



The Supreme Court of South Carolina

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December 10, 2013

Tara Dawn Shurling, Esquire
3614 Landmark Drive
Suite A
Columbia SC 29204

Re: Antonio Gordon v. State
Appellate Case No. 2013-002153
Lower Court Case No. 2000-CP-46-01414

Dear Counsel:

This Court has received the enclosed *pro se* notice of appeal and Rule 243(c) explanation in this matter. I remind you that under Rule 71.1(g) of the South Carolina Rules of Civil Procedure and Rule 264(a), SCACR, that you remain his counsel of record before this Court.

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 this appeal, it will be necessary for you to advise this Court of the date on which you received written notice of entry of the order of December 9, 2003.¹ This is an order that denied a *pro se* motion for rehearing or reconsideration that your client filed regarding the order of August 18, 2003. I have enclosed a copy of the order dated August 18, 2003, the motion for rehearing or reconsideration (without attachments) dated November 18, 2003, and the order dated December 9, 2003. I note that the latter two items have been provided to this Court by the clerk of the circuit court.

Further, as you may remember, you served and filed an appeal from the order of August 18, 2003, and the Division of Appellate Defense then represented the petitioner. A copy of this notice of appeal is enclosed. This Court denied the petition for writ of certiorari after conducting a review pursuant to *Johnson v. State*² on July 21, 2005, and the remittitur was sent on August 9, 2005. *Gordon v. State*, Appellate Case No. 2003-028198. I did not see any indication that any request was made to dismiss this appeal due to the pendency of any post-trial motion. *See Hudson v. Hudson*, 290 S.C. 215, 349 S.E.2d 341 (1986).

It appears that the *pro se* motion for rehearing or reconsideration was filed with the clerk of the circuit court on the same day (November 25, 2003) that you served and filed the notice of appeal from the order of August 18, 2003. Since you represented him at that time, it appears that this *pro se* motion for rehearing or reconsideration was essentially a nullity and should not have been accepted for filing or ruled on by the circuit court. Therefore, I ask you to explain why the December 9, 2003, order should not be vacated and *pro se* notice of appeal should not be dismissed as moot. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010)

¹ In the *pro se* notice of appeal, petitioner indicates that the order denying the motion for rehearing or reconsideration is dated August 25, 2006. Despite a request from this office, petitioner has not provided this Court with a copy of any order dated August 25, 2006. If such an order exists, I ask that you please provide this Court with a copy of it.

² 294 S.C. 310, 364 S.E.2d 201 (1988).

("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel. [citations omitted]. Because petitioner was represented by counsel, the *pro se* [Rule 59, SCRCP] motion was not proper, should not have been accepted, and should not have been ruled upon. The motion was essentially a nullity. We therefore vacate the order ruling on the motion and dismiss petitioner's notice of appeal as moot. We also take this opportunity to remind judges and clerks of court of our directive in *Foster* not to accept substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a party who is represented by counsel.").

I ask that you please provide the requested information and explanation within fifteen (15) days of the date of this letter. I thank you in advance for your assistance.

Very truly yours,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

CLERK

Enclosures

Notice of Appeal and Rule 243(c) explanation dated October 4, 2013
Order dated August 18, 2003
Motion for Rehearing or Reconsideration (without attachments) dated
November 18, 2003
Order dated December 9, 2003
Notice of Appeal dated November 25, 2003

cc: James Rutledge Johnson, Esquire
Mr. Antonio Gordon, 259798