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**THE STATE OF SOUTH CAROLINA**  
**In the Court of Appeals**

**RECEIVED**

JUN 19 2015

SC Court of Appeals

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**APPEAL FROM LEE COUNTY**  
**W. Jeffrey Young, Circuit Court Judge**

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**Appellate Case No.: 2014-001403**

The State of South Carolina, . . . Respondent

V.

Gary Nelson . . . Appellant

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**ANDERS BRIEF OF APPELLANT, GARY NELSON**

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Charles T. Brooks, III  
Post Office Box 3512  
Sumter, South Carolina 29151  
Telephone: (803) 418-5708  
Facsimile: (803) 934-9618  
Attorney for Appellant  
Gary Nelson

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## TABLE OF AUTHORITIES

### Cases:

Johnson vs. The State of SC, 364 S.E. 2d 201, 294 S.C. 310

Anders vs. California, 386 U.S. 738 (1967)

## STATEMENT OF THE CASE

The Appellant was tried in his absence in the Court of General Sessions in Sumter County on charges of Financial Transaction Card Theft, Financial Transaction Card Fraud and Financial Card Transaction Theft. The trial of the Appellant in his absence was held on December 16-17, 2013 before the Honorable W. Jeffrey Young, Circuit Court Judge.

The Appellant was not present at the time of sentencing as he was not present at the trial. The Appellant received his sentence on February 3, 2014 whereby the sealed sentence was presented and read by The Honorable J. Cordell Maddox, Jr. The Appellant was given an aggregate sentence of three (3) years.

The Appellant in this matter was not present at the hearing in his General Sessions matter due to medical reasons. The Appellant provided to the Court at the filing of his Motion for Reconsideration of Sentence a copy of that medical excuse for the time of the General Sessions trial in this matter. The Motion for Reconsideration of Sentence was filed with the Lee County Clerk of Court's offices on February 7, 2014 and properly served upon all necessary and interested parties herein.

On June 11, 2014 the Honorable W. Jeffrey Young heard arguments on the Appellant's Motion for Reconsideration of Sentence and thereafter the Motion for Reconsideration was denied. A Notice of Appeal was filed by the Appellant.

## **ISSUES OF LAW**

- I.** DID THE TRIAL COURT COMMIT ERROR WHEN IT DID NOT GRANT THE APPELLANT'S MOTION FOR RECONSIDERATION OF SENTENCE AND ALLOW THE PROVIDED MEDICAL EXCUSE AS A VALID REASON FOR THE APPELLANT'S ABSENCE FROM HIS GENERAL SESSIONS TRIAL?

## ARGUMENT

### APPELLANT UNKNOWINGLY DID NOT APPEAR FOR HIS GENERAL SESSIONS TRIAL.

On December 17, 2013 the Appellant unknowingly did not appear for his General Sessions trial on the charges pending against him in Lee County (Case No.: 2013-GC-31-124) after having been notified that his presence was required. The Appellant offered to the Court a faxed work excuse from Carolina Pines Hospital stating that the Appellant had been treated and released from the Emergency Department and was able to return to work duties on December 19, 2013. Upon investigation of the Court it was determined that the Appellant was seen by staff at the Emergency Department for shoulder pain which would not have prevented his attendance at the General Sessions Jury Trial on his criminal charges.

## ANALYSIS

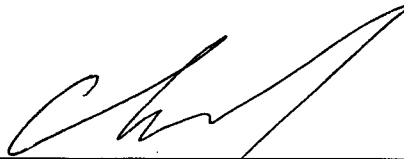
Counsel in this matter has conducted a full review of the record and has considered the facts and legal issues in the case. After a full review, counsel has concluded that by the Appellant's voluntary absence and failure to make appearance at this General Sessions trial on his charges.

Based upon the above analysis, counsel is of the opinion that Nelson has no arguable grounds for appeal in this case. Therefore, in accordance with the requirements of *Johnson* and *Anders*, this appeal has been noted and Nelson will have his opportunity to file his *pro se* supplemental brief to raise those arguments he deems appropriate.

