

RECEIVED

JAN 29 2015

S.C. SUPREME COURT

IN THE STATE OF SOUTH CAROLINA

In THE SUPREME COURT

APPEAL FROM YORK COUNTY

COURT OF COMMON PLEAS

LEE S. ALFORD, CHIEF ADMINISTRATIVE JUDGE

CASE NO. 2014-CP-46-0931

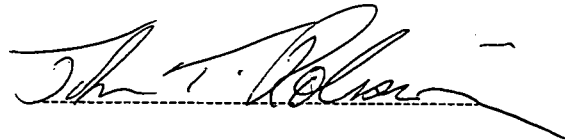
JOHN THOMAS ROBINSON ----- APPELLANT,

v.

STATE OF SOUTH CAROLINA ----- RESPONDENT.

NOTICE OF APPEAL

JOHN THOMAS ROBINSON APPEALS THE ORDER OF THE HONORABLE LEE S. ALFORD, DATED DECEMBER 5, 2014 AND MAILED ON JANUARY 8, 2015. APPELLANT RECEIVED WRITTEN NOTICE OF ENTRY OF THE FINAL ORDER ON JANUARY 20, 2015.



OTHER COUNSEL OF RECORD:

JAMES RUTLEDGE JOHNSON

P.O. BOX 11549

COLUMBIA, SC 29211

JOHN THOMAS ROBINSON – PRO-SE

P.O. BOX 10535

ROCK HILL, SC 29731

IN THE STATE OF SOUTH CAROLINA

In THE SUPREME COURT

APPEAL FROM YORK COUNTY

COURT OF COMMON PLEAS

LEE S. ALFORD, CHIEF ADMINISTRATIVE JUDGE

CASE NO. 2014-CP-46-0931

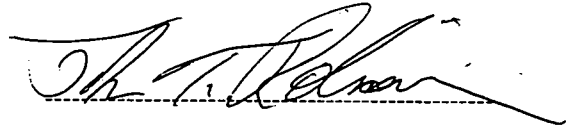
JOHN THOMAS ROBINSON ----- APPELLANT,

V.

STATE OF SOUTH CAROLINA ----- RESPONDENT.

PROOF OF SERVICE

I CERTIFY THA I HAVE SERVED THE "NOTICE OF APPEAL" ON JAMES RUTLEDGE JOHNSON BY DEPOSITING A COPY OF IT IN THE UNITED STATES MAIL, POSTAGE PREPAID, ON JANURARY 26, 2015 ADDRESSED TO ITS ATTORNEY OF RECORD, JAMES RUTLEDGE JOHNSON, POST OFFICE BOX 11549, COLUMBIA, SOUTH CAROLINA 29211.



JOHN THOMAS ROBINSON

P.O. BOX 10535

ROCK HILL, SC 29731

JANURARY 26, 2015

CC: JAMES RUTLEDGE JOHNSON

DAVID HAMILTON, CLERK OF COURT

FOR YORK COUNTY

The State of South Carolina)	In the Supreme Court for the
County of York)	fourth circuit
John Thomas Robinson)	
Applicant,)	APPEAL TO YORK COUNTY
V.)	
State of South Carolina,)	Docket #: 2014-CP-46-0931
Respondent.)	
-----)	

WAS THE POST-CONVICTION RELIEF (PCR) COURT IN ERROR ?

This matter comes before the Supreme Court pursuant to a "FINAL ORDER OF DISMISSAL" issued by the Chief Administrative Judge, the Honorable Lee S. Alford, for the sixteenth judicial circuit court. The applicant moves the Supreme Court for appellate review pursuant to the attached and enclosed materials.

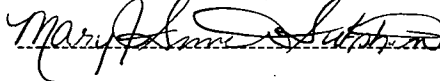
Respectfully submitted,



John Thomas Robinson

Sworn to and subscribed before me this

26 day of January, 2015.

