurtenant to the residence belonging to Kenneth Roy Stiles, located at Filbert Highway, Clover, York County, South Carolina, without consent and with the intent to commit a crime therein and the defendant did commit said offense during the nighttime, all in violation of Section 16-11-311, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DEPUTY SOLICITOR

WITNESSES

YCSD/ Gurganus

AMENDED
DOCKET NO. 2012-GS-46-03771

The State of South Carolina

County of York

Exhibit B-2

After being fully advised as to my legal rights, I hereby waive presentation to the Grand Jury.

Defendant

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

ARREST WARRANT NUMBER

J-158013

VK

May 16, Term 2013

ACTION OF GRAND JURY

True Billed 11-15-2012

RICHARD KEITH POE

/s/ Paul Vehaun

TRUE BILL

Foreperson of Grand Jury

Kathryn Lee Neal
Date: 5-16-13

VERDICT

Indictment for

BURGLARY IN THE FIRST DEGREE

Foreperson of Petit Jury
Date:

SC Code: 16-11-312
CDR Code: 079

Witness:
Richard Keith Poe - Ct. Sec.
C.C.P.L.S. AND G.S.

Exhibit C

RECEIPT FOR EXHIBITS

Case No.: 2012-CP-46-03771 Judge: John C. Hayes, III
 Applicant: Richard Poe Pl. Atty.: Sol. Misti H. Shelton
 Respondent: State Def. Atty.: Sean Cronin
 Date Trial Started: 6/4/2013 Date Trial Ended: 6/4/2013

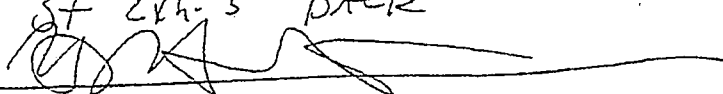
Exhibit No.	Description	ID	EVD	Clerk of Court Use
ST.1	Photo of Air Compressor	X		
ST.2	Photo - Inside Shed	X		
ST.3	Photo - Chain saw	X		
ST.4	Photo - Battery charger	X		
ST.5	Photo - Aerial View 1	X		
ST.6	Photo - Aerial View 2	X		
ST.7	Audio - Call from defendant to Ralph	X		
ST.8	Defendant's Statement	X		
ST.9	Defendant's Prior Burglary Convictions	X		
ST.10	Defendant's Prior Convictions	X		
CT.1	Letter by Defendant 7 pages (4 pages numbered)		X	
CT.2	Miranda Rights and Waiver Form		X	
CT.3	Incident Interview Report		X	
CT.4	DHEC Mental Eval. (5.1.13) Marla Domino, Ph.D Presiding; Dawn Whetstone, LMSW		X	

This 4th day of June, 2013

Page 1 of 1

From Court Report: Wanda Nelson, CVR-M

By: Stephanie Nauglis, Clerk of Court for York County.

