

THE STATE OF SOUTH CAROLINA  
In the South Carolina Court of Appeals

RECEIVED

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APPEAL FROM GEORGETOWN COUNTY  
Court of General Sessions

SC Court of Appeals

Honorable Judge Benjamin H. Culbertson, Circuit Judgment

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Case No. 22-000671

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State

Respondent,

v.

Terron Dizzley,  
Gwendolyn B. Frasier,  
LaQuesha Felder,

Appellants,

---

**EXPARTE MOTION TO AMED EMERGENCY MOTION TO RELIEVE  
COUNSEL AND PROCEED PRO SE**

Appellants respectfully request that the Honorable Judge Locermy issues an order to the Clerk of Court of the S.C. Court of Appeals ordering her to cease from violating their First and Fourteenth Amendment rights to access the court and due process in rejecting filing their March 28, 2023 Emergency Motion To Relieve Counsel And Proceed Pro se, Initial Brief of Appellants, Habeas Corpus in Aid of Appellate Jurisdiction, Motion For Leave to File an Enlarged Brief, Motion To Correct the False Procedural History and Law of Case and Request for Hearing, and Designation of Matter, for reasons which are contrary to clearly established South Carolina Supreme Court law, set fourth in Barnes v. State, 433 S.C. 399 (2021).

Appellants respectfully request that the Honorable Judge Locermy issues an order to the Clerk of Court of the S.C. Court of Appeals instructing her file Appellants motions in compliance with Barnes v. State, 433 S.C. 399 (2021), to prevent them from suffering any further irreparable harm.

### STATEMENT OF CASE

Appellants contends that they filed an Emergency Motion to Relieve Counsel and Proceed Pro Se On March 28, 2023 along with the Initial Brief of Appellant, Habeas Corpus in Aid of Appellate Jurisdiction, Motion For Leave to File an Enlarged Brief, Motion To Correct The False Procedural History and Law of Case, and Designation of Matter. However, Appellant, Terron Dizzley, was notified by his Mother, Appellant Gwendolyn B. Frasier, on April 18, 2023 that Attorney Yarborough e-mailed her a letter from the Clerk of Court of the S.C. Court of Appeals, stating that they were not filing Appellants Emergency Motion to Relieve Counsel and Proceed Pro se and other documents because he had to serve a copy of the documents to his attorney of record, Attorney Yarborough, and that Appellants Gwendolyn B. Frasier and LaQuesha Felder's names are on the documents, and that they do appear to be parties of the appeal, that they do not have a license to practice law and nothing will be filed on their behalf.

However, this is contrary to clearly established South Carolina Supreme Court law and was an error in refusing to file Appellant's motions on such grounds. Foster v. State, 298 S.C. 306 (1989), "Nothing in this order shall be construed to limit any party's right to file a pro se motion seeking to relieve his counsel."

Therefore, according to the law, Appellants only requires them serve the Court and the Attorney General. Appellants contend that the clerk of court had no authority

to reject filing Appellants motions on such grounds: (1) based on her opinion of who she thinks Appellant should serve a copy of the motions to; (2) her opinion of whose name she thinks is supposed to be on the documents; or (3) irrespective of any potential procedural flaws that she thinks exist in Appellant's motions. See: Barnes v. State, “We take this opportunity to remind the clerks of court of their ministerial duty to docket filings irrespective of potential procedural flaws that may exist. Miller v. State , 377 S.C. 99, 102, 659 S.E.2d 492, 493 (2008) (“[I]t is not within the Clerk of Court’s authority to refuse to perform her duty based on her opinion that a filing lacks legal merit or is untimely.”). This duty is not discretionary. See 21 C.J.S. Courts § 335 (2021). Unless specifically authorized by statute or a court rule, a clerk of court may not exercise any judicial power reserved for a judge. *Id.* (“The clerk cannot, without express constitutional or statutory authority, exercise any judicial functions.”). This includes the prohibition of performing any action contingent on deciding a question of law. *Id.* (“It follows that a clerk of court cannot ordinarily determine questions of law.”). Accordingly, a clerk of court does not have the authority to reject a filing based on ostensible or perceived failures, including whether the document is contained on the proper form. Because the clerk’s role is ministerial in this respect, the clerk shall not be “concerned with the merit of the papers or with their effect and interpretation ....” *Id.* § 337. Stated differently, “[a] clerk of court may not reject a pleading for lack of conformity with requirements of form; only a judge may do that.” Instead, the clerk shall accept the filing, thereby permitting the court to decide any issues the parties may have with it.”

