

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions

The Honorable Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2016-002229

THE STATE,

RESPONDENT,

v.

JIMMY B.K. CURLES,

APPELLANT.

MOTION TO DISMISS APPEAL FOR LACK OF JURISDICTION

The State hereby moves this Court to dismiss Appellant's direct appeal based upon a lack of appellate jurisdiction. The basis for this motion is set forth below.

Background Facts

Appellant was indicted at the April 2015 term of the Pickens County Grand Jury for one count of first-degree burglary (2015-GS-39-601) and two counts of second-degree burglary (2015-GS-39-603 & -605). On September 20, 2016, he appeared before the Honorable Brian M. Gibbons and pled guilty to three counts of second-degree burglary. Appellant was represented at the plea by Kenneth Roper, Esquire. Judge Gibbons sentenced Appellant to three concurrent terms of ten (10) years' imprisonment. (See Exhibit #1, Indictments & Sentencing Sheets).

On September 21, 2016, Appellant appears to have attempted to file a *pro se* notice of

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DEC 04 2018
SC Court of Appeals

appeal with the Pickens County Clerk of Court. (See Exhibit #2, pro se “Motion for . . .” dated September 21, 2016, and filed September 26, 2016). That *pro se* document, captioned as: “Motion for: Re: Request for a Appeal on Sentencing and Agreed for Time Served Amount for 999 days as of current, but wasn’t giving.” was received by this Court on October 31, 2016, but was not accompanied by a proof of service. The following day, it appears Appellant attempted to submit a *pro se* letter/motion with the Pickens County Clerk of Court. (See Exhibit #3, letter from Clerk of Court to Appellant dated September 26, 2016). On November 18, 2016, plea counsel filed an “Amended Notice of Appeal” on Appellant’s behalf acknowledging he had received written notice of entry of the order on appeal on September 20, 2016. (See Exhibit #4, Amended Notice of Appeal). A “Proof of Service” was attached to the amended notice of appeal showing it was served on the solicitor on November 21, 2016. (See Exhibit #5, Proof of Service). In the cover letter accompanying the amended notice of appeal, plea counsel states Appellant wrote to him requesting a reconsideration of his sentence and that counsel “confirmed [that request was] properly and timely filed with the Pickens Clerk of Court.” (See Exhibit #6, Cover letter dated November 18, 2016). It appears, however, that the request may have simply been the *pro se* request Appellant sent directly to the Clerk of Court. Nothing in the record before this court demonstrates otherwise.

Discussion

The South Carolina Appellate Court Rules state, in pertinent part:

After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents **within ten (10) days after the sentence is imposed**. In all other cases, a notice of appeal shall be served on all respondents within ten (10) days after receipt of written notice of entry of the order or judgment. When a **timely** post-trial motion is made under Rule 29(a), SCRCrimP, the time to appeal shall be stayed and shall begin to run from receipt of written notice of entry

of an order granting or denying such motion (emphasis added).

Rule 203, SCACR. The South Carolina Rules of Criminal Procedure provide, in pertinent part, that post-trial motions shall be made **within ten days** after the imposition of the sentence and that the time for appeal shall be stayed by a **timely** post-trial motion and shall run from the receipt of written notice of entry of the order granting or denying such motion. Rule 29, SCRCrimP.

In *Miller v. State*, the South Carolina Supreme Court stated as follows:

Since there is no right to “hybrid representation” that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel. *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989). Because petitioner was represented by counsel, the *pro se* motion was not proper, should not have been accepted, and should not have been ruled upon. **The motion was essentially a nullity.** We therefore vacate the order ruling on the motion and dismiss petitioner's notice of appeal as moot. We also take this opportunity to remind judges and clerks of court of our directive in *Foster* not to accept substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a party who is represented by counsel (emphasis added).

388 S.C. 347, 697 S.E.2d 527 (2010). This Court recently reached a similar conclusion in dismissing a criminal appeal for a lack of appellate jurisdiction. *State v. Devore*, 416 S.C. 115, 123-24, 784 S.E.2d 690, 694-95 (Ct. App. 2016) (“Since Devore was represented by counsel, his *pro se* motion was not proper and could not be accepted. . . . Because Devore’s *pro se* filings were a nullity, there was no proper notice of appeal served or post-trial motion made within ten days of imposition of his sentence, and this court does not have appellate jurisdiction.”).

