



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1499

www.sccourts.org

September 6, 2013

Mr. Mark E. Schnee
1720 Main St
Ste 202
Columbia SC 29201-2850

Re: Justin Harshaw v. State
Appellate Case No. 2013-001867
Lower Court Case No. 2009CP4004442

Dear Counsel:

This Court has received a *pro se* notice of appeal from your client. This notice of appeal is dated August 29, 2013, and the proof of service shows that it was served on opposing counsel on that date. I remind you that you remain his counsel of record before this Court. Rule 71.1, SCRCP.

This case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with

the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/HTMLFiles/2007-08-13-02.htm. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

To determine the timeliness of the service of the notice of appeal, I ask that you please provide this Court with the date on which you received written notice of entry of the order on appeal. The order being appealed is dated July 1, 2013, and was apparently filed with the clerk of the circuit court on July 18, 2013.

Except for the allegation seeking a belated direct appeal under *White v. State*, the circuit court determined that all other claims were barred by the statute of limitations. If this ruling on the statute of limitations is to be challenged on appeal, then Rule 243(c) of the South Carolina Appellate Court Rules requires you to provide a written explanation as to why this determination was improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper.

In the event you determine that you do not have a good faith explanation to provide pursuant to Rule 243(c), you must provide this Court with a letter stating that as an officer of the Court you are unable to set forth any arguable basis for asserting the determination by the PCR judge was improper. The letter should also advise the petitioner that he has twenty (20) days from the date of the letter to file a *pro se* explanation as to why the petitioner believes that this determination by the circuit court was improper. *Dennison v. State*, 371 S.C. 221, 639 S.E.2d 35 (2006). The letter filed with this Court should include proof of service showing that a copy of the letter has been sent to the petitioner.

As to the *White v. State* claim, the PCR judge determined that petitioner was not entitled to a belated direct appeal. However, even if petitioner were ultimately to prevail on this issue, the most he would receive would be a belated appeal from his guilty plea and in that appeal petitioner would have to “provide a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal.” Rule 203(d)(1)(B), SCACR

(explanation required when an appeal is taken from a guilty plea, *Alford* plea, or plea of nolo contendere). Therefore, I ask that you please provide the explanation required for a guilty plea appeal.¹

I ask that you provide the date that you received written notice of entry of the order on appeal, and the explanations or the responses permitted by *Dennison*, within fifteen (15) days of the date of this letter.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a horizontal line and a flourish.

CLERK

cc: Megan E. Harrigan, Esquire
Mr. Justin Harshaw, #296250

¹ In the event you determine that you do not have a good faith explanation to provide, I would recommend that you follow a procedure similar to that provided for in *Dennison v. State*, 371 S.C. 221, 639 S.E.2d 35 (2006), for the explanation required by Rule 243(c), SCACR. This will give the petitioner an opportunity to provide a *pro se* explanation for allowing an appeal from the guilty plea.