 (LS)

Notary public for South Carolina

My Commission Expires: 2-1-2021





ALAN WILSON
ATTORNEY GENERAL

September 10, 2014

The Honorable David Hamilton
Clerk of Court, York County
Post Office Box 649
York SC 29745

Re: John T. Robinson v. State of South Carolina
2014-CP-46-0931

Dear Mr. Hamilton:

Enclosed please find the original Return and Motion to Dismiss of the Respondent, in the above-captioned case, John T. Robinson v. State, for filing in your office. We are also sending you copies of the following documents to accompany our Return:

- 1) PCR application
- 2) Clerk Records-York

Sincerely,

for J. Rutledge Johnson
Assistant Attorney General

JRJ:cey
Enclosures

cc: John Robinson, ProSe

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK)

John Robinson)

CASE NO.

Plaintiff)

2014-CP-46-0931

v.)

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

State Of South Carolina)

Defendant.)

Plaintiff's Attorney:
John Robinson, Prose, Bar No.
Address:
1675 York Highway York, SC 29745
phone: fax:
e-mail: other:

Defendant's Attorney:
J. Rutledge Johnson, Bar No. 78871
Address:
PO Box 11549 Columbia, SC 29211-1549
phone: 803-734-3737 fax: 803-734-4113
e-mail: other:

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion:

Estimated Time Needed: Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

- Written motion attached
- Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.



Signature of Attorney for Plaintiff / Defendant September 10, 2014
Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT:
- EXEMPT: Rule to Show Cause in Child or Spousal Support
(check reason) Domestic Abuse or Abuse and Neglect
- Indigent Status State Agency v. Indigent Party
- Sexually Violent Predator Act Post-Conviction Relief
- Motion for Stay in Bankruptcy
- Motion for Publication Motion for Execution (Rule 69, SCRCF)
- Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
- Name of Court Reporter:
- Other:

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
- Other:

JUDGE

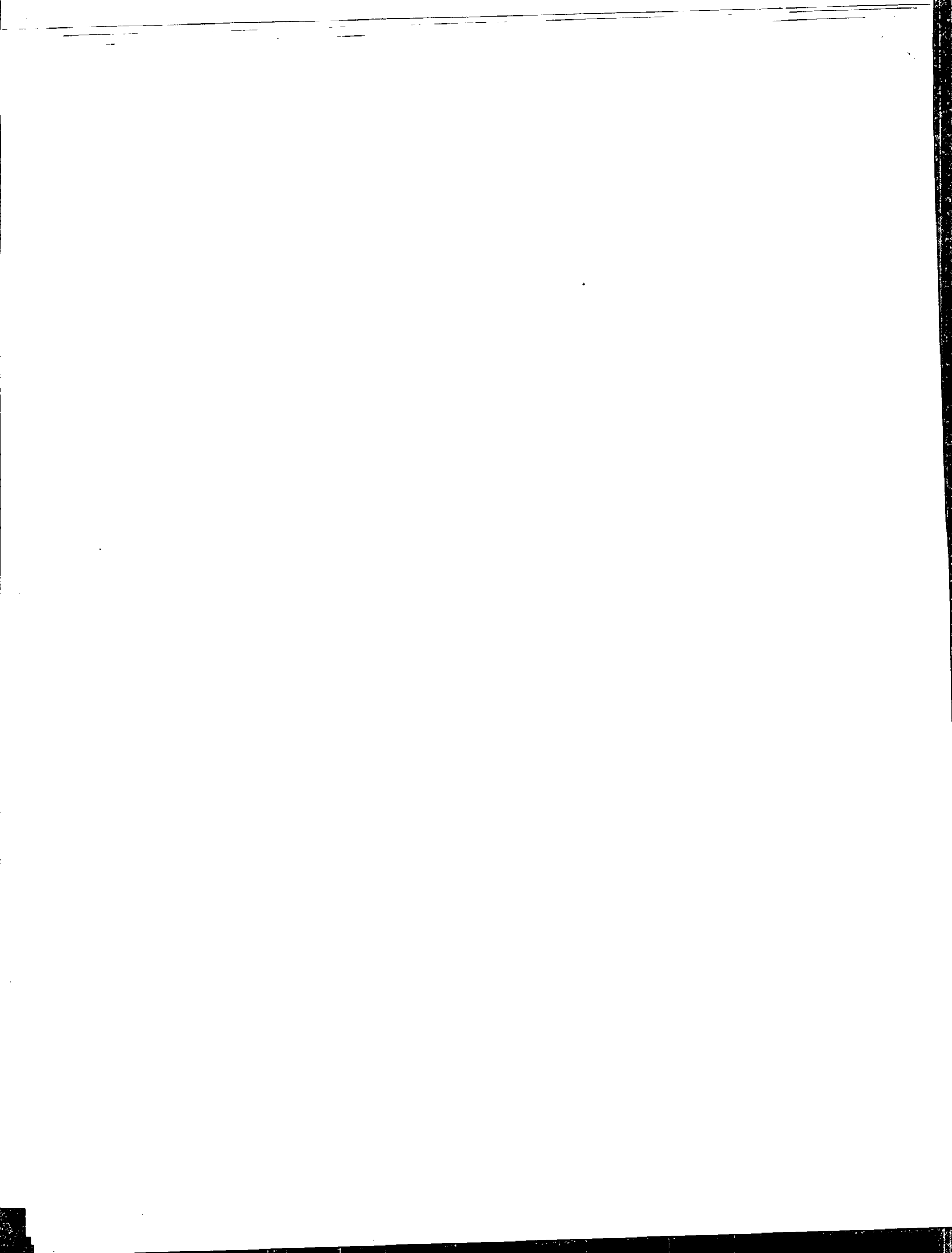
CODE: _____ Date:

