



Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

August 30, 2013

RECEIVED  
AUG 30 2013  
S.C. Supreme Court

Honorable Daniel E. Shearouse  
Clerk, South Carolina Supreme Court  
Post Office Box 11330  
Columbia, South Carolina 29211

Re: Protection of Persons and Property Act appeals,  
S.C. Code 16-11-410 et seq. prior to State v. Isaac:

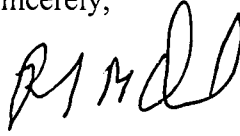
State v. Alton L. Shelley, Appellate Case No. 2013-001601  
State v. Alirio Ortiz, Appellate Case No. 2012-211933  
State v. Anthony McWilson, Appellate Case No. 2012-213457

Dear Mr. Shearouse:

I am writing to notify the Court that I will be filing a return in opposition to each motion to dismiss an Appellate Defense Protection of Persons and Property Act appeal that was pending **prior to** the Court's recent opinion State v. Issac, Op. No. 27302, Shearouse's Adv. Sh. No. 37 at 15 (filed August 21, 2013). Our position is that Issac applies prospectively only, inter alia, because it was an unexpected change in procedure that should not be applied retroactively to extinguish a then existing remedy for the denial of immunity from prosecution in a very limited number of cases. In essence, Due Process concerns prevent retroactive application of judicial decisions in some cases where the decision is unforeseeable and has the effect of changing existing law. My understanding is that three of these cases have, in fact, already been argued before this Court.

The above captioned list of cases is not meant to be exhaustive. They are simply the Protection of Persons and Property Act appeals by the defendant filed prior to the decision in Isaac that undersigned counsel is aware of at this time. I am of notifying the Court of Appeals of the position of this office by copy of this letter in the event a similarly situated appeal is pending there. Thank you for bringing this matter to the attention of the Court.

Sincerely,

A handwritten signature in black ink, appearing to read 'RMD', written in a cursive style.

Robert M. Dudek  
Chief Appellate Defender

RMD/kam

cc: Honorable Jenny Kitchings  
Donald J. Zelenka, Esquire  
Julie Kate Keeney, Esquire  
Murrell Smith, Esquire  
Kathrine Hudgins, Esquire  
Susan Hackett, Esquire