

SCDC

NOV 09 2020

MAIL ROOM

Notice of Appeal IN A CIVIL CASE

THE STATE OF SOUTH-CAROLINA  
(IN THE COURTS of Appeals)  
(IN THE Supreme Courts)

RECEIVED

NOV 12 2020

Appeal From RICHLAND County  
COURT of Common Pleas

S.C. SUPREME COURT

(ALison R. LEE (chief Administrative Judge)  
(Fifth Judicial Circuit)

(CASE NO: 2018-CP-40-0919)  
Under Rule 203, SEACR,

STATE OF SOUTH-CAROLINA (Attorney General office..... Respondent

v.

John J. Smith #246646 ..... Appellant.

Notice of Appeal

John J. Smith #246646 Appeals The order (Judgment) of The Honorable  
ALison R. LEE DATED November 9, 2020. Appellant Received written notice  
of entry of This order (Judgment) ON October 30, 2020.

Other Counsel of Record

(C.C.) ~~See~~ Clerk of COURT (Richland County)  
P.O. Box 2766, Columbia, S.C 29202-2766

(C.C.) Lindsey A. McCallister,  
SOUTH-CAROLINA, ATTORNEY Generals office  
Post office Box 11549  
Columbia, S.C 29211-1549

15/ John J. Smith  
John J. Smith  
Livesay Corr Inst-3-208  
P.O. Box 580  
UNA, S.C 29378  
pro-SE

RULE 243. Writ of Certiorari To Review Post-Conviction  
Relief Actions Brief and Fact

I got confined to The department of Correction on December 18, 2008 By Honorable Howard P. King under code Ann: 16-3-95(A) Infliction of Great Bodily Injuries upon a Child. I Received a 18 years 85% sentenced on this matter. I plea guilty on this matter Because this was my Daughter and I felt Bad Because of my negligent of what ~~was~~ accidentally happen and I took full responsible of what happen. I gotten a motion discovery on 6/20/08 Prepared By C. Jones and my Receiving Attorney Mary Lafave. By at that time I Appeal this sentenced with the S.C Courts of Appeal Courts filed Dec 22, 2008, where it Been admitted to The Courts Jan 16, 2009, when it got Dismissed on Feb 3, 2009 and then my family Retained a P.C.R. attorney Steven S. McKenzie to prepare a P.C.R Application and Represented me at the hearing. This attorney filed my application 54 days Late after my ~~State~~ Statute ~~limitation~~ limitation what would be Feb 3, 2010. The Issue he raise In that court had nothing to do with my case and at The hearing I found out The history and condition of my Daughter. I was coercion by McKenzie To withdraw from this P.C.R and he was going to do a Rule 29(B) of Newly discovery evidence. But the Real Reason he had me to do this is Because of his Late Filing and he New he was in error, and could get into trouble Because of his Actions. (I found this out Later) By, my family went to his office to see what's going on and that when he Requested ~~additional~~ additional 5,000 dollars what I Did not have at the time, so, I was left No choices But To filed the motion Pro-se. I Requested my motion discovery from him what I Received on Dec 6, 2011 and I made a Discovery of A SCDSS Child and Family Assessment and Physician from children and Family Health Center Stated my Daughter Condition, with my Daughter mother Initials on the Bottom. I filed this motion on August 7, 2012 where the State prolong it for 2 years where your COURT Issue a order on March 10, 2014 to have this motion heard, where I went Before Honorable Hood on April 3, 2014 and he deny it on June. I Appeal this matter before the COURT Appeal that took another 2 years for order to come back then I Appeal with the Federal habeas that took about another 1 years or so and I still had to wait on order to come back, and at this time Jamison v. STATE, was a case Rule on a New Articulated which articulated a New-Test for Relief Sought Based on newly Discovered evidence following a guilty Plea. Jamison v.s State 410, S.C, 456, 765 S.E 2d 123 (2014). My Attorney From my motion Rule 29(B) and In the federal habeas court Requested my P.C.R. ~~Transcripts~~ Transcripts By it was said it was Destory. I Received a letter from my daughter mother ~~Re~~ talking about my daughter condition and the state error on what they said what be wrong with my Daughter, so I also Submitted this with my P.C.R. Application as a affidavit and Newly discovery evidences.

NOV 09 2020

Conclusion

MAIL ROOM

Honor, I did not have money for The Right Representation for ATTORNEY and ended up plea guilty to a charge that was not the case in this matter. My P.C.R ATTORNEY Did nothing But mess-me up deeper and I never had a chance to the bite of The Apple. Today, I have New evidence to submitted to the COURT ~~on~~ on my Daughter condition. And Last, all of this time I was appealing the orders from COURT To COURT, Because Rules of the COURT, You cannot Be In 2 COURTS at the Same Time. So when that Jamison act came out I filed this Newly P.C.R under New Issue and Facts and this is not Successive Because Newly discover evidence could Be Brought up at anyTime. Requesting Time Served


61 John J. Smith  
John J. Smith #246646  
PRO-SE

NOV 09 2020

**MAIL ROOM**

This Court hereby advises Applicant he must file and serve a notice of appeal within thirty days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 30<sup>th</sup> day of October, 2020.

  
\_\_\_\_\_  
ALISON R. LEE  
Chief Administrative Judge  
Fifth Judicial Circuit

Columbia, South Carolina.

**BCB Consulting, LLC**

**6334 St. Andrews Road, Suite 103**

**P.O. Box 25452**

**Columbia, SC. 29223**

**803-603-0104/864-752-0813 Fax**

Elizabeth L. Boozer, Esquire

March 2, 2010

John Julius Smith #246646

Kirkland Corr. Inst.

4344 Broad River Road

Columbia, SC 29210

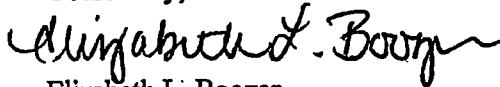
Re: SC DSS vs. John Smith, Keira King and Pamela Ewing  
Docket No. 2008-DR-40-1844

Dear John:

This letter is to inform you that a hearing to close your DSS case is scheduled for March 8, 2010. I contacted Mr. McKenzie immediately following the last hearing date. He was to meet with you to explain that closing the DSS case has no influence or bearing on your PCR case. Also, the judge at the last hearing explained that your rights to Kanayah are not being terminated. Even if you do not agree to the closure of the DSS case, the judge will most likely close the case without your consent because it has concluded. I am hopeful that Keira and your mother will be able to establish some sort of communication once the DSS case is closed.

I have three trials scheduled for March 8, 2010 in Lexington County which take priority over this hearing. Bruce Holland will be appearing on my behalf if I am unable to be at your hearing.

