

FORM 5

STATE OF SOUTH CAROLINA)

County of York)

Charles R Carter 246054)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
2013 MAR 11
DANIEL
YORK COUNTY
CLOCK IN TIME
CLOCK OUT TIME
CANCELED
11:05
10:00

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Ridgeland CI - PO Box 2039 Ridgeland SC
29936
2. Name and location of Court which imposed sentence York County
3. Name(s) of co-defendant(s) (if any) Angie Brush Taylor
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 97-GS-46-1609 - PWID Crack
 - (b) _____

(c) ~~12-10-97-30 years~~

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 12-10-97-30 years

(b)

(c)

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty

(c) after a plea of nolo contendere

7. Did you appeal from the judgment of conviction or the imposition of sentence?

YES

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. S.C. Court of Appeals

ii.

iii.

(b) the result in each such Court to which you appealed:

i. Dismissed as Lack of Proof of Service

ii.

iii.

(c) the date of each such result:

i. Dismissed on-1-14-98

ii.

iii.

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. Was not Filed- No Proof of Service

ii.

iii.

9. If you answered "no" to (7), state your reasons for not so appealing:

(a)

(b)

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Denied my Rights To Direct Appeal By Ineffective Counsel
- (b) Failure To Establish Chain of Custody at Trial
- (c) Indictment never filed with Clerk of Court Prior to Trial

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Attorney Harry Best Filed my Appeal without proof of service and left it at the Clerk's office.
- (b) Custodian that transposed Evidence was not asked to confront ^{trial when I}
- (c) Rule 3 Provides that Indictment shall be filed ^{with clerk} of court

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? YES
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. 1998-CP-46-0068-Denied-11-12-99
 - ii. 2002-CN 46-2299-Denied-12-18-03
 - iii. 2007-CP-46-0378-Denied-7-23-08
 - iv. 4-15-2010-Resulted in Restrictive Filing Order
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

- (c) the disposition thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

yes

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:
 - i. Chain of Custody
 - ii. Denial of Rights To A Direct Appeal
 - iii. Jurisdiction- Indictment Not Filed Pursuant To Rule 3
- (b) the proceedings in which each ground was raised:
 - i. Original PCR Application
 - ii. 2nd PCR Hearing
 - iii. Original PCR Hearing

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) _____
- (b) _____
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? NO
- (c) your sentencing? NO
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
NO

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Allen Bullard
 - ~~to~~
 - ii. Leland Greeley
 - iii. Leah Moody
- (b) the proceedings at which each such attorney represented you:
 - i. Original PCR Hearing
 - ii. 2nd PCR Hearing
 - iii. 3R PCR Application

19. State clearly the relief you seek in filing this application:

That my Appeal Be Reinstated or a New Trial
OR That Sentence Be Vacated Due To The
Indictment Never Being Filed With The Clerk of Court

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)
County of York)

VERIFICATION

I, Charles Ray Carter, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Charles R Carter

SWORN to and subscribed before me this 25
day of Feb., 2013.

Virginia Robinson (L.S.)
Notary Public

My Commission Expires: May 20, 2021

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Charles R Carter, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Charles R Carter

Applicant

SWORN or affirmed to and subscribed before me this

25 day of Feb., 2013.

Virginia Robinson
Notary Public

My Commission Expires: May 20, 2021

Support: Facts For The issues raised in
This Application.

ST vs Chisdm 584 Sezd

Chain of Custody- This issue was raised in my original
Application. At Trial, I requested to confront the
Custodian Pete Mitchum whom transported the evidence
to be tested but he was not at trial which denied me
the right to confront which fail to establish a physical
chain of custody pursuant to ST vs Chisdm and my
PCR Counsel Allen Bullard fail to effectively raise this
issue at the hearing and was ineffective and fail to
do what is required by Rule 71.1.D of the PCR Rules.
He also fail to raise the issue of the indictment not
being filed ~~by~~ with the Clerk of Courts office as
required by Rule 3 in order for the State or the
Court to convey jurisdiction

Denied my right to a direct appeal by ineffective counsel

Pursuant to State vs Wilson- A Defendant voluntarily
and intelligently waive a direct appeal. Attorney Harry West
came by my cell after trial since he had conflicted out to
represent me at trial. He then told me what to write
on two pages of paper that he gave me, regarding
my direct appeal. He then took these papers to file
them with the Clerk of Courts office but fail to
do a proof of service notice. Therefore I pray this
Court grant a hearing to resolve this issue as required
by ST vs Wilson- 559 Sezd 581. See Affidavits in support of
Exhibits A-B-C-D, E-F.