In Appellant’s case, there was no proper, timely motion for reconsideration of sentence or notice of appeal served or filed within ten days after the sentence was imposed. Appellant was admittedly represented by counsel at the time he pled guilty and at the time he submitted the *pro se*

request to reconsider his sentence as well as the *pro se* notice of appeal to this Court. Under *Miller* and *Devore*, these documents were improper *pro se* filings that should not have been - and could not properly have been – accepted by this Court or the Pickens County Clerk of Court; they were nullities. *Devore*, 416 S.C. at 123-24, 784 S.E.2d at 694-95; *Miller* at 347, 697 S.E.2d at 527; *see also Jones v. State*, 348 S.C. 13, 14, 558 S.E.2d 517, 517 (2002) (“There is no constitutional right to hybrid representation either at trial or on appeal.”); *Foster v. State*, 298 S.C. 306, 307, 379 S.E.2d 907, 907 (1989) (ordering the Clerk of Court to return a substantive *pro se* document filed while the petitioner was represented by counsel). Therefore, the *pro se* filings could not operate as a notice of appeal or a motion for reconsideration that would stay the time period for the filing of the appeal.

Since no proper motion for reconsideration or notice of appeal was filed within ten days of Appellant’s conviction, this Court has no jurisdiction over Appellant’s case and must dismiss his appeal. *See Hill v. South Carolina Dept. of Health and Environmental Control*, 389 S.C. 1, 21, 698 S.E.2d 612, 623 (2010) (“The service of a notice of appeal is a **jurisdictional requirement**, and the time for service may not be extended by this Court.”); *Canal Ins. Co. v. Caldwell*, 338 S.C. 1, 5, 24 S.E.2d 416, 418 (Ct. App. 1999) (in a civil case, pointing out that Rule 203(b), SCACR, requires a party to serve his notice of appeal within thirty days after receiving written notice of the entry of a final order or judgment, and failure to do so divests this court of jurisdiction “and results in dismissal of the appeal”); *see also Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992) (“[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.”). Although this required dismissal will prevent Appellant from challenging his conviction in a direct appeal, Appellant’s issues can be raised in a timely post-conviction relief application.

Conclusion

Based upon the foregoing, the State respectfully requests that this Court dismiss Appellant's appeal for lack of appellate jurisdiction.

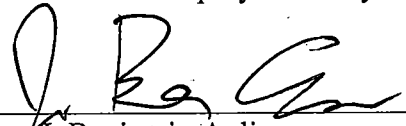
Respectfully submitted,

ALAN WILSON
Attorney General

W. WALTER WILKINS, III
Solicitor, Thirteenth Judicial Circuit

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General

BY:



J. Benjamin Aplin

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

December 4, 2018

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions

The Honorable Brian M. Gibbons, Circuit Court Judge

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DEC 04 2018

SC Court of Appeals

Appellate Case No. 2016-002229

THE STATE,

RESPONDENT,

v.

JIMMY B.K. CURLES,

APPELLANT.

PROOF OF SERVICE

I, Troyeshi Brailey, Legal Coordinator, hereby certify that I have served the within *Motion to Dismiss Appeal for Lack of Jurisdiction*, dated December 4, 2018, on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record:

Robert M. Dudek, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211-1589

I further certified that all parties required by Rule to be served have been served. This 4th day of December, 2018.



Troyeshi Brailey
Legal Coordinator

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3727

Exhibit # 1

WITNESSES

David B Sudduth

Easley Police Department

8/15/2014

ARREST WARRANT NUMBER
2014A3920400088

ACTION OF GRAND JURY
TRUE BILL
Date: **APR 14 2015**

[Signature]
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015 3S-39-0601
DGB

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS
APR 14 2015 TERM 2015

THE STATE

vs.

