

# The Supreme Court of South Carolina

John B. Frazier, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2014-002774

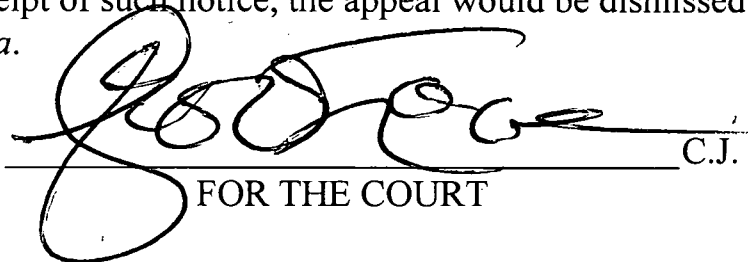
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## ORDER

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This matter is before the Court by way of a notice of appeal from the denial of petitioner's application for post-conviction relief (PCR). The order was filed on November 6, 2014, and the notice of appeal was filed on November 18, 2014. Counsel for petitioner now moves the Court to hold the matter in abeyance pending a ruling by the lower court on a Rule 59(e), SCRCP, motion filed on December 19, 2014. The State consents to the motion.

The motion is denied. Based on the information provided, the Rule 59(e) motion is untimely and therefore, the circuit court lacks jurisdiction to take action on the motion. Rule 59(b), SCRCP; Rule 205, SCACR. *See Hudson v. Hudson*, 290 S.C. 215, 349 S.E.2d 341 (1986). Moreover, even if the motion were *timely*, the proper procedure to be followed would be to notify the Clerk of this Court in writing of the pending motion and upon receipt of such notice, the appeal would be dismissed without prejudice. *Hudson, supra*.

  
C.J.  
FOR THE COURT

Columbia, South Carolina

July 13, 2015

cc:

Joshua L. Thomas, Esquire

Laura Ruth Baer, Esquire

The Honorable Melanie Huggins-Ward