

The state of south Carolina **RECEIVED**  
IN The supreme Court FEB 26 2015  
IN The Court of Appeals **SC Court of Appeals**

Appellate Case No: 2014-000333  
Lower Case No: 1997-6538-001138

Petition for Re-Hearing / Extension of Time

Mr Heyward C Dempsey Petitioner's This Honorable  
Court for A Re Hearing of The Above named  
Case or for An Extension of Time To Perfect  
His Appeal Pro-se  
Wherefor Appellant Pray That The Relief  
Requested be granted

~~Heyward Dempsey III~~  
Heyward C Dempsey 139171  
MacDougall Conn Inst  
1516 Old Gilbrand Rd  
Ridgelyville SC 29472

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FEB 26 2015

The state of south CAROLINA

IN The supreme Court **C Court of Appeals**

Appeal from The Court of Appeals

Appellate CASE No: 2014-000333

LOWER CASE No: 1997 GS-38-001138

The state of south CAROLINA

Respondent

Heyward C Dempsey

Appellant

Notice of Appeal

Heyward C Dempsey Appeals The Order of The Court of Appeals dismissing The Above-Captioned Case. Appellate's Counsel Robert M. Dudek Esq failed To comply with The Requirement's of Rule 247(b) of The south CAROLINA Appellate Court Rules (SCACR) The Order of Dismissal was filed on february 13, 2015

February 24<sup>th</sup> 2015

Counsel of Record

ALAN MC CRONY WILSON, Esq

DONALD J ZELENSKA, Esq

Robert Michael Dudek Esq

Heyward Cecil Dempsey  
134171

Heyward C Dempsey

MAC DOUGALL Court Inst

1516 Old Gilliland Rd

Ridgeville SC

29472

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FEB 26 2015

IN THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT SC COURT OF APPEALS

Heyward Cecil Dempsey 134171

Appellant

v/s

The State of South Carolina

Respondent

Appeal from the Court of Appeals

Appellate Case No: 2014-000 333

Lower Case No: 1997-G.S.-38-1138

Affidavit in support of  
Notice of Appeal and  
Petition for "Rehearing"

If it would please this Honorable Court,  
I Heyward C Dempsey would like to present this  
matter to the "attention" of this Court the above  
captioned case No: 2014-000 333) was transferred  
to the South Carolina Court of Appeals by an  
Order of this Court dated February 26 2014  
In a letter dated December 4 2014 Appellant  
received notice from this Court instructing  
all parties to this matter to comply with  
Rule 247 of the South Carolina Appellate  
Court Rules (SCARCR) This letter was  
addressed to Mr Donald J Zelenka ~~ESQ~~ and  
Mr Robert M Dudek also dated December 4<sup>th</sup>  
2014, Appellant received notice from the  
Court of Appeals advising him to complete  
proof of service to all parties and to send  
a copy of the Order under appeal. In other  
words to perfect the appeal. This letter was

Also Addressed to Mr Zelenka and Mr Dudek. Mr Alan Wilson was also added January 29<sup>th</sup> 2015 a letter from the court of Appeals was sent to Mr Dempsey and Mr Dudek. It advised Counsel Dudek and Mr Dempsey to correct deficiencies in the case Appellant was under the assumption that Mr Dudek would perfect the appeal on correspondence from this court and the court of Appeals his name is listed for Mr Dempsey as "Counsel" However, the Order from the court of Appeals dismissing this case does not bear Mr Dudek's name as Counsel. The "situation" concerning Mr Dudek's representation is "Ambiguous" Prior to Mr Dudek Appellant submitted a brief and copies of the Order under appeal to the court of Appeals. If Appellant were to proceed pro-se Mr Dudek "should" not have been listed as Counsel since he represents "Indigent" defense However Appellant is "indigent." It is this confusion that has caused the procedural default in this case if Mr Dudek was Appellant's Counsel then he is "Responsible" for this grave error and Appellant should not be penalized Mr Dudek should have at least advised Appellant to proceed on his own Instead Mr Dempsey received no correspondence from Mr Dudek

Certificate of service

I Heyward C Dempsey do Hereby Certify That  
The information in This Affidavit is true  
And correct to the best of My knowledge  
under penalty of Perjury

Heyward C Dempsey

Heyward C Dempsey 134171  
Mac Dougall Court Inst  
1516 Old Gilland Rd  
Ridgerville SC 29472

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FEB 26 2015

**SC Court of Appeals**

sworn and subscribed before me this 24<sup>th</sup>  
day of February 2015

Notary Public for south Carolina Lisa M Cross  
My Commission Expires Jan 16 2024

**LISA M. CROSS**  
Notary Public, State of South Carolina  
My Commission Expires 1/16/2024

# The Supreme Court of South Carolina

Heyward Cecil Dempsey, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2014-000333

Lower Court Case No. 1997-GS-38-001138

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## ORDER

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Pursuant to Rules 204(a) and 247(b) of the South Carolina Appellate Court Rules, this case is hereby transferred to the South Carolina Court of Appeals.

