



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

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 30, 2015

Tristan Michael Shaffer, Esquire
4701 Oleander Drive
Myrtle Beach SC 29577

Re: Raymond E. Chestnut v. State
Appellate Case No. 2015-000891
Lower Court Case No. 2012CP2601814

Dear Counsel:

This Court has received a notice of appeal in the above post-conviction relief action. 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/displayOrder.cfm?orderNo=2014-04-15-02. 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.

As you know, this post-conviction relief case involves six (6) guilty pleas. Except for the claim seeking a belated direct appeal under *White v. State*, the circuit court determined that all other claims were barred by the statute of limitations. If this ruling on the statute of limitations is to be challenged on appeal, then Rule 243(c) of the South Carolina Appellate Court Rules requires you to provide a written explanation as to why this determination was improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper.

In the event you determine that you do not have a good faith explanation to provide pursuant to Rule 243(c), you must provide this Court with a letter stating that as an officer of the Court you are unable to set forth any arguable basis for asserting the determination by the circuit court was improper. The letter should also advise the petitioner that he has twenty (20) days from the date of the letter to file a *pro se* explanation as to why the petitioner believes that this determination by the circuit court was improper. *Dennison v. State*, 371 S.C. 221, 639 S.E.2d 35 (2006). The letter filed with this Court should include proof of service showing that a copy of the letter has been sent to the petitioner.

As to the *White v. State* claim, the circuit court determined that petitioner was not entitled to a belated direct appeal regarding any of the guilty pleas. However, even if petitioner were ultimately to prevail on this issue as to any plea, the most he would receive would be a belated appeal from that guilty plea and in that appeal petitioner would have to “provide a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal.” Rule 203(d)(1)(B), SCACR (explanation required when an appeal is taken from a guilty plea, *Alford* plea, or plea of nolo contendere). Therefore, if the finding of the circuit court regarding a belated direct appeal is

going to be challenged as to any guilty plea, you will need to provide a guilty plea explanation for that plea.¹

Since the six pleas appear to be completely separate and distinct,² you will need to file a separate Rule 243(c) and/or 203(d)(1)(B)(iv), SCACR explanation for each guilty plea. Be sure to include the General Sessions case number in each separate explanation. The explanations (or the response permitted by Dennison) should be served and filed within twenty (20) days of the date of this letter.

Finally, I am concerned that I have to write you every time a Rule 243(c) and/or Rule 203(d)(1)(B)(iv) explanation is required. I should not have to do so since these explanations are required to be filed when the notice of appeal is filed, and I have repeatedly advised you of these requirements. In the future, please ensure that these explanations are filed with the notice of appeal.

Very truly yours,

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

CLERK

cc: Joshua L. Thomas, Esquire

¹ In the event you determine that you do not have a good faith explanation to provide, I would recommend that you follow a procedure similar to that provided for in *Dennison v. State*, 371 S.C. 221, 639 S.E.2d 35 (2006), for the explanation required by Rule 243(c), SCACR. This will give the petitioner an opportunity to provide a *pro se* explanation for allowing an appeal from the guilty plea.

² According to the orders on appeal, the pleas in 2004GS2602652 and 2004GS2602604448 were both taken on August 3, 2004, but petitioner had separate counsel in each case. While the pleas in 2002GS2604656 and 2002GS2604739 were both taken on December 9, 2002, with the same counsel, these charges appear to be unrelated with separate arrest dates. See Public Case Index for Horry County, Warrant Nos. H345227 and H345201.