

"ATTENTION"

ENCLOSED: THE DOCUMENTS FROM COUNSEL MR. MARTIN R. BANKS, THE PUBLIC DEFENDER OFFICE. THAT DEFENDANT RECEIVED FROM HIM ON THESE DATES.

1. Letter from: Calhoun County Public Defender Office, Mr. Martin R. Banks, 716 F.R. Huff Drive St. Matthews, South Carolina 29135. RECEIVED DATE December 1, 2016.
2. Letter from: The South Carolina court of Appeals on December 06, 2016.
3. Letter from: The South Carolina court of Appeals on December 06, 2016.
4. Letter from: Calhoun county Public Defender Office, Martin R. Banks, on December 8, 2016.
5. Letter from: The South Carolina court of Appeals on January 04, 2017.
6. Letter from: Calhoun county Public Defender Office Martin R. Banks, on January 11, 2017.

THE SOUTH CAROLINA SUPREME COURT

Applicant Timothy James Phillips

v.

Respondent. State of South Carolina

CERTIFICATE OF SERVICE

I, Timothy James Phillips, #.260439 being duly sworn upon my oath, depose and say that I have subscribed to the forgoing NOTICE OF APPEAL. I know the contents thereof; that it includes every fundamental Law of this State that guarantee the matter to be resolved. Attached in this request and that the matter and allegations there set fourth are true. That I have served copies of the same documents upon the below party upon the same date.

The supreme court of South Carolina
The Honorable Daniel E. Shearouse,
Clerk of court
Post Office Box 11330
Columbia, South Carolina 29211

s/ Timothy J. Phillips #260439
Timothy J. Phillips, #260439

Sworn to and subscribed before me
this 27 day of February 2017

[Signature]
Notary Public For South Carolina
My Commission Expires: 9/16/2026

CALHOUN COUNTY PUBLIC DEFENDER
MARTIN R. BANKS

716 F.R. HUFF DRIVE
ST. MATTHEWS, SC 29135

PHONE (803) 874-2100

December 1, 2016

Court of Appeals
Jenny Abbott Kitchings
P.O. Box 11629
Columbia, SC 29211

RECEIVED
CLERK OF COURT
CALHOUN COUNTY
SC 29135

2016 NOV 31 P 2:21

FILED

RE: State v. Timothy J. Phillips
Indictment No. 2016GS09340

Dear Ms. Kitchings:

Please find enclosed a copy of the filed Notice of Appeal which includes a written explanation, the Sentencing Sheet, and Proof of Service in the above case.

If you have any questions do not hesitate to contact me.

Sincerely,



Martin R. Banks, Public Defender
716 F.R. Huff Drive
St. Matthews, SC 29135
803-874-2100 Tel.
SC Bar # 65466

(This appeal will be transferred to
the state Appellate Defense office.)

cc:
Theodore N. Lupton, Assistant Solicitor
120 Mill Street
St. Matthews, SC 29135
(803)- 874-1978
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Diane S. Goodstein, Circuit Court Judge

Indictment No. 2016GS09340

The State,

Respondent,

v.

Timothy J. Phillips,

Appellant.

NOTICE OF APPEAL

Timothy J. Phillips, appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Diane S. Goodstein on November 28, 2016. This was a guilty plea which was tortuously long, very late in the day, involving at least one other particularly difficult defendant also represented by Mr. Phillips' public defender who was simultaneously pleading guilty alongside Mr. Phillips to unrelated charges.

December 1, 2016

Other Counsel of Record:

Theodore N. Lupton

Assistant Solicitor

120 Mill Street,

St. Matthews, SC 29135

(803) 874-1978

Attorney for Respondent



Martin R. Banks

716 F. R. Huff Drive

St. Matthews, SC 29135

803-874-2100 Tel.

Attorney for Appellant

RECEIVED
CLERK OF COURT
CALHOUN COUNTY
NOV 29 2016

2016 NOV 31 P 2:21

FILED

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CALHOUN COUNTY
Court of General Sessions

Honorable Diane S. Goodstein, Circuit Court Judge

Indictment No. 2016GS09340

The State,

Respondent,

v.

Timothy J. Phillips,

Appellant.

PROOF OF SERVICE

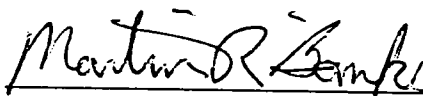
REBEKKA HASTY
CLERK OF COURT
CALHOUN COUNTY

2016 NOV 31 P 2:21

FILED

I certify that I have served the Notice of Appeal on Theodore N. Lupton by personally delivering a copy of it to his office, on December 2, 2016, addressed to the attorney of record, Assistant Circuit Solicitor's Office, 120 Mill Street, St. Matthews, SC 29135.

December 1, 2016



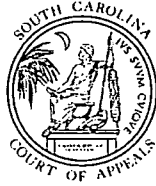
Martin R. Banks

716 F.R. Huff Drive

St. Matthews, SC 29135

803-874-2100 Tel.