Appellants contends that they have a Sixth Amendment right to counsel of choice, the right to represent themselves, and the right to conflict free counsel. State Gregory, 364 S.C. 150 (2005).

On September 22, 2022, Appellant Terron Dizzley entered into a fee agreement contract for representation with Attorney William G. Yarborough to represent him, his mother Gwendolyn B. Frasier, and his wife, LaQuesha A. Felder pursuant to their "Emergency Motion For Alteration, Modification, Amend, Reconsideration, And Rescission Of Order," pursuant to their "Exparte And Proposed Motions For Immediate Release Of Terron Dizzley Pursuant to Double Jeopardy, False Imprisonment, Lack Of Trial Court's Jurisdiction To Impose Sentence, First And Fourteenth Amendment Rights To Familial Association."

The representation was sought after the S.C. Court of Appeals remanded Appellants case back to the Circuit Court in Georgetown after the Circuit Court refused to schedule Appellants' a hearing on their motions, refused to issue a ruling that meets the requirements of the law pursuant to findings of facts and conclusions of law, refused to respond to Appellants "Emergency Motion For Alteration....," and refused to comply with the S.C. Court of Appeals order by scheduling a hearing on remand pursuant to Appellants "Emergency Motion For Alteration..."

Appellants contend that they did not hire Attorney Yarborough for the purpose of raising any issues on his own. Appellant hired Attorney Yarborough to represent him, his mother Gwendolyn B. Frasier and LaQuesha Felder for the purpose of getting them a hearing on the issues "already" raised in their "Emergency Motion For Alteration....," and to assure that the Circuit Court ruled on "all" their issues to preserve them on the record for the Appellate Court, and to assure that the Circuit Court Judge issued an order that complied with the law, which is pursuant to findings of facts and conclusions of law. This was the sole purpose of Appellants filing the motion, the sole purpose of the statute of which the motion was filed under, and the

sole purpose of the S.C. Court of Appeals remanding the case back to the Circuit Court.

Appellant only agreed to hire Attorney Yarborough based on the fact that after his mother, Appellant Gwendolyn B. Frasier spoke to him explaining the circumstances and laws that supported Appellants case and after Gwendolyn B. Frasier sent Attorney Yarborough the case upon his request. According to Attorney Yarborough, he reviewed the case and confirmed that Appellant, Terron Dizzley was being held unlawfully pursuant to a violation of his double jeopardy rights and agreed to take the case. (Note: It Attorney Yarborough, as a professional lawyer agreed that Appellant Terron Dizzley was being held unlawfully in violation of the Double Jeopardy Clause, then clearly such unlawful restraint of Appellants Terron Dizzley's liberty, also violates Appellants Gwendolyn B. Frasier and LaQuesha Felder's First and Fourteenth Amendment rights to familial association with Terron.).

Appellant specifically stated to Attorney Yarborough via prison administration phone conference, that he would only agree to representation if Attorney Yarborough agreed to raise "all" of Appellants' issues raised in their "Emergency Motion For Alteration....," which also included a Fourth Amendment violation, and a Fifth Amendment violation pursuant to indictment. All the issues proves that Appellant Terron Dizzley is being held falsely imprisoned without any legal nor jurisdictional authority, and that such unlawful deprivation of Appellant, Terron Dizzley's, liberty violates his mother, Gwendolyn B. Frasier and wife, LaQuesha A. Felder's First and Fourteenth Amendment rights to familial association with Terron. Attorney Yarborough agreed to the terms, that he would raise "all" of Appellants' issues, which was the sole purpose of the motion on which he agreed to represent Appellants, and the sole purpose of the S.C. Court of Appeals remand.

Appellant entered into a contract with Attorney Yarborough for, \$7,500, which was to represent Appellants at the hearing on their Emergency Motion For Alteration...., and another \$7,500, which would only be used if he had to appeal any adverse decisions as a result of the hearing, which would be refundable if he didn't have to appeal any decisions if the hearing was successful, or if Appellants decided not to let him do the appeal.