## CONCLUSION

Counsel has reviewed the record and concluded that Nelson knowingly and voluntarily failed to appear for his General Sessions trial and feels that the Court did not err in denying the Appellant's Motion for Reconsideration of Sentence in this matter, and that the Court trial court was within its discretion to impose the sentence it imposed. In accordance with the requirements of Johnson vs. The State of SC, 364 S.E. 2d 201, 294 S.C. 310 and Anders vs. California, 386 U.S. 738 (1967), counsel has reviewed the facts and legal issues in the case. It is counsel's opinion that there are no arguable grounds for appeal in this case. Counsel will further submit his Motion for Relief as Counsel in this matter. A copy of the Motion and of this Brief has been served on Appellant.

**RESPECTFULLY SUBMITTED**



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Charles T. Brooks, III  
309 Broad Street  
Post Office Box 3512  
Sumter, South Carolina 29150  
(803) 418-5708  
ATTORNEY FOR APPELLANT

6/16, 2015

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APPEAL FROM LEE COUNTY  
W. Jeffrey Young, Circuit Court Judge

Appellate Case No.: 2014-001403

The State of South Carolina, . . . Respondent

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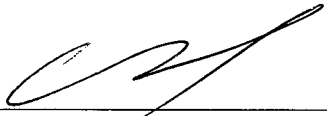
DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

- (1) Transcript December 16 and 17, 2013
- (2) Motion for Reconsideration of Sentence
- (3) Transcript June 11, 2014
- (2) Order Denying Motion for Reconsideration of Sentence

I certify that this designation contains no matter which is irrelevant to this appeal.

q/c, 2015

  
Charles T. Brooks, III  
Post Office Box 3512  
Sumter, South Carolina 29151  
(803) 418-5708  
Attorney for Appellant

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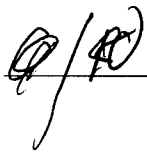
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CERTIFICATE OF COUNSEL

The undersigned certified that this Initial/ *Anders* Brief and Designation  
complies with Rule 208 and Rule 228, SCRAP.

 , 2015



Charles T. Brooks III

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The Honorable W. Jeffrey Young, Circuit Court Judge

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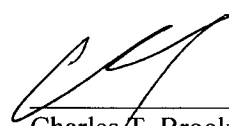
PROOF OF SERVICE

I, the undersigned, do hereby certify that on this 17 day of June, 2015, I served the foregoing Anders **Brief of Appellant, Certificate of Counsel, Designation of Matter to be Included in Record on Appeal**, as well **Proof of Service** in this matter by depositing a true copy of it in the United States Mail, postage prepaid, on June 17, 2015, addressed to the following as indicated below:

Gary B. Nelson, 157021  
Turbeville Correctional Institution  
PO Box 252  
Turbeville, SC 29162

South Carolina Attorney General  
Post Office Box 11549  
Columbia, South Carolina, 29211

Dated: June 17, 2015

  
Charles T. Brooks, III  
Attorney for the Appellant  
309 Broad Street  
Sumter, South Carolina 29150  
(803) 418-5708

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# The Brooks Law Offices, LLC

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**CHARLES T. BROOKS, III, ATTORNEY AT LAW**

309 BROAD STREET ~ SUMTER, SOUTH CAROLINA 29150  
POST OFFICE BOX 3512 ~ SUMTER, SOUTH CAROLINA 29151

(803) 418-5708

FAX: (803) 934-9618 TOLL FREE: (877) 770-8792

[cbrooks@ctbrooks.com](mailto:cbrooks@ctbrooks.com)

June 15, 2015

The South Carolina Court of Appeals  
ATTN: Clerk  
Post Office Box 11629  
Columbia, South Carolina 29211

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RE: The State of South Carolina vs. Gary Nelson  
Appellate Case No. 2014-001403

Dear Sir or Madam:

Please find enclosed the original and one (1) copy of the Anders Brief of Appellant, Designation of Matter to be Included on Record on Appeal and Certificate of Counsel as well as Proof of Service with reference to the above matter and in accordance with your request of June 5, 2015.

By copy of this correspondence, I am notifying all interested parties of this communication with the Court.

Thank you for your assistance. If you have any questions or concerns, please contact me at the number listed above.

With Kind regards, I am

Sincerely,



Charles T. Brooks, III

CTB, III/jlm

Enclosed as stated

cc: Sally W. Elliott, Attorney General's Office  
Gary B. Nelson, Appellant