CLERK'S VERIFICATION

Collected by: _____

Date Filed:

- MOTION FEE COLLECTED: _____
- CONTESTED - AMOUNT DUE: _____



STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

2014-CP-46-0931

JOHN T. ROBINSON,)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

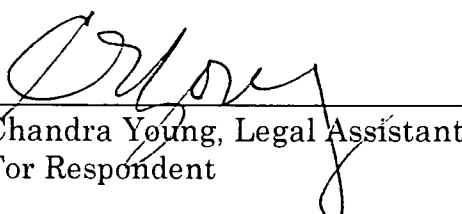
STATE OF SOUTH CAROLINA,)

Respondent.)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return and Motion to Dismiss in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

John Robinson, ProSe
York County Detention Center
1675 York Highway
York, SC 29745

DATED this 10th day of September, 2014.



Chandra Young, Legal Assistant
For Respondent



ALAN WILSON
ATTORNEY GENERAL

September 30, 2014

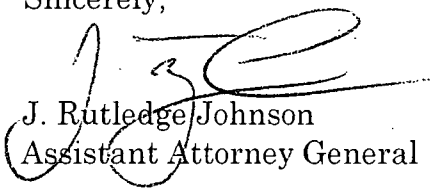
The Honorable David Hamilton
Clerk of Court, York County
Post Office Box 649
York SC 29745

Re: John Robinson v. State of South Carolina
2014-CP-46-0931

Dear Mr. Hamilton:

Enclosed please find an original and a copy of a Conditional Order of Dismissal in connection with the above referenced case. Please file the original and return a certified copy to me in the self-addressed envelope provided for your convenience.

Sincerely,


J. Rutledge Johnson
Assistant Attorney General

JRJ:cey
Enclosures

FILED-RECEIVED
2014 OCT -2 PM 12:33
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF YORK
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2014CP4600931

John Thomas Robinson	South Carolina State Of
----------------------	-------------------------

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: J. Rutledge Johnson	Attorney for: <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
-----------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

CONDITIONAL ORDER OF DISMISSAL

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
n/a	n/a	n/a

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

s/ Lee S. Alford

Circuit Court Judge

2113

Judge Code

09/12/2014

Date

For Clerk of Court Office Use Only

This judgment was entered on **October 2, 2014**, and a copy mailed first class or placed in the appropriate attorney's box on **October 2, 2014**, to attorneys of record or to parties (when appearing pro se) as follows:

John Thomas Robinson ,

James Rutledge Johnson PO Box 11549 Columbia, SC
29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter

David Hamilton - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

John Thomas Robinson,

2014-CP-46-0931

Applicant,

v.

