

LAW OFFICES OF CHARLES W. WHITEN, JR., P.A.  
P.O. BOX 716  
ANDERSON, SOUTH CAROLINA  
29622

Charles W. Whiten, Jr.

215 East Benson Street  
Phone: 864-617-9693  
Fax: 864-642-4351  
E-Mail: [cwhiten2000@gmail.com](mailto:cwhiten2000@gmail.com)

May 30, 2018

Jenny Abbott Kitchings  
The South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, South Carolina 29211

**RECEIVED**  
JUN 01 2018  
SC Court of Appeals

Re: The State v. Kevin J. Williams  
Appellate Case No.: 2018-000695

Dear Ms. Kitchings:

I am providing my written explanation for filing along with my Certificate of Service for same.

Thank you for your instructions regarding the captioned appeal on Kevin J. Williams. Please consider this my written explanation.

I am providing the following information as directed.

**FACTS**

On March 16, 2017 Kevin Jason Williams was arrested and charged with Trafficking of methamphetamines, 100 or more but less than 200 grams, Sale of Delivery of a pistol, possession of a firearm by a convicted felon and possession of a weapon during a violent crime.

I was retained to represent him only through the disposition of the case at the trial level.

While he was out on bond, he was arrested and charged with attempted murder and kidnapping on allegations that he attempted to burn the mobile home residence with his wife and son inside.

A motion was made to revoke his original bond and bond was refused on the murder and kidnapping charges. He was represented by separate counsel on these charges and remained incarcerated in the Abbeville County Detention Center until his pleas on April 3, 2018.

At the hearing, on this date, Mr. Williams was allowed to plead to trafficking in methamphetamines 28 grams but less than 100 grams, one weapon charge and CDV.

All other charges were dismissed. Judge Sprouse sentenced Mr. Williams to ten years on the trafficking case and a concurrent sentence on the weapon and CDV charges.

I did not file any motions or present any objections prior to or during the hearing.

However, prior to the case being presented for hearing before Judge Sprouse, I was made aware of a potential violation of Article 11, Section 21 of the South Carolina Constitution which provides: "No bill shall have the force of law until it shall have been read three times, and on three separate times and on three separate days, in each house, has had the Great Seal of the State affixed to it and has been signed in the Senate by the President of the Senate and in the House by the Speaker of the House of Representative.

My concern was that the Secretary of State had admitted that a number of bills from the South Carolina legislature filed since 2013 (and perhaps before) had not been affixed with the State Seal as required by the State Constitution.

I received information from the South Carolina Office of Archives (Mr. Tuttle) advising that one of the bills I questioned did not appear to have been affixed with the Great Seal of South Carolina. The bills I questioned were Acts from 1987 through 2016 that set forth Section 44-53-375 addressing trafficking of methamphetamines including the section under which Kevin Williams was charged.

I then visited the Office of the Secretary of State to review the bills they had on file for the years after 2013.

During my conversation with the staff of the Office of the Secretary of State, I asked if the State Seal had been affixed to the pertinent statutes and if so, when and who had affixed the Seal. I was shown the bills I had requested which appeared to have a faint Seal affixed to the back of the front page. When I asked who in the Office of the Secretary of State had affixed the Seal, the clerks present advised that they did not know, but it had to be someone in another section of the Office of the Secretary of State. Their answer did not satisfy me given the history of the failure to affix the Great Seal to bills from ten years back.

I advised the solicitor involved with Mr. Williams case, but did not request a continuance or raised the issue before the Court for two reasons:

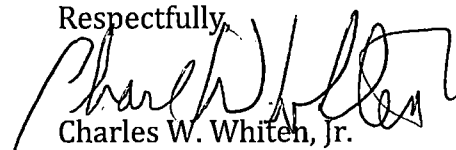
1. My investigation into the status of the Great Seal of South Carolina was not complete (I still don't know who and when the faint Seal was attached) and
2. Negotiations with the Abbeville County Solicitor had taken what I considered a favorable turn resulting in dismissal or reduction of the most serious charges and a recommendation of a ten year sentence with credit for his detention in the Abbeville County Detention Center.

My concern for filing the appeal was to preserve any potential future decision that Article 11 section 21 of the South Carolina Constitution regarding the failure to affix the Great Seal of South Carolina to the bill (or bills) affecting Mr. Williams would render the force of the statute ineffective. I do not believe that a Defendant waives a violation of his constitutional rights with a plea when those rights are still under investigation.

Having given my reason for this appeal, I understand and realize that Mr. Williams' remedies, if any, may ultimately rest with a writ of habeas corpus or other post trial remedy aside from an appeal and if there is a decision of the Court of Appeals rejecting his Appeal, Mr. Williams will be so advised.

Also, if the Court of Appeals determines that there is an issue to be reviewed by the Court since the Office of Indigent Defense will likely be the Office to make further decision on this appeal, I will no longer be responsible for the outcome.

Respectfully



Charles W. Whiten, Jr.  
Attorney at Law

CWW/crw  
w/enclosures

cc: The South Caroline Commission on Indigent Defense  
PO Box 11433  
Columbia, SC 29211-1433  
Attn: Robert M. Dudek

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM ABBEVILLE COUNTY  
Court of General Sessions

R. Scott Sprouse, Circuit Court Judge

The State,.....Respondent,  
v  
Kevin James Williams.....Appellant.

Appellant Case No.: 2018-000695

---

PROOF OF SERVICE

---

**RECEIVED**  
JUN 01 2018  
SC Court of Appeals

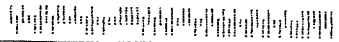
I certify that I have served an Explanation for Review of Appeal on the Respondent by depositing a copy of it in the United States Mail, postage prepaid on May 30, 2018 and addressed as follows:

Jenny Abbot Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

The South Carolina Commission on Indigent Defense  
PO Box 11433  
Columbia, SC 29211-1433

/s/ Charles W. Whiten, Jr.  
Charles W. Whiten, Jr.  
Post Office Box 716  
Anderson, South Carolina 29622  
(864) 617-9693  
Attorney for Appellant

Law Offices of Charles W. Whiten, Jr.  
P.O. Box 716  
Anderson, SC 29622



US POSTAGE  
**\$01.42<sup>0</sup>**  
First-Class  
Mailed From 29621  
05/30/2018  
032A 0061826496

**RECEIVED**  
JUN 01 2018  
SC Court of Appeals

Jenny Abbott Kitchings  
The South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, South Carolina 29211