

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

In the Court of Common Pleas

Derham Cole Circuit Court Judge

Case No. 2011-CP-42-00753

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S.C. SUPREME COURT

The State,

Respondent,

Vs

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Derrick L. Cheeks

Appellant

SC Court of Appeals

NOTICE OF APPEAL

PLEASE TAKE NOTICE, that defendant, Derrick L. Cheeks, hereby appeals the above-captioned matter of the Civil Procedure Law of the State of South Carolina, County of Spartanburg, in the Court of Common Pleas to the Appellate Division of the Supreme Court of South Carolina, from the December 13, 2013 judgement order made and entered by Hon. Derham Cole, entering an order of forfeiture of funds and that this appeal is taken from said judgement order and from each and every part thereof and made therein. Appellate received written notice of entry of this order on January 8, 2014.

Other Counsel of Record:

*Barry J. Barnette Solicitor
Spartanburg County 7th Judicial Circuit
Solicitor's Office*

*Robin C. File, Assistant Solicitor
Spartanburg County Judicial Center
180 Magnolia Street, 3rd Floor*

*Derrick Cheeks
Derrick L. Cheeks
Lee Carr Inst
990 Wisaday Highway
Bishopville S.C 29010*

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

In the Court of Common Pleas

Derham Cole, Circuit Court Judge

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Notice of Motion for Extension of Time to Appeal

PLEASE TAKE NOTICE, that upon the annexed affidavit of Derrick L. Cheeks Sworn to on the _____ day of February, 2014, and upon all the proceedings in this case, a Motion for Extension of Time for taking an appeal from the judgement order imposed by the Court of Common Pleas of the County of Spartanburg rendered on the 13 day of December, 2013. An order was entered upon the above named defendant for the forfeiture of funds, upon the ground that said defendant's failure to file a Notice of Appeal in a timely fashion resulted from the said order being mailed to the South Carolina Department of Correction P.O. Box address and not mailed to the Appellant's Institutional address and without inmate's number, so that Appellant could receive the order in time to file the necessary appeal within the thirty day time limit; and for such other and further relief as the Court may deem just and proper.

DATED:

Other Counsel of Record:

*Barry J. Barnette, Solicitor
Spartanburg County 7th Judicial Circuit
Solicitors Office*

*Robin C. File, Assistant Solicitor
Spartanburg County Judicial Center
180 Magnolia Street, 3rd Floor
Spartanburg S.C. 29306*

*Derrick L. Cheeks
Derrick L. Cheeks
Lee Carr Inst
990 Wisacky Highway
Bishopville S.C. 29010*

Affidavit In Support of Motion For Extension of Time To Appeal

Derrick L. Checks, being duly sworn, deposes and says:

That I am the defendant herein and submit this affidavit in support of my application for leave to serve a notice of appeal within thirty days after the granting of an order permitting me to file a motion for extension of time of civil procedure law of the State of South Carolina.

On December 13, 2013, an order was entered for the forfeiture

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by the Hon Perham Cole.

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I failed to file a Notice of Appeal within thirty days because:

SC Court of Appeals

Though no fault of appellants own, On December 13, 2013, the appellant was summoned to court by Spartanburg County without any type of notice from Lee Corr Inst to appear in civil court for the forfeiture of funds. Appellant didnt find out what he was being transferred to Spartanburg County for until he got there. The case was dismissed on the 13th day of December 2013, and judge stated that he would send appellant the decision. The appellant then asked the court for a continuance so that he could show the court's that the case was in fact dismiss and that the funds involved in this civil proceeding should be returned to him. The appellant stated to Judge that his charge had already been dismissed, and that he was in a hearing for a proceeding when the indictment had been dismissed (See) Exhibit A. But for some reason the courts proceeded with hearing and entered an order for the forfeiture of funds. Then mailed the imposed order to the South Carolina Department of Correction P.O Box Address, which is not the appellants inmate number or address (see Exhibit B) and mailed it without appellants inmate number, so that appellant could receive the order in time to file the necessary appeal with the thirty day time limit, and appellant would further state that upon receiving said order on January 8, 2014, the appellants institution was on lockdown and the entire institution was quarantined for two weeks making it hard for appellant to even file a timely notice of appeal. After institution came off lockdown from being quarantined because of Flu Epidemic, the institution went back on lockdown because of the snow and ice. Last after institution came off lockdown because of snow the dorm appellant reside in had a gang riot and the dorm appellant reside in is still on lockdown as of now. The appellant havent been to the law library in over 2 months but if the order would have sent the order to appellants institution he would have had plenty of time to appeal the order prior to the lockdown situation that occurred.

Wherefore, I respectfully pray this court extend the time within which a notice of appeal may be served and filed appellant should not be held responsible for failure to file because this was done on purpose so appellant couldnt appeal Judge's decision in a timely manner the judge and solicitor didnt send for the P.O Box Address when I was transferred to Spartanburg County. If the order would have, I wouldnt have been present for my hearing.

Derrick Lamar Cheeks

Lee CI Flo North 1140
990 Wisacky Highway
Bishopville SC 29010

December 9, 2014

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

[The Honorable Daniel E. Shearouse]
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RE: The State v Cheeks 2011-CP-
42-0753

Dear Ms Gee [Mr Shearouse];

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S.C. SUPREME COURT

COA

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In response to your letter of December 1, 2014 I never asserted in my letter that my "appeal" had been filed. I unequivocally asserted that I wrote "Spartanburg County Clerk of Court" requesting them to file my appeal, the Clerk of Court responded that I had to file my own appeal, pursuant to receiving their letter I sent a "Notice of Intent To Appeal" to "The Honorable Tanya A. Gee's" P.O. Box.

I never asserted she "filed" my appeal, and I was writing to find out something in reference to the appeal. In addition did you "check Tanya A Gee's P.O. Box".

Enclosed is a copy of the "Notice of Intent To Appeal" to Spartanburg County.

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SC Court of Appeals

Spartanburg County

Spartanburg County Court House
180 Magnolia Street
P. O Box 3483
Spartanburg, SC 29304-3483



Phone (864) 596-2591
Fax (864) 596-2239

M. Hope Blackley
Clerk of Court

Gail Moffitt
Assistant Clerk of Court

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S.C. SUPREME COURT

February 21, 2014

Derrick L Cheeks #343108
Lee Correctional Institution North 1140
990 Wisacky Highway
Bishopville SC 29010

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SC Court of Appeals

Re: Letter Requesting Appeal to be sent to Court of Appeals
2011-CP-4200753

Mr. Cheeks,

It is the responsibility of the party filing an appeal to send that appeal to the Court of Appeals. The Clerk of Court does not forward those. Enclosed are the documents you sent us to forward to the Court of Appeals.

M. Hope Blackley
Clerk of Court

By: Pat Gotautas
Pat Gotautas
Common Pleas Division

Derrick Cheeks 313108
Lee CI Florence North 1140
990 Wisacky Highway
Bishopville SC 29010

2521330100

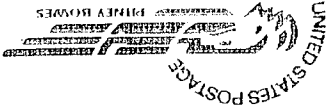
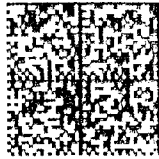
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Daniel E. Shearouse
Post office Box 11330
Columbia, South Carolina 29211

PM 11
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COLUMBIA