ST received St Exh-'s BAER


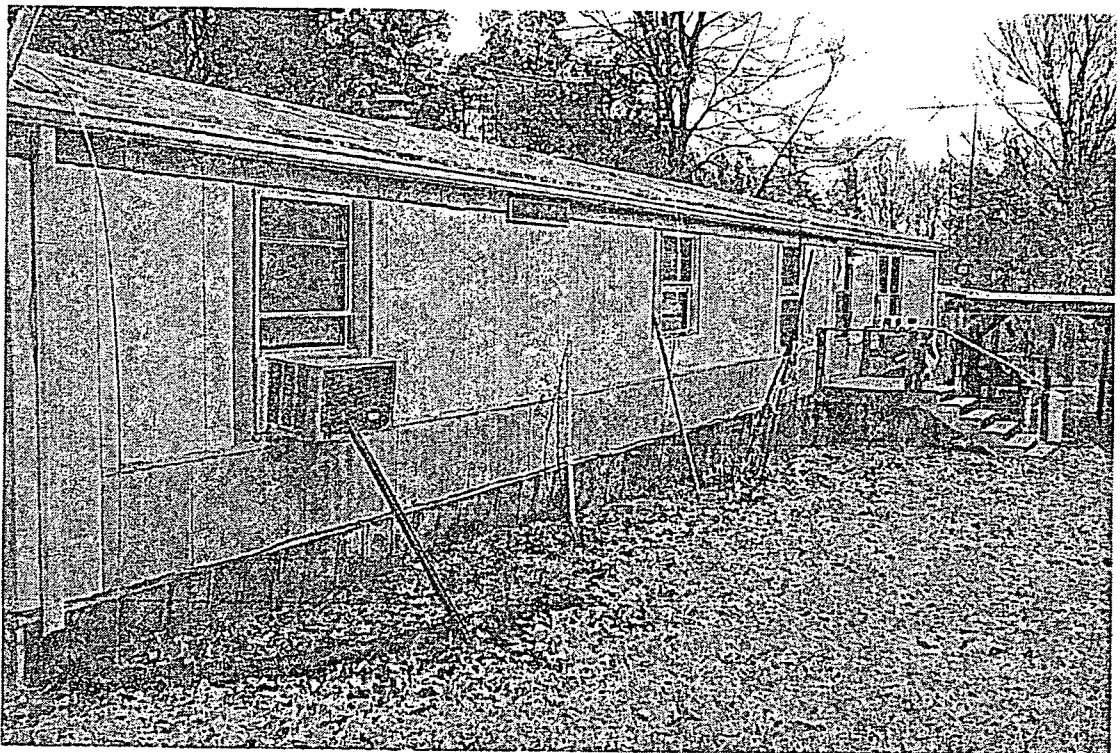
