

The Supreme Court of South Carolina

Jamie Goss, Petitioner,

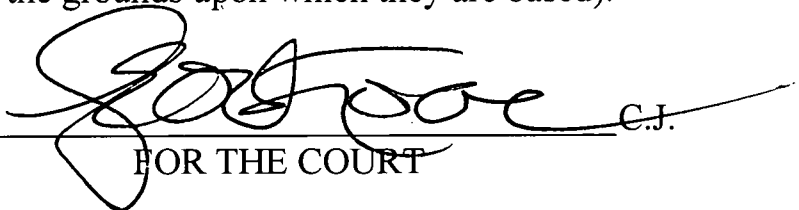
v.

State of South Carolina, Respondent.

Appellate Case No. 2012-207567

ORDER

This matter is before the Court by way of a notice of appeal from an order of the circuit court denying petitioner's application for post-conviction relief. The State has written a letter to the Clerk of Court advising that a "Motion to Amend Judgment 59(e) and/or in the Alternative Motion for Relief from Judgment 60(b)" was filed by petitioner's counsel on January 9, 2012, before the notice of appeal was filed on February 1, 2012, but was never ruled upon. The motion was not *served* until January 27, 2012. The State believes a remand to the circuit court for a ruling on the motion may be appropriate so that the matter will be finally resolved. The State requests the Court hold the appeal in abeyance while the matter is remanded to the circuit court. The State's request is denied. Rule 59(e), SCRPC ("A motion to alter or amend the judgment shall be *served* not later than 10 days after receipt of written notice of the entry of the order.")(Emphasis added); Rule 59(f), SCRPC (the time for all shall be stayed by a *timely* motion under Rule 59); *Coward Hund Const. Co., Inc. v. Ball Corp.*, 336 S.C. 1, 518 S.E.2d 56 (Ct. App. 1999)(Rule 60 motion does not toll time for filing and service of notice of appeal); Rule 60(b), SCRPC ("During the pendency of an appeal, leave to make the motion must be obtained from the appellate court."); Rule 7(b)(1), SCRPC (motions must state with particularity the grounds upon which they are based).


C.J.
FOR THE COURT

Columbia, South Carolina

September 5, 2012

cc:

Christina J. Catoe

Robert M. Pachak

Jamie Goss, 00294885