State of: 10th Carolina
County of York

In the Court of Common Pleas

Charles Ray Carter 246054

Affidavit of Good Faith
Pursuant To Judgment

State of South Carolina

2010-CR-46-01613

This is a True and Correct Affidavit

I Charles Ray Carter Here By States That I am Filing
This PCR Application in Good Faith and That The matters
Raised in The Application are not Frivolous and That I
Have not had a Full Bite at The Apple Because The
issues Raised Have never Been Ruled upon in His Previous
APCRs Even Though I Asked My PCR Attorney Heland A Greeley
To Raise The issues at The Hearing. Under PCR Rules an Applicant
is entitled To a Full and Judication on The merits of His
Original Petition. The issues of The Chain of Custody and The
Indictment never Being Filed with The Clerk of Courts Office
as Required By Rule 3 ~~Has~~ Was Raised in The Original
Application But Has never Been Addressed or Ruled upon as
Required By 17-27-80 The issue of Me Being Denied My
Right To A Direct Appeal By ineffective Counsel Because
Attorney Harry Best Fail To Provide Proof of Service when
He Delivered My Appeal To The Clerk of Court ~~Has~~ at The
end of My Trial is not Frivolous and Cannot Be Dismissed
By The Statute of Limitations Therefore I Have not Had My
Fair Bite at The Apple. My Prior PCR Lawyers - Allen Bullard and Mr
Greeley Fail To Do Their Duties as Required By Rule 71.1-D.

FILED
RECEIVED
2013 MAR 25 11:47
DAVID C. WILSON
CLERK OF COURTS
YORK COUNTY
SOUTH CAROLINA

Charles Carter 2-25-13

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 25 DAY OF Feb
2013

Virginia Robinson
NOTARY PUBLIC
STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES May 20, 2021

Exhibit # 1

RECEIVED
DEC 18 1997

NOTICE OF APPEAL FROM Sentence of Appeals
Imposed By COURT OF General Session

The STATE OF South Carolina in Th Supreme Court
APPEAL FROM YORK County
John ~~Hayes~~ C. HAYES - Circuit Court Judge

STATE OF South Carolina - County OF YORK
VS

Charles RAY Carter

WARANT No - E 455557

CASE-NO: 97 GS-46-1609

Poss. OF CRK-With Intent to Dist.

RECEIVED

NOTICE OF Appeal

DEC 18 1997

S. C. SUPREME COURT

I, Charles Ray Carter Appeal the Conviction
and Sentence in this Case. The Sentence
Was imposed By The Honorable John C Hayes
On December 10-1997, in General Session
Court AT YORK County South Carolina.
This Appeal is Taken From The Order of
The Honorable John C Hayes-Dated December
10-1997 in which the Defendant - I Charles RAY
Carter Was Sentence to 30 yrs.

Solicitor
Assistant

Thomas Pope
Julie Mimms

(Attorney For Def
Pro-se Charles Ray Carter)

Charge
FILED-RECEIVED
BOOK PAGE

DEC 12 3 11 PM '97
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

Exhibit # 1B

I Charles RAY Carter States That
I am Indigent and ask that
I be ~~ASSIST~~ ASSISTED in ALL matters
and materials in the Request of
APPEAL in This matter, since I can
not AFFORD to Pay For this Material
PRO SE Charles RAY Carter

Exhibit # 2



The South Carolina Court of Appeals

KENNETH A. RICHSTAD
CLERK

IDA R. CARSON
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, S. C. 29211
(803) 734-1890

January 2, 1998

Certified Z 061 345 047

Charles Ray Carter #246054
4444 Broad River Rd.
Room #228 - Saluda Unit
Columbia, SC 29210

Re: The State v. Carter, Charles Ray

Dear Mr. Carter:

The Notice of Appeal in the above matter was transferred to the Court of Appeals by Order of the Supreme Court, but has not been filed due to the absence of timely proof of service of the Notice of Appeal.

Please be advised that you must provide this Court with this information within fifteen (15) days of the date of this letter or the appeal will be dismissed.

Very truly yours,

A handwritten signature in cursive script that reads "Martha C. Jeffcoat".

Martha C. Jeffcoat
Docketing Specialist

Handwritten initials "KJR" in cursive.
:mcj

Exhibit # 3

The South Carolina Court of Appeals

The State,

Respondent

v.

Charles Ray Carter,

Appellant.

The Honorable John C. Hayes, III
York County
Trial Court Case No. 97-GS-46-1609

ORDER of DISMISSAL

The Notice of Appeal was not filed in the above matter due to the failure of Appellant to provide a proof of service showing that the notice has been served on all respondents, as provided for in Rule 203(d)(1) of the South Carolina Appellate Court Rules.

IT IS ORDERED that the above captioned appeal be and hereby is dismissed. Pursuant to Rule 221(b) of the South Carolina Appellate Court Rules, the remittitur in this case will be sent to the Clerk of Court for York County after (15) days, exclusive of the date of filing this Order.

BY *Kenneth S. Richstad*
CLERK

Columbia, South Carolina

January 14, 1998

cc: Charles Ray Carter #246054 (Certified Z 061 345 054)
The Honorable David Hamilton

The State of South Carolina
in The Supreme Court
APPEAL FROM YORK COUNTY
COUNT OF GENERAL SESSIONS
John C Hayes - Circuit Court Judge

Case NO - 97-GS-46-1609

The State - Respondent
Charles Ray Carter - Appellant
notice of Appeal

I Charles Ray Carter Appeal My Conviction
and Sentence in this case. The sentence
was imposed by the Honorable John C Hayes
on December 11-1997. This Appeal is
Taken From the order of The honorable
John C Hayes Dated December 11th-1997,
which Denied Appellants Motion
For A new Trial. Appellant Received
notice of this order on
December 11th-1997.

Date 1-22-98

ST OF South Carolina - Tommy Pope
Julie Minors
Charles Ray Carter

EXHIBIT # 4
PROOF OF SERVICE

I certify that I have Served
a copy of Notice of Appeal on
The State of South Carolina at
York County By Deposit in a
Copy of it in the United States
Mail Postage Prepaid on 1-22-98
addressed to The Supreme Court
P.O. Box 11330 and Columbia SC
29216 and Thomas Pope-1675
York Highway York SC 29745

Charles R Carter

Notary 1-22-98
Joyce Lawton
9-12-2001

EXHIBIT # 4 B

129

In The State of South Carolina
IN The Supreme Court
APPEAL FROM YORK COUNTY
Court of General Sessions
John C. Hayes III Circuit Court Judge
Case No. 97-G-5-46-1609
Notice of Appeal

RECEIVED
1998 JAN 28 PM 3:34
SC COURT OF APPEALS

The State ----- Respondent
Charles Ray Carter⁶⁶ ----- Appellant
Notice of Appeal

I Charles Ray Carter Appeal The conviction in
This case. The sentence was imposed by The
Honorable John C Hayes III on December 11th 1997.
This appeal is Taken From The order of The
Honorable John C. Hayes III, Dated December 11th,
1997, which denied appellants motion For a
new TRIAL. Appellant Received Written
notice of This order on December 11th 1997.

Filed December 17-1997
Re Filed January 25-1998 - Pursuant to Rule 231 of SCARA

Charles Ray Carter
RT 2-Box 100 - F-4-151-B
McCormick S.C. 29899

Other Counsel of Record
Julie Mimmis - Tommy Pipe
1675 York Highway
York South Carolina 29745

Motion To Reinstat Appeal Pursuant to Appellate Court Rule 231

encountered Difficulties in receiving mail From Appellate Court Respondent --- State of South Carolina at York County

In The Supreme Court

Appellate --- Charles Ray Carter - Pro-Se

The Honorable -- John C Hayes III - Circuit Court Judge

Case NO - 97-G-S-46-1604 - Trial Date - December 10-11-97

RECEIVED
APPELLATE
COURT
JAN 28 PM 3:30

Letter From Appellate Court dated 12-98 was not received until 1-5-98

Dear MR Davis

I Charles Ray Carter File this Motion Pursuant to Rule 231 of The SCACR, and Request That My Direct Appeal in the Above named action Be Reinstated with me serving notice of Appeal with proof of service on all Respondents, Before A period of 15 days Expires after date of order of dismissal which is Dated - 1-14-1997.

Previous Attempts to File this Appeal were unsuccessful due to the Absence of A Timely proof of service notice which was The result of me being tried without counsel and not knowing how to Represent myself.

After Being Detained Following Trial at York County for 5 days and Transferred to Reception and Evaluation Center, I had no means or assistance in Filing proper Appeal.

No Attorney in York County would assist me, but only let me know that they were unhappy with me Filing grievances against two of their Attorneys Friends in 1995. I asked Judge Hayes for assistance

Torney for in Filing this Appeal but he only gave me a copy of the Appellate Court Rules. After being

ie mins Transferred to Present institution only now I have assistance in Filing this action. While, York County does have a law library, I was told that they did

not have to assist me, which I feel was ordered by the Prosecutor in order to cover up this violation of my Constitutional Rights. For These Reasons

I request that Motion Be Granted
Charles Ray Carter

Torney for
ate
ie mins
assistance
Appellant
RD-SE
inles Carter

Public Defender
Attorney Harry Dest
Line 18

160

91

1 TO YOU.

2 MR. CARTER: THANK YOU.

3 THE COURT: WE WILL SEE Y'ALL AT 9:30 IN THE
4 MORNING.

5 MS. MIMMS: THANK YOU, YOUR HONOR.

6 (WHEREUPON COURT RECESSED FOR THE EVENING.)

7 DECEMBER 10, 1997 (IN CAMERA)

8 MR. CARTER: CAN I HAVE A MINUTE TO TALK TO AN
9 ATTORNEY?

10 THE COURT: YES, IF HE'S WILLING TO DO IT.

11 MR. CARTER: IT'S HARRY DEST. I JUST TALKED WITH
12 HIM. HARRY DEST IS SUPPOSED TO BE HERE. HE SAID I HAD TO
13 ASK.

14 THE COURT: YES, THAT'S FINE.

15 (AFTER A SHORT PAUSE, MR. DEST CAME INTO THE COURTROOM.)

16 THE COURT: MR. DEST, MR. CARTER SAYS YOU WANT TO
17 REPRESENT HIM?

18 MR. DEST: YOUR HONOR, I DON'T KNOW ANYTHING ABOUT
19 THE CASE. HE MADE CONTACT WITH ME ABOUT REPRESENTING HIM,
20 AND I SAID I WOULD BE HAPPY TO. I DIDN'T REALIZE THE
21 SITUATION THOUGH.

22 THE COURT: WELL, I UNDERSTAND YOUR OFFICE
23 REPRESENTS THE CO-DEFENDANT, ANGELA BRUSH TAYLOR.

24 MR. DEST: I DIDN'T REALIZE THAT. DID WE CONFLICT?

25 THE COURT: I DON'T REMEMBER IF THERE WAS ANY

SB

1 CONFLICT ORDER SIGNED, BUT MONDAY WHEN WE WERE GOING AROUND
2 WITH THIS I APPOINTED DAVID BENSON BECAUSE I WAS TOLD THERE
3 WAS A CONFLICT. IS THAT THE STATE'S UNDERSTANDING?

4 MR. CRANSHAW: YES, YOUR HONOR. I DON'T BELIEVE
5 ANY ORDER HAS BEEN SIGNED, BUT WHEN THE ISSUE CAME UP MR.
6 BENSON WAS APPOINTED; HE WAS NEXT ON THE LIST.

7 THE COURT: HE HAD NOT APPLIED EARLIER, SO HE NEVER
8 WAS ASSIGNED ONE.

9 MR. CARTER: NO, SIR, I NEVER DID APPLY.

10 MR. DEST: WELL, I DIDN'T REALIZE THAT WAS THE
11 SITUATION, THAT WE ALREADY HAD THE CO-DEFENDANT, YOUR HONOR.
12 THAT WOULD PREVENT US FROM REPRESENTING HIM AT THIS TIME.

13 THE COURT: ALL RIGHT.

14 (MR. DEST HAD A CONVERSATION WITH THE DEFENDANT OFF THE
15 RECORD.)

16 MR. DEST: YOUR HONOR, MAY IT PLEASE THE COURT, I
17 HAVE INFORMED MR. CARTER THAT WE REPRESENT THE CO-DEFENDANT
18 IN THIS CASE AND OBVIOUSLY SINCE THAT CASE IS STILL PENDING,
19 THAT WOULD PREVENT ME OR ANY OTHER ATTORNEY FROM OUR OFFICE
20 FROM REPRESENTING HIM ON THIS MATTER. I HAVE NOT DISCUSSED
21 ANY FACTS OF THE CASE WITH HIM. I POINTED OUT THAT THE RULES
22 OF ETHICS AS I VIEW THEM AT THIS TIME, YOUR HONOR, WOULD
23 PREVENT ME FROM REPRESENTING HIM IN THIS CASE OR TAKING AN
24 ACTIVE ROLE OF REPRESENTATION OF HIM AT THIS TIME. SO, I
25 CANNOT, IN MY VIEW, REPRESENT HIM.

1 YOU MAY GET IN TOUCH WITH MR. GUYTON. HE MIGHT AT
2 LEAST HELP YOU GET YOUR APPEAL FILED. WHEN YOU FILE YOUR
3 APPEAL, IF YOU CAN'T AFFORD TO HIRE AN ATTORNEY, THERE'S
4 WHAT'S CALLED THE APPELLATE DEFENSE, AND I'LL GIVE YOU THE
5 FULL NAME AND ADDRESS ALSO.

6 MR. CARTER: ALL RIGHT, WHEN WILL I GET THOSE
7 FORMS?

8 THE COURT: WE'LL HAVE THEM TO YOU BEFORE YOU LEAVE
9 THE ROOM. NOT THIS ROOM, BUT THAT HOLDING CELL.

10 MS. MIMMS: YOUR HONOR, BEFORE MR. CARTER LEAVES,
11 FOR THE RECORD AND FOR HIS INFORMATION, THE STATE WILL BE
12 DISMISSING THE CONSPIRACY CHARGE AND THE USE OF PROPERTY TO
13 FACILITATE A DRUG TRANSACTION THAT ACCOMPANIED THE POSSESSION
14 WITH INTENT TO DISTRIBUTE.

15 MR. CARTER: THEY WERE ALREADY DISMISSED.

16 MS. MIMMS: THANK YOU, YOUR HONOR.

17
18 (WHEREUPON THE CASE ENDED.)
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

CERTIFICATE

I, Janet M. Fischer, the undersigned Reporter, hereby certify that the foregoing pages consisting of 193 pages, constitute a true record of the trial of the case of The State versus Charles Ray Carter, as taken by me at the time and place stated.

I do further certify that the persons were present as stated, that I am not of counsel for, related, or in the employ of any of the parties to this action and that I have no interest whatsoever in the outcome of this case.

This the 19th day of February, 1998.

Janet M. Fischer
Janet M. Fischer, Court Reporter
Sixteenth Judicial Circuit
State of South Carolina

7
DOCKET NO. # 97-16-1609

DOCKET NO. # 97-16-1609

The State of South Carolina

COUNTY OF YORK

COURT OF GENERAL SESSIONS

MAY 22ND, TERM 1997

THE STATE

vs.

CHARLES RAY CARTER

Indictment for
UNLAWFUL DRUGS

POSSESSION OF CRACK COCAINE
WITH INTENT TO DISTRIBUTE

SC CODE 44-53-375
CDR Code 0112

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I Charles Ray Carter
hereby appear in my own proper person
and plead guilty to the within indictment or
to _____

Possession of Crack, 3rd⁺

Defendant

Witness:

C.C.C. PLS. AND G.S.

WITNESSES

YCSO / WILLIAMS

S/ Kirkland

mac

ARREST WARRANT NO E-45557

ACTION OF GRAND JURY

TRUE BILL
TRUE BILL

Foreman of Grand Jury

Date:

Shane Monro 05-22-97

VERDICT

Guilty

GC Haskin
Foreman of Petit Jury

12/10/97
Date:

STATE OF SOUTH CAROLINA
COUNTY OF YORK

CERTIFIED TRUE COPY
David Hamilton
JAN 19 2 19 PM '97
Deputy Clerk
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

INDICTMENT

At a Court of General Sessions, convened on May 22nd, 1997, the Grand Jury of York County present upon their oath:

POSSESSION OF CRACK COCAINE
WITH INTENT TO DISTRIBUTE

That Charles Ray Carter did in York County on or about April 1, 1997, possess with intent to distribute a quantity of Crack Cocaine, a controlled substance under provisions of Section 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such Possession with Intent to Distribute not having been authorized by law, all in violation of Section 44-53-375, Code of Laws of South Carolina, (1976), as amended.

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

Julia D. Memms
ASSISTANT SOLICITOR

EXHIBIT A 86136-1

30 YR

1 THE COURT: MR. CARTER, IS THERE ANYTHING YOU WANT
2 TO SAY?

3 MR. CARTER: I JUST ASK FOR LENIENCY. I JUST HOPE
4 I'LL SEE MY MAMA ALIVE AGAIN; SHE'S A VERY SICK LADY.

5 THE COURT: WELL, I REGRET THAT, BUT YOU'VE GOT A
6 REAL HEAVY RECORD. THE SENTENCE OF THE COURT IS FOR THIRTY
7 YEARS IMPRISONMENT.

8 NOW, I TOLD YOU EARLIER THAT I WOULD TELL YOU ABOUT
9 APPEAL. YOU HAVE 10 DAYS, IF YOU WISH, FROM TODAY'S DATE TO
10 FILE WHAT'S CALLED A NOTICE OF INTENT TO APPEAL. BUT YOU
11 HAVE TO FILE IT WITHIN 10 DAYS OR YOU LOSE YOUR RIGHT TO
12 APPEAL.

13 MR. CARTER: WHERE WOULD I OBTAIN THE MATERIAL TO
14 DO THAT.

15 THE COURT: WELL, THERE'S NO FORM OTHER THAN WHAT'S
16 IN THE RULE BOOK. I'LL HAVE MY LAW CLERK RUN YOU A COPY OF
17 THE NOTICE OF APPEAL -- WHAT I'LL DO, THERE'S AN APPENDIX OF
18 FORMS TO RULES OF COURT, AND I WILL HAVE XEROXED FOR YOU ALL
19 OF THESE FORMS, HAVE THEM COPIED, EVERY ONE OF THEM. SOME
20 DON'T APPLY -- WELL, I WILL UP THROUGH FORM 12 BECAUSE THEN
21 YOU GET INTO BRIEFS. YES, UP THROUGH FORM 12 I WILL HAVE MY
22 LAW CLERK MAKE YOU COPIES. IT SHOULD BE ADDRESSES -- I CAN'T
23 VERIFY IT BECAUSE I HAVEN'T GONE OVER THEM, BUT THERE WILL BE
24 FORMS THAT YOU CAN USE THAT SHOULD HAVE THE ADDRESSES THAT
25 YOU WOULD WANT.

The
Court

Dear Clerk

Please Find enclosed My APC R and Notarized Affidavit of Good Faith. Also included are The Following

- 1 Exhibit No 1- Notice of Appeal Filed on-10-12-97 with Exhibit 1 B.
- 2 Exhibit No 2- Letter From SC Court of Appeal Dated-1-2-98 Advising me That I Had 15 Day To Provide Proof of Service.
- 3 Exhibit No 3- Letter From SC Court of Appeals Dated-1-14-98 Dismissing Appeal-without Allowing 15 Days
- 4 Exhibit No 4- Rerefiled Notice of Appeal with Proof of Service Dated 1-22-98 - 4 B- Received By Court of Appeal on-1-28-98- Before the Remittitur was Sent.
- 5 Exhibit # 5-5 B- Shows Attorney Harry Nest at Trial Advising Court of Conflict.
- 6 Exhibit # 6- Page from Transcript Showing That I was Trying To Get My Appeal Filed
- 7 Exhibit # 7- Indictment No Date Showing That Indictment was Filed with Clerk of Court Prior To Trial.

Emphasis-The Court of Appeals Created a Statutory Right By Telling Applicant That He Had 15 Days To Provide Proof of Service That Could Not Be Taken Away without Due Process of Law.

7-25-13

Charles R. Carter

Please Return Clock
Stamped Copy