

**NOTICE OF APPEAL FROM A SENTENCE IMPOSED BY THE COURT OF
GENERAL SESSIONS**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of General Sessions

R. Lawton McIntosh, Circuit Court Judge

Case No. 2011-GS-37-0876

RECEIVED
OCT 24 2012
SC Court of Appeals

The State,

Respondent,

v.

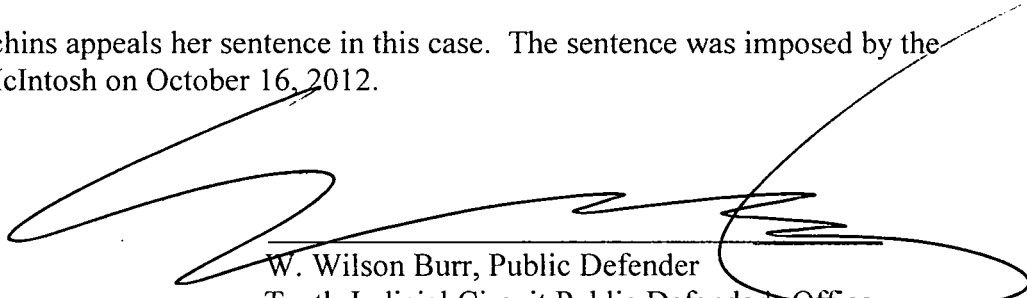
Ann Cherie Hutchins,

Appellant.

NOTICE OF APPEAL

Ann Cherie Hutchins appeals her sentence in this case. The sentence was imposed by the Honorable R. Lawton McIntosh on October 16, 2012.

10/19/2012


W. Wilson Burr, Public Defender
Tenth Judicial Circuit Public Defender's Office
Oconee County
415 S. Pine Street
Walhalla, SC 29691

Other Counsel of Record:
Blair L. Stoudemire, Office of Solicitor
Walhalla, South Carolina

PROOF OF SERVICE OF A NOTICE OF APPEAL

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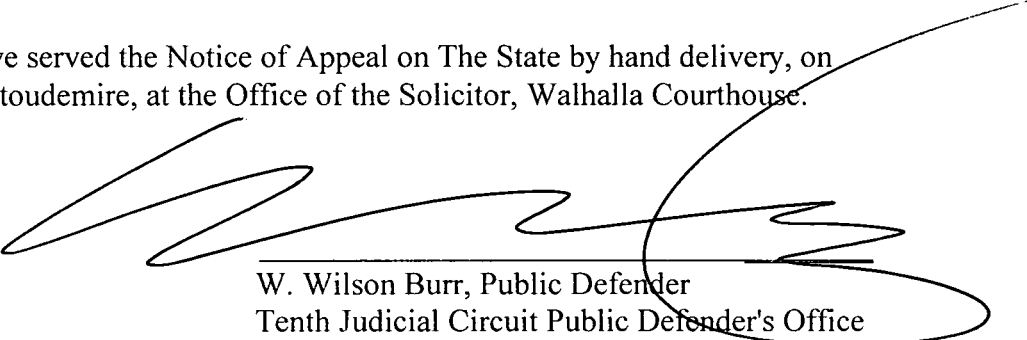
OCT 24 2012

SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on The State by hand delivery, on 10/19/2012, to Blair L. Stoudemire, at the Office of the Solicitor, Walhalla Courthouse.

10/19/2012


W. Wilson Burr, Public Defender
Tenth Judicial Circuit Public Defender's Office
Oconee County
415 S. Pine Street
Walhalla, SC 29691

Tenth Judicial Circuit Public Defender

(Oconee County)

Mailing Address:

415 South Pine Street ~ Walhalla, South Carolina 29691
Phone (864) 638-3133 ~ Fax (864) 638-3120

W. Wilson Burr ~ Chief Public Defender

October 19, 2012

Blair L. Stoudemire, Assistant Solicitor
Oconee County Solicitor's Office
415 S. Pine Street
Walhalla, South Carolina 29691

**Re: State vs. Ann Cherie Hutchins
Case No. 2011-GS-37-0876
Warrant No.: N-137906
Notice of Appeal**

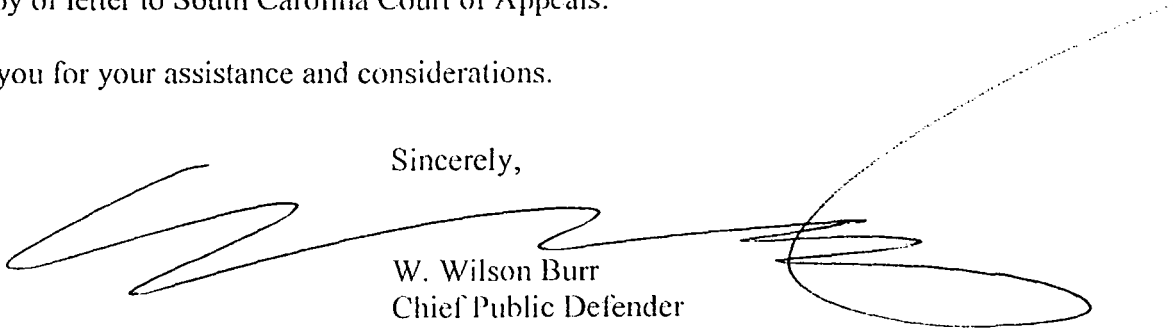
Dear Blair:

Enclosed please find copies of the following:

1. Notice of Appeal of Ann Cherie Hutchins.
2. Proof of Service on opposing counsel.
3. Copy of letter to the South Carolina Commission of Indigent Defense.
4. Rule 203(B) Explanation.
5. Copy of letter to South Carolina Court of Appeals.

Thank you for your assistance and considerations.

Sincerely,



W. Wilson Burr
Chief Public Defender

WWB/lgb
Enclosures

Cc: SC Commission of Indigent Defense

Tenth Judicial Circuit Public Defender

Mailing Address:

415 South Pine Street ~ Walhalla, SC 29691
Phone (864) 638-3133 ~ Fax (864) 638-3120

W. Wilson Burr ~ Chief Public Defender

October 19, 2012

Ann Cherie Hutchins #282438
Graham R&E
4450 Broad River Road
Columbia, SC 29210

Re: Case No. 2011-GS-37-0876
Warrant No. N-137906
Charge: Shoplifting 3rd or sub., enhanced

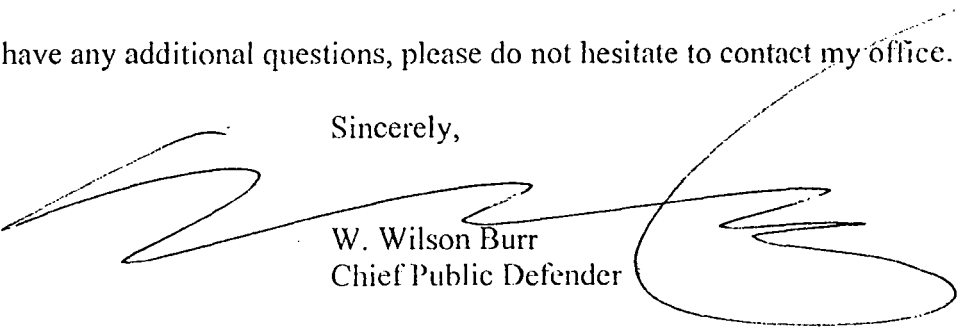
Dear Ms. Hutchins:

I have filed the appeal of your case per your request. Enclosed you will find copies of the Notice of Appeal, Proof of Service, Indictment, letter to Court of Appeals, Rule 203(B) Explanation, copy of letter to South Carolina Office of Indigent Defense and Sentencing Sheet. The originals of the Notice, Rule 203(B) Explanation and Proof of Service have been mailed to the Court of Appeals.

If you believe you have other grounds for appeal, you have twenty (20) days to file with the Court of Appeals the grounds you believe exist. The address is the same as my letter to the South Carolina Court of Appeals.

Should you have any additional questions, please do not hesitate to contact my office.

Sincerely,



W. Wilson Burr
Chief Public Defender

WWB/lgb
Enclosures

Tenth Judicial Circuit Public Defender

(Oconee County)

415 South Pine Street ~ Walhalla, South Carolina 29691
Phone (864) 638-3133 ~ Fax (864) 638-3120

W. Wilson Burr ~ Chief Public Defender

October 19, 2012

South Carolina Commission on Indigent Defense
Post Office Box 11433
Columbia, SC 29211-1433

Re: State vs. Ann Cherie Hutchins
Case No. 2011-GS-37-0876
Notice of Appeal

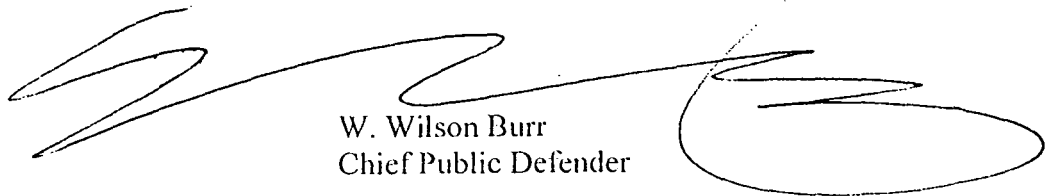
Dear Sir or Madam:

Enclosed please find copies of the Notice of Appeal, Proof of Service, Indictment, letter to the Court of Appeals, Rule 203(B) Explanation and Sentencing Sheet on Ann Cherie Hutchins. The originals of the Notice of Appeal, Rule 203(B) Explanation and Proof of Service have been mailed to the Court of Appeals.

