

FORM 4
AMENDED 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. Scott Sprouse, Circuit Court Judge

Case No. 2017-000510

The State,

Respondent,

v.

Reginald Bernard Smith,

Appellant.

AMENDED NOTICE OF APPEAL

FILED OCONEE COUNTY, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2017 MAR 10 P 1:41

RECEIVED
MAR 14 2017
SC Court of Appeals

Reginald B. Smith appeals his conviction and sentence in this case. Appellant entered a plea of guilty to resisting arrest and possession with intent to distribute crack cocaine, 3rd or subsequent offense, after his motions at trial were denied and it appeared that a conviction by the jury was inevitable. The sentence was imposed by the Honorable R. Scott Sprouse on February 10, 2017.

Issues to be raised on appeal are:

1. The composition of the jury panel from which a jury was selected for the trial of the case was improper and denied appellant his right to a trial by a jury of his peers. Appellant is black. There were 58 people on the jury panel, 4 of which were black. An objection to

the composition of the jury panel having too few black people was overruled by the judge.

2. A Batson motion was made after the State struck the only black person drawn for this jury. The State's purported reason for the strike was a prior conviction for a drug charge as shown on the juror's RAP sheet. An objection was made to the State utilizing information from NCIC reports on potential jury members when those reports are not made available to the defense as a part of the discovery process and the reports are not otherwise available to the defense. The objection was overruled, and the Batson motion was denied.

3. Appellant made a motion *in limine* to suppress evidence obtained during an unlawful search. This motion was made based on the arresting police officer

- entering onto private property without a warrant or probable cause;
- approaching appellant based only on his prior knowledge of appellant;
- unlawfully ordering appellant to "show me your hands;"
- attempting to handcuff appellant in an effort to place him in "investigative detention," which appellant considered to be an act of unlawful arrest; and
- unlawfully placing appellant under arrest for refusing to open his hands for the officer.

After hearing testimony from the arresting officer and arguments from counsel, the motion to suppress evidence was denied.

After all objections were overruled and all motions were denied, it appeared that a conviction by the jury was certain, and appellant attempted to enter a plea of guilty to the charges. When questioned about the use of drugs or alcohol within the 24 hours prior to his plea, appellant

admitted to using crack cocaine prior to the trial. The trial judge refused to accept appellant's plea at that time, revoked appellant's bond, and said he would consider accepting a plea later in the week after appellant had been incarcerated and drug-free for several days.

The next morning, the trial judge *sua sponte* declared a mistrial due to appellant's admission to the use of crack cocaine prior to his trial and being under the influence of drugs during the trial of his case. After spending several days in jail, appellant returned to court, entered a plea of guilty to the charges, and was sentenced, resulting in this appeal.

March 10, 2017



Suzanne E. Earle (SC Bar No. 0001819)
Assistant Public Defender, Oconee Office
10th Judicial Circuit
415 South Pine Street
Walhalla, South Carolina 29691
(864) 638 - 3133
Attorney for Appellant

Other Counsel of Record:

Bethany A. Blundy
Assistant Solicitor, Oconee Office
10th Judicial Circuit
205 West Main Street
Walhalla, South Carolina 29691
(864) 638 - 4294
Attorney for Respondent

**FORM 7
PROOF OF SERVICE OF AMENDED NOTICE OF APPEAL**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of General Sessions

R. Scott Sprouse, Circuit Court Judge

Case No. 2017-000510

The State,

Respondent,

v.

Reginald Bernard Smith,

Appellant.

PROOF OF SERVICE

FILED OCONEE COUNTY, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2017 MAR 10 P 1:40

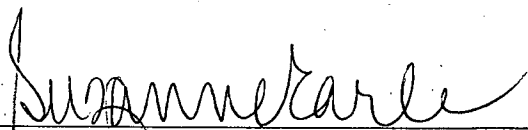
RECEIVED

MAR 14 2017

SC Court of Appeals

I certify that I have served the Amended Notice of Appeal on The State by personally delivering a copy of it to Bethany A. Blundy, Assistant Solicitor, Oconee Office, 10th Judicial Circuit, at her office at the Oconee County Courthouse, 205 West Main Street, Walhalla, South Carolina 29691, on March 10, 2017.

March 10, 2017



Suzanne E. Earle (SC Bar No. 0001819)
Assistant Public Defender, Oconee Office
10th Judicial Circuit
415 South Pine Street
Walhalla, South Carolina 29691
(864) 638 - 3133
Attorney for Appellant

**FORM 9
LETTER TO CLERK OF LOWER COURT
FILING AMENDED NOTICE OF APPEAL**

March 10, 2017

The Honorable Beverly H. Whitfield
Clerk of Court for Oconee County
205 West Main Street
Walhalla, South Carolina 29691


RE: The State, Respondent, v. Reginald Bernard Smith, Appellant,
Case No. 2014-GS-37-00590, 2014-GS-37-00591
Appellate Case No. 2017-000510

FILED OCONEE COUNTY, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2017 MAR 10 P 1:39

Dear Ms. Whitfield:

Enclosed for filing is an amended notice of appeal in the above case.

Sincerely,



Suzanne E. Earle
415 South Pine Street
Walhalla, South Carolina 29691
864-638-3133
Attorney for Appellant

cc: Bethany A. Blundy
205 West Main Street
Walhalla, South Carolina 29691
864-638-4294
Attorney for Respondent

RECEIVED

MAR 14 2017

SC Court of Appeals

RECEIVED

MAR 14 2017

SC Court of Appeals

**FORM 8
LETTER TO THE APPELLATE COURT CLERK
FILING THE AMENDED NOTICE OF APPEAL**

March 10, 2017

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

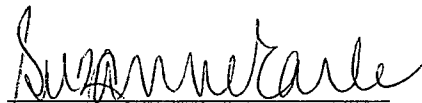
RE: The State, Respondent, v. Reginald Bernard Smith, Appellant,
Appellate Case No. 2017-000510

FILED OPOONEE COUNTY, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2017 MAR 10 P 1:40

Dear Ms. Kitchings:

Enclosed for filing is an amended notice of appeal in the above case. Also enclosed is proof of service of the amended notice of appeal on the respondent.

Sincerely,



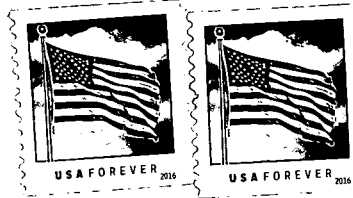
Suzanne E. Earle
415 South Pine Street
Walhalla, South Carolina 29691
(864-638-3133
Attorney for Appellant

cc: Bethany A. Blundy
205 West Main Street
Walhalla, South Carolina 29691
864-638-4294
Attorney for Respondent

2017 MAR 10 P 1:40
FILED OPOONEE COUNTY, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

Sincerely,

10th Circuit Public Defender Office
Suzanne E. Earle
Assistant Public Defender
415 South Pine Street
Walhalla, South Carol



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

RECEIVED

MAR 14 2017

SC Court of Appeals

29211\$1629 8012