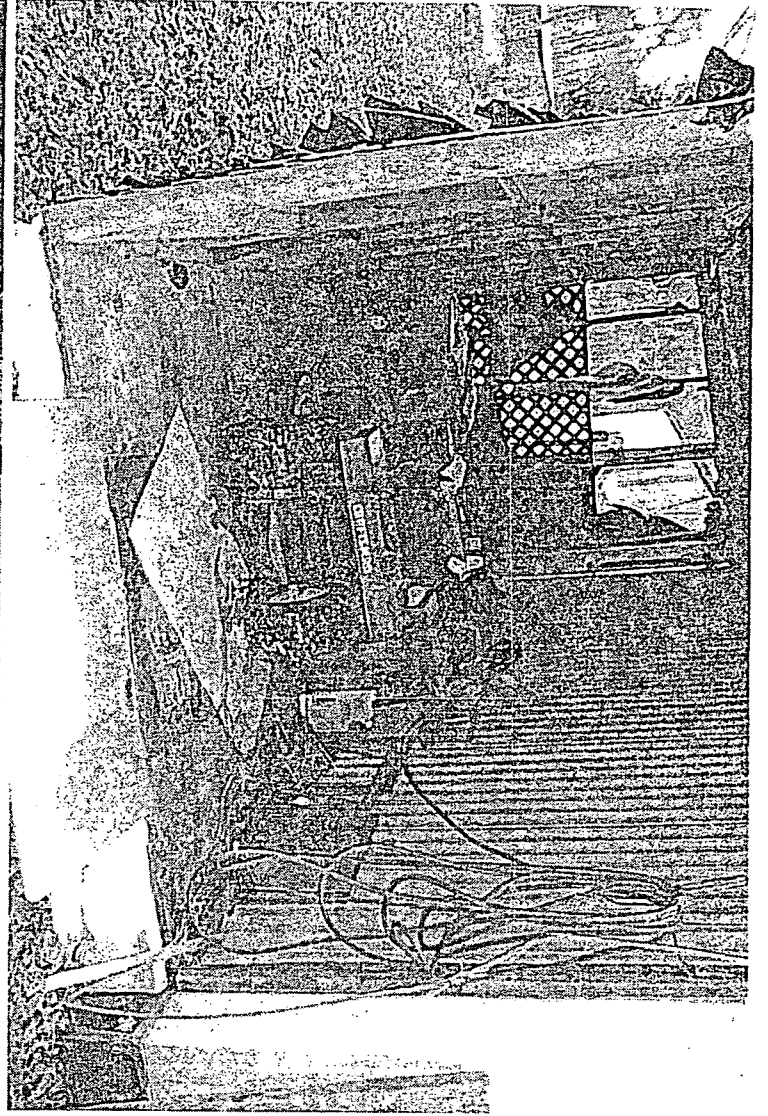
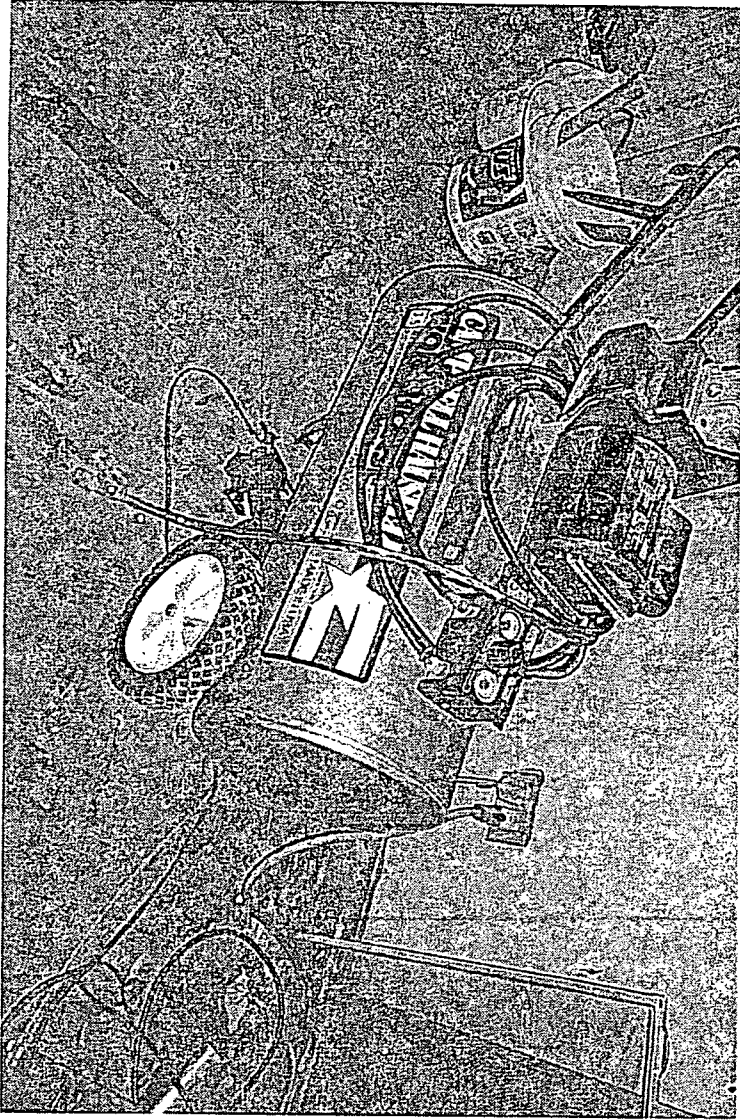


