

THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of General Sessions

The Honorable D. Craig Brown,, Circuit Court Judge

Case No(s): 2000-GS-14-0356

The State of South Carolina,

Respondent.

v.

Jon Smart,

Appellant.

NOTICE OF APPEAL

RECEIVED

AUG 21 2017

SC Court of Appeals

The Defendant, Jon Smart appeals his sentence to life, without the possibility of parole, entered in the above case on August 10, 2017.

The Defendant initially entered a guilty plea, as a minor, before The Honorable Thomas W. Cooper, Jr. on May 25, 2001. Subsequently Judge Cooper sentenced the Defendant to life without the possibility of parole on August 11, 2001

In accordance with Aiken vs. Byars, this matter was assigned by Supreme Court Justice Costa M. Pleicones to The Honorable D. Craig Brown for a Re-Sentencing Hearing on May 24, 2017.

Judge Brown did not rule at the hearing on May 24, 2017 but scheduled a further hearing in Clarendon County on August 10, 2017 to issue his Order.

The Defendant was notified of the sentence of Judge Brown in open court by Judge Brown, as Judge Brown read his findings, and the reasons therefore into the record at that time. Judge Brown's Order stated that the sentence of Life Without Parole should remain in effect.

The Aiken case refers to the factors a sentencing court should consider at a hearing as stated in Miller vs. Alabama.

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OF ORIGINAL FILED IN THIS OFFICE

DATE 8/17/17

Beulah S. Roberts

CLERK OF COURT
CLARENDON COUNTY, SC

BEULAH S. ROBERTS
CLERK OF COURT,
CLARENDON COUNTY, SC

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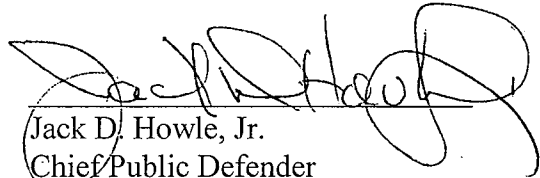
One of these factors is the chronological age of the offender and the hallmark features of youth. The defense had Dr. David Price, a qualified expert psychologist, testify at the hearing on May 25, 2017 as to the impact of this factor including immaturity, impetuosity and failure to appreciate the risks and consequences of the act on the Defendant.

Further, at the hearing, the sister of the Defendant, Tammy Smart, testified as to the family and home environment, which involved extensive drug use, and how this impacted the life of the Defendant.

The Defense would state that these two factors had a very significant impact on the Defendant and certainly had an affect on the Defendant's actions in regard o the charged offense.

The Defense also addressed the other factors as stated in Miller and would state that these would indicate that the sentence of Life Without Parole should be reversed and a sentence with a specific number of years of incarceration be imposed.

Date: August 17, 2017



Jack D. Howle, Jr.
Chief Public Defender
Office of the 3rd Circuit Public Defender
215 N. Harvin St., Room 151
Sumter, SC 29150
803-774-6137
Attorney for Appellant

Other Counsel of Record:
Ernest A. Finney, Esq.
Solicitor
Sumter County Judicial Center
215 N. Harvin St., Room 242
Sumter, SC 29150

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PROOF OF SERVICE

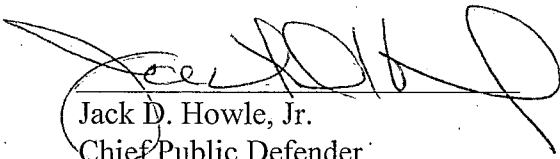
I certify that I have served the Notice of Appeal on the below listed respondents/involved parties by depositing a copy of it in the United States Mail, postage prepaid, on August 17, 2017, addressed to:

Ernest A Finney, Esq.
Solicitor
Sumter County Judicial Center
215 N. Harvin St., Room 242
Sumter, SC 29150

S.C. Office of Appellate Defense
P.O. Box 11433
Columbia, SC 29211

Clarendon County Clerk of Court
Clarendon County Courthouse
3 W. Keitt St.
Manning, SC 29102
Date: August 17, 2017

Criminal Appeals Clerk
The S.C. Court of Appeals
Post Office Box 11629
Columbia, SC 29211


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August 17, 2017

Via Hand Delivery
Ernest A. Finney, Esq.
Solicitor
Sumter County Judicial Center
215 N. Harvin St., Room 242
Sumter, SC 29150

Re: State v. Jon Smart
Case No(s): **2001-GS-14-0356**

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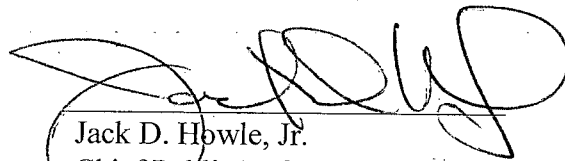
AUG 21 2017

SC Court of Appeals

Dear Mr. Finney:

Enclosed please find a copy of the Notice of Appeal in the above matter along with Proof of Service.

Very truly yours,



Jack D. Howle, Jr.
Chief Public Defender
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Sumter, SC 29150
803-774-6137
Attorney for Appellant

Enclosure(s)
- As Listed

cc: Criminal Appeals Clerk, SC Court of Appeals
Office of Appellate Defense

Jack D Howle, Jr.
Chief Public Defender
Office of the 3rd Circuit Public Defender
215 N. Harvin Street, Room 151
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803-774-6137

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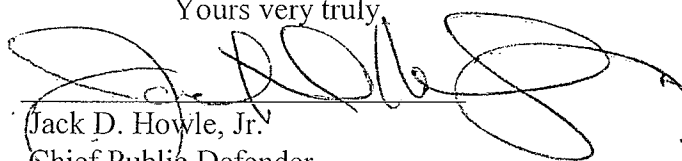
SC Court of Appeals

Re: State v. Jon Smart
Case No(s): **2000-GS-14-0356**

Dear Clerk:

Enclosed please find a copy of the Notice of Appeal in the above matter along with Proof of Service. This matter is being referred to the Office of Appellate Defense.

Yours very truly,



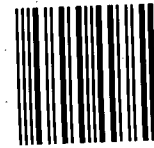
Jack D. Howle, Jr.
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803-774-6137
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Enclosure(s) - As Listed

cc: Office of the Third Circuit Solicitor
Office of Appellate Defense
Criminal Appeals Clerk, S.C Court of Appeals



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SC Court of Appeals

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Via Regular Mail

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