

**Thomas J. Quinn
Attorney at Law**

DEFENDING YOUR FUTURE

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October 15, 2018

Jasper Cyle Autrey
00377079
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

RECEIVED
OCT 17 2018
SC Court of Appeals

Dear Jasper,

Pursuant to the enclosed letter I received today from The South Carolina Court of Appeals I am enclosing to you my earlier letter to the Court setting forth the reasons you believed an appeal was appropriate.

You have twenty days (Nov. 5, 2018) to submit to the Court any arguable basis that there are issues preserved for appeal. If the Court finds there are it may accept the appeal; if the Court does not your appeal will be dismissed.

The Court's address is in the enclosed letter – South Carolina Court of Appeals, P.O. Box 11629, Columbia, SC 29211.

The Court's concern is that the two issues I addressed earlier were not raised to the trial court and ruled on there. You can only raise on appeal issues that were addressed and ruled on by the lower court. That is what the Court means by "issues preserved for appeal."

I do not believe there are any issues raised and ruled on by the lower court ("preserved for appeal") and your best avenue is post-conviction relief.

Please send me a copy of anything you provide the Court. If you do not respond the appeal will be dismissed.

Very truly yours,

A handwritten signature of Thomas J. Quinn, consisting of a horizontal line followed by a stylized 'Q' and 'J'.

Thomas J. Quinn



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

October 12, 2018

Mr. Thomas J. Quinn, Esquire
109 Laurens Road
Building 4, Suite D
Greenville SC 29607

Re: The State v. Jasper C. Autrey
Appellate Case No. 2018-001433

Dear Counsel:

This Court has received your explanation for appealing.

Please forward your explanation to your client, along with a statement that your client has twenty (20) days from the date of your transmittal letter to inform this Court in writing of any arguable basis that there are issues preserved for appeal. Please provide your client with the Court's address:

South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

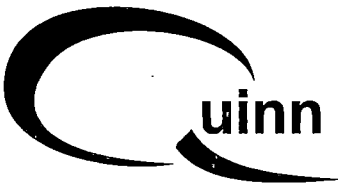
Please send your letter to your client within ten (10) days, with a copy to this Court.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Robert Michael Dudek, Esquire
Kristie Bjorndal Hodge, Esquire
Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire



Thomas J. Quinn
Attorney at Law

DEFENDING YOUR FUTURE

August 30, 2018

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V. Claire Allen
Deputy Clerk
The South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

Re: The State v. Jasper C. Autrey
Appellate Case No. 2018-001433

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SC Court of Appeals

Dear Deputy Clerk Allen,

As this is an appeal from a guilty plea an explanation identifying the issue(s) to be raised on appeal in this matter was requested.

This appeal was filed at the request of Mr. Autrey and would present to the Court the question of the appropriateness of the sentence imposed on Mr. Autrey.

Mr. Autrey would raise two issues concerning his sentencing:

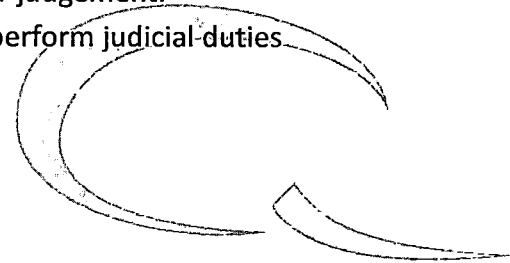
1. That his sentence was aggravated by the conflict the sentencing judge, The Honorable Edward W. Miller, had as the victim's grandfather and custodian had previously been an employee of the Greenville County Sheriff's Office assigned to the Greenville County Courthouse. While Judge Miller is an at-large judge his office is in the Greenville County Courthouse and he often holds court in that courthouse. The victim's grandfather addressed the Court at sentencing.

This issue was not raised below and the Court did not, therefore, have an opportunity to rule on it.

Pursuant to the Rules Governing the Judiciary, Employees of the Judicial Department, and Others Assisting the Judiciary, SCRE, Rule 501, Canon 2, "A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities."

Specifically pursuant to subsection (B) "A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgement."

Additionally pursuant to Rule 501, Canon 3(5) "A judge shall perform judicial duties without bias or prejudice."



Finally pursuant to Rule 501, Canon 3E(1), "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where (a) the judge has a personal bias or prejudice concerning a party..."

Mr. Autrey would argue that he should have been notified by the Court of the relationship prior to sentencing to determine whether a recusal motion was appropriate to avoid, as provided by the Rules cited, a bias which influenced, or could have influenced, the judge's impartiality and sentence. Mr. Autrey believes in this matter he should have had the opportunity to move the judge to step aside whether the Court had an actual conflict or merely to avoid the appearance of impropriety.

2. That the solicitor improperly argued to the Court at sentencing that Mr. Autrey's sentence should be more than 15 years because he had previously turned down a plea offer made by the State which caused the child victim to have to testify. The exercise of a defendant's constitutional right to proceed to trial should not ever be used against him in sentencing and unsuccessful plea negotiations is not a proper consideration to be raised before the sentencing judge.

This issue was not raised below and the Court did not, therefore, have an opportunity to rule on it.

Rule 404(4), SCRE, states that "any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn." are inadmissible in any civil or criminal proceeding against the defendant. A rejected plea agreement should not be used against the defendant in an attempt to argue the defendant should be sentenced to more time than was offered as a part of an earlier plea offer which happened here. The impropriety is aggravated when tied to the defendant's exercise of his constitutional right to proceed to trial.

Mr. Autrey would argue that his sentencing should be set aside and a new sentencing held.

Very truly yours,

Thomas J. Quinn

Cc: Robert Michael Dudek, Esquire
John Benjamin Alpin, Esquire
Kristie Bjorndal Hodge, Esquire

Thomas J. Quinn

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109 Laurens Road
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SC Court of Appeals

MS. V. CLAIRE ALLEN

DEPUTY CLERK

S. C. COURT OF APPEALS

P.O. Box 11629

COLUMBIA, SC 29211

29211-162929

