

State Of South Carolina
In The Court Of Appeals

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APR 30 2015

SC Court of Appeals

Appeal From Charleston County
Honorable R. Markley Dennis Jr., Circuit Court Judge
Appellate Case No. 2015-000389

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APR 27 2015

P.C.I. MAILROOM

Gerald Edwards

Appellant,

vs.

The State

Respondent.

Appellants Objection To The Respondents
Return To Motion To Reinstate

The Appellants Objection to the Respondents Return To Motion
To Reinstate would respectfully show the Court:

I.

Appellant was convicted and sentenced on February 10, 2015 by the Hon. R. Markley Dennis Jr. to imprisonment for twenty years for armed robbery and five years for a violation of a weapon provision. Appellant requested a Direct Appeal. Under the South Carolina laws and United States precedent, once a defendant is found guilty, his/her lawyer has a mandatory obligation to discuss the manner and method for taking an appeal and then deciding the clients wishes; to see if they choose to appeal or not. The ultimate decision is the clients/defendants alone. See *Roe v. Flores-Ortega* 120(a) S.Ct. 1029 and *Jones v. Barnes*, 463 U.S. 745.

II.

Appellant forwarded a Pro Se notice of appeal to this Court, Attorney Generals Office and the Charleston County Clerk Of Court (Julie J. Armstrong) for filing on February 19, 2015. Appellant delivered notice of appeal to the Kirkland Correctional Institution's mailroom for mailing on February 19, 2014. Once the Appellants notice of Appeal was delivered to the Kirkland Correctional Inst. mailroom for mailing, postage prepaid, they are considered filed. *Houston v. Lack*, 108 S.Ct. 2379; *U.S. v. Moore*, 24 F.3d 624 (4th Cir. 1994); *Curtis v. Blake*, 381 S.C. 189, 672 S.E. 2d 576. A second Pro Se notice of appeal and proof of service was served on March 9, 2015. (see attached proof of service)

III.

By letter dated February 27, 2015, this Court notified trial counsel for Appellants deficiencies in the notice of appeal and requested corrections within 10 days. Counsel failed to file notice of appeal and correct deficiencies as instructed by the South Carolina Court of Appeals, therefore it deprived Appellants Appeal rights altogether and is presumably prejudicial. U.S.C.A. Const. Amend. 6. Counsel's constitutionally deficient performance deprived Appellant of appeal that he otherwise would have gotten.

IV.

The Appellant makes an Objection to the States return to Motion To Reinstate. The Objections are addressed in I, II, III. See arguments I, II and III. Appellant wrote South Carolina Court of Appeals on March 16, 2015 which the Court construed as a motion to reinstate appeal. A copy of the letter was forwarded to Respondents. Appellant should not be given an additional hurdle to clear just because his rights were violated at an earlier stage in the appeal proceedings.

Wherefore, The Appellant respectfully asks this Court to grant his Appeal.

Respectfully Submitted
Martin Delms

→
Kamara Conwell 4/23/2015

My Commission Expires
September 25, 2023

State Of South Carolina
County Of Charleston

Gerald Edwards, Appellant
Appellate Case No. 2015-000389

State Of South Carolina, Respondent.

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P.C.I. MAILROOM

South Carolina Court Of Appeals

Appeal From Charleston County
Court Of General Sessions

Sworn Affidavit

Case No. 2014-65-10-01779, 01780

SC Court of Appeals

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The Appellant in the above entitled case would respectfully make the sworn affidavit for the following reasons:

- 1) Appellant was arrested on January 3, 2014 and charged with armed robbery and possession of a weapon
- 2) Appellants bond was set at \$200,000 on January 4, 2014 and Appellant is indigent.
- 3) Appellant was charged with property crime on January 14, 2014 and received a \$25,000 bond
- 4) Appellant was scheduled for a preliminary hearing on February 6, 2014
- 5) Appellant received a hand written letter from Ms. Shirene C. Hansotia, Esq dated February 7, 2014 stating that preliminary hearing was rescheduled by solicitors office and that she had spoken with the victim (loss prevention officer) Micheal Smith
- 6) Appellant was scheduled for second preliminary hearing on February 20, 2014
- 7) Appellant received a hand written letter from Ms. Shirene C. Hansotia, Esq dated February 21, 2014 stating that she spoke with OFC. Terrell and solicitor made a motion to revoke bond
- 8) Appellant was scheduled for third preliminary hearing on March 13, 2014
- 9) Appellant received a hand written letter from Ms. Shirene C. Hansotia, Esq on March 13, 2014 stating that she had preliminary hearing on two of Appellants three charges and bond was not reduced from \$225,000
- 10) Appellant wrote letter on March 18, 2014 to Ms. Shirene Hansotia, Esq and Mr. D. Ashley Pennington, Esq (head public defender) asking for her to withdraw as counsel, Appellant also expressed his concerns in regards to her representation of Appellant
- 11) Appellant wrote preliminary hearing court on March 31, 2014 requesting a copy of preliminary hearing transcripts from the three previous prelims held on Appellants behalf. (February 6, 2014 - February 20, 2014 - March 13, 2014)
- 12) Appellant received a hand written letter from Ms. Shirene Hansotia, Esq dated April 29, 2014 in reference to preliminary hearing transcript and was told that the only hearing on record was March 13, 2014 and the previous two prelims (February 6, 2014 - February 20, 2014) were waived by her; not on the record
- 13) A motion to be relieved as counsel was filed on March 25, 2014 by Ms. Shirene Hansotia, and heard on March 28, 2014 in front of the honorable R. Markley Dennis in which he denied motion

- 14) Appellant wrote letters to disciplinary counsel on April 6, 2014-April 27, 2014-May 4, 2014 and trying to show ineffectiveness and negligence. Appellant also expressed that he was "scared to death" to have Ms. Shirene Hansotia represent him in court of law.
- 15) A motion to be relieved as counsel was filed by Ms. Shirene Hansotia, Esq and heard on May 7, 2014 in front of The Honorable Roger Young, which was denied.
- 16) Appellant went to trial on July 9, 2014 and was represented by Ms. Shirene Hansotia, Esq the trial resulted in a hung jury on July 10, 2014
- 17) Appellants attorney Ms. Shirene Hansotia, Esq filed a motion to reconsider bond on a "murder" charge for Appellant on November 3, 2014. Appellant is charged with armed robbery, possession of weapon and property crime. Appellants bond reduction was denied. The motion also has invalid warrant numbers along with invalid charges. (checks/Fraudulent check or stop pay)
- 18) Appellant wrote Mr. D. Ashley Pennington, Esq (head public defender) in an effort to obtain new counsel as a result of Ms. Shirene Hansotia's, Esq negligence on bond motion and other concerns but was denied new counsel.
- 19) Appellant went to court on February 3, 2015 and was given a trial date of February 11, 2015 by the Honorable Kristi L. Harrington
- 20) Appellant went to court on February 6, 2015 to ask Judge to allow him to proceed Pro Se and was granted by the Honorable Kristi Harrington
- 21) Appellant proceeded to trial on February 9, 2015 as a Pro Se Litigant and was convicted on February 10, 2015
- 22) At the close of trial, Appellant requested a direct appeal, which Judge R. Markley Dennis
- 23) Appellant attempted to file a notice of appeal on February 19, 2015
- 24) Appellant received a letter on March 3, 2015 from the SC Court of Appeals stating that according to Rule 214(a) SCACR, Ms. Shirene C. Hansotia, Esq was still lawyer on record for Appellant until relieved by order of their court.
- 25) Ms. Shirene C. Hansotia, Esq was given 10 days from date of letter (February 27, 2015) to correct deficiencies on Appellants appeal but she ignored letter.
- 26) Appellant received letter on March 5, 2015 from Ninth circuit solicitors office specifically Mr. Benjamin C. Simpson, Esq with documents and instructions on how to file and preserve appellate rights.
- 27) Appellant filed notice of appeal on March 11, 2015
- 28) Appellant received letter from SC Court of Appeals on March 13, 2015 stating that Appellants appeal was dismissed because Appellant failed to timely serve notice of appeal upon respondent as required by Rule 203(b)(2) SCACR
- 29) Appellant wrote Attorney General Alan M. Wilson, Esq and Ms. Jenny A. Kitchings, clerk, SC Court of Appeals on March 16, 2015 informing them that I represented myself as a Pro Se Litigant at trial (February 9, 2015) and that I did indeed meet the 10 day requirement and asked to have Appellants Appeal renewed, granted or reinstated.
- 30) Appellant wrote Attorney General Alan M. Wilson, Esq and Ms. Jenny A. Kitchings, SC Court of Appeals on April 6, 2015 again asking them to grant, renew, or reinstate Appellants appeal.