CONDITIONAL ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before this Court by way of an application for post-conviction relief filed March 26, 2014. The State made its Return and Motion to Dismiss on September 10, 2014.

PROCEDURAL HISTORY

The Applicant is not incarcerated. The Applicant was indicted by the December 1983 term of the York County Grand Jury for Shoplifting (1983-GS-46-1691). On January 12, 1984, the Applicant proceeded to trial by jury pursuant to which he was found guilty of Shoplifting, 2nd offense. The Honorable Robert L. McFadden sentenced Applicant to confinement for a period of one (1) year. The Applicant did not appeal his conviction or sentence.

II.

In his current application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Did the court lack subject matter jurisdiction?"
 - a. "Legislature's intent violated through circuit court's disposition"
2. "Was imposition of sentence excessive?"
 - a. "Legislature's intent of sentence violated"
3. "Was Sixth and Eighth Amendment Violated?"

FILED: RECEIVED
 2014 OCT - 2 PM 12:33
 DAVID HAMILTON
 C.C. JUDGE
 YORK COUNTY, SC

Handwritten initials/signature

- a. "Constitution of the United States violated"

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure

Act. S.C. Code Ann. § 17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offense(s) he challenges in this Application on January 12, 1983. The Applicant was therefore required to file his application before July 1, 1997. This Application was filed on March 26, 2014, which is well after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. §17-27-70(c) (2003) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law."

Additionally, this Court finds this application for post-conviction relief is barred by the doctrine of laches. The Applicant has filed this application over thirty (30) years after he was

2017
2017

convicted. The doctrine of laches bars the Applicant from raising these allegations in a post-conviction relief application. Absent some explanation or justification for the delay in seeking post-conviction relief, laches will prevent an Applicant from seeking collateral review of his conviction, especially where the delay affects the availability of evidence to refute the applicant's claims. McElrath v. State, 276 S.C. 282, 277 S.E.2d 890 (1981); Honeycutt v. Ward, 612 F.2d 36 (2nd Cir. 1979). Whitehead v. State, 352 S.C. 215, 574 S.E.2d 200 (2002).

To ensure finality of litigation, our courts require reasonable diligence in pursuing collateral relief. This requirement "guards the state's legitimate expectation that it will not be called upon without due cause, to defend the integrity of convictions that occurred many years ago, where records and witnesses are no longer available." McElrath, 276 S.C. at 283. Rule 9(a) of the Federal Habeas Corpus Act recognizes the doctrine of laches. The Rule states in pertinent part:

A petition may be dismissed if it appears that the state of which the Respondent is an officer has been prejudiced in its ability to respond to the Petition by delay in its filing unless the Petitioner shows that it is based on grounds of which he could not have had knowledge by the exercise of reasonable diligence before the circumstances prejudicial to the state occurred.

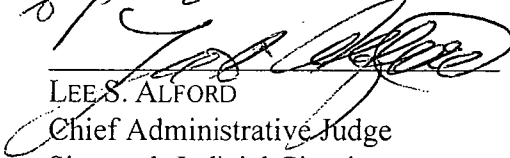
Furthermore, the South Carolina legislature has recognized this problem and instituted a one year statute of limitations. See S.C. Code Ann. §17-27-45(a). The Applicant's delay has greatly prejudiced the Respondent. A transcript of the Applicant's guilty plea is now unavailable. Potential witnesses might also now be unavailable. If the Applicant had sought post-conviction relief within a reasonable time after his plea, neither of these problems would exist. Therefore, this Court finds that the application for post-conviction relief is summarily dismissed for failure to file within the time mandated by statute and for being barred by the doctrine of laches.

#384
B

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Greenwood County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Attn: J. Rutledge Johnson, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

AND IT IS SO ORDERED this 12th day of September, 2014.


