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August 2, 2012

The Honorable R. Knox McMahon
Eleventh Judicial Circuit
205 E. Main Street
Lexington, South Carolina 29072

Re: **Gary Dubose Terry v. State of South Carolina**
2012-CP-32-02718

RECEIVED

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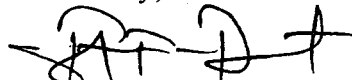
S.C. SUPREME COURT

Dear Judge McMahon,

I am writing in response to Mr. Salter's July 30, 2012 letter enclosing a Motion to Dismiss for your consideration in this case. This is a capital post-conviction case. As such, the South Carolina Supreme Court must assign a circuit court judge to maintain exclusive jurisdiction over this proceeding. *See In re Stays of Execution in Capital Cases*, 321 S.C. 544, 471 S.E.2d 140 (1996). Following assignment by the Court, the circuit court judge assigned to the matter must determine the applicant's desire for counsel and, if desired, appoint post-conviction counsel. S.C. Code Ann. §17-27-160.

An initial application for post-conviction relief was filed on Mr. Terry's behalf by Derek Enderlin and myself. To the best of our knowledge, the South Carolina Supreme Court has not yet assigned a circuit court judge and there has been no appointment hearing for the appointment of post-conviction counsel. Thus, as far as we are aware, you do not have jurisdiction over this matter. Mr. Terry does not intend to respond to the alleged merits of Mr. Salter's Motion to Dismiss, or any other pleading, until the proper procedure has been followed and jurisdiction has been assigned to a designated circuit court judge.

Sincerely,



Elizabeth A. Franklin-Best

cc: Honorable Daniel Shearouse
Derek Enderlin
William Edgar Salter, III