However, Attorney Yarborough breached the contract and raised only the double jeopardy issue at the hearing on November 17, 2022, and the Circuit Court Judge, the Honorable Judge Culbertson, despite the Appellate Court's order, still refused to issue an order that complied with the law on any of Appellants issues. Appellant contends that the record from the November 17, 2022 hearing shows that he even exercised his Six Amendment rights to self-representation, and addressed to the court that he would like to fire Attorney Yarborough so that he can be heard on all of his issues to protect his rights, and the Circuit Court deprived him of this right.

Since the hearing, Attorney Yarborough also misrepresented the truth to Appellant and Gwendolyn B. Frasier by assuring that he would raise all the issues in the Appellate Brief if Appellants allowed him to do the brief. However, he has provided Appellants with a brief that does not raise all of Appellants issues, only the double jeopardy issue. Therefore, Attorney Yarborough has now also breached his contact again pursuant to raising all of Appellants issues on appeal.

The entire representation of Attorney Yarborough was based on his misrepresentation of the truth to Appellants Terron Dizzley and Gwendolyn B. Frasier to induce him into a contract. Therefore, Attorney Yarborough's conduct has deminished any hopes of an attorney-client relationship. To pursue this appeal with Attorney Yarborough as Appellants attorney would only prejudice Appellants by

depriving them of their right to appellate review on their issues and would also prejudice the Appellate Court from reviewing Appellant's issues of constitutional deprivations of their life and liberty, therefore, compromising the integrity and public confidence in the judicial system. Fishburne v. State, 427 S.C. 505 (2019) abrogating Marlar v. State, 375 S.C. 407 (2007); Pruitt v. State, 310 S.C. 254 (1992). Sheppard v. State, 357 S.C. 646 (2004), quoting State v. Fortester, 343 S.C. 637 (2001)," unchallenged ruling, right or wrong, is the law of the case." See also: ML-Lee Acquisition Fund v. Deloitte & Touche, 327 S.C. 238 (1998).

Appellant contends that the only reason they sought legal representation from an attorney, which ended up being Attorney Yarborough is because this Court and the Circuit Court continued to violate their rights as pro se litigants by refusing to adjudicate their case. By refusing to adjudicate their case in the Appellate Court, whereas, the law specifically establishes that subject matter jurisdiction can be raised at anytime, even for the first time on appeal, and sua sponte by the court and should be taken notice of by the Appellate Court, and cannot be waived even by consent of all parties. See: State v. Guthrie, 358 S.C. 102 (2002); State v. Funderburk, 259 S.C. 256 (1972). And the fact that the law clearly establishes that a double jeopardy issue is an extraordinary issue that requires an immediate appeal, and the remedy is an extraordinary writ, and the Court cannot grant stays pursuant double jeopardy issues because the defendant will suffer irreparable harm. See: State v. Rearick, 417 S.C. 391 (2016), "A defendant may still challenge the denial of a motion to dismiss on double jeopardy grounds via (1) a petition for federal habeas corpus relief, or (2) a petition for this Court to issue an extraordinary writ; citing Livingston v. Murdaugh, 183 F. 3d 300, 301 (4th Cir. 1999); Gilliam v. Foster, 63 F.3d 287, 291 (4th Cir. 1995).

Despite this, the S.C. Court of Appeals still remanded Appellants case to Circuit Court in Georgetown although Appellants addressed to this Court on several occasions that the Clerk of Court, Alma Y. White has been depriving Appellant from accessing the courts the entire nine years of his unlawful incarceration, the Appellate Court still granted the states unconstitutional request to hold their Motions filed in the Appellate Court in abeyance despite Appellants' objections filed in their "Motion To Update And Request For Conditional Order."