JIMMY BYRON KEITH CURLES

Indictment for
0079
BURGLARY FIRST DEGREE
VIOLATION § 16-11-0311

INDICTED

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

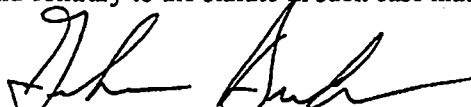
INDICTMENT FOR
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on **APR 14 2015** the Grand Jurors of Pickens

County present upon their oath:

That JIMMY BYRON KEITH CURLES did in Pickens County, on or about the 5th day of January, 2014, willfully and unlawfully enter the dwelling of NICHOLAS POWLES located at 274 Jeanette Street, Easley, South Carolina without consent and with the intent to commit a crime therein and the defendant did arm himself with a weapon. This is in violation of §16-11-311 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR

BAR # 100344

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens
STATE VS.
Jimmy Byron Keith Curles

INDICTMENT/CASE#: 2015GS3900601
A/W#: 2014A3920400088
Date of Offense: 1/5/2014
S.C. Code § : 16-11-0311
CDR Code #: 0079

AKA: _____
Race: WHITE Sex: M Age: 50
DOB: _____
DL#: 003240177 SID#: _____

SENTENCE SHEET 0 - 10 years

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: BURGLARY, SECOND DEGREE (DWELLING)

CONVICTED OF or PLEADS

in violation of § 16-11-0312 of the S.C. Code of Laws, bearing CDR Code # 0080
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lowd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 100344 [Signature] [Signature] 1049
Buckner, Daniel Graham SC Bar# _____ Defendant Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 Set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5%)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.3 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL:	\$ <u>128.15</u>

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Harold R. McIberty, Jr.
Court Reporter: Deborah Garrison
SCCA/217 (03/2011)

Presiding Judge [Signature]
Judge Code: 98
Sentence Date: 7/20/16

WITNESSES

Anthony Raines

Pickens County Sheriff's Office

11/19/2014

ARREST WARRANT NUMBER
2014A3910500099

TRUE BILL **ACTION OF GRAND JURY**
~~Date~~ **APR 14 2015**

[Signature]
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015-GS-39- 0603
DGB
The State of South Carolina
County of Pickens

COURT OF GENERAL SESSIONS
APR 14 2015 **TERM 2015**

THE STATE

vs.

JIMMY BYRON KEITH CURLES

Indictment for
0080
BURGLARY SECOND DEGREE
VIOLATION § 16-11-0312

INDICTED

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
BURGLARY SECOND DEGREE

APR 14 2015

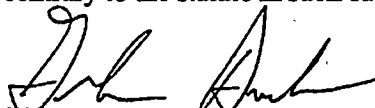
At a Court of General Sessions, convened on

the Grand Jurors of Pickens

County present upon their oath:

That JIMMY BYRON KEITH CURLES did in Pickens County, on or about the 13th day of January, 2014, willfully and unlawfully enter the dwelling of ROBIN FINCANNON located at 491 N. Hendricks Road, Easley, South Carolina, without consent and with the intent to commit a crime therein. This is in violation of §16-11-312 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 100344

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens
STATE VS.
Jimmy Byron Keith Curles

INDICTMENT/CASE#: 2015GS3900603
A/W#: 2014A3910500099
Date of Offense: 1/13/2014
S.C. Code §: 16-11-0312
CDR Code #: 0080

AKA:
Race: Sex: M Age: 50
DOB:
DL#: 003240177 SID#:

SENTENCE SHEET 0-10 years

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: BURGLARY, SECOND DEGREE (DWELLING)

CONVICTED OF or PLEADS

in violation of § 16-11-0312 of the S.C. Code of Laws, bearing CDR Code # 0080
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Buckner, Daniel Graham 100344 SC Bar# Defendant
Attorney for Defendant SC Bar# 7047

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP days/hours Public Service Employment

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
paid to Public Defender Fund
Other: transport to Greenville County
to deal w/ these charges

Table with columns for Recipient, *Fine, and amounts. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Pmh) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(I) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$ 12875

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: Harold P. Wilborn, Jr.
Court Reporter: Deborah Garrison
SCCA-217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 268
Sentence Date: 2/6/14

WITNESSES

Anthony Raines

Pickens County Sheriff's Office

11/19/2014

ARREST WARRANT NUMBER
2014A3910500053

ACTION OF GRAND JURY

TRUE BILL

Date _____

APR 14 2015


Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015-GS-39- ^{DGB} 0605

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

APR 14 2015 TERM 2015

THE STATE

vs.

JIMMY BYRON KEITH CURLES

Indictment for

0080

BURGLARY SECOND DEGREE

VIOLATION § 16-11-0312

INDICTED


STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
BURGLARY SECOND DEGREE

At a Court of General Sessions, convened on **APR 14 2015** the Grand Jurors of Pickens
County present upon their oath:

That JIMMY BYRON KEITH CURLES did in Pickens County, on or about the 15th day of January, 2014,
willfully and unlawfully enter the dwelling of BETTY GRIFFIN located at 1501 Saluda Dam Road, Easley, South
Carolina, without consent and with the intent to commit a crime therein. This is in violation of §16-11-312 of the
South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR BAR # 100344

STATE OF SOUTH CAROLINA)
 COUNTY OF Pickens)
 STATE Pickens VS.)
Jimmy Byron Keith Curles)
 AKA:)
 Race: Sex: M Age: 50)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: [REDACTED])
 City, State, Zip: [REDACTED])
 DL#: 003240177 SID#: _____)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS3900605
 A/W#: 2014A3910500053
 Date of Offense: 1/15/2014
 S.C. Code §: 16-11-0312
 CDR Code #: 0080

SENTENCE SHEET 2-10 years

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: BURGLARY, SECOND DEGREE (DWELLING)

CONVICTED OF or PLEADS

in violation of § 16-11-0312 of the S.C. Code of Laws, bearing CDR Code # 0080
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted. Lesser Included Offense. Defendant Waives Presentation to Grand Jury. (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 100344 [Signature] 7047
 Buckner, Daniel Graham SC Bar# D Defendant Attorney for Defendant SC Bar# [REDACTED]

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 Set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BU) Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$ <u>3.75</u>
TOTAL		\$ <u>128.75</u>

Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.
 Presiding Judge: [Signature]
 Judge Code: _____
 Sentence Date: 7/9/2016

Clerk of Court/ Deputy Clerk: Honda P. Welton Jr.
 Court Reporter: Deborah Garrison
 SCCA/217 (03/2011)

Exhibit # 2

Judge of
South Carolina
County of
Pickens
- vs -

General Sessions
Clerk of Court

Motion for

Request for a Appeal on
sentencing and Agreed for
time served amount for 999 days
of current, But wasn't giving

2016 SEP 26

PRE 18

Jimmy Bryan Keith Carter

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

I the petitioner respectfully request a Appeal
like was said of by Judge Miller, I request this cause it
was a joint effort between Greenville and Pickens. This was
agreed by H.L. Steinberg and Asst. Solicitor Buckner. I only plea
out cause it was suppose to be open plea 0-10 and it was
to run concurrent with all charges in 13th Circuit Courts
which is a part of All three charges but I respectfully ask
this Appeal under Reboaleo -vs- New York. I agreed that I
would plea for these for the way I said it was under my personal
impression. I ask that this court give me as of today's date
the 999 days credit for these charges and hold off on sentencing
like we all agreed. Please forgive me and grant this petition.

Respectfully Submitted,

name: Jimmy B. Carter

Date: Sept. 21, 2016

Jimmy Thompson

RECEIVED

OCT 31 2016

SC Court of Appeals

My Commission Expires
April 1, 2021

attender, 20/16

Exhibit # 3

TELEPHONE (864) 898-5857
FAX (864) 898-5863
PWELBORN@CO.PICKENS.SC.US

Office of Clerk of Court
PICKENS COUNTY
Harold P. "Pat" Welborn, Jr.
P.O. BOX 215
PICKENS, SC 29671

CIVIL RECORDS (864) 898-5862
CRIMINAL RECORDS (864) 898-5864
FAMILY COURT (864) 898-5598

September 26, 2016

Mr. Jimmy Bryon Kieth Curles
20 McGee St
Greenville, S.C. 29601

RECEIVED
OCT 31 2016
SC Court of Appeals

RE: Letter/Motion Dated: 9/22/2016

Dear Mr. Curles

I am in receipt of your letter/ motion date: 9/22/2016

You will have to file your appeal with the Court of Appeals in Columbia. Judge Miller was not the Judge for your case. I will place your letter/motion in the courts file.

