

IN THE STATE OF SOUTH CAROLINA

In The Supreme Court

Appeal From Charleston County
Court of Common Pleas

Roger M Young, Circuit Court Judge

Appellate Case No: 2023-001382

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SEP 27 2023

S.C. SUPREME COURT

MOTION FOR LEAVE

Petitioner filed a timely notice of Appeal on 8-3-23 regarding the lower court denying the above Petitioner's SCRPC Rule 60 (B)(2)(3)(4)(5), upon review of the lower court order drafted by the attorney general, the lower court failed to properly address Petitioner's Rule 60 (B)(1) based on mistake pursuant to Kemp v. United States -- 40 S. -- 142 S. Ct. 1856, 213 L. Ed. 2d 90 (2020). "which held that legal error made by judges are properly addressed by Rule 60 (B)(1). My Rule 60 (B)(1) was mailed to Clerk of Court on 1-20-23, and the Clerk of Court on 1-20-23, and the Clerk returned a clock stamp "filed" dated 1-23-23. Petitioner filed a timely SCRPC Rule 59(e) on August 11, 2023, Memorandum of Law to support Rule 59(e), and Supplement motion to Reconsider. To preserve Appellate Review, Petitioner filed a timely notice of appeal. Petitioner now request for leave to return back to the lower court, for the judge to Rule on the pending Rule 59(e), because the lower court has lost jurisdiction based on the appeal. See Bradley v. Hullander, 266 S.C. 103, 311 S.E. 2d 95 (Ct App. 1984). If this matter does not affect this appeal under Rule 204 SCACR. Also see: Andrick Development Corp. Maccaro, 280, S.C. 103, 311 S.E. 2d 95 (Ct App. 1984).

The SCRPC Rule 60 (B)(1) should be addressed along with the pending appeal regarding denial of SCRPC Rule 60 (B)(2)(3)(4)(5). The SCRPC Rule 60 (B)(1) is dated January 26, 2023, and caption as Rule 60 (B)(1)(2)(3)(4)(5)

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