LEE S. ALFORD
Chief Administrative Judge
Sixteenth Judicial Circuit

York, South Carolina

#4574
70A

John Thomas Robinson
P.O. Box 10535
Rock Hill, SC 29731

The Honorable David Hamilton
P.O. Box 649
York, SC 29745

2014-CP-46-0931

Date:

Dear Sir:

Do find herewith my "Objection and Petition to Conditional Order of Dismissal" for filing in your Court house. A copy was served on the exact same date on the following named person:

Office of the Attorney General
Attn: J. Rutledge Johnson, Esquire
P.O. Box 11549
Columbia, SC 29211

Respectfully Submitted,
John Robinson

State of South Carolina)	In the Court of Common Pleas
)	
County of York)	Sixteenth Judicial Circuit
)	
John Thomas Robinson)	
Applicant,)	2014-CP-46-0931
v.)	
)	
State of South Carolina)	Objection and refute to
Respondent.)	Conditional Order of Dismissal
-----)	

This matter comes before this Court by way of a Post-Conviction Relief (PCR) Application filed March 26, 2014. In its Conditional Order of Dismissal filed October 2, 2014 the Respondent moved this Court to dismiss the Application with prejudice unless the applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. The applicant is granted twenty (20) days from the date of service of this order upon him to show why this order should not become final. This brief follows:

Robinson (Applicant) filed the current PCR application (2014-CP-46-0931) alleging that he is being held unlawfully for the following reasons:

1. "Did the Court lack subject matter jurisdiction?"
 - a. "Legislature's intent violated through circuit court's disposition."
2. "Was imposition of sentence excessive?"
 - a. "Legislature's intent of sentence violated"
3. "Was Sixth and Eighth Amendment violated?"

S.C. Code Annotated Section 17-27-45 (C) provides the followings:

If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence.

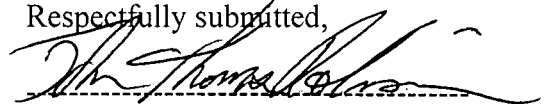
SCRCP Rule 71.1 (d) Appointment of counsel for hearing provides:

If, after the State has filed its return, the application presents questions of law or fact which will require a hearing, the court shall promptly appoint counsel to assist the applicant if he is indigent.

Counsel shall be given a reasonable time to confer with the applicant. Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.

For the above provided explanations, applicant contends that it would be improper for this Court to summarily dismiss the application for any assertions of the respondent's Conditional Order of Dismissal. Applicant prays that this Court orders the appointment of counsel and an evidentiary hearing on the material facts of his instant post-conviction relief application.

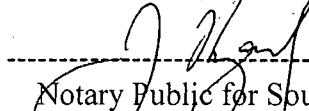
Respectfully submitted,



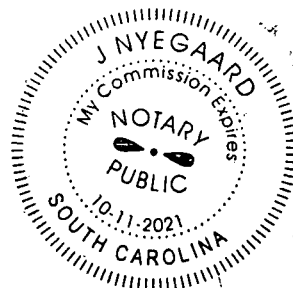
John Thomas Robinson

Sworn to and subscribed before me this

6 day of October, 2014

 (LS)
Notary Public for South Carolina

My Commission Expires: 10/11/21



STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEAS

John Thomas Robinson	South Carolina State Of
----------------------	-------------------------

PLAINTIFF(S)	DEFENDANT(S)
--------------	--------------

Submitted by: The Court	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
-------------------------	-------------------------------------------------------------------------------------------------------------------------------------------

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION
Final Order of Dismissal

This order ends does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

S/ Lee S Alford	2113	1/8/2015
Circuit Court Judge	Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on 1/8/2015, and a copy mailed first class or placed in the appropriate attorney's box on 1/8/2015, to attorneys of record or to parties (when appearing pro se) as follows:

John Thomas Robinson ,

James Rutledge Johnson PO Box 11549 Columbia, SC
29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter

David Hamilton - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



ALAN WILSON
ATTORNEY GENERAL

January 6, 2015

FILED-RECEIVED
2015 JAN -8 PM 4: 32
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