Yours truly,



Elizabeth L. Boozer

John J. Smith 2-12-20



## 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) 734-1880  
FAX: (803) 734-1838  
[www.sccourts.org](http://www.sccourts.org)

December 28, 2016

The Honorable Jeanette W. McBride  
PO Box 2766  
Columbia SC 29202-2766

### REMITTITUR

Re: The State v. John J. Smith  
Lower Court Case No. 2008GS4004539  
Appellate Case No. 2014-001366

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

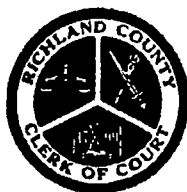
*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: Alan McCrory Wilson, Esquire  
Laura Ruth Baer, Esquire  
Deborah R.J. Shupe, Esquire  
Daniel Edward Johnson, Esquire  
The Honorable Robert E. Hood

**JEANETTE W.  
McBRIDE**  
Clerk of Court



MAILING ADDRESS:  
POST OFFICE BOX 2766  
COLUMBIA, S.C. 29202-2766

**VIRGINIA F. BELCHER**  
Chief Deputy Clerk of Court

TELEPHONE:  
Phone: (803) 576-1950  
Fax: (803) 576-1785  
TDD (803) 748-4999

**RICHLAND COUNTY CLERK OF COURT**  
Richland County Judicial Center  
1701 Main Street, Room 205  
Columbia, S. C. 29201

January 25, 2019

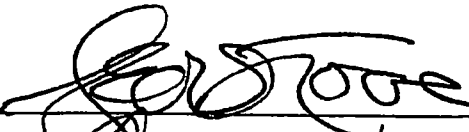


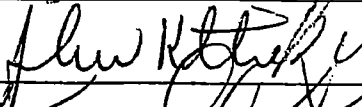

We have received your inquiry and respond as follows:

- [ ] We were unable to find a case with the name(s) and/or case number that you provided. If the case is a Richland County Case, please provide us with as much information as possible. (For example: a list of the **full** names of **ALL** parties in the case number and approximate filing date).
- [ ] The document you requested was not in the referenced case file. If the document was a Proposed Order, you may want to contact the Chief Administrative Judge or the Judge to whom you proposed this Order.
- [ ] The record you requested is sealed by Court Order. A court order will be required to open the file. Please contact an attorney.
- [ ] In order to obtain a transcript, send a written request to South Carolina Court Administration at 1015 Sumter Street, Suite 200, Columbia, SC 29201. You need to provide the case number, the Judge's name and the date of the trial. If you have any questions, call (803) 734-1800.
- [ ] A \$5.00 money order or law firm check and a self-addressed stamped envelope are required for copies of all documents that are less than 20 pages. For documents over 20 pages, please contact this office for an exact amount.
- [ ] This office is not permitted to provide legal advice or legal forms. Please contact an attorney to assist you.
- [ ] This office cannot assist you with your request. For assistance, please contact: Jessica E. Kinard, Attorney S.C. Attorney General Office  
P.O. Box 11549  
Columbia, SC 29211
- [ ] Other: Mr Smith, I still have not received anything from the Attorney Generals Office on your case. The Return has yet to be filed. As soon as I receive it, I will make sure to forward it to you. Also, you mentioned a "Summary Motion" which I have no record of either. It is possible that it went to our criminal records department by accident, due to the volume of inmate mail we receive. I will check with them and continue to look for it as well.

Sincerely,

Richland County Clerk of Court

A handwritten signature in cursive script that reads "Athena". Below the signature are two horizontal lines, likely representing a printed name or title.

  
C.J.  
  
J.  
  
J.  
  
J.  
  
J.

Columbia, South Carolina

March 10, 2014

cc:

The Honorable Jeanette W. McBride

Elizabeth A. McLean, Esquire

Tynika Adams Claxton, Esquire

John Julius Smith, #246646

Daniel R. Goldberg, Esquire

# The South Carolina Court of Appeals

The State, Respondent,

v.

John Julius Smith, Appellant.

Appellate Case No. 2014-001366

---

## ORDER

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Appellant has appealed from the trial court's order denying Appellant's motion for a new trial based on after-discovered evidence. Appellant's counsel has filed a motion to be relieved as counsel, noting she was appointed below, and she does not typically handle appellate cases. We grant counsel's motion.

We acknowledge that our supreme court has held that a criminal defendant is not entitled to counsel in a post-trial motion for a new trial based upon after-discovered evidence. *State v. Clinkscales*, 318 S.C. 513, 458 S.E.2d 548 (1995). However, we note that the courts have the inherent power to appoint lawyers to serve where it appears reasonably necessary for the court to do justice. *See Ex Parte Brown*, 393 S.C. 214, 223, 711 S.E.2d 899, 904 (2011) (holding that courts have inherent power to appoint lawyers to serve subject to the lawyer's entitlement to just compensation when necessary to render justice). Because the issue raised to the circuit court relates to the child's medical records and our record reflects the trial court issued an order prohibiting the release of the child's medical records to Appellant, Appellant is unable to effectively proceed pro se and the appointment of counsel is necessary to render justice. Accordingly, due to the unique circumstances of this case, the South Carolina Office of Appellate Defense shall proceed as counsel on appeal if it determines Appellant qualifies as an indigent.

  
FOR THE COURT

Columbia, South Carolina

FILED

2/28/14

**Al Simon**

---

**From:** Ambroziak, Karen <kambroziak@sccourts.org>  
**Sent:** Monday, March 20, 2017 10:56 AM  
**To:** Al Simon  
**Subject:** John Julius Smith

?Mr. Simon,

I am in receipt of your letter requesting a copy of John Julius Smith vs. State of South Carolina from August 31, 2011. Records are kept for a period of five years. These records were destroyed after the expiration of that time period and are no longer available.

---

Thank you.

Karen Ambroziak, RPR

Court Reporter for the Honorable Robert E. Hood ~~~~ CONFIDENTIALITY NOTICE ~~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

Page 10

COFFEY, CHANDLER, KENT & MCKENZIE, P.A.  
Attorneys At Law

WILLIAM COFFEY, JR.  
KYLE CHANDLER  
SHAWN KENT  
STEVEN S. MCKENZIE

JOSEPH COFFEY  
TARA CAMPBELL  
SCOTT ROBINSON  
HEARCE BENNING  
LAUREN FLEDER

December 6, 2011

John Smith  
# 246646  
MCCI F-4 195-A  
386 Redemption Way  
McCormick, SC 29899

Re: PCR Case No: 10-CP-402105  
John Smith vs. South Carolina

Dear Mr. Smith:

Pursuant to your request enclosed herewith please find a copy of your Discovery.

Sincerely yours,

Steven S. McKenzie

SSM:ypb  
enc.

MAILED  
NOV 29 2011  
FBI - COLUMBIA

NOV 29 2011  
FBI - COLUMBIA

January 18, 2019

Dear Judge,

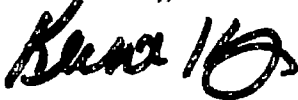
Mr. John J. Smith has been incarcerated for 10 years for the injuries done to our daughter, Kanayah Smith. Back in 2008, Kanayah Smith suffered from burns on her arm, and a possible hair line fracture. We are in 2019. Kanayah is doing great in school, Making A/B Average every quarter/semester. Each teacher she has had, have informed me that she is a great student, and very smart. Teachers also have said she can pick up math concepts quickly, quicker than other students in her class. She has report cards to prove it. With this being said, Kanayah has grown up to be a great person with no mental disabilities or retardation due to the injuries that were evident in 2008.