FOR THE COURT

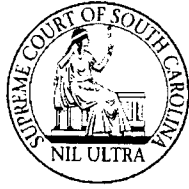
BY



CLERK

Columbia, South Carolina  
February 26, 2014

cc: Mr. Heyward Cecil Dempsey, 00134171  
Salley W. Elliott, Esquire  
The Honorable Jenny Kitchings



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211  
1231 GERVAIS STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1080  
FAX: (803) 734-1499  
[www.sccourts.org](http://www.sccourts.org)

December 04, 2014

Heyward Cecil Dempsey, 00134171  
MacDougall Correctional Institution  
1516 Old Gilliard Road  
Ridgeville SC 29472

Mr. Donald J. Zelenka, Esquire  
PO Box 11549  
Columbia SC 29211-1549

Re: Heyward Cecil Dempsey v. State of South Carolina  
Appellate Case No. 2014-000333

Dear Counsel:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 247 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at [www.sccourts.org/courtreg](http://www.sccourts.org/courtreg). Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at [www.sccourts.org/courtOrders/HTMLFiles/2007-08-13-02.htm](http://www.sccourts.org/courtOrders/HTMLFiles/2007-08-13-02.htm). Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Robert Michael Dudek, Esquire



# 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  
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December 04, 2014

Heyward Cecil Dempsey, 00134171  
MacDougall Correctional Institution  
1516 Old Gilliard Road  
Ridgeville SC 29472

Re: Heyward Cecil Dempsey v. State of South Carolina  
Appellate Case No. 2014-000333

Dear Counsel:

Upon reviewing your Notice of Appeal the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

Proof of service showing that all parties have been served.

Copy of order/judgment that you are appealing.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

cc: Alan McCrory Wilson, Esquire  
Robert Michael Dudek, Esquire  
Donald J. Zelenka, Esquire



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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[www.sccourts.org](http://www.sccourts.org)

January 29, 2015

Mr. Robert Michael Dudek, Esquire  
PO Box 11589  
Columbia SC 29211

Heyward Cecil Dempsey, 00134171  
MacDougall Correctional Institution  
1516 Old Gilliard Road  
Ridgeville SC 29472

Re: Heyward Cecil Dempsey v. State of South Carolina  
Appellate Case No. 2014-000333

Dear Counsel and Mr. Dempsey:

At this time the Court is requesting a status update on the ordering of your transcript and for correcting the below mentioned deficiencies in this case. The status update is due within ten days of the date of this letter, or the Court will take further action, including dismissal of the appeal.

- Proof of service showing that all parties have been served.
- Copy of order/judgment that you are appealing.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Alan McCrory Wilson, Esquire  
Donald J. Zelenka, Esquire

# The South Carolina Court of Appeals

Heyward Cecil Dempsey, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2014-000333

Orangeburg County  
Trial Court Case No. 1997GS3801138

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## ORDER

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Appellant has failed to provide a copy of the order on appeal and failed to provide a proof of timely service on the respondent, as required by Rule 247(b) of the South Carolina Appellate Court Rules (SCACR), and this Court's letter dated January 29, 2015. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire  
Donald J. Zelenka, Esquire  
Heyward Cecil Dempsey, 00134171

**FILED**

2/13/15

the state of south Carolina  
In The Supreme Court

RECEIVED

FEB 26 2015

SC Court of Appeal.

Appeal from The Court of Appeals  
Appellate Case No: 2014-000333  
Lower Case No: 1997-GS 38-001138

Heyward Cecil Dempsey

Appellant

The state of south Carolina

Respondent

Proof of service

I certify that I have served the Notice of Appeal  
A Petition for Rehearing and an Affidavit in  
support of these on All Parties listed below by  
US Postal Service via Mac Dougall Inst Mailroom

Alan Mc Crory Wilson Esq

Donald J Zelenka Esq

Po Box 11549

Columbia SC 29211-1549

South Carolina Court of Appeals

Po Box 11629 Columbia S.C. 29211

~~Heyward Cecil Dempsey III~~

Heyward C Dempsey 134171

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Robert Michael Dudak

Po Box 11589

Columbia SC 29211

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FEB 26 2015

SC Court of Appeals

Mr. Heyward Dempsey 134171  
MACDOUGALL CORN INST  
1516 Old Gilland Rd  
Ridgeville SC 29472

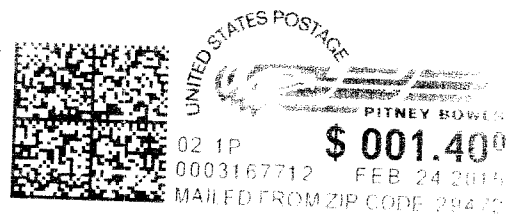
The "Honorable DANIEL SHEAROUSE"  
Clerk of Court Po Box 11330  
Columbia SC 29211

The Honorable JENNY Abbott Kitchings  
Clerk of Court Po Box 11629  
Columbia SC 29211

Mr DONALD J ZELENSKA Esquire  
Po Box 11549  
Columbia SC 29211-1549

Please find enclosed documentation pertaining to  
Dempsey vs State Appellate Case No. 2014-000333  
Counsel Robert M Dudek, failed to represent  
Mr Dempsey on his appeal therefore it was  
"Dismissed" It is Appellant's Hope that this  
Appeal can be Revived

Heyward Cecil Dempsey III  
February 24<sup>th</sup> 2015



**RECEIVED**

FEB 26 2015

**SC Court of Appeals**

The south Carolina Court of Appeals  
"Jenny Abbott Kitching"  
Clerk of Court  
Post office Box 11629  
Columbia south CAROLINA  
29211