Appellant Terron Dizzley contends that as a result of the Appellate Court's refusing to adjudicate their case, he has suffered, and is still suffering irreparable harm being held kidnapped/falsely imprisoned. Appellants Gwendolyn B. Frasier, and LaQuesha Felder, has, and is still suffering irreparable harm pursuant to their First and Fourteenth Amendment rights to familial association with Appellant, Terron Dizzley, without government interference pursuant to Terron's false imprisonment. Moreover, Appellants suffered additional irreparable harm by this Court's refusal to adjudicate their case which forced them to hire Attorney Yarborough, which subjected them to felony crimes being committed against them of fraud pursuant Attorney Yarborough's conduct which resulted in the loss of \$15,000, of which Appellants are pursuing legal actions to be compensated for. This all could have been avoided had Appellants been afforded equal protection under law as they have a right to under the Fourteenth Amendment of the United States Constitution.

Appellants contends that they have now suffered even more irreparable harm by the Clerk of Court of the S.C. Court of Appeals unauthorized reasons for rejecting their, March 28, 2023, filing of his motion to relieve counsel which resulted in Attorney Yarborough filing the initial brief on behalf of Appellants, although Appellants informed him on March 13, 2023 and March 30, 2023 that he had fired

him, and wished for him not file the initial brief. Appellants also inform Attorney Yarborough on March 30, 2023 that on March 28, 2023 that Appellant had filed a motion to relieved him as counsel along with the initial appellant brief.

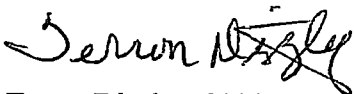
On April 18, 2023, Ms. Frasier noticed the letter that Attorney Yarborough forwarded to her was from the Appeals Court, dated April 5, 2023, and informed Terron, who said that he did not receive a letter from the SC Appeals Court. On April 19, 2023 Appellant Gwendolyn B. Frasier, at Terron's request, called the S.C. Court of Appeals and talked with a case worker, Teneshia, and explained to her the contents of the letter, penned by V. Allen, and shared with her that according to the law that the clerk of court had no authority not to file their March, 28, 2023, motions on grounds set forth in the letter that was e-mailed to Appellant Frasier by Attorney Yarborough, from the Clerk of Court of the S.C. Court of Appeals. Appellant Frasier provided the case worker with clearly established S.C. Supreme Court law to support these facts in an effort to get their motions of March 28, 2023 filed and docketed. However, the case worker reiterated the contents of the letter as to how Appellants had to file their motions, who could file them, and who could not, whose name can be on the motions, and that Attorney Yarborough had to be served, and the motions would not be filed if this was not done. All of these instructions from the case worker were contrary to the law, and her ministerial duties which prejudice Appellants. See: Barnes, supra, 433 S.C. 399 (2021).

For the forgoing reasons, Appellants request that the Honorable Judge Locermy, issues an order to the Clerk of Court of the S.C. Court of Appeals, as stated in Barnes, and "remind"( the Court of Appeal clerks of court), "of their ministerial duty to docket filings irrespective of any potential procedural flaws that may exist;" and that they have no authority to reject filing Appellants motions regardless of who

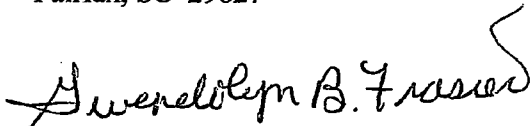
the parties are, or her opinion of who she thinks the parties should be, or who she thinks should be served. Appellant contends that this request is not a personal request, but, is what has been established by the South Carolina Supreme Court, statutes, and laws. Appellant respectfully request that the Honorable Judge Locermy issues an order to the Clerk of Court S.C. Court of Appeals ordering her to file Appellants March 28, 2023 Emergency Motion To Relieve Counsel And Proceed Pro Se. Appellant respectfully request that this Honorable Court grants the Emergency Motion expeditiously under emergency circumstances, and issues an order for the clerk of court to substitute all filings from Attorney Yarborough with the Initial Brief of Appellants and all filings file on March 28, 2023, so that Appellants will not suffer any additional irreparable harm.

Appellants also respectfully request that The Honorable Judge Lockemy issues an order to the Clerk of Court of Appeals instructing her to file any future filings by Appellants, Terron Dizzley, Gwendolyn B. Frasier and LaQuesha Felder and allow the Judge to determine any questions of law pursuant to their filings as established in Barnes v. State, supra, 433 S.C. 399 (2021).

