



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

July 12, 2016

Fulton Casey Dale Cornwell, Esquire
448 Deerwood Street
Unit 9A
Columbia SC 29205

Re: Robert Louis Garrett, Jr., v. State
Appellate Case No. 2016-001448
Lower Court Case No. 2012CP4302007

Dear Counsel:

This Court has received the enclosed *pro se* notice of appeal in this case. I remind you that you remain counsel of record for Mr. Garrett before this Court. Rule 71.1(g) of the South Carolina Rules of Civil Procedure (SCRCP) and Rule 264 of the South Carolina Appellate Court Rules (SCACR).

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, 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.

Since the order of the circuit court determined that this action is barred as being successive and as being untimely under the statute of limitations, Rule 243(c), SCACR, 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. The failure to make a sufficient showing may result in the dismissal of this matter.

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 PCR judge was improper. The letter should also advise 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.

I ask that you either provide the explanation required by Rule 243(c) or the response permitted by *Dennison* within ten (10) days of the date of this letter.

Finally, petitioner makes reference to the filing of a *pro se* Rule 59, SCRPC, motion with the circuit court. Since you represent him in this matter, this *pro se* motion is essentially a nullity¹ and I do not intend to dismiss this appeal under

¹ *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel. [citations omitted]. Because petitioner was represented by counsel, the *pro se* motion was not proper, should not have been accepted, and should not have been ruled upon. The motion was essentially a nullity. . . . We also take this opportunity to remind judges and clerks of court of our directive in *Foster* not to accept substantive documents, with the exception of motions to relieve counsel, filed *pro*

Hudson v. Hudson, 290 S.C. 215, 349 S.E.2d 341 (1986). If you disagree, you will need to file a motion asking that the notice of appeal be dismissed without prejudice under *Hudson*.

Very truly yours,

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

CLERK

Enclosure

cc: Julia Amanda Coleman, Esquire
Mr. Robert Louis Garrett, Jr.

se by a party who is represented by counsel.").