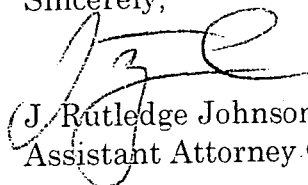
The Honorable David Hamilton
Clerk of Court, York County
Post Office Box 649
York SC 29745

Re: John T. Robinson v. State of South Carolina
2014-CP-46-0931

Dear Mr. Hamilton:

Enclosed please find an original and a copy of a Final Order of Dismissal in connection with the above referenced case. Please file the original and return a certified copy to me in the self-addressed envelope provided for your convenience.

Sincerely,


J. Rutledge Johnson
Assistant Attorney General

JRJ:cey
Enclosures

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

John Thomas Robinson,)
Applicant,)

2014-CP-46-0931

v.)

FINAL ORDER OF DISMISSAL

State of South Carolina,)
Respondent.)

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

2015 JAN -8 PM 4:32

FILED-RECEIVED

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed March 26, 2014. The Respondent (the State) made its Return and Motion to Dismiss on September 10, 2014, requesting that the Application be summarily dismissed. Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal filed October 2, 2014, provisionally denying and dismissing this action, while giving the Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final. The Applicant timely replied to the Conditional Order of Dismissal on October 6, 2014.

In a document titled "Objection and refute to Conditional Order of Dismissal" Applicant argues the exact allegations he listed in his original application which include:

1. "Did the Court lack subject matter jurisdiction?"
 - a. "Legislature's intent violated through circuit court's disposition."
2. "Was imposition of sentence excessive?"
 - a. "Legislature's intent of sentence violated"
- 3? "Was Sixth and Eighth Amendment violated"¹

1 This Court also finds that while Applicant cites the rule for "newly discovered evidence" under §17-27-45(c) in his reply, he neither pled this in his original application nor has provided this Court with any evidence which would

However, this Court has reviewed the Applicant's response to the State's motion to dismiss in its entirety, in conjunction with the original pleadings, and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

The Applicant has shown no reason why these issues were not raised within the statute of limitations for filing a PCR application pursuant to S.C. Code. § 17-27-45(a). S.C. Code Ann. § 17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offense(s) he challenges in this Application on January 12, 1983. The Applicant was therefore required to file his application before July 1, 1997. This Application was filed on March 26, 2014, which is well after the statutory filing period had expire. Accordingly, this Court finds no reason why the Conditional Order of Dismissal should not become final.

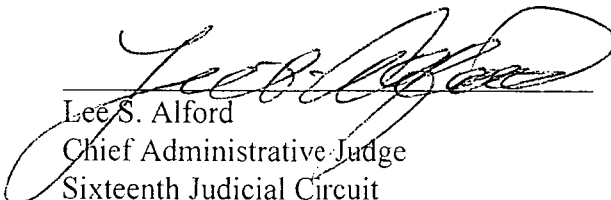
IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for PCR is hereby denied and dismissed with prejudice.

This Court hereby notifies the Applicant that he must file and serve a Notice of Appeal within thirty (30) days of the service of this Order to secure appellate review. See Rule 203, SCACR. The Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

allow an evidentiary hearing in this untimely PCR action.

#2
COA

AND IT IS SO ORDERED this 5th day of December, 2014.


Lee S. Alford
Chief Administrative Judge
Sixteenth Judicial Circuit

York, South Carolina.

#3
2016

FORM 5
CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA
2014 MAR 27 AM 9:05 THE COURT OF COMMON PLEAS
2014CP4600931

County of York

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Federal Circuit
DAVID HAMILTON
CLERK OF COURTS
YORK COUNTY, SC

