

October 3, 2018

RECEIVED

OCT 05 2018

S.C. SUPREME COURT

HONORABLE DANIEL E SHEAROUSE
THE CLERK OF COURT,
South Carolina Court of Appeals
Post Office Box ~~6000~~ 11330
Columbia, South Carolina 29211

RE: Phillip Sims, 301566 v. STATE OF SOUTH CAROLINA
2015-CP-29-0925

Dear Clerk of Court, MR. SHEAROUSE

Enclosed please find enclosed is explanation as to why dismissal was improper with Notice of Appeal. [I mailed NOTICE of Appeal to Clerk of Court Sixth Judicial Circuit of Lancaster County, Mr. Jeff Hammond, P.O. Box 1809, Lancaster County SC 29721, September 11, 2018] after receive Final Notice of Dismissal September 4, 2018 Re No. 2015-CP-29-0925. Asking Clerk to forward the N.O.A. to all parties because all prisons were locked down because of Hurricane Florence Rule 5 SCACR - Please provide Applicant with Attorney to help file Writ of Certiorari Post-conviction Rule 227 SCACR OR the Proper forms and Rules to file.

Respectfully Submitted,

cc DeShawn Mitchell
Post Office Box 11549
Columbia, SC 29211-1549

Phillip Sims #301566

Phillip Sims #301566

MCCI F-1-A

386 Redemption Way

McCormick SC 29899

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

RECEIVED

OCT 05 2018

S.C. SUPREME COURT

APPEAL FROM LANCASTER COUNTY

COURT OF COMMON PLEAS

CASE NO. 2015-CP-29-0925

STATE OF SOUTH CAROLINA Respondent,

V.

Phillip Sims #301566 Appellant,

NOTICE OF APPEAL

Phillip Sims appeal the Motion to dismiss he received September 4,
2018.

October 3, 2018

I Phillip Sims #301566

Phillip Sims #301566

MCC1 F-1-A

386 Redemption Way

McCormick S.C. 29899

Other Counsel of Record:

Deshawn Mitchell, ABE

Post Office Box 11549

Columbia S.C. 29201-1549

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

OCT 05 2018

APPEAL FROM LANCASTER COUNTY

S.C. SUPREME COURT

COURT OF COMMON PLEAS

CASE NO. 2015-CP-29-0925

STATE OF SOUTH CAROLINA Respondent,

v.

Phillip Sims # 301566 Appellant,

PROOF OF SERVICE

I Phillip Sims (Applicant) certify that I have this day 3 of October, 2018 served Notice of Appeal upon The South Carolina Court of Appeals Post Office Box 11629, Columbia, South Carolina 29201 by depositing one copy of the same in the United States Mail (by and through the McCormick Correctional Institution legal mail system).

I Phillip Sims declare under the penalty of perjury that the foregoing is true and correct 28 U.S.C. § 1746 Phillip Sims # 301566

10-3-2018

RECEIVED

OCT 05 2018

S.C. SUPREME COURT

~~Argued~~

~~THE~~ THE FINAL DISMISSAL IS DETERMINED IMPROPERLY
FOR THE FOLLOWING REASONS:

Applicants claims in $\%A$ No. 2015-CP-29-0925 of the following:

- 1) 14th Amendment, Due process, and Equal protection of law violation
 - (a) trial counsel denied effective assistance of counsel
 - (b) trial counsel failed to inform client of plea offer
- 2) 6th Amendment violation
 - (a) trial counsel denied effective assistance of counsel
 - (b) trial counsel failed to inform client of plea offer
- 3) After discovered evidence
 - (a) counsel failed to inform defendant of plea offer

Motion to dismiss because successive and 5 years after remittitur was an unreasonable determination. Applicant never raised issue at state level for court to correct clear error then issue was first discovered 2-28-12 at $\%A$ No. 2009-CP-29-0859 hearing App. 62 by attorney's own admittance. Applicant was not able to submit issue after hearing because inadequate per attorney, lack of record, and SCE-Filing. Issue was not in violation of statute of limitations, per application was filed exactly 270 days from date of last appeal. Filed to correct record, let State court rule on issue and show Judge's decision at the time of $\%A$ No. 2009-CP-29-0859 4-2-12 order to dismiss was contrary to clearly established law.

~~CONFIDENTIAL~~
~~XXXXXXXXXX~~
~~XXXXXXXXXX~~

~~CONFIDENTIAL~~
~~XXXXXXXXXX~~
~~XXXXXXXXXX~~

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Phillip Sims
#301566
MCCORMICK CORRECTIONAL INSTITUTION
386 Redemption Way
McCormick, SC 29899-0000

PER Act
~~CONFIDENTIAL~~ rehearing due to
facts not known the time of first
Appeal and several legal matters
have been overlooked. ~~CONFIDENTIAL~~
~~STATE'S SUBJECT AND COUNSEL FEELING AND~~
~~HAVE MORE NEED TO HAVE BEEN UNABLE TO MEET COURT~~

~~10/1~~
~~IX~~

Guilty Plea is unconstitutional and petitioner's right to Sixth Amendment assistance to counsel and fair hearing has been denied at every State Court level and the judgement entered is unreliable because Attorney's failure to perform duty of informing, communicating to petitioner was prejudicial for the fact that if negligence of Attorney to provide the assistance the Sixth Amendment requires and he admits to violating RPC then petitioner's plea of guilty could have not been knowing and voluntary and his judgement needs to be set aside so he can have fair hearing with all facts known to receive fair hearing in Due process.

~~CONFIDENTIAL~~
~~U.S. COURT OF APPEALS~~
~~FORTH FIFTH CIRCUIT~~
~~Redmond Virginia 22089~~

Mr. Sims received order and
Judgment April 9, 2018 by
MCCI Mail room. No. 17-7666
U.S. Ct. App. 4th Cir. (5112-20-0292)

Clear All

Documents and Docket Summary

Documents Only

Include Page Numbers

Selected Pages: Selected Size:

Totals reflect accessible documents only and do not include unauthorized restricted documents.

View Selected

PACER Service Center			
Transaction Receipt			
05/18/2018 05:33:35			
PACER Login:	redharris56	Client Code:	
Description:	Docket Report (filtered)	Search Criteria:	17-7666 Filed 4/1/2017 - 5/18/2018
Billable Pages:	2	Cost:	0.20

Phillip Sims # 301566

MCCI F-1-A

386 Redemption Way

McCormick S.C. 29899



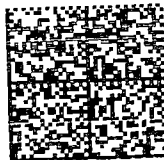
CLERK OF COURT

MR. DANIEL E. SHEAROUSE

SOUTH CAROLINA COURT OF APPEALS

POST OFFICE BOX ~~11330~~ 11330

Columbia SOUTH CAROLINA 29211



UNITED STATES POSTAGE



PITNEY BOWES

\$ 000.21⁰

02 1P

0000879469

OCT 03 2018

MAILED FROM ZIP CODE 29899

121