



The Supreme Court of South Carolina

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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

October 10, 2012

Tyson A. Johnson, Sr., Esquire
Post Office Box 11549
Columbia SC 29211-1549

Re: Herbert Jerome Erbie v. State
Appellate Case No. 2012-212906

Dear Counsel:

This Court has received your notice of appeal in this matter. According to the order denying the motion to alter or amend, the State did not oppose the granting of a new sentencing hearing. Instead, the order indicates that the State only opposed one of the grounds on which a new sentencing hearing was granted.

In light of the foregoing, I ask that you please explain how the State is an aggrieved party in this matter. This explanation should be provided within ten (10) days of the date of this letter. *See* Rule 201(b), SCACR (only an aggrieved party may appeal); S.C. Code Ann. § 18-1-40 (same); *Dunson v. Dunson*, 278 S.C. 210, 294 S.E.2d 39 (1982) (wife was not aggrieved by the failure to grant a divorce on the grounds of desertion when divorce was granted on one year separation); *Bivens v. Knight*, 254 S.C. 210, 173 S.E.2d 150 (1970) (an aggrieved party must be injured in a legal sense); *see also Jones v. Lott*, 387 S.C. 339, 692 S.E.2d 900 (2010) (“Under the two issue rule, where a decision is based on more than one ground, the appellate court will affirm unless the appellant appeals all grounds because the

unappealed ground will become the law of the case.”).

Very truly yours,

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

CLERK

cc: Robert Cleland FitzSimons, Esquire
Robert Michael Dudek, Esquire