

The South Carolina Court of Appeals

The State, Respondent,

v.

Randolph Ashford, Appellant.

Appellate Case No. 2023-001463

ORDER

In 2009, a Richland County jury convicted Appellant of first-degree burglary, AWIK, ABHAN, three (3) counts of carjacking, and two (2) counts of kidnapping. The trial court sentenced him to an aggregate term of forty (40) years imprisonment and ordered him to register as a sex offender.

In 2023, the Appellant filed a pro se motion titled "Motion for New Trial Based on After-Discovered Evidence." Although the Richland County Clerk of Court initially placed the matter on a CPNJ motions hearing roster, the circuit court ordered the matter removed from the roster; the circuit court then ruled on the matter without a hearing, based on filings. There is no indication that the Richland County Clerk of Court notified Appellant of Judge Robert Hood's August 22, 2023 Order of Dismissal or provided him with a copy of the Order of Dismissal.

On September 14, 2023, Appellant wrote the South Carolina Supreme Court to ask that the Court inquire as to the removal of his motion from the Richland County motions hearing roster. The Supreme Court construed Appellant's letter as a Notice of Appeal and transferred the appeal to this court on September 18, 2023.

It appears Appellant was unaware that his September 14 letter was construed by the appellate courts as a Notice of Appeal. Appellant was thus understandably confused when he received a deficiency letter inquiring as to his failure to provide a dismissal order he still had not received from Richland County; he confirmed this lack of written notice in a letter this court received on September 27. In this letter, Appellant requested "a copy of the appeal and/or this case order of dismissal from

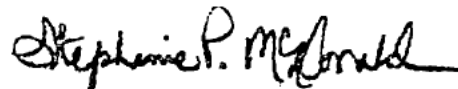
the lower court." At this point, Appellant still had no copy of the order of dismissal, nor proper written notice of such.

On October 4, 2023, this court mailed Appellant a copy of his "notice of appeal and accompanying filings." In this letter, the court instructed Appellant as to the remaining steps to be taken to correct certain deficiencies in the appeal. On October 16, 2023, Appellant filed an amended notice of appeal and proof of service upon the Richland County Clerk of Court, as well as the Clerks of the Supreme Court and Court of Appeals. Appellant separately wrote to request appointment of counsel should the appeal be allowed to proceed.

Following an October 19, 2023 letter from this court regarding proof of service upon the State of South Carolina, Appellant timely served proof of service of the Notice of Appeal upon John Walter Whitmer, Esq., Attorney General Alan M. Wilson, and Senior Assistant Attorney General Mark R. Farthing.

Appellant's request to appoint counsel is denied. *See State v. Clinkscales*, 318 S.C. 513, 515, 458 S.E.2d 548, 549 (1995) (holding a motion for new trial based on after-discovered evidence is not a critical stage of the criminal prosecution to which the right to counsel attaches).

Appellant's initial brief and designation of matter is due within thirty days of the date of this order.



FOR THE COURT

Columbia, South Carolina

cc:
Randolph Ashford, 00256638
John Walter Whitmire, Esquire
Alan McCrory Wilson, Esquire
Mark Reynolds Farthing, Esquire

FILED
Nov 13 2023