Yours truly,



Terron Dizzley, 359480  
ACI  
1057 Revolutionary Trail  
Fairfax, SC 29827



Gwendolyn B. Frasier  
7996 Pennyroyal Road  
Georgetown, SC 29440



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF 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  
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April 05, 2023

Terron G. Dizzley, 00359480  
Allendale Correctional Institution  
P. O. Box 1151, Hwy 47  
Fairfax SC 29827

Re: The State v. Terron G. Dizzley  
Appellate Case No. 2022-000671

Dear Mr. Dizzley:

The Court is in receipt of your motions and other filings filed March 30, 2023. All of your motions and accompanying material must be served upon the counsel of record that currently represents you. Until such time as your attorney is relieved as counsel, no action will be taken on your motions. Further, it does not appear that Gwendolyn B. Frazier or LaQuesha Felder are parties to this appeal nor are they licensed attorneys. No action will be taken on any documents submitted by Ms. Frazier or Ms. Felder for the reasons stated above.

Very truly yours,

A handwritten signature in black ink, appearing to read "V. Claire Allen". The signature is written in a cursive style.

CLERK

cc: Alan McCrory Wilson, Esquire  
Melody Jane Brown, Esquire  
William G. Yarborough, III, Esquire  
Lauren C Hobbis, Esquire

# LAW OFFICE OF WILLIAM G. YARBOROUGH, III

---

P: 864.331.1612  
F: 864.271.0711  
E: Bill@wgylaw.com

308 W. Stone Avenue  
Greenville, SC 29609

March 30, 2023

Terron Dizzley, 00359480  
Allendale Correctional Institution  
1057 Revolutionary Trail  
Fairfax, SC 29827

Re: State v. Terron Dizzley; 2009-GS-22-0078  
Initial Brief

Dear Mr. Dizzley,

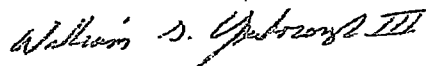
As requested, on March 3, 2023, we sent you a copy of the initial brief we intended to file on your behalf. On March 13, 2023 we received an email from Gwendolyn Frazier on your behalf, indicating that you did not want us to submit the Brief that we mailed to you. The email also stated that you would write with details. We did not hear back from you until March 30, 2023, wherein you stated that you are firing me, do not wish for me to file your Brief, and that you will file it *pro se*.

The initial brief was due on March 20, 2023. We filed an extension request on your behalf, and an Order (enclosed) was issued, granting the extension to April 19, 2023. As stated in the Order, "any further extension request must show the existence of extraordinary circumstances" and "state what actions are being taken to insure that no further extension will be required..."

Although you would like to relieve me as counsel, procedurally, that has not been done. If you have not filed your Brief, by the due date, April 19, 2023, I will move forward with filing the Initial Brief. Failure to file by the deadline could result in a dismissal of your Appeal.

Please feel free to contact the office with any questions or concerns.

Thank you,



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William G. Yarborough, III

WY/lc

Enclosures

cc: Gwendolyn Frasier (via email only at fblessed1@aol.com)

William G. Yarborough, III  
308 West Stone Avenue  
Greenville, SC 29609  
March 30, 2023

Dear Attorney Yarborough:

The brief that you sent me for approval does not raise all of the issues as agreed upon. The brief is not supported by any case law at all. You, intentionally, misrepresented the truth as to the procedural history of my case stating that I knowingly and intelligently waived my direct appeal to pursue a speedier process and filed a PCR, although I told you that I did not knowingly and intelligently waive my direct appeal and that I have a motion pending in S.C. Court of Appeals to reinstate my direct appeal and even asked you to assist me with this also.

You also falsely stated that my PCR appeal was dismissed for failure to file the appeal, when I showed you the proof that my PCR was the result of fraudulent, illegal representation from Attorney Eleanor Duffy Cleary, which prevented me from raising any issues and deprived me of my appeal. I personally showed you a copy of the Rule 59(e) Motion for Reconsideration filed by Attorney Eleanor Cleary, where she admitted that her representation was conflicting, against my wishes, and that I had filed a civil action against her, and that because of this, she had filed several motions to be relieved from her fraudulent representation, in which she stated that the Court was in error for forcing her to continue to represent me under such circumstances, and that because of this, the "strong and meritorious" issues, that I have that were not raised.

