



The South Carolina Court of Appeals

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May 09, 2023

David Israel Smith, 00360603
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

Mr. William M. Blich, Jr., Esquire
S.C. Attorney General's Office
PO Box 11549
Columbia SC 29211

Re: The State v. David I. Smith
Appellate Case No. 2022-001410

Dear Counsel, and Mr. Smith:

Enclosed is the decision of the Court. The transcript is due to be ordered within thirty (30) days of the date of this letter, or this appeal will be dismissed.

Very truly yours,

A handwritten signature in blue ink that reads "Catherine Harrison, deputy".

CLERK

cc: Alan McCrory Wilson, Esquire
Jessica Ashley Baldwin, Esquire

The South Carolina Court of Appeals

The State, Respondent,

v.

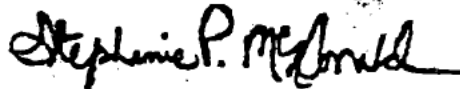
David Israel Smith, Appellant.

Appellate Case No. 2022-001410

ORDER

On February 8, 2023, Appellant requested that this court remand his case to the circuit court. This court construed Appellant's request as a motion to remand for reconstruction of the record of the hearing on his motion for reconsideration of his sentence. Respondent filed a return opposing the request because a transcript of the proceeding was available, and on April 4, 2023, Appellant responded that reconstruction was not required because a transcript was available. Accordingly, Appellant's request to remand his case to the circuit court is denied.

In its return opposing the request to remand, Respondent moved to dismiss the appeal as untimely. Respondent argued the order issued by the circuit court on July 27, 2022, is a nullity because the circuit court issued an oral ruling during the November 2014 hearing on Appellant's motion for reconsideration; Respondent further asserts the 2014 decision should be considered a final ruling due to Appellant's filing of an application for post-conviction relief and then appealing the denial of his application. We decline to dismiss the appeal. Respondent may raise the question of the timeliness of this appeal as an issue in its appellate brief should it so choose.



FOR THE COURT

Columbia, South Carolina

FILED
May 09 2023

cc:

David Israel Smith, 00360603

Alan McCrory Wilson, Esquire

William M. Blich, Jr., Esquire

Jessica Ashley Baldwin, Esquire