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August 22, 2016

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SC SUPREME COURT

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211

Re: Maurice C. Kinard v. State
Appellate Case No. 2015-001205

Dear Mr. Shearouse:

The issue before this Court is whether Petitioner is entitled to a belated appeal from his guilty plea pursuant to White v. State. On December 9, 2013, Petitioner appeared before the Honorable Diane S. Goodstein and pled guilty to the lesser included offense of voluntary manslaughter. Pursuant to a negotiated sentencing range of between fifteen and twenty five years (App. p. 22, lines 17-20), Judge Goodstein sentenced Petitioner to twenty five (25) years. A notice of intent to appeal was not filed.

On April 7, 2014, Petitioner filed an application for post-conviction relief. An evidentiary hearing was held before the Honorable Brooks P. Goldsmith on April 1, 2015. In a written order filed May 22, 2015, Judge Goldsmith denied relief and dismissed the application. A timely notice of intent to appeal was served on June 2, 2015. On February 1, 2016, counsel filed a petition for writ of certiorari pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), and a motion to be relieved as counsel.

On April 25, 2016, this Court denied the motion to be relieved and directed the parties to address whether the post-conviction relief judge erred in finding defense counsel was not ineffective in failing to file a notice of intent to appeal. On May 25, 2016, Petitioner filed a petition for writ of certiorari arguing that the post-conviction relief judge erred in finding defense counsel was not ineffective in failing to file a notice of appeal. Counsel asked the Court to grant a belated appeal pursuant to White v. State. The petition listed the belated direct appeal issue to be raised if the White v. State review is granted as, "Did the trial judge err in sentencing Petitioner to the maximum sentence allowed pursuant to the negotiations?"

In a letter to counsel dated August 17, 2016, this Court requested a written explanation pursuant to Rule 203(d)(1)(B)(iv) as to the issue to be raised on a belated appeal from the guilty plea. Counsel does not have a good faith basis to believe that the issue listed above or any other issues are preserved issues which could properly be addressed in a belated direct appeal from the facially valid guilty plea. