

The Supreme Court of South Carolina

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June 11, 2013

Caroline M.W. Horlbeck, Esquire
101 Whitsett Street
Greenville SC 29601

Re: Elliott J. Brown v. State
Appellate Case No. 2013-001144
Lower Court Case No. 2011-CP-23-04514

Dear Counsel:

Since this matter is a post-conviction relief case, the South Carolina Court of Appeals has transferred your notice of appeal in the above matter to this Court.

Except for the allegation seeking a belated direct appeal under White v. State, the PCR judge determined that this action is barred by the statute of limitations. If this ruling on the statute of limitations is to be challenged on appeal, then Rule 243(c), SCACR, requires you to provide a written explanation as to why this determination was improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper.

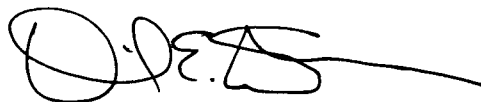
In the event you determine that you do not have a good faith explanation to provide pursuant to Rule 243(c), you must provide this Court with a letter stating that as an officer of the Court you are unable to set forth any arguable basis for asserting the determination by the PCR judge was improper. The letter should also advise the petitioner that he has twenty (20) days from the date of the letter to file a pro se

explanation as to why the petitioner believes that this determination by the circuit court was improper. Dennison v. State, 371 S.C. 221, 639 S.E.2d 35 (2006). The letter filed with this Court should include proof of service showing that a copy of the letter has been sent to the petitioner.

As to the White v. State claim, the PCR judge determined that petitioner is entitled to a belated direct appeal from guilty plea in 2007-GS-23-00592. However, to pursue an appeal from a guilty plea, petitioner would have to "provide a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal." Rule 203(d)(1)(B), SCACR (explanation required when an appeal is taken from a guilty plea, Alford plea, or plea of nolo contendere). Therefore, I ask that you please provide the explanation required for a guilty plea appeal.¹

I ask that you either provide the explanations or the responses permitted by Dennison within fifteen (15) days of the date of this letter.

Very truly yours,



CLERK

cc: Division of Appellate Defense
Karen Christine Ratigan, Esquire

¹ In the event you determine that you do not have a good faith explanation to provide, I would recommend that you follow a procedure similar to that provided for in Dennison v. State, 371 S.C. 221, 639 S.E.2d 35 (2006), for the explanation required by Rule 243(c), SCACR. This will give the petitioner an opportunity to provide a pro se explanation for allowing an appeal from the guilty plea.