I finally found the courage to speak to John Smith after 10 years, January 2019, due to the severity of the situation. I have also grown and learned to forgive. Things do not happen for no reason, they happen to teach you something. John has expressed great remorse for his actions, he showed genuine regret not merely for the criminal liabilities but for the wrong to which he contributed. John has confided in me that he had a sincere understanding that his actions were immoral and wrong. In our many conversations about his troubles, he has never once tried to defend, minimize, or explain away his activities. Nor did he ever try to shift moral blame on others. John knew he was above such behavior and was, and remains ashamed that he had fallen so far below his own standards for himself.

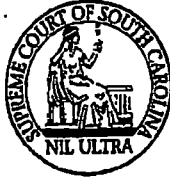
John is a man that cares deeply for his children and family. I truly believe his wrongful actions represent an aberration that he will never repeat. I cannot debate with you the legitimacy of the charges given to him, but John Smith knows the consequences for his actions and has dealt with the consequences for quite some time. John Smith knows the ways he can better himself to be the best individual/parent he can be. He learned from his bad decisions, which made him move to finally become a Level 1.

Please take this letter into consideration for an early release for John Smith. His children really need him active in their lives. If you are in need of more information, please do not hesitate to contact me at (803) 881-5324.

Sincerely,



Keira King



---

## The Supreme Court of South Carolina

---

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211

1231 GERVAIS STREET  
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1489

[www.sccourts.org](http://www.sccourts.org)

July 01, 2013

The Honorable Jeanette W. McBride  
PO Box 2766  
Columbia SC 29202-2766

Re: John Smith v. State of South Carolina  
Appellate Case No. 2013-001038

Dear Ms. McBride:

Enclosed is a copy of the Petition for Writ of Mandamus filed by Mr. Smith in the above matter. As you will see, his concern is that his Rule 29(b), SCRCrimP motion has apparently not been filed, and instead, he was instructed to file a post-conviction relief application.

Your response to the petition should be served and filed on or before July 11, 2013. Please be sure to show proof that your response has been served on Mr. Smith.

Very truly yours,

*Daniel E. Shearouse*  
DS

CLERK

cc: Mr. John Smith, 246646

Smith. After requesting and being granted additional time to obtain said records, the Defendant submitted supplementary medical records for the Court to review.

Rule 29(b) of the South Carolina Rules of Criminal Procedure allows a defendant to a motion for a new trial based on after-discovered evidence. Furthermore, the motion must be made within a year after the date of actual discovery or when the evidence could have been discovered through reasonable diligence. *Id.* South Carolina Courts recognize a five step process when determining whether to award a new trial. Those five prongs state that:

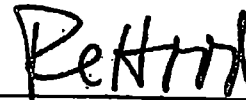
“[t]he movant must show the evidence (1) is such as will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial by the exercise of due diligence; (4) is material to the issue; and (5) is not merely cumulative or impeaching.”

*State v. Harris*, 706 S.E.2d 526, 529 (Ct. App. 2011).

After a review of the facts of the case, the motion and arguments, and all evidence presented, this Court finds that such evidence is insufficient to change the results of the Defendant's December 18, 2008 guilty plea.

IT IS THEREFORE ORDERED, adjudged and decreed that the Defendant's Motion for a New Trial is hereby DENIED.

IT IS SO ORDERED.



The Honorable Robert E. Hood  
Presiding Judge  
Fifth Judicial Circuit

This 16th day of June, 2014.  
Columbia, South Carolina.

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
STATE OF SOUTH CAROLINA, )  
v. )  
John Julius Smith, )  
Defendant. )

IN THE COURT OF GENERAL SESSIONS

Indictment No.: 2008-GS-40-4539

**ORDER DENYING DEFENDANT'S  
MOTION FOR A NEW TRIAL**

This matter came before the court on April 3, 2014 on the Defendant's Motion for a New Trial based upon after-discovered evidence. Deputy Solicitor Dan Goldberg and Assistant Solicitor Brent Arant of the Fifth Circuit Solicitor's Office appeared on behalf of the State, and Tynika Claxton and Tristan Shaffer appeared on behalf of the Defendant.

On December 18, 2008, the Defendant pled guilty on Indictment No. 2008-GS-40-4539, Infliction of Great Bodily Injury upon a Child, in front of the Honorable Howard P. King and received an eighteen (18) -year active prison sentence. The victim in this case was the Defendant's daughter, Kanayah Smith (hereinafter "Ms. Smith"), who sustained multiple injuries at the hands of the Defendant. The injuries to Ms. Smith consisted of severe burns throughout the body, broken limbs, permanent brain injuries, and other severe non-healing injuries that had occurred over an extended period of time. As a result, Ms. Smith continued receiving medical treatment after the initial incident and for some time after the Defendant's guilty plea.

On April 3, 2014, the Defendant moved this Court for a new trial based upon after-discovered evidence derived from Ms. Smith's medical records. The primary evidence presented at the hearing by the Defendant was an incomplete medical assessment on Ms. Smith taken after the date of the Defendant's guilty plea. At the conclusion of the Defendant's Motion, this Court allowed the Defendant one week to acquire additional and complete medical records on Ms.

JEANETTE W. MORRIS  
 C. P. S. S.  
 2014 JUN 16 PM 12:00  
 RICHLAND COUNTY  
 FILED

GA  
COFFEY, CHANDLER, KENT & MCKENZIE, P.A.  
Attorneys At Law

WILLIAM C. COFFEY, JR.  
RAY E. CHANDLER  
SHAUN C. KENT  
STEVEN S. MCKENZIE

Est. 1970

JOSEPH K. COFFEY  
TARA A. LEAPHART  
SCOTT L. ROBINSON  
BLAIR C. JENNINGS  
LAUREN L. FELDER

December 6, 2011

John Smith  
# 246646  
MCGI-F-4 195-A  
386 Redemption Way  
McCormick, SC 29899

Re: PCR Case No: 10-CP-402105  
John Smith vs. South Carolina

Dear Mr. Smith:

Pursuant to your request enclosed herewith please find a copy of your Discovery.

Sincerely yours,



Steven S. McKenzie

SSM:gpb  
enc.

Manning Office  
2 North Brooks Street  
Post Office Box 1292  
Manning, South Carolina 29102-1292  
Telephone (803) 435-8847  
Facsimile (803) 435-8915

Charleston Office  
4969 Centre Pointe Drive Suite 102  
North Charleston, SC 29418  
Post Office Box 40459  
North Charleston, SC 29423-0459  
Telephone (843) 745-4542  
Facsimile (843) 745-4545

Email: lawfirm@cckmlaw.com

page 5

COFFEY, CHANDLER, KENT & MCKENZIE, P.A.

Attorneys At Law

8 South Brooks Street ~ Post Office Box 1292  
Manning, South Carolina 29102-1292  
Telephone (803) 435-8847

WILLIAM C. COFFEY, JR.  
RAY E. CHANDLER  
SHAUN C. KENT  
STEVEN S. MCKENZIE  
JOSEPH K. COFFEY  
TARA A. LEAPHART

FACSIMILE  
(803) 435-8915

E-MAIL  
lawfirm@coffeychandlerkent.com

March 22, 2010

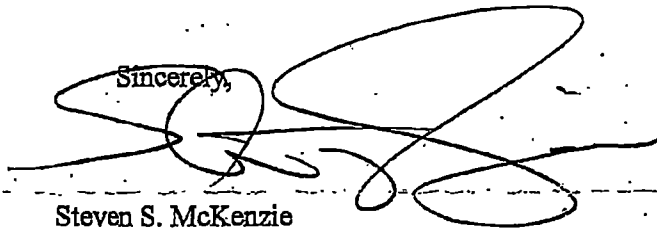
Richland County Clerk of Court  
P.O. Box 192  
Columbia, South Carolina 29202

Re: John Julius Smith vs. State of South Carolina (Post Conviction Relief)

Dear Madam Clerk:

Please find enclosed the original for filing in your office the PCR application of John Julius Smith.

Sincerely,



Steven S. McKenzie

enclosures

P.S. Please note my  
representation for the file.

## Rule 29(B) New Trials Based on After-Discovered Evidence.

A motion for a new trial based on after-discovered evidence must be within one (1) year after the date of actual discovery of evidence by the defendant or after the date when the evidence could be ascertained by exercise of reasonable diligence. A motion for new trial based on after discovered evidence may not be made while the case is on appeal unless the Appellate court, upon motion, has suspended the appeal and granted leave to make the motion. Leave of the appellate court is not required if no appeal has been taken or if the appeal has been finally decided in the appellate court.

---

### Post trial Matters.

To prevail on a motion for a New Trial based on after discovered evidence, a defendant must show (1) the evidence is such as will probably change the result if a New Trial is granted. (2) the evidence has been discovered since the trial. (3) the evidence could not have been discovered prior to trial by the exercise of due diligence. (4) the evidence is material; and (5) the evidence is not merely cumulative or impeaching.

---

16-3-95 (A) Infliction or Allowing infliction great bodily injury upon a child.

(C) For purpose of this section, great bodily injury means bodily injury which creates a substantial risk of death or which causes serious or permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND  
STATE

VS. John Julius Smith

INDICTMENT/CASE#:

2008-CS-20-04539

AV# 1K334971

Date of Offense: 3/11/2008-5/5/2008

S.C. Code §: 16-03-0095(A)

CDR Code #: 2766

AKA: \_\_\_\_\_  
Race: B Sex: M Age: 29  
DOB: \_\_\_\_\_ SS#: 000-00-0000  
Address: 45 BLANCHELLE COURT  
City, State, Zip: Columbia, SC 29203  
DL# \_\_\_\_\_ SID# \_\_\_\_\_

SENTENCE SHEET

20 yr max  
No 10A or PTI

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Infliction of Great Bodily Injury Upon a Child

In violation of § 16-03-0095(A) of the S.C. Code of Laws, bearing CDR Code # 2766

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. J.S. (defendant Initial)  
~~The plea is:  Without Negotiations or Recommendation;  Negotiated Sentence;  Recommendation by the State~~

ATTEST:

Heather S. Weis Solicitor John Smith Defendant Kristina Attorney for Defendant 72398 SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 18 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

Recipient:		
*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	\$
\$35.13 (Public Def/Prob)	\$500	\$
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114(BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$
\$90.11 TP (SCCJA Surcharge)	\$5	\$
TOTAL		\$

Other: \_\_\_\_\_  
 Appointed PD or appointed other counsel, \$35.13 TP  
Requires \$500 be paid to Clerk during probation.

Angie McCulloch Clerk of Court Deputy Clerk  
Court Reporter: K. Reed

PRESIDING JUDGE Howard D. P. King  
Judge Code: 21110137  
Sentence Date: June 18, 2008

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF RICHLAND  
CITY OF COLUMBIA

Personally appeared before me, judge of this court, one W. H. MONTGOMERY  
who, first being duly sworn, deposes and says that (name of defendant)

JOHN JULIUS SMITH

Did within this County and State on the \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_  
violate the criminal laws of the State of South Carolina in the following particulars:

**DESCRIPTION OF OFFENSE**

UNLAWFUL CONDUCT TOWARDS A CHILD 20 - 7 - 50

The affiant states that there is probable cause to believe that the defendant above named did  
commit the crime(s) set forth , and that such probable cause is based upon the following fact(s):

ON DATES BETWEEN MARCH 1, 2008 AND APRIL 30, 2008 THE DEFENDANT WHILE AT 45 BLANCHELLE COURT  
LOCATED WITH IN THE CITY LIMITS OF COLUMBIA COUNTY OF RICHLAND WHO ACKNOWLEDGES HIMSELF  
AS THE BIOLOGICAL FATHER OF THE VICTIM (KANAYAH LANAY SMITH) AND IS RESPONSIBLE FOR THE  
MINORS WELFARE PLACED THE CHILD AT UNREASONABLE RISK OF HARM AFFECTING THE CHILD'S  
PHYSICAL HEALTH AND SAFETY. THE VICTIM UNLAWFULLY SUFFERED BODILY HARM WHICH ENDANGERED  
HER HEALTH WHILE IN THE CARE OF THE DEFENDANT. THE CHILD SUSTAINED MULTIPLE BURNS ON HER  
PERSON TO INCLUDE HER RIGHT FOREARM AND HER RIGHT ANKLE AND A SUBSTANTIATED FRACTURE TO  
THE SKULL WHICH WAS LEFT UNTREATED FOR A WEEK. THE MOTHER OF THE CHILD HAS PROVIDED A  
SWORN WRITTEN STATEMENT TO THE SUSPECT ACKNOWLEDGING THE INJURIES SUFFERED BY THE VICTIM.

W. H. MONTGOMERY  
AFFIANT

ADDRESS 1 JUSTICE SQUARE COLUMBIA SC 29201  
PHONE (803) 545 - 3500

Name: JOHN JULIUS SMITH Sex: MALE Height: 600  
Address: 45 BLANCHELLE COURT COLUMBIA SC 29203 Race: BLACK Weight: 200  
Case Number: 080014175 Date of Birth: [REDACTED]

SCDSS Child and Family Assessment and Service Plan  
Foster Care Family Centered Comprehensive Assessment and Case Plan

C. Child/Youth Assessment: KANAYAH SMITH IS A BRIGHT HAPPY ACTIVE 14 MONTH OLD AFRICAN AMERICAN CHILD. SHE IS WALKING, PLAYING WITH TOYS, LOOKING AT T.V. AND EATING SOLID FOOD FROM THE TABLE WITH NO ASSISTANCE. KANAYAH SPEAKS IN ONE AND TWO WORD SENTENCES. AT THIS PRESENT TIME THERE SEEMS KANAYAH IS THRIVING ON TARGET FOR HER AGE. THERE ARE NO MEDICAL ISSUES PRESENT BUT DUE TO THE SERIOUS OF HER INJURIES SHE IS CLOSELY MONITORED BY HER DOCTOR.