I also asked you to assist me in also reinstating my PCR. If you knew this, then why would you litigate a false procedural history of my case that would only prejudice me, when you are supposed to advocating for me.

You lied about my mother and wife's intentions in filing for my immediate release, which is an exercise of their First and Fourteenth Amendment rights to familial association with me without government interference pursuant to my false imprisonment, by stating that they have a misunderstanding of what power of attorney means, although you agreed to raise this issue.

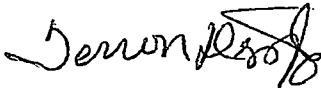
The contract that I signed with you states that you would return the \$7,500 if we did not allow you to appeal the case. However, when you came to see me after the hearing, you specifically told me that you would raise all of the issues if I briefed them, and you and your lawyer would redo the brief, and you would send it to me, and if I did not agree with it, you would refund the \$7,500. We do not agree with the brief that you sent to me. We, therefore, have decided to file the brief ourselves because you have breached the contract are asking you to return the \$7,500 which you were paid in good faith.

Because you have breached the entire contract and did not raise all the issues at hearing, and was not even unprepared to raise the Double Jeopardy issues. We are also asking you to return the entire \$15,000 which we paid to you.

It clear that your strategy was to get paid and hope that the judge would allow me to argue my own case, which I had a right to, that you failed to protect. You also lied to me that if I briefed all the issues, you would raise them on appeal. You have not done anything that was agreed to in the contract. According to the statement you made in our March 3, 2023, phone conference, that as far as you are concerned that you fulfilled your obligation when walked out of the Court room on November 17, 2022, is clear that your sole intentions were swindle my family and me out of \$15,000, and walk in the courtroom say a few words and get a free \$15,000.

If our fee is not returned, we will pursue legal actions against you. Fifteen thousand dollars is not a little bit of money.

Yours truly,

A handwritten signature in black ink, appearing to read "Terron Dizzley". The signature is stylized with a large, looped initial "T" and a long, sweeping underline.

Terron Dizzley

William G. Yarborough, III  
308 West Stone Avenue  
Greenville, SC 29609  
April 3, 2023

Dear Attorney Yarborough:

We sent you a letter, on March 30, 2023, explaining that we wish you to refund the \$7,500.00 which we paid you as part of our agreement which was refundable if we did allow you to do the appeal. We filed the appeal ourselves, on March 28, 2023, which included a motion to relieve you as counsel.

We are also, again, requesting that you return the additional \$7,500.00 for a total of \$15,000.00 which we paid you to represent us pursuant to our " Emergency Motion for Alteration... " As explained to you in the letter, you breached your contract by not raising all of our issues at the November 17, 2022, Hearing and by not raising all of the issues in the appellate brief that you sent us. You also included false/inaccurate information in the brief which you sent us for review.

After the November 17, 2022, Hearing, when you came to visit me, I explained to you that my family and I were extremely dissatisfied with your representation at the hearing and that we wanted to fire you. However, you insisted that if we allowed you to do the brief, and that if I briefed all of the issues and send them to you, that you and your legal team would redo them, send it to me, before filing, and that if I did not agree with the brief that you prepared to file, you would return our money.

You did not address the return of our money in your March 31, 2023, response to our letter, which is detailed as to why we are requesting the return of our funds.

Again, we are requesting the return of the \$15,000.00 which you were paid for legal services which you failed to provide.

Yours truly,



Terron Gerhard Dizzley

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

MAY 02 2023

Appeal from Georgetown County

SC Court of Appeals

Honorable Judge Benjamin Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

v

Terron Gerhard Dizzley  
Gwendolyn B. Frasier  
Laquesha Felder

Appellants.

