



The Supreme Court of South Carolina

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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

April 9, 2014

Dale Lionel Smith, Esq
99 Park Avenue, Suite 1600
New York, NY 10016

Re: Devon Miles Brown v. State
Appellate Case No. 2014-000403

Dear Counsel:

Enclosed is an order admitting your *pro hac vice* in this matter.

Since you represented him before the circuit court, I ask that you please advise this Court of the date on which you received written notice of entry of the order dated January 9, 2014. This information should be provided within ten (10) days of the date of this letter.

In your notice of appeal, you make mention of a Rule 59 motion being filed by Mr. Brown. Assuming that this motion was filed *pro se* as you indicate, this motion appears to be improper since he was represented by you before the circuit court.¹

¹ *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) ("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* motion was not proper, should not have been accepted, and should not have been ruled upon. The motion was essentially a nullity. . . . We also take this opportunity

Therefore, I will not dismiss this matter without prejudice under *Hudson v. Hudson*, 290 S.C. 215, 349 S.E.2d 341 (1986).

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a series of loops and a long horizontal stroke extending to the right.

CLERK

cc: James Rutledge Johnson, Esquire
Symmes Watkins Culbertson, Sr., Esquire

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.").