31) Appellant received letter from SC Court of Appeals on April 13, 2015 informing Appellant that the court was in receipt of my letter dated April 6, 2015 and that my correspondence dated March 16, 2015 is being construed as a motion to reinstate and is being currently reviewed by the court.

I, Gerald Edwards #173780 certify and verify under the penalty of perjury that the foregoing is true and correct 28 U.S.C.A. § 1746

Respectfully Submitted
Mr. Gerald Edwards

Date: 04/23/2015

Jamaica Conwell 4/23/14

My Commission Expires
September 25, 2023

Gerald Edwards, Appellant
Appellant Case No. 2015-000389

V.

State Of South Carolina, Respondent.

The State Of South Carolina
Court Of Appeals

Certificate Of Service
Case No. 2014-65-10-01779, 01780

I Gerald Edwards #173780 certify that I have served my Objection To The Respondents Return To Motion To Reinstate on the Respondents at the below address by placing a copy of the same in the Perry Correctional Institution mailroom hands for mailing. Also Enclosed is Appellants Sworn Affidavit.

Respectfully Submitted
Mr. Devin P. Elms

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P.C.I. MAILROOM

Ms. Salley W. Elliott, Esq
Office Of The Attorney General
Post Office Box 11549
Columbia, SC 29211

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SC Court of Appeals

KIRKLAND LAW LIBRARY

MAR - 9 2015

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Case No. 2014-GS-10-01779, 01780

The State,

Appellant,

v.

Gerald D. Edwards,

Respondent.

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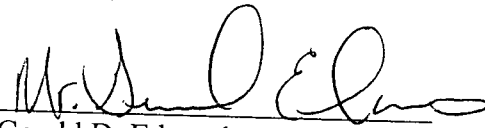
SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing copies of the notice in the United States Mail, postage prepaid, on Mar. 9, 2015, addressed to the following:

Assistant Solicitor Benjamin C. Simpson, Esquire
Salley W. Elliott, Esquire
Alan M. Wilson, Esquire

March 9, 2015
Date


Gerald D. Edwards
Pro Se Litigant
Kirkland Correctional Institution
4344 Broad River Rd.
Columbia, SC 29210

Mr. Gerald Edwards #173780, Appellant
Appellant Case No. 2015-000389
Perry Correctional Institution
430 Oaklawn Road
Pelzer, South Carolina 29169

April 24, 2015

Ms. Jenny A. Kitchings, Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals

Dear Ms. Kitchings,

Enclosed please find Appellants Objection To Respondents
Return To Motion To Reinstate, certificate of Service and a copy of
Proof of Service of A Notice Of Appeal dated March 9, 2015. Also
Enclosed is Appellants Sworn Affidavit.

Date: April 24, 2015

Sincerely,
Mr. Demetrius

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APR 27 2015

P.C.I. MAILROOM

Mr. Gerald Edwards #173780
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

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P.C.I. MAILROOM

LEGAL MAIL

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APR 30 2015

SC Court of Appeals

Ms. Jenny A. Kitchings, clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211