APPELLATE CASE NO. 22-000671

CERTIFICATE OF SERVICE

I, Terron Dizzley, Gwendolyn B. Frasier and LaQuesha Felder hereby certify on this 22 day of April, 2023, filed an Exparte Motion to Amend Motion to Relieve Counsel and Proceed Pro Se in the above matter by placing in U. S. mail, postage prepaid, sent to the address below:

Chief Judge, James Edward Lockemy  
P.O. Box 750  
Dillon, South Carolina 29536

s. Terron Dizzley  
Terron Dizzley, 359480  
ACI  
1057 Revolutionary Trail  
Fairfax, SC 29827

Gwendolyn B. Frasier  
Gwendolyn B. Frasier  
7996 Pennyroyal Road  
Georgetown, SC 29440

1057 Revolutionary Trail  
Fairfax, SC 29827  
April 20, 2023

RECEIVED

South Carolina Court of Appeals  
Jenny Abbott Kitchings, Clerk  
P.O. Box 11629  
Columbia, SC 29211

MAY 02 2023

SC Court of Appeals

RE: Appellate Case No. 2022-000671, Appellants Terron Dizzley, Gwendolyn B. Frasier, LaQuesha Felder v State

Dear Honorable Clerk Jenny A. Kitchings:

Appellant contends that he filed an emergency Motion to Relieve Counsel and Proceed Pro Se On March 28, 2023 along with the "Initial Brief of Appellant. However, Appellant, Terron Dizzley, was notified by his Mother, Gwendolyn B. Frasier, on April 18, 2023 that Attorney Yarborough e-mailed her a letter from the Clerk of Court of the South Carolina Court of Appeals that they were not filing Appellant's Emergency Motion to Relieve Counsel and proceed pro se because he had to serve a copy of the document to his attorney of record, Attorney Yarborough. She also stated that "it does not appear that Gwendolyn B. Frasier or LaQuesha Felder are parties to this appeal nor are they licensed attorneys. No action will be taken on any documents submitted by Ms. Frasier or Ms. Felder for the reasons stated above". However, this is contrary to clearly established South Carolina law and was an error in refusing to file Appellant's motions on such grounds. Foster v. State, 298 S.C. 306 (1989), "Nothing in this order shall be construed to limit any party's right to file a pro se motion seeking to relieve his counsel."

Therefore, the clerk of court had no authority to reject filing Appellant's Motion. See: Barnes v. State, 433 S. C. 399 (2021). "We take this opportunity to remind the clerks of court of their ministerial duty to docket filings irrespective of potential procedural flaws that may exist. Miller v. State, 377 S.C. 99, 102, 659 S.E.2d 492, 493 (2008) ("[I]t is not within the Clerk of Court's authority to refuse to perform her duty based on her opinion that a filing lacks legal merit or is untimely."). This duty is not discretionary. See 21 C.J.S. Courts § 335 (2021). Unless specifically authorized by statute or a court rule, a clerk of court may not exercise any judicial power reserved for a judge. Id. ("The clerk cannot, without express constitutional or statutory authority, exercise any judicial functions."). This includes the prohibition of performing any action contingent on deciding a question of law. Id. ("It follows that a clerk of court cannot ordinarily determine questions of law."). Accordingly, a clerk of court does not have the authority to reject a filing based on ostensible or perceived failures, including whether the document is contained on the proper form. Because the clerk's role is ministerial in this respect, the clerk shall not be "concerned with the merit of the papers or with their effect and interpretation ...." Id. § 337. Stated differently, "[a] clerk of court may not reject a pleading for lack of conformity with

requirements of form; only a judge may do that." Instead, the clerk shall accept the filing, thereby permitting the court to decide any issues the parties may have with it."

Therefore, these are not the words Appellant but of clearly established South Carolina Supreme Court law which establishes that you Have no authority to: (1) to reject any filings from Appellants based on your opinion of who should be served; (2) based on your opinion of whose names you think should or shouldn't be on the document; (3) based on your opinion of whom you believe are appellants or whether they have a licensed to practice law or (4) based on your opinion of any alleged incorrect form on which the motions were filed or any potential procedural flaws you may think that exist in filing these motions. According to clearly established South Carolina Supreme Court law, these are questions of law that only a judge may decide and your duties, as a clerk of court, is strictly ministerial, therefore, you have no authority to reject filing our motions.

Furthermore, the reasons that you stated that you were not filing Appellants, Gwendolyn B. "Frazier" and LaQuesha Felder's motions because you alleged that we are not licensed to practice law, it has already been established in State v. Inman, 395 S.C. 539 (2011), that depriving a person from the opportunity of being heard and fully and fairly exhibit their case because of baseless allegations that they do not have a license to practice law is intimidating and threatening that individual to prevent them from presenting their case. Appellants, Gwendolyn B. Frasier and LaQuesha Felder, are not attempting to practice law on behalf of Appellant, Terron Dizzley, however, Appellants, Gwendolyn B. Frasier and LaQuesha filed their motion as Pro Se litigants on their own behalf, of which they have a right to do pursuant to their First and Fourteenth Amendment rights to Familial Association with Terron Dizzley. According to Barnes, these are questions of law that only a judge may decide.