Exhibit C-2

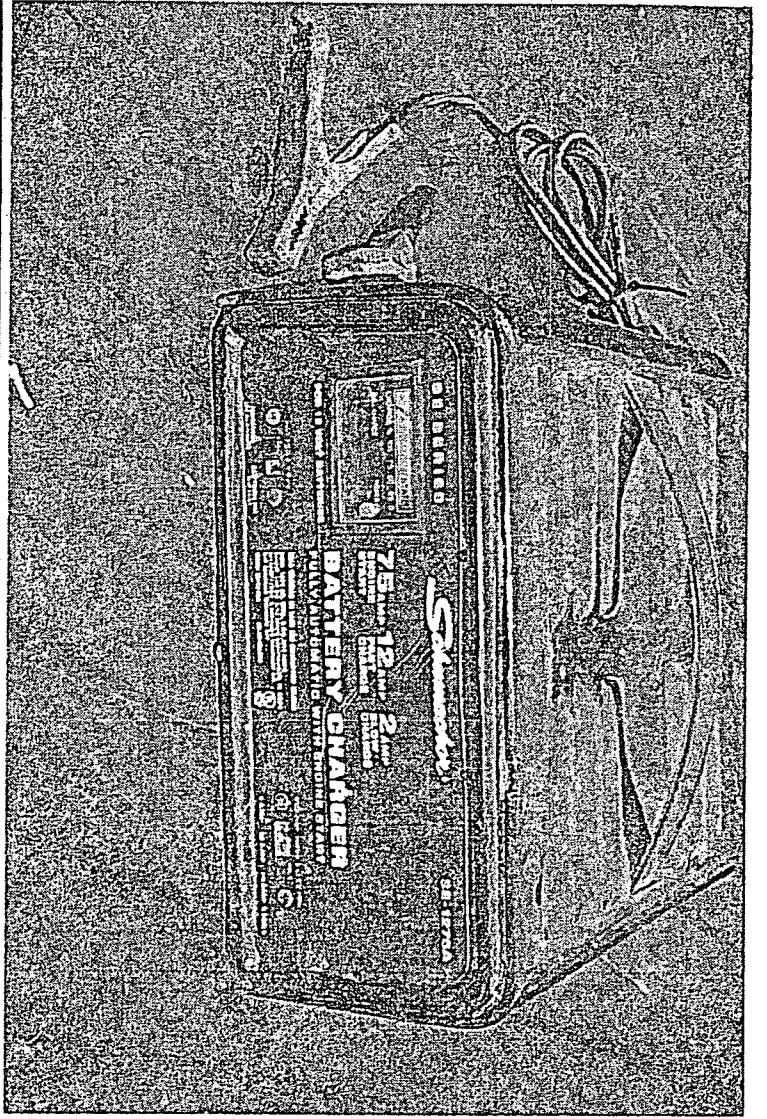


Exhibit C-3

Exhibit D

The South Carolina Court of Appeals

The State, Respondent,

v.

Richard Keith Poe, Appellant.

Appellate Case No. 2013-001239

ORDER

On June 5, 2013, the appellant filed a pro se notice of appeal with the Supreme Court. The Supreme Court transferred the appeal to the Court of Appeals for disposition. On November 6, 2013, this Court sent a deficiency letter to attorney Sean Francis Cronin, requesting a redacted copy of the sentencing sheet and a proof of service showing the notice of appeal was timely filed. Mr. Cronin never responded to the letter from the Court. We made several more attempts to get the necessary documents from Mr. Cronin by calling him on April 11, 2014, and on May 8, 2014. Mr. Cronin promised to send the necessary documents to the Court. To date, we have not received any further correspondence from Mr. Cronin.

Accordingly, this appeal is dismissed for failure to show timely service of the notice of appeal in compliance with Rule 203(b)(2) of the South Carolina Appellate Court Rules (SCACR) and failure to file a copy of the order challenged on appeal as required by Rule 203(d)(1)(B)(ii), SCACR. Remittitur will be sent according to Rule 221(b), SCACR.

FOR THE COURT

BY

J. A. Kite
CLERK

Columbia, South Carolina

cc:

Richard Keith Poe

Robert Michael Dudek, Esquire

Sean Francis Cronin, Esquire

Salley W. Elliott, Esquire

FILED

May 29, 2014

Exhibit A-1

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

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.

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.

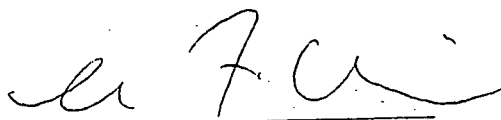
7. I spoke with the clerk's office in the Court of Appeals via telephone in response to their deficiency letter.

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.

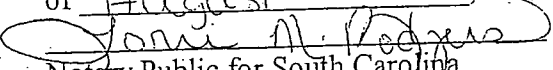
9. I also told the clerk's office that I could not provide the required Proof of Service in this appeal because I did not initiate this appeal, I was not asked to initiate this appeal, and that I would not certify that service had been completed because, up until that point, I had no involvement in this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

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.