FILED - RECEIVED
2014 MAR 28 PM 2:57

John Thomas Lindsey - 32
Full name and prison number (if any) of Applicant

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

Reserve for Amendment
HB & Good Lacey

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention York County Detention Center
1675-3A York Hwy, York, SC 29745
2. Name and location of Court which imposed sentence Circuit Court
for the Sixteenth Judicial Circuit
3. Name(s) of co-defendant(s) (if any) N/A N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 1983-OS-46-1691; Shoplifting 2nd offense
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) January 16th, 1984; one (1) year
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty Yes, Guilty Plea
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- N/A N/A N/A
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. N/A N/A N/A
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. N/A N/A N/A
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. N/A N/A N/A
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. N/A N/A N/A
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Ineffective Assistance of Counsel!
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Did Trial Court lack Subject matter Jurisdiction?
- (b) Was imposition of Sentence excessive?
- (c) Was Sixth and Eighth Amendment violated?
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Legislature's intent violated through Circuit Court's interpretation.
- (b) Legislature's intent of Sentence violated.
- (c) Constitution of the United States of America violated.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? (?) (?) (?)
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A N/A (?) (?)
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A N/A N/A
- (d) any other petitions, motions or applications in this or any other Court? (?) (?)
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. N/A N/A
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. N/A N/A N/A
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. N/A N/A N/A
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. N/A N/A N/A
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. N/A N/A
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

- N/A N/A (?) (?)

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. N/A N/A
- iii. _____ (?) (?)

(b) the proceedings in which each ground was raised:

- i. _____
- ii. N/A N/A (?) (?)
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) Ineffective Assistance of Counsel.
- (b) Lack of Subject Matter Jurisdiction by Trial Court.
- (c) Excessive Sentence - Constitutional Violations.

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? York County Public Defender's Office.
- (b) your trial, if any? _____
- (c) your sentencing? York County Public Defender's Office.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

N/A

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. York County Public Defender's Office
1675-1E York Hwy., York, SC 29745

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

- i. The above proceedings

ii. _____

iii. _____

19. State clearly the relief you seek in filing this application:

This Court Order the conviction is expunged from record
and that Robinson is compensated for the unlawful sentence he
served in the State Penitentiary and any other lawful redress

20. Are you now under sentence from any other court that you have not challenged?

N/A N/A N/A

STATE OF SOUTH CAROLINA)
County of York)

VERIFICATION

I, John Thomas Robinson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

[Signature]

SWORN to and subscribed before me this 25 day of March, 2014.

Mary Anne Sutherland (L.S.)
Notary Public

My Commission Expires: 2-1-2021

CERTIFIED TRUE COPY
2014 MAR 27 AM 9:05
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, John Thomas Robinson, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

John Thomas Robinson
Applicant

SWORN or affirmed to and subscribed before me this:

25 day of March, 2014.

Mary Anne Suter
Notary Public

My Commission Expires: 2-1-2021

CERTIFIED TRUE COPY
2014 MAR 27 AM 9:06
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF YORK

CERTIFIED TRUE COPY
2019 MAR 28 AM 8:48

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC
IN THE COURT OF GENERAL SESSIONS
COMMITMENT

1-9- Term, 19 84

THE STATE OF SOUTH CAROLINA

vs.

INDICTMENT FOR

John Thomas Robinson

Age: 35 DOB: [REDACTED]
Color: Black
Sex: Male
SS#: [REDACTED]

- (1) 838846-1691 - Shoplifting
- (2) _____
- (3) _____
- (4) _____
- (5) _____

VERDICT:

Found Guilty by Jury

THE SENTENCE OF THE COURT IS THAT THE DEFENDANT BE CONFINED IN THE CUSTODY OF THE SOUTH CAROLINA BOARD OF CORRECTIONS AS FOLLOWS:

838846-1691 - For a term of (1) One year

DATE OF SENTENCE: 1-12-84/1st Robert L. McFadden
Presiding Judge

THE STATE OF SOUTH CAROLINA,
County of York

I, the undersigned Clerk of the Court of General Sessions in and for the county aforesaid, in said State, do hereby certify that the foregoing is a true copy of the sentence pronounced by the court in the case above entitled:

GIVEN under my Hand and the Seal of the said Court at York on the 12th day of

Jan, A. D. 19 84.

