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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

February 6, 2015

Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: Alfonso Ware, Jr. v. State of S.C.
Appellate Case No. 2014-001470
DNA Application Denial Certiorari

Dear Ms. Kitchings:

You have requested this office to advise you of the status of any agreement between the State and Mr. Ware concerning proceeding before the Court without a transcript. Mr. Ware has contacted this office and advised that he is willing to proceed without a transcript. I am somewhat perplexed by these inquiries because it is my understanding that the matter was disposed of summarily on pleadings without a hearing being held.

If appears that on July 23, 2014, Alfonso Ware filed a notice of appeal that was served on the Eleventh Circuit Solicitor's Office by mail on July 21, 2014. The notice of appeal was from an Order filed June 18, 2014 and Ware asserts he received written notice of entry of the Order on June 26, 2014. This service on the Solicitor's Office, who represented the State in the matter, was not timely pursuant to SCACR Rule 247(b) and 203(b)(2) inasmuch as it was more than 10 days. It is subject to dismissal.

Further, the "Order of Summary Dismissal of Application for DNA Testing" dated June 18, 2014, filed June 20, 2014 reflects that it was done by summary dismissal. It reflects that the application for DNA testing was ordered filed by Order of Judge Keesley on July 26, 2013. By direction of Judge Keesley, the Solicitor's Office filed a written response and motion of summary dismissal on October 22, 2013. A proposed Order of Dismissal was made by Judge Keesley on May 21, 2014, styled "Orders of the Intention to Summarily Dismiss the Application for DNA Testing." It gave Ware until June 13, 2014 to respond. On June 10, 2014, filed June 13, 2014, Ware responded to proposed dismissal. On June 18, 2014, Judge Keesley entered his final "Order of Summary Dismissal of Application for DNA Testing."

Upon information and belief there was no evidentiary hearing or argument in this matter that would need to be transcribed. However, there are pleadings, attachments, and a series of

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orders that would need to be included in any Appendix to the Petition the Petitioner may file pursuant to SCACR Rule 247.

If the Court has further questions, please advise me.

Sincerely,



Donald J. Zelenka
Senior Assistant Deputy Attorney General

DJZ/lm

cc: Honorable Chris Samellas, Eleventh Circuit Solicitor's Office
Alfonso Ware, Jr.

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