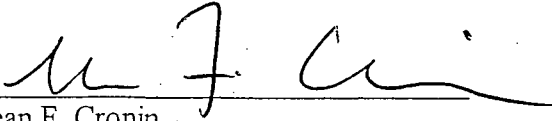
Richard Keith Poe,

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

COPY

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

Exh. b. T D-2



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 27, 2014

Mr. Sean Francis Cronin, Esquire
PO Box 1025
Rock Hill SC 29731

Re: The State v. Richard Keith Poe
Appellate Case No. 2013-001239

Dear Counsel:

This office is in receipt of your "Motion for Correction of the Record". Please be advised that the Remittitur was issued in this case on June 26, 2014. The issuance of this Remittitur ended the case and the Court of Appeals no longer has jurisdiction. Therefore, no action will be taken on your motion.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Richard Keith Poe, 00259297
Robert Michael Dudek, Esquire
Salley W. Elliott, Esquire

Exhibit D-3



FILED-RECEIVED
2014 JUL 11 AM 8:40

DAVID HAMILTON
C.C.C. & G.S.
YORK COUNTY, SC

ALAN WILSON
ATTORNEY GENERAL

July 8, 2014

The Honorable Kevin S. Brackett
Solicitor, Sixteenth Judicial Circuit
1675-1A York Highway
York, South Carolina 29745

RE: State v. Richard Keith Poe
2012-GS-46-3769; 3771; 3772

Dear Solicitor Brackett:

In its Order, filed on May 29, 2014, the South Carolina Court of Appeals dismissed the above appeal for failure to show timely service of the notice of appeal. The Remittitur has been sent to the York County Clerk of Court. Therefore, with this letter, we are closing our direct appeal file in this matter.

This Office has verified through the South Carolina Department of Corrections' computer that Mr. Poe is presently incarcerated.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General

SWE/ab
Enclosure

cc: The Honorable David Hamilton
David M. Tatarsky, Esquire
Ms. Trisha Allen, Victim Services

EXHIBIT E

(c) _____

✓ 5. The date upon which sentence was imposed and the terms of the sentence:

(a) June 4th of 2012

(b) _____

(c) _____

✓ 6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty Convicted during Trial Motions

(c) after a plea of nolo contendere _____

✓ 7. Did you appeal from the judgment of conviction or the imposition of sentence?

Requested Attorney Fees but not allowed

✓ 8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. NA

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. NA

ii. _____

iii. _____

(c) the date of each such result:

i. NA

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. NA

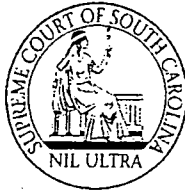
ii. _____

iii. _____

✓ 9. If you answered "no" to (7), state your reasons for not so appealing:

(a) Counsel Sought Criminal Refusal to *

(b) File Appeal



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

William C. Campbell
Assistant Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Fax: (803) 734-1964

June 23, 2014

PERSONAL AND CONFIDENTIAL

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

RE: Lawyer: Sean Francis Cronin, Esquire
Matter Number: 14-DE-L-0788

Dear Mr. Poe:

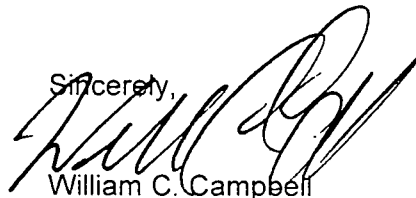
We have received your complaint against Sean Francis Cronin, Esquire. We will conduct an investigation into the matters you have reported. You will not necessarily be contacted prior to a decision regarding your complaint; therefore, you should submit any additional information or documentation to support your allegations at this time.

The authority of this office and the jurisdiction of the Commission on Lawyer Conduct are limited to issues of whether a lawyer is subject to discipline pursuant to the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR. Where misconduct is found, sanctions may be imposed ranging from a confidential letter of caution or admonition, public reprimand, suspension, or disbarment. If our investigation does not reveal evidence of lawyer misconduct, your complaint will be dismissed.

We take this opportunity to advise you of the limited role of this office and the Commission so that you will be aware that we cannot provide you with assistance or advice. You should promptly seek assistance or advice that you might need from legal counsel or other sources. If you do not have an attorney and believe that you need one, you should contact the South Carolina Bar Lawyer Referral Service at 1(800) 868-2284.

You will be notified of the final disposition of your complaint. It is often many months after receipt of a complaint before a final decision is made. Feel free to contact me if you have any questions or concerns.

Sincerely,



William C. Campbell

WCC/clg

Richard Keith Poe # 259297
Evans Correctional Institution
610 Highway, #9, West,
Bennettsville, S.C. 29512



DEC 08 2014

The Supreme Court of South Carolina
Daniel E. Shearouse, Clerk of Court
Post Office Box 11330
Columbia, S.C. 29211