M. H. Canale Jr.
Clerk of the Court of Common Pleas and General Sessions
By Anne Hipp

Arrest Warrant. **A 965583**

STATE OF SOUTH CAROLINA
COUNTY OF York
OR MUNICIPALITY OF Rock Hill

2011 MAR 28 AM 8:48

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF Rock Hill, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that [name of defendant]: John Thomas Robinson did on the 11 day of November, 1983, violate the criminal laws of the State of South Carolina [or ordinances of the municipality of: Rock Hill] as set forth below:

DESCRIPTION OF OFFENSE

Shoplifting-2nd Offence-Violate Of 16-13-110 Code Of South Carolina Law

Now, therefore, you are empowered and directed to arrest the said defendant and bring John Thomas Robinson 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.

Done at Rock Hill, S.C., this 11 day of November, 1983.

[Signature] (L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF York

Personally appeared before me, judge of this Court, one Duncan Hurst who, first being duly sworn, deposes and says that [name of defendant]

John Thomas Robinson

did within this County and State on the 11 day of November, 1983, violate the criminal laws of the State of South Carolina [or ordinance of the municipality of: Rock Hill] in the following particulars:

DESCRIPTION OF OFFENSE:

Shoplifting-2nd Offence-Violate Of 16-13-110 Code Of South Carolina Law

The Affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

The Defendant Did Willfully And Unlawfully Violate 16-13-110 Code Of South Carolina Law By Concealing In A Brown Paper Bag A Top Round Steak Value Of \$3.27 While In The Winn-Dixie Store At 129 Oakland Ave In The City Of Rock Hill This Was With The Intent To Permanently Deprive The Owner There-Of- Sworn Statement By The Affiant And Seen By Witness.

Sworn to and Subscribed before me

this 11 day of Nov, 1983

[Signature] (L.S.)
Signature of Judge

[Signature]
Affiant

Address of Judge: 120 East Black St
Rock Hill SC

Address 129 Oakland Ave. Winn-Dixie
Rock Hill SC

Phone 327-1114

Phone 324-3700

CERTIFIED TRUE COPY

2014 MAR 28 AM 8:48

DAVID HAMILTON
CLERK OF COURT
COUNTY, SC

The State of South Carolina

INDICTMENT FOR

County of YORK

SHOPLIFTING

At a Court of General Sessions, convened on the 12th day of December,
1983, the Grand Jurors of York County present upon their oath:

That: John Thomas Robinson

did in York County on or about the 11th day of November,
1983, wilfully and unlawfully take and conceal about his person one
top round steak from the Winn-Dixie Store, [REDACTED], City
of [REDACTED], with the intent to permanently deprive the
owner thereof; this being more than a first offense.

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

William H. Ferguson

Solicitor

FROM:

John Thomas Robinson
P.O. Box 10535
Rock Hill, SC 29723

TO:

Honorable David E. Stewart
Clerk of Court
P.O. Box 11330
Columbia, SC 29211

Utility Mailer
10 1/2" x 16"



 UNITED STATES POSTAL SERVICE

 1000

 29211



 U.S. POSTAGE

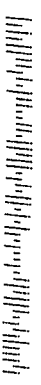
 \$2.45

 ROCK HILL, SC

 JAN 29 2015

 00028-413-17

Ready Post.



John Thomas Robinson

P.O. Box 10535

Rock Hill, SC 29731

the Honorable Daniel E. Shearouse

Clerk of Court

P.O. Box 11330

Columbia, South Carolina 29211

RECEIVED

JAN 29 2015

S.C. SUPREME COURT

1,26,2015

Dear Mr. Shearouse:

Please find herewith an appeal for filing and review in your Supreme Court. All needed materials for a prompt decision are attached.

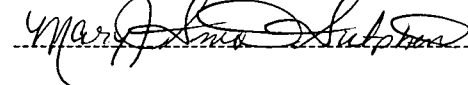
Respectfully submitted,



John Thomas Robinson

Sworn to and subscribed before me this

26 day of January 2015.

 (LS)

Notary public for South Carolina

My Commission Expires: 2-1-2021

