



ALAN WILSON
ATTORNEY GENERAL

RECEIVED

AUG 14 2012

S.C. Supreme Court

August 14, 2012

South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211
Attention: Debbie Hopkins

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

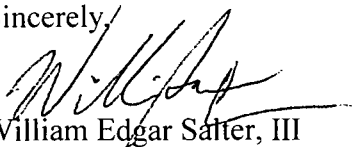
Dear Debbie:

Please be advised that I am in receipt of Ms. Franklin-Best's correspondence to the Honorable R. Knox McMahon dated August 2, 2012 regarding the above matter. (A copy of which is attached hereto for your ready reference).

The State does not think it necessary for the South Carolina Supreme Court to assign a circuit court judge to maintain exclusive jurisdiction over this proceeding, as Mr. Terry's Application for Post-Conviction Relief is successive and time-barred.

By copy of this letter I am advising opposing counsel.

Sincerely,


William Edgar Salter, III
Senior Assistant Attorney General

WES:dmd

Enclosure

cc: The Honorable R. Know McMahon (w/copy of encl.)
Elizabeth A. Franklin-Best, Esquire (w/copy of encl.)
Derek J. Enderlin, Esquire (w/copy of encl.)
Motte L. Talley, Esquire, South Carolina Court Administration (w/copy of encl.)
Sandi Wofford (victim services) (w/encl.)

BLUME NORRIS & FRANKLIN-BEST, LLC

ATTORNEYS AT LAW

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August 2, 2012

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

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S.C. Supreme Court

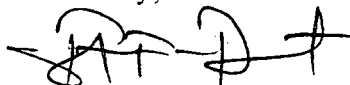
Re: **Gary Dubose Terry v. State of South Carolina**
2012-CP-32-02718

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