Furthermore, your allegations that Appellants "Frazier and Felder, are not parties to this case is not supported by the record. Appellant contends that according to the record of this appeal, they were always recognized by the Courts as parties to this case; if this were not so, the Honorable Judge Culbertson would not have addressed them at the November 17, 2022, hearing and would have never issued such order pursuant to their case. Appellants contend that according to clearly established state statutory laws, and rules of court of South Carolina, Appellants have a right to appeal the Honorable Judge Culbertson's order pursuant to their case. See: State v. Rearick, citing " State v. Wilson, 387 S.C. 597, 599 (2010) ("The right to appeal arises from and is controlled by statutory law."). To appeal, a defendant must be "aggrieved" by a decision that is statutorily classified as one that is appealable, which generally involves a final judgment. S.C. Code Ann. sec. 18-1-30. ("Any party aggrieved may appeal in the cases prescribed in this title."); Rule 201(b), SCACR, ("Only a party aggrieved by an order, judgment, sentence or decision may appeal."): See Rule 201(a), SCACR ("Appeal may be taken, as provided by law, from any final judgment, appealable order or decision.").

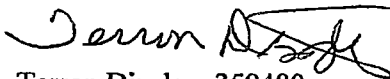
Appellants contend that the Honorable Judge Culbertson's November 17, 2022 order denying their case on the grounds alleging that they were "individuals practicing law without a license," is a final order within the meaning of the above statues and rules of South Carolina which gives them the right to appeal Judge Culbertson's order. Appellants contend that they have appealed two of the Honorable Judge Culbertson's

orders, specifically addressed to them, which resulted in the S.C. Court of Appeals remanding their case back to the Circuit Court and not once did the Court of Appeals issued an order stating that they were not parties to this case nor that they were "individuals practicing law without a license."

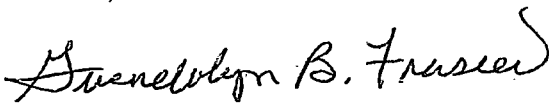
Therefore, for the foregoing reasons Appellants Gwendolyn B. Frasier and LaQuesha Felder's appeal pursuant to their First and Fourteenth Amendment rights to familial association with Terron Dizzley, without government interference, pursuant nine years and counting of the State of South Carolina holding him falsely imprisonment must be filed. For the right to familial association is ingrained in the U.S. Constitution, clearly established U.S. Supreme Court law and South Carolina Supreme Court law.

For the foregoing reasons, Appellants respectfully request that you follow the procedures in Barnes v. State Supra and file their March 28, 2023 Emergency Motion to Relieve and Proceed Pro Se and other filings regardless of any procedural flaws that you may think exist and allow the judge to decide any question of law pursuant to Appellants filings. Appellants were extremely prejudiced and aggrieved by your misapplication of the law which led you to believe that you had the authority to reject the filing of our motions for such reasons, which resulted in Attorney Yarborough filing a brief on Appellants' behalf, although he and this Court were notified that he was being "Relieved as Counsel". This is a conflict of interest. We are asking you to correct this by filing our March 31, 2023 Motion to Relive Counsel along with the other documents , which your currently have, and inform the Court that Appellants are requesting that Attorney Yarborough's Initial Brief filed on April 18, 2023, on their behalf be substituted, after Attorney Yarborough is Relieved as Counsel, with the Initial Briefs which were filed by Appellants on March 28, 2023 along with their Emergency Motion to Relieve and Counsel and proceed Pro Se.

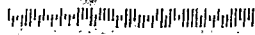
Yours truly,



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1057 Revolutionary Trail  
Fairfax, SC 29827



Gwendolyn B. Frasier  
7996 Pennyroyal Road  
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Terron Dizley, 359480  
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42423

Chief Judge James E. Lockery  
P. O. Box 750  
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