

# ATTORNEY OFFICE OF DONALD SMITH

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October 31, 2017

NOV 06 2017

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

SC Court of Appeals

Re: State v. Dean Alton Holcomb  
Appellate Case No.: 2017-001659

Dear Ms. Kitchings:

Please find enclosed a letter from Mr. Holcomb which confirmed what I knew to end result of my legal representation of him. In the enclosed letter, Mr. Holcomb states that he filed a motion for me to be relieved as counsel. Whether he did this or not, it is an expression of his wish for me to be relieved of counsel. It was my understanding that he had dismissed me at the trial for which this appeal has arisen.

As you are aware, I represented Mr. Holcomb in *State v. Holcomb* C.A.: 2014-GS-23-08176, 8177, 8178, and 8179. My representation began on day four of the five-day trial. I was summarily dismissed on the fifth day, upon learning that my motion for a declaration of mistrial had been denied. Mr. Holcomb then proceeded to provide the Court with the reasoning. Upon completion, his motion to relieve counsel was denied.

The Honorable John C. Hayes, III expressed to Mr. Holcomb that while he knew that an appellate issue may arise from the decision, he wanted me to do the closing argument prior to my

dismissal. “Mr. Smith is going to represent you through the remainder of the trial.” (Trial Transcript, p. 19.20). Unfortunately, my closing did not provide for the result that we sought; and, this appeal followed.

Mr. Holcomb has specifically instructed me to refrain from addressing his appeal since the trial. In fact, it was my understanding that he had a legal team on his beck and call proceeding with the appeal. I was concerned for Mr. Holcomb’s appellate defense based on the fact that I had no independent knowledge. Therefore, I acted as though he had not filed a Notice of Appeal. I wanted to ensure that his appellate counsel had everything that was needed to perfect his appeal.

I filed several motions to perfect his appeal. Ultimately, Judge Hayes denied all of my post-trial motions. However, the appeal process was perfected. I also requested the transcript on his behalf. It is my belief that I should not be held accountable for the cost of the transcript.

I was let go by Mr. Holcomb on the Friday of the end of the end of his trial. The aforementioned letter expresses that fact. I recognized my duty pursuant to the Rules, and to my fiduciary duty to my client, and made all the moves necessary to provide him with the opportunity to appeal his wrongful convictions. That did not mean that I was not fired. It said the I did what I was supposed to do, both ethically and morally.

Mr. Holcomb has made a complaint to the Bar regarding my alleged conduct. While I know that there is no substance to the accusations, it is my belief that this fact makes it *impossible* for me to provide him with representation in his appeal. It would not be fair to him, or to me. There would be an inherent conflict based on the fact that we are “fighting” over the

allegations raised in his complaint. I cannot provide any further representation to him based on our new adversarial relationship.

I hope that I have successfully addressed your inquiries regarding my representation of Mr. Holcomb. I can't represent him. He fired me prior to this appeal arising. While I wish him the very best, I simply can't represent him for both of our sakes. He deserves counsel that he feels comfortable with from this point forward. His actions have illustrated rather clearly that I am not this individual.

With highest regards, I remain  
Very truly yours,



Donald L. Smith  
DLS/ds  
Enclosures

Cc: Dean Alton Holcomb #00369696  
Alan McCrory Wilson, South Carolina Attorney General  
Russell Ghent, Assistant Solicitor for Seventh Judicial Circuit  
Mr. Robert M. Dudek, Esquire  
Kelly B. Arnold, Office of Disciplinary Counsel  
April Herron, Court Reporter

**FORM 7  
PROOF OF SERVICE  
EXPLANATION OF NON-REPRESENTATION**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of General Sessions

J. John C. Hayes, III

C.A.: 2014-GS-23-08176, 8177, 8178, and 8179

State of South Carolina,  
v.

Dean Alton Holcomb,


Respondent,

Appellant.

**PROOF OF SERVICE**

I certify that I have served a copy of Counsel's Explanation of Non-Representation for the above-referenced Appellant, upon The Honorable Jenny Abbott Kitchings, Clerk of Court South Carolina Court of Appeals, PO Box 11629, Columbia SC 29211, South Carolina Attorney General Alan McCrory Wilson at PO Box 11549, Columbia, SC 29211, Russell Ghent, Assistant Solicitor for Seventh Judicial Circuit, at 180 Magnolia Street, Spartanburg SC 29306, Mr. Robert M. Dudek, Esquire at 1330 Lady Street, Suite 401, Columbia, SC 29201, Kelly B. Arnold, Office of Disciplinary Counsel, Post Office Box 12159, Columbia, South Carolina 29211 and April Herron, Court Reporter, at P O Box 17675, Greenville SC 29606 by depositing a copy of it in the United States Mail, postage prepaid, on October 31, 2017.

October 31, 2017

  
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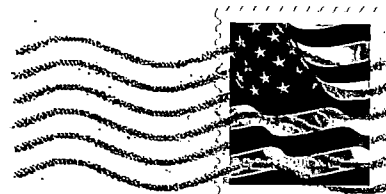
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