The court reporter was Robin S. Hild, Post Office Box 9, Walhalla, SC 29691.

Should you need any additional information, please do not hesitate to contact my office.

Sincerely,



W. Wilson Burr
Chief Public Defender

WWB/lgb
Enclosures

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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The State of South Carolina,.....Respondent.

vs.

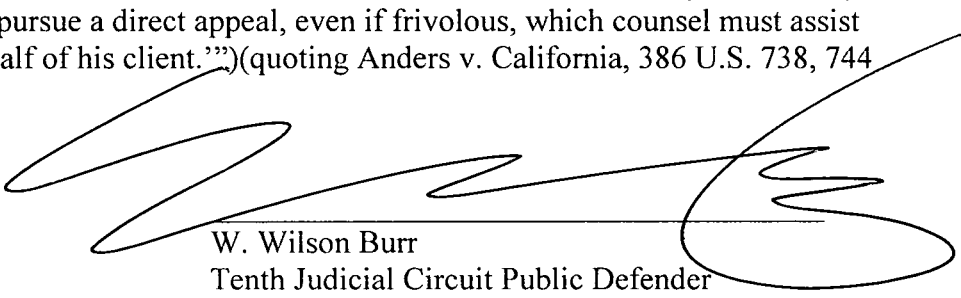
Ann Cherie Hutchins,.....Appellant.

RULE 203(B) EXPLANATION

Pursuant to Rule 203(B)(iv), the issues to be raised on appeal may include whether the Court abused its discretion when it imposed the sentence on the indictment after she pled guilty.

The undersigned does not have a good faith basis to believe that the Court abused its discretion. Nevertheless, the Appellant requested that the undersigned file an appeal of her case and the undersigned has filed the appeal because the Sixth Amendment requires counsel to follow the Appellant's request. See *Frazer v. South Carolina*, 403 F.3rd 696, 706 (4th Cir.2005) ("A defendant has a right to pursue a direct appeal, even if frivolous, which counsel must assist as 'an active advocate in behalf of his client.'")(quoting *Anders v. California*, 386 U.S. 738, 744 (1967)).

October 19, 2012



W. Wilson Burr
Tenth Judicial Circuit Public Defender
Oconee County
415 S. Pine Street
Walhalla, SC 29691
864/638-3133
Attorney for Appellant

STATE OF SOUTH CAROLINA)
)
COUNTY OF Oconee)

INDICTMENT

At a Court of General Sessions, convened on OCT 03 2011, the Grand Jurors of Oconee County present upon their oath:

Shoplifting / Enhancement For 3rd Or Sub. Offense. Value \$2,000 Or Less

That **Ann Cherie Hutchins** did in Oconee County, on or about **May 27, 2011**, having previously been convicted of at least two (2) offenses for which the term of imprisonment is contingent upon the value of the property involved, take possession of, carry away, transfer to another area of the store; alter, transfer, or remove the price label or tag on; transfer from its container to another container; and or willfully conceal certain merchandise to wit: merchandise valued at less than \$2,000, displayed, held, stored, or offered for sale by Wal Mart, with the intent of depriving said merchant of the possession, use, or benefit of such merchandise without paying the full retail value. This is in violation of §16-13-110(B)(1) and §16-1-57 of the South Carolina Code of Laws (1976) as amended.

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


ASSISTANT SOLICITOR

WITNESSES

M Keplar, Oconee Co Sheriff's Dept.

Kevin R Cain

Kevin L Cain

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

OCT 03 2011

Term

ARREST WARRANT NUMBER

N137906

THE STATE

vs.

Ann Cherie Hutchins

ACTION OF GRAND JURY

True Bill

David B. Hudson

Foreperson of Grand Jury

OCT - 3 2011

Date:

BLS

Indictment for

Shoplifting / Enhancement For 3rd Or Sub.
Offense. Value \$2,000 Or Less

SC Code: 16-13-0110(A)

CDR Code: 2877

VERDICT

Foreperson of Petit Jury

Date:

ARREST WARRANT

N-137906

STATE OF SOUTH CAROLINA

County/ Municipality of

Oconee

THE STATE
against

1114498

Ann Cherie Hutchins

Address: 120 Doctors Rd

Fair Play, SC 29643-

Phone: (864)324-2724 SSN: 249-33-5021

Sex: F Race: W Height: 5 3 Weight: 165

DL State: SC DL #: 008430869

DOB: 1/31/1961 Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: M Keplar - 1143

Offense: Shoplifting / Enhancement for 3rd or sub. offense.
Value \$2000 or less (see 16-01-0057)