Sincerely,

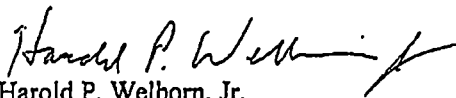

Harold P. Welborn, Jr.
Pickens County
Clerk of Court

Exhibit # 4

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions

Brian M. Gibbons, Circuit Court Judge

Indictment No(s). 2015-GS-39-0601,0603, and 0605

RECEIVED

NOV 21 2016

SC Court of Appeals

The State,

Respondent,

v.

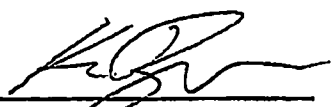
Jimmy B. K. Curles,

Appellant.

AMENDED NOTICE OF APPEAL

Jimmy B. K. Curles appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Brian M. Gibbons on September 20, 2016. Appellant received written notice of entry of this order on September 20, 2016.

November 18, 2016


Kenneth Roper
Post Office Box 246
Pickens, South Carolina 29671
(864) 898-1577
Attorney for Appellant

Other Counsel of Record:
Daniel Graham Buckner
Assistant Solicitor
214 East Main Street, Suite B120
Pickens, South Carolina 29671
(864) 898-5905
Attorney for Respondent

Exhibit # 5

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions

Brian M. Gibbons, Circuit Court Judge

Indictment No(s). 2015-GS-39-0601, 0603, and 0605

The State,

Respondent,

v.

Jimmy B. K. Curles,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on November 18, 2016, addressed to its attorney of record, Daniel Graham Buckner, Post 214 East Main Street, Suite B120, Pickens, South Carolina 29671.

November 18, 2016



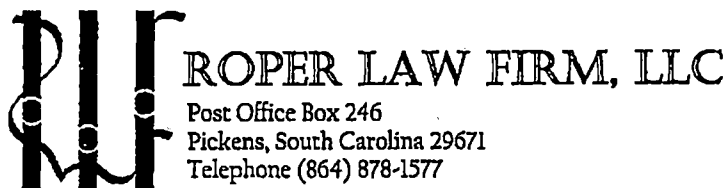
Kenneth Roper
Post Office Box 246
Pickens, South Carolina 29671
(864) 898-1577
Attorney for Appellant

RECEIVED

NOV 21 2016

SC Court of Appeals

Exhibit # 6



ROPER LAW FIRM, LLC

Post Office Box 246
Pickens, South Carolina 29671
Telephone (864) 878-1577

Kenneth S. Roper, Esq.
ken@roperlawfirm.com

November 18, 2016

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

RE: The State v. Jimmy B. K. Curles, Case No. 2015-GS-39-0601,0603, and 0605

Dear Ms. Kitchings:

Enclosed for filing is an amended notice of appeal in the above case. Also enclosed are the following:

- (1) Proof of service of the notice of appeal on the Respondent.
- (2) A copy of the order which is to be challenged on appeal.

I was appointed to represent this defendant pursuant to Rule 608, SCACR on his underlying charges in Pickens County. On September 26, 2016, Mr. Curles wrote to me requesting a reconsideration of his sentence, which I then confirmed as properly and timely filed with the Pickens Clerk of Court. I was unaware Mr. Curles also filed with the Court of Appeals, but am responding with this Amended Notice as instructed by your office.

Sincerely,

Kenneth Roper
Post Office Box 246
Pickens, South Carolina 29671
(864) 898-1577
Attorney for Appellant

Cc: Daniel Graham Buckner
Assistant Solicitor
214 East Main Street, Suite B120
Pickens, South Carolina 29671
Attorney for Respondent

RECEIVED

NOV 21 2016

SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

December 4, 2018

RECEIVED
DEC 04 2018
SC Court of Appeals

Robert M. Dudek, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211-1589

Re: The State v. Jimmy B.K. Curles
Appellate Case No. 2016-002229

Dear Mr. Dudek

I am enclosing two (2) copies of the Motion to Dismiss for Lack of Jurisdiction in the above-referenced case.

Sincerely,

J. Benjamin Aplin
Senior Assistant Deputy Attorney General
S.C. Bar No. 8729

JBA/tb
Enclosures

cc: Honorable Jenny A. Kitchings (original and six copies)
Victim Advocacy Division