

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions
Larry B. Hyman, Jr., Circuit Court Judge

RECEIVED

CASES NO. 2007-GS-26-03387, 2007-GS-26-03388,
2007-GS-26-03389, and 2007-GS-26-03390

FEB 23 2017

SC Court of Appeals

State of South CarolinaRespondent

v.

Brian Spears.....Appellant

NOTICE OF APPEAL

Brian Spears appeals the ruling contained in the Amended Order on Remand for Rule 403 Hearing, executed by the Honorable Larry B. Hyman, Jr. on February 9, 2017 and filed the same day.

February 22, 2017



Barbara Wilson Pratt, Esquire
Trial Counsel for Appellant

Trial Counsel:

Barbara Wilson Pratt
408 Elm Street
Conway, SC 29526

Other counsel of record:

Thomas Terrell, Esq.

Assistant Solicitor, Fifteenth Judicial Circuit
Post Office Box 1276
Conway, SC 29526
Attorneys for the Respondent

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM Horry COUNTY
Court of General Sessions
Larry B. Hyman, Jr., Circuit Court Judge

RECEIVED

FEB 23 2017

SC Court of Appeals

CASES NO. 2007-GS-26-03387, 2007-GS-26-03388,
2007-GS-26-03389, and 2007-GS-26-03390

State of South Carolina.....Respondent

v.

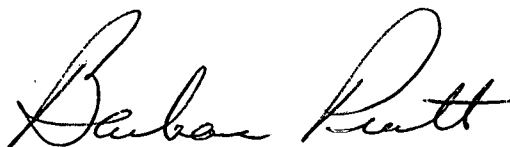
Brian Spears.....Appellant

PROOF OF SERVICE

I hereby certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of the Notice in the United States Mail, postage prepaid, on Wednesday, February 22, 2017 addressed to the attorney of record:

Thomas Terrell, Esq.
Assistant Solicitor
Post Office Box 1276
Conway, SC 29526

Wednesday, February 22, 2017



Barbara Wilson Pratt, Esq.
Trial counsel for the
Appellant Brian Spears
408 Elm Street
Conway, SC 29526
(843) 488-4529
Fax: (843) 488-4530

Barbara Wilson Pratt, Attorney at Law

Phone (843) 488-4529 or (843) 902-6792
Fax (843) 488-4530
e-mail: Bprattatty@aol.com

USA
408 Elm Street
Conway, South Carolina 29526

February 22, 2017

Jenny Abbott Kitchings
Clerk of the Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED

FEB 23 2017
SC Court of Appeals

Re: State of South Carolina v. Brian Spears
2007-GS-26-03387, -03388, -03389 and -03390

Dear Ms. Kitchings,

Enclosed you will find the Notice of Appeal in the above criminal matter. I am filing this Notice on behalf of my client to protect his interests. I was appointed in the underlying criminal matter; however, I have not been retained or appointed on the Appeal. My client is currently incarcerated in the South Carolina Department of Corrections and is indigent. By copy of these documents, I am requesting that the Office of Appellate Defense handle this Appeal for Mr. Spears.

Also enclosed are the following:

1. Proof of Service of the Notice of Appeal on the Respondent.
2. A copy of the Order which is to be challenged on appeal.
3. Self Addressed stamped envelope.

I would appreciate your filing the Notice of Appeal, as well as the Proof of Service, and returning to me the date stamped copies in the enclosed self-addressed envelope.

I believe that I am serving and filing this Notice of Appeal in a timely manner. Attached to this letter is an email from Liz Smith, Law Clerk to The Honorable Larry B. Hyman, Jr. In it, she states that the signed Order would be in the 3rd floor box on February 9, 2017. As you can see from my response, I checked the box but it was not there. I then asked the Assistant Solicitor, Thomas "Tom" Terrell, personally and by copy of the email, to pick it up, file it and send it to me with an Affidavit of Service so I could file the appeal. I did not receive anything from the Solicitor or the Clerk of Court. I am not sure who actually filed the Order.

... continued

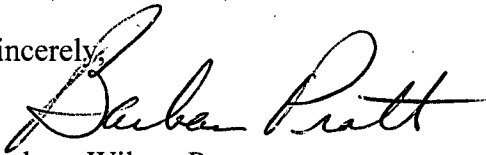
Page 2
Clerk of Court of Appeals
February 22, 2017

I am not clear whether, under Rule 203, which office has a duty to serve the Order, the Solicitor or the Clerk.

Today, I went to the Clerk's office to obtain my own copy. Ten days from the day after filing, not counting the President's Day holiday on Monday, February 20, 2017, would have been yesterday; however, since I was not sent a copy, I hope the Court will consider this a timely filing.

Should you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Pratt". The signature is written in black ink and is positioned above the typed name.

Barbara Wilson Pratt
Attorney at Law