Offense Code: 2877

Code/Ordinance Sec: 16-13-0110(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Ann Cherie Hutchins
on 6-15-11

[Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Oconee

Personally appeared before me the affiant M Keplar

being duly sworn deposes and says that defendant Ann Cherie Hutchins
did within this county and state on or about 05/27/2011 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of Oconee)
in the following particulars:

DESCRIPTION OF OFFENSE Shoplifting / Enhancement for 3rd or sub. offense. Value \$2000 or less (see 16-01-0057)

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, ON 05-27-11, WILLFULLY AND INTENTIONALLY TAKE POSSESSION AND CARRY AWAY
VARIOUS MERCHANDISE VALUED AT LESS THAN \$2000.00, WHICH BELONGED TO WALMART. FURTHER, THE
DEFENDANT ALSO INTENDED TO PERMANENTLY DEPRIVE THE MERCHANT OF THE POSSESSION OF SUCH
MERCHANDISE WITHOUT PAYING THE FULL RETAIL PRICE. THIS INCIDENT OCCURRED AT WALMART, 1636
SANDIFER BLVD., SENECA, SC IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT IS
ON FILE. CASE #1114498. DEFENDANT HAS AT LEAST TWO PRIOR CONVICTIONS FOR SHOPLIFTING.

Signature of Affiant

[Signature]

STATE OF SOUTH CAROLINA

County/ Municipality of

Oconee

Affiant's Address 900 S Church Street

Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

FILED DOONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2011 JUN 17 P 3:32

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/27/2011 defendant Ann Cherie Hutchins

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Oconee) as set forth below:

DESCRIPTION OF OFFENSE: Shoplifting / Enhancement for 3rd or sub. offense. Value \$2000 or less (see 16-01-0057)

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 06/06/2011

[Signature]
Signature of Issuing Judge

Blake A. Norton

Judge Code: 5033

Judge's Address 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

[Signature]

Judge [Signature]
on 6-15-11
Type and Amount: 5000 PA
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



FILED O'CONNOR, SO
BEVERLY H. WHITFIELD
CLERK OF COURT
2011 JUN 17 P 3:32



COUNTY OF Oconee
STATE VS.

Ann Cherie Hutchins

AKA: _____

Race: W Sex: F Age: 51

DOB: 01-31-1961 SS#: 249-33-5021

Address: 435 Conner Blvd.

City, State, Zip: Fairplay, SC 29643

DL#: 008430869 SID#: _____

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Shoplifting / Enhancement for 3rd or sub. offense. Value \$2000 or less (see 16-01-0057)

INDICTMENT/CASE#: 2011GS3700876

A/W#: N137906

Date of Offense: 5/27/2011

S.C. Code § : 16-13-0110(A)

CDR Code #: 2877

SENTENCE SHEET

in violation of § 16-13-0110(A) of the S.C. Code of Laws, bearing CDR Code # 2877
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Blair L. Stouder 9868 SC Bar# _____ Defendant Ann Cherie Hutchins Attorney for Defendant 4026 SC Bar# _____

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 7 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: w/ Probation Revocation
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>1339.00</u>

PTUP _____

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: Recommend ATU

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Beverly H. Whitfield
Court Reporter: Robins S. Hild
SCCA/217 (03/2011)

Presiding Judge _____
Judge Code: 2183
Sentence Date: 10-18-12 ✓

Tenth Judicial Circuit Public Defender

W.Wilson Burr ~ Public Defender

10/19/2012

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: The State v. Ann Cherie Hutchins
2011-GS-37-0876
Notice of Appeal

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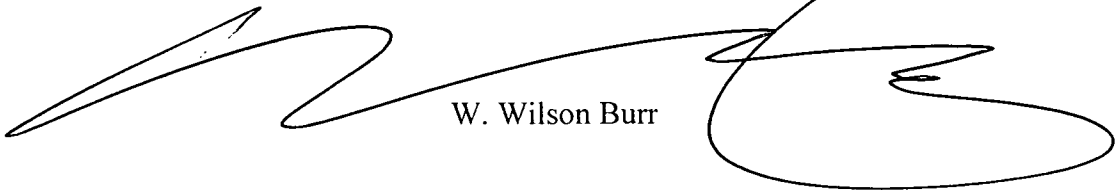
Dear Ms. Kitchings:

SC Court of Appeals

Enclosed please find for filing, the following:

- (1) Notice of Appeal of Ann Cherie Hutchins.
- (2) Proof of service on opposing counsel.
- (3) Copy of letter to other counsel and Appellant.
- (4) Copy of letter to SC Office of Indigent Defense.
- (5) Rule 203(B) Explanation.
- (6) Indictment and sentence sheet.

Sincerely,



W. Wilson Burr

cc: Office of Solicitor