Name of Child/ KANAYAH SMITH

Information Compiled from Family and Other Sources. Discuss functioning in these areas and whether or not child or caregiver (birth family, foster parent or alternative caregiver) are successfully managing the identified issues.

SUBSTANCE USE: NO ISSUES

CRIMINAL BEHAVIOR: NO ISSUES

JUVENILE JUSTICE: NO ISSUES

MENTAL HEALTH/DEVELOPMENTAL ISSUES/PEER RELATIONSHIPS  
NO ISSUES

CHILD/YOUTH VULNERABILITY AND SELF PROTECTION: KANAYAH IS 8 MONTHS OLD. SHE IS UNABLE TO PROTECT HERSELF.

EDUCATIONAL ISSUES COMPILED FROM FAMILY AND OTHER SOURCES: N/A

SCHOOL DISTRICT ENROLLED WHEN CHILD ENTERED CARE: N/A

NAME OF SCHOOL ATTENDED WHEN CHILD ENTERED CARE: N/A

CURRENT SCHOOL DISTRICT: N/A

NAME OF SCHOOL: N/A

CURRENT GRADE: N/A

HIGHSCHOOL PLAN (Diploma, Certificate, GED, Occupational Diploma, College): N/A

DISABILITY CATEGORY UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT:

MEDICAL ISSUES

SCDSS Child and Family Assessment and Service Plan  
Foster Care Family Centered Comprehensive Assessment and Case Plan

Diagnosed Medical Condition: N/A
Physician/Provider: PHYLLIS POYNER, CHILDREN AND FAMILY HEALTH CENTER
Medication/Treatment/Follow up: N/A
Date and results of last physical exam: 04/13/09 GOOD
Date of last dental exam/ Results: 04/13/09 GOOD
Date of last vision exam/Results: 04/13/09 GOOD
Date of Hearing Screening/Results: 04/13/09 GOOD
<b>For Children Under Five Assess the Following:</b>
Is the child current with his/her immunizations? yes
Are Developmental milestones on target? yes
If no, please explain:
Date of referral to Baby Net: (Mandatory for children under age 3 involved in indicated report): 3/20/09
Results of referral (include any recommendations):
<b>IF AN ISSUE IS IDENTIFIED AND YOU DO NOT RECOMMEND INTERVENTION PLEASE EXPLAIN:</b>

Name of Child/Youth: KANAYAH KING

**Child/Youth Assessment**

IF CHILD IS IN OUT OF HOME CARE BASED ON FAMILY CONDITIONS OR IDENTIFIED SUPPORTS, IS THERE A WAY AN IN HOME SAFETY PLAN CAN BE PUT IN PLACE TO CONTROL THE SAFETY THREATS IDENTIFIED AND RETURN THE CHILDREN HOME? NO

**SUBSTANCE USE - SERVICE/ACTION NECESSARY TO ACHIEVE BEHAVIORAL CHANGE: N/A**

PERSON RESPONSIBLE/TIME FRAME:

PLANNED DATE OF REVIEW OF SERVICE(S) WITH FAMILY:

DATE OF PROGRESS REVIEW:

RESULTS OF PROGRESS REVIEW:

IF CURRENT SERVICES ARE NOT EFFECTIVE - MODIFY PLAN (EXPLAIN):

**CRIMINAL BEHAVIOR - SERVICE/ACTION NECESSARY TO ACHIEVE BEHAVIORAL CHANGE: N/A**

PERSON RESPONSIBLE/TIME FRAME:

PLANNED DATE OF REVIEW OF SERVICE(S) WITH FAMILY:

DATE OF PROGRESS REVIEW:

RESULTS OF PROGRESS REVIEW:

IF CURRENT SERVICES ARE NOT EFFECTIVE - MODIFY PLAN (EXPLAIN):

**JUVENILE JUSTICE - N/A**

PERSON RESPONSIBLE/TIME FRAME:

PLANNED DATE OF REVIEW OF SERVICE(S) WITH FAMILY:

DATE OF PROGRESS REVIEW:

RESULTS OF PROGRESS REVIEW:

Parent's/Caregiver's Initials *JK*  
DSS Form 30231: CFASP - Foster Care  
05/01/2008

January 18, 2019

Dear Judge,

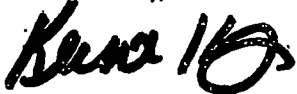
Mr. John J. Smith has been incarcerated for 10 years for the injuries done to our daughter, Kanayah Smith. Back in 2008, Kanayah Smith suffered from burns on her arm, and a possible hair line fracture. We are in 2019. Kanayah is doing great in school, Making A/B Average every quarter/semester. Each teacher she has had, have informed me that she is a great student, and very smart. Teachers also have said she can pick up math concepts quickly, quicker than other students in her class. She has report cards to prove it. With this being said, Kanayah has grown up to be a great person with no mental disabilities or retardation due to the injuries that were evident in 2008.

I finally found the courage to speak to John Smith after 10 years, January 2019, due to the severity of the situation. I have also grown and learned to forgive. Things do not happen for no reason, they happen to teach you something. John has expressed great remorse for his actions, he showed genuine regret not merely for the criminal liabilities but for the wrong to which he contributed. John has confided in me that he had a sincere understanding that his actions were immoral and wrong. In our many conversations about his troubles, he has never once tried to defend, minimize, or explain away his activities. Nor did he ever try to shift moral blame on others. John knew he was above such behavior and was, and remains ashamed that he had fallen so far below his own standards for himself.

John is a man that cares deeply for his children and family. I truly believe his wrongful actions represent an aberration that he will never repeat. I cannot debate with you the legitimacy of the charges given to him, but John Smith knows the consequences for his actions and has dealt with the consequences for quite some time. John Smith knows the ways he can better himself to be the best individual/parent he can be. He learned from his bad decisions, which made him move to finally become a Level 1.

Please take this letter into consideration for an early release for John Smith. His children really need him active in their lives. If you are in need of more information, please do not hesitate to contact me at (803) 881-5324.

Sincerely,



Keira King

# Richland County General Sessions

## CASE HISTORY FOR CASE K333971

State of South Carolina vs John Julius Smith

FILED DATE: 6/21/2008

CASE TYPE: GS

STATUS: Appeal

JUDGE: Dennis, Steven D

ARRESTING AGENCY: Columbia Police Department

**CASE PARTIES:**

Defendant Smith, John Julius  
45 Blanchelle Court, Columbia, SC 29203

**CASE HISTORY FOR CASE K333971**

**Smith, John Julius**  
45 Blanchelle Court  
Columbia, SC 29203

Age: 33  
DL#:

DOB: [REDACTED]  
SSN: 000-00-0000

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0013 - Assault / Assault and battery of a high and aggravated nature (ABHAN)	6/17/2008	Pled Guilty	12/18/2008

**SENTENCING**

Sentenced - 18 years. credit for time served.

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
------	----------	-------------	-----------	--------------

Total:

DATE	TIME	EVENT DESCRIPTION
11/17/2008	9:18 AM	Filing recorded: Notice of Motion to Reduce Bond
11/18/2008	12:00 AM	COC DABBS recorded the following Case Note: Includes Certificate of Service
12/1/2008	11:06 AM	Motion/Relieve As Counsel
12/1/2008	11:07 AM	Filing recorded: Service/Certificate Of Service
12/1/2008	2:21 PM	Order/Order bond motion for bd < denied
12/22/2008	12:00 AM	COCVIVOD recorded the following Case Note: statement of basis for appeal from guilty-pleas pursuant to rule 203 d1b
12/22/2008	3:11 PM	Filing recorded: Appeal/Notice of Appeal , proof of service
1/21/2009	3:12 PM	Order SC Court of Appeals
2/5/2009	12:11 PM	Order/Order SC Court of Appeals
2/5/2009	12:00 AM	COCVIVOD recorded the following Case Note: remitted to COC

Print Date: 04/01/2013  
Print Time: 11:27:44AM  
Requested By: COCGAILB

with criteria associated with traditional test Rule for New Trial on After Discovered evidence for Jamison ATTACKED the guilty Plea. A New Rule of Constitutional Law made Retroactive to case on collateral Review by the Supreme Courts that previously unavailable or A factual predicate that could not been previously discovered through the exercise of due diligence and the facts underlying the claim would be sufficient to establish by clear convincing evidence that But for constitutional error, no Reason fact finder would have found Applicant guilty of the underlying offense. The narrow issue present to this COURT is whether and to what extents an otherwise valid guilty Plea may be vacated in Proceeding on Newly discovered evidence. Jamison v. Cohen 211 F3d (754 2016.)

### Conclusion

I filed this case all the way to Habeas Corpus on January 9, 2017, And it got Dismissed on December 20, 2017, Because at the time Jamison Retroactive case has Just Been Rule on for Newly discovered evidence and my case was pending in the Habeas corpus at the time, Because Court Rule is that you cant Be in 2 Courts at once, and you have to wait on order to move on, I filed a timely Appeal in each COURT exercise my Constitution Right for this New case that came out and I never had a fair Bite at the Apple, Because of my Lawyer I had to take another Avenue, what was 29(B) motion where I could not Bring-up any P.C.R. Issue and got deny, Because I did not go to trial, Plus ATTorney General dishonor my P.C.R. Application going on almost 2 years, Because I'm Pro-SE. They sent my STATE Return to Trenton Corr Inst. Because They dont know where I at, But The whole time I attempt to make contact. Applicant could only Pray and Request for a hearing to be heard and Allow him to Bring Fore the Newly evidence from than and Now, Because he never had a full Bite of the Apple, This is not Successiveness P.C.R Because this never Been heard in this COURT. and medical Records came after Applicant Been sentenced.

DATE: 12/20/19

Sincerely yours  
John J. Smith  
John J. Smith  
PRO-SE

## STATE v. Jamison (RETROACTIVELY)

IF, however, the United States Supreme Court announces a new substantive standard or right that applies to this defendant on June 1, 2011, and if that New Rule is intended to be applied retroactively, the defendant may nonetheless commence a PCR proceeding as long as he does so within one year after the court's decision announcing the new rule.

Second (2) IF a PCR applicant has newly discovered evidence she may benefit from a more lenient statute of limitations.

IF the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence.

Funds for Investigative and Expert Services

Summary disposition

(9)

ap

6/10/09

Dear Mr. Steve McKenzie

It would most appreciated if you could give me some information about my case.

If you have filed my PCR, can I please get a copy. If you have not filed it yet, when do you plan to do so.

Also, ~~when~~ when do you think I will be going back to court?

I would like to thank you in advance for any ~~help~~ information you can give me on this matter.

Name #  
Address

Sincerely,

J.S.

(12)

ap

**COFFEY, CHANDLER, KENT & MCKENZIE, P.A.**

Attorneys At Law

8 South Brooks Street ~ Post Office Box 1292  
Manning, South Carolina 29102-1292  
Telephone (803) 435-8847

WILLIAM C. COFFEY, JR.  
RAY E. CHANDLER  
SHAUN C. KENT  
STEVEN S. MCKENZIE  
JOSEPH K. COFFEY  
TARA A. LEAPHART

FACSIMILE  
(803) 435-8915

E-MAIL  
lawfirm@coffeychandlerkent.com

March 22, 2010

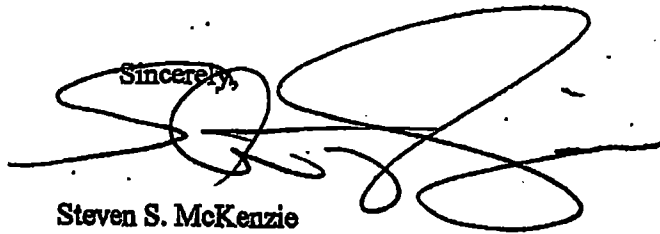
Richland County Clerk of Court  
P.O. Box 192  
Columbia, South Carolina 29202

Re: John Julius Smith vs. State of South Carolina (Post Conviction Relief)

Dear Madam Clerk:

Please find enclosed the original for filing in your office the PCR application of John Julius Smith.

Sincerely,



Steven S. McKenzie

enclosures

P.S. Please note my  
representation for the file

# The South Carolina Court of Appeals

The State,

Respondent,

v.

John Julius Smith,

Appellant.

The Honorable Howard P. King  
Richland County  
Trial Court Case No. 2008-GS-40-04539

---

REMITTITUR

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No Petition for Reinstatement having been filed in the above matter since issuance of this Court's Order dated January 16, 2009,

IT IS SO ORDERED that the above appeal be and hereby is remitted to the Clerk of Court for Richland County.

KAYE G. HEARN, CHIEF JUDGE

BY J. Barber  
Clerk

Columbia, South Carolina

February 3, 2009

Original to: The Honorable Jeanette W. McBride

cc: Chief Appellate Defender Joseph L. Savitz, III  
John Julius Smith, #246646  
Kris Hines, Esquire  
Assistant Deputy Attorney General Salley W. Elliott

(7)

98

**BCB Consulting, LLC**  
6334 St. Andrews Road, Suite 103  
P.O. Box 25452  
Columbia, SC 29223  
803-603-0104/864-752-0813 Fax

Elizabeth L. Boozer, Esquire

~~April 21, 2009~~

John Julius Smith #246646  
Kirkland Corr. Inst.  
4344 Broad River Road  
Columbia, SC 29210

Re: SC DSS vs. John Smith, Keira King and Pamela Ewing  
Docket No. 2008-DR-40-1844

Dear Mr. <sup>John</sup>Smith:

Enclosed please find a copy of the letter I sent to the parties regarding the hearing on April 27, 2009. I did not enclose a copy of the Foster/Adoptive Family Assessment Study but will give you that report when I see you on Monday. It is nine pages long. ~~I also made contact with your PCR attorney,~~ which we will discuss on Monday, as well.

I will see you on Monday.

Yours truly,  
*Elizabeth L. Boozer*  
Elizabeth L. Boozer

**Other Events**

4:16-cv-04008-TLW Smith v.  
State of South Carolina

TER-Inmate

**U.S. District Court  
District of South Carolina**

**Notice of Electronic Filing**

The following transaction was entered on ~~12/4/2017~~ at 3:13 PM EST and filed on 12/4/2017

**Case Name:** Smith v. State of South Carolina

**Case Number:** 4:16-cv-04008-TLW

**Filer:**

**WARNING: CASE CLOSED on 12/04/2017**

**Document Number:** 49

**Docket Text:**

**SUMMARY JUDGMENT is entered as to respondent, Warden, Goodman Correctional Institution and this Petition is dismissed. A certificate of appealability is denied. (dsto, )**

**4:16-cv-04008-TLW Notice has been electronically mailed to:**

Donald John Zelenka dzelenka@scag.gov, lbrawley@scag.gov, lbrailey@scag.gov

Alphonso Simon, Jr asimon@scag.gov

**4:16-cv-04008-TLW Notice will not be electronically mailed to:**

John Julius Smith

#246646

Trenton Correctional Institution  
84 Greenhouse Road  
Trenton, SC 29847

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091130295 [Date=12/4/2017] [FileNumber=8167792-0]  
] [d2f35194fb40f2c69b64051f3e497831889d6de4e45380be2ba31bf78f41a193ca6  
b1db0c22e81e464d4187e5f63817dbb9b9132b9f01bd39d382e651031515f]]

DISCOVERY CHECKLIST

WARRANT (S)  \_\_\_\_\_

TICKETS (S) \_\_\_\_\_

CASE SUMMARY \_\_\_\_\_

INCIDENT REPORT  (6 pages)

SUPPLEMENTAL REPORT \_\_\_\_\_

INVESTIGATIVE REPORT \_\_\_\_\_

SEARCH WARRANT  4 pages

ARREST REPORT \_\_\_\_\_

BOOKING REPORT \_\_\_\_\_

INDICTMENTS \_\_\_\_\_

RAP SHEET  16 pages

DRIVING RECORD \_\_\_\_\_

DRUG ANALYSIS \_\_\_\_\_

CONSENT TO SEARCH \_\_\_\_\_

ADVICE OF RIGHTS  1 page  KK  PE

DEFENDANT'S STATEMENT \_\_\_\_\_

PHOTO LINE-UP \_\_\_\_\_

LIST OF PHYSICAL EVIDENCE \_\_\_\_\_

PHOTOGRAPHS \_\_\_\_\_

MEDICAL RECORDS  21 pages

STATEMENTS KK 9 pages

STATEMENTS PE 8 pages

STATEMENTS \_\_\_\_\_

STATEMENTS \_\_\_\_\_

STATEMENTS \_\_\_\_\_

STATEMENTS \_\_\_\_\_

STATEMENTS \_\_\_\_\_

STATEMENTS \_\_\_\_\_

BA SLIP \_\_\_\_\_

IMPLIED CONSENT \_\_\_\_\_

OTHER Dr. Olga C. Rosa follow-up report (1 p.)

OTHER Dr. Olga C. Rosa Report (1 page)

OTHER \_\_\_\_\_

OTHER \_\_\_\_\_


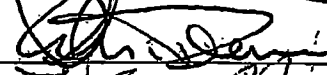

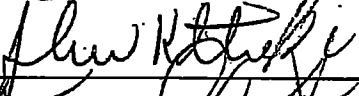
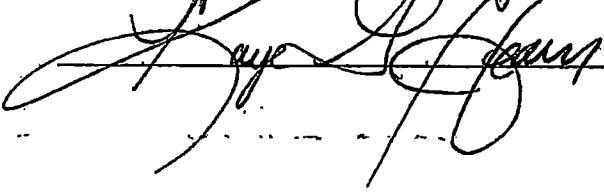
JUN 20 2008

Patricia Alvarez

DEFENDANT John Smith WARRANT # K-333971

ASOL 102 PREPARED BY C Jones DATE 6/20/08

RECEIVING ATTORNEY Mary Lafave

  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

C.J.  
J.  
J.  
J.  
J.

Columbia, South Carolina

March 10, 2014

cc:

- The Honorable Jeanette W. McBride
- Elizabeth A. McLean, Esquire
- Tynika Adams Claxton, Esquire
- John Julius Smith, #246646
- Daniel R. Goldberg; Esquire

P. (7)

## The South Carolina Court of Appeals

The State, Respondent,

v.

John Julius Smith, Appellant.

Appellate Case No. 2014-001366

---

### ORDER

---

Appellant has appealed from the trial court's order denying Appellant's motion for a new trial based on after-discovered evidence. Appellant's counsel has filed a motion to be relieved as counsel, noting she was appointed below, and she does not typically handle appellate cases. We grant counsel's motion.

We acknowledge that our supreme court has held that a criminal defendant is not entitled to counsel in a post-trial motion for a new trial based upon after-discovered evidence. *State v. Clinkscales*, 318 S.C. 513, 458 S.E.2d 548 (1995). However, we note that the courts have the inherent power to appoint lawyers to serve where it appears reasonably necessary for the court to do justice. *See Ex Parte Brown*, 393 S.C. 214, 223, 711 S.E.2d 899, 904 (2011) (holding that courts have inherent power to appoint lawyers to serve subject to the lawyer's entitlement to just compensation when necessary to render justice). Because the issue raised to the circuit court relates to the child's medical records and our record reflects the trial court issued an order prohibiting the release of the child's medical records to Appellant, Appellant is unable to effectively proceed pro se and the appointment of counsel is necessary to render justice. Accordingly, due to the unique circumstances of this case, the South Carolina Office of Appellate Defense shall proceed as counsel on appeal if it determines Appellant qualifies as an indigent.

Columbia, South Carolina

  
FOR THE COURT

FILED

2/28/14

# The Supreme Court of South Carolina

John J. Smith, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2013-002705

---

## ORDER

---

Petitioner filed a motion for a new trial based on after discovered evidence with the Richland County Clerk of Court on August 7, 2012. As of the date of this order, petitioner has not received a hearing on the motion.

This Court received a petition for a writ of mandamus from petitioner on May 15, 2013, where petitioner argued his motion was not filed and had not been scheduled on the nonjury docket. After receiving a return from the Richland County Clerk of Court stating the motion had been filed and a letter from the Fifth Circuit Deputy Solicitor advising petitioner that the Solicitor's Office would endeavor to have the matter heard within the next ninety days, this Court issued an order on August 22, 2013 dismissing petitioner's writ of mandamus pursuant to *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991).

This matter is currently before the Court by letter from petitioner to the Clerk of Court dated December 13, 2013, where petitioner seeks to learn the status of his motion. The Richland County Clerk of Court provided a return explaining that petitioner has been appointed counsel, and the Solicitor's office and petitioner's counsel were scheduled to meet recently but were preempted by inclement weather. The return explained that the meeting would be rescheduled in the near future.

IT IS ORDERED that petitioner's motion for a new trial be heard within thirty days of the date of this order.

CASE HISTORY FOR CASE 2018CP4000919

4/10/2020	3:52 PM	Filing recorded: Letter to Judge Lee dated 2/26/2020
4/10/2020	3:55 PM	Filing recorded: Letter to Judge Lee dated 2/12/2020

Keria King  
Address

45 Blanchelle COURT  
Columbia, S.C 29203

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND

STATE

VS. John Julius Smith

INDICTMENT/CASE#:

2008-GS-40-04539

AW# K333971

Date of Offense: 3/1/2008-5/5/2008

S.C. Code §: 16-03-0095(A)

CDR Code #: 2766

*New*  
*May 24*  
*20 yr max*  
*No 40A or PTI*

AKA:

Race: B Age: 29

DOB: S#: 000-00-0000

Address: 5 BLANCHELLE COURT

City, State, Zip: Columbia, SC 29203

DL#: SID#

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

~~TO: Indictment of Great Bodily Injury Upon a Child~~

in violation of § 16-03-0095(A) of the S.C. Code of Laws, bearing CDR Code # 2766

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS (CSC w/Inq or 1st or Lewd Act)  \$17-25-46

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. *J.S.* (defendant initial)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

*Nathan Weiss*  
Solicitor

*John Smith*  
Defendant

*Kristina*  
Attorney for Defendant

*72398*  
SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,

for a determinate term of 180 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

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 \$ \_\_\_\_\_

§14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_

§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_

§35-13 (Public Def/Prob) \$600 \$ \_\_\_\_\_

§73.3, 1B TP (Law Enforce. Funding) \$25 \$ \_\_\_\_\_

§33.7, 1B TP (Drug Court Surcharge) \$100 \$ \_\_\_\_\_

§50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_

3% to County (if paid in installments) \$ \_\_\_\_\_

§90.11 TP (SCCJA Surcharge) \$5 \$ \_\_\_\_\_

TOTAL \$ \_\_\_\_\_

*Angie McCallister*  
Clerk of Court/Deputy Clerk

Court Reporter: *R. Reed*

PRESIDING JUDGE

Judge Code:

Sentence Date:

*Howard D. King*  
*21101*  
*000 05 2008*

INMATE RECORDS OFFICE  
2008 FEB - 3 PM 11:49

JOHN Julius SMITH # 246546

Jeanette W. McBride

Clerk of Court

Richland County

P.O. Box 2766

Columbia, S.C. 29202-2766

RE: Motion For A NEW Trial

Pursuant to Rule 29(B) SCR, CRIM.P.

John J. Smith v. STATE CASE No.: ~~2009-GS-40-04539~~

2009-GS-40-04539 / A/W K-333971

Dear Clerk:

Enclosed for filing is a Motion For A NEW Trial After Discovered Evidence Pursuant to Rule 29(B) SCR, CRIM.P. along with the Certificate of Service.

Please return to me a clock-stamped copy of the enclosed Motion at your earliest convenience.

Thank you for your attention and assistance in this matter.

C.C. Attorney General's office

Kind regards

JEANETTE W. McBRIDE  
C.C.P. S.S.

12-08-7 AM 11:15

RICHLAND COUNTY

John J. Smith - 2-12-20

John J. Smith  
SCDC# 246646  
BRCI  
4460 Broad River Rd.  
Columbia, SC. 29210

RE: disposition request

February 4, 2013

Dear Clerk,

On August 7, 2012 I filed a Rule 29, SCRCP motion for a new trial based on after discovered evidence.

At this time could you please inform me as to the status/disposition of the pending motion.

I thank you for your time and consideration in this matter.

For your convenience I have enclosed a self-addressed prepaid postage affixed envelope so you can return the requested information to myself.

*NOT  
Received*

Kindest Regards,

*John J. Smith*  
John J. Smith

JENNIFER W. McBRIDE  
C.C.P. & G.S.

FEB -6 AM 10:00

CHLAND COIN  
FILED

*John J. Smith - 2-12-20*

# The South Carolina Court of Appeals

The State,

Respondent,

v.

John Julius Smith,

Appellant.

The Honorable Howard P. King  
Richland County  
Trial Court Case No. 2008-GS-40-04539

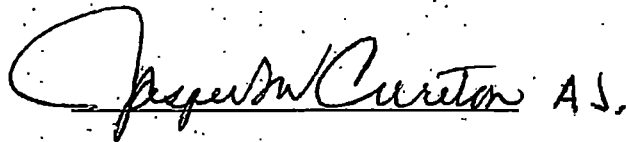
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## ORDER

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Appellant in the above-captioned matter is attempting to appeal from a guilty plea. Pursuant to Rule 203(d)(1)(B)(iv), SCACR, Appellant is required to identify the issues and make a showing of how the issues can be reviewed on appeal. In this case, Appellant argues he believed pleading guilty was his only option and he does not believe his guilty of the crime charged. However, Appellant has not made a showing how these issues were raised to or ruled upon by the circuit court judge. Accordingly, the appeal is dismissed.

AND IT IS SO ORDERED.

 Joseph M. Curleton A.J.

Columbia, South Carolina

January 16, 2009

FILED

1/16/09 

John G. Smith 2-17-20

RECEIVED

NOV 12 2020

S.C. SUPREME COURT

Send this BACK and make copy's for me of this

**RICHLAND COUNTY PUBLIC DEFENDER  
RICHLAND COUNTY JUDICIAL CENTER**

1701 MAIN STREET  
POST OFFICE BOX 192  
COLUMBIA, SC 29201

PHONE (803) 765-2592  
FAX (803) 748-5018  
TDD # (803) 748-4999

December 30, 2008

John Julius Smith, Inmate #: 246646  
Kirkland Reception and Evaluation Center  
4344 Broad River Road  
Columbia, SC 29210

RE: State v. John Julius Smith  
Court of Appeals Case Tracking Number: 2008111067

Dear Mr. Smith:

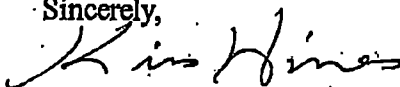
Enclosed please find a copy of a letter from the Court of Appeals dated December 23, 2008 and received in my office on December 29, 2008. I am forwarding this correspondence to you at the direction of the Court. I am also enclosing a copy of the Notice of Appeal, Statement of Basis for Appeal from a Guilty Plea, and Proof of Service. These documents are referred to as the "letter of December 22, 2008" in the Court of Appeals letter that I am providing to you.

I have been instructed to inform you that you have twenty (20) days from the date of my letter to you in which to provide the Court in writing of any arguable basis that there are issues preserved for appeal from your guilty plea. You must submit your issues preserved for appeal to the following address:

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

Because I am unsure of what has been made available to you at Kirkland, I have enclosed an envelope and paper to ensure you have the necessary materials to comply with the Court's request. The appellate courts are very strict in regard to filing matters in a timely fashion. Therefore, you should be careful to observe and comply with the time limits set forth by the Court.

Sincerely,



Kris Hines  
Assistant Public Defender

Enclosures

Cc: South Carolina Court of Appeals  
Chief Appellate Defender Joseph L. Savitz, III

John J. Smith  
2-12-20