Attorney for Appellant



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 06, 2016

Hon. Martin Rast Banks, Esquire
716 F.R. Huff Dr.
St. Matthews SC 29135

Re: The State v. Timothy Phillips
Appellate Case No. 2016-002444

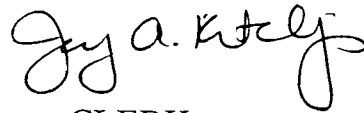
Dear Counsel:

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 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at 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/displayOrder.cfm?orderNo=2014-04-15-02. 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,

A handwritten signature in cursive script, appearing to read "J. A. Kately".

CLERK

cc: Robert Michael Dudek, Esquire
Theodore Nichols Lupton, Esquire
John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 06, 2016

Hon. Martin Rast Banks, Esquire
716 F.R. Huff Dr.
St. Matthews SC 29135

Re: The State v. Timothy Phillips
Appellate Case No. 2016-002444

Dear Counsel:

Upon reviewing your notice of appeal, the following deficiency or 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 or this appeal may be dismissed:

- Since this is an appeal from a guilty plea, nolo contendere plea, or plea pursuant to Alford, Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules requires "a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal."

This is to advise that the title in the above matter has been changed to read as follows:

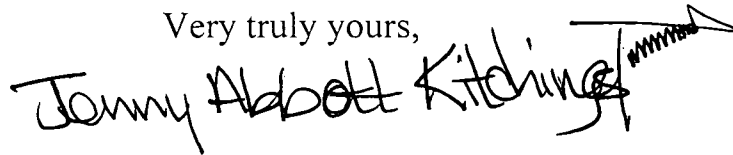
The State, Respondent,

v.

Timothy Phillips, Appellant.

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in black ink that reads "Jonny Abbott Kitching". The signature is written in a cursive style and includes a large, stylized flourish at the end of the word "Kitching".

CLERK

cc: Robert Michael Dudek, Esquire
Theodore Nichols Lupton, Esquire
John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire

CALHOUN COUNTY PUBLIC DEFENDER

MARTIN R. BANKS

716 F.R. HUFF DRIVE
ST. MATTHEWS, SC 29135

Tel. (803) 874-2100

December 8, 2016

Kirkland Correctional Institution
Timothy Phillips # 00260439
4344 Broad River Rd.
Columbia, SC 29210

RE: Appeal

Dear Mr. Phillips:

Please find enclosed a copy of the Notice of Appeal that I filed on your behalf and a letter that we received from the Court of Appeals in response. My Notice of Appeal contains the best "written explanation showing that there is an issue which can be reviewed on appeal" containing all that I could think of that could possibly be grounds for your appeal. None of it is based in law. Without a transcript I can do no more, and there is no time to get one before our 10 days is up (and the Public Defender's Office does not have the funds to order one in the first place).

When we last spoke, you said that you were okay with the result. I believe that now you have changed your mind only because you want less time than you got. That is not a sufficient basis for an appeal of a guilty plea. Therefore, please let me know as soon as possible any additional facts that I can use to respond to this letter from the Court of Appeals.

Sincerely,



Martin R. Banks

MRB/bjh

C:\Barb\SharedDocs\Public Defender\Phillips.let. wpd



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 04, 2017

Hon. Martin Rast Banks, Esquire
716 F.R. Huff Dr.
St. Matthews SC 29135

Re: The State v. Timothy Phillips
Appellate Case No. 2016-002444

Dear Counsel:

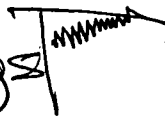
This Court has received your explanation for appealing.

Please forward your explanation to your client, along with a statement that your client has twenty (20) days from the date of your transmittal letter to inform this Court in writing of any arguable basis that there are issues preserved for appeal. Please provide your client with the Court's address:

South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Please send your letter to your client within ten (10) days, with a copy to this Court, or the appeal will be dismissed.

|
Very truly yours,

Tommy Abbott Kitchings 

CLERK

cc: Robert Michael Dudek, Esquire
Theodore Nichols Lupton, Esquire
John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire

CALHOUN COUNTY PUBLIC DEFENDER

MARTIN R. BANKS

716 F.R. HUFF DRIVE
ST. MATTHEWS, SC 29135

Tel. (803) 874-2100

January 11, 2017

Kirkland Correctional Institution
Timothy Phillips # 00260439
4344 Broad River Rd.
Columbia, SC 29210

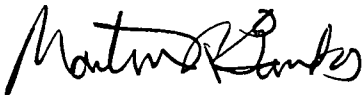
RE: Appeal

Dear Mr. Phillips:

Please find enclosed a copy of a letter that I received from the Court of Appeals. They are asking for you to explain your reasons for the appeal. You have very little time left to respond. I also sent you this other letter that is attached and dated December 8, 2016, but you have not responded to that letter either.

Please expedite this. Failing to respond will result in an automatic dismissal of your appeal.

Sincerely,



Martin R. Banks

MRB/bjh

C:\BarbSharedDocs\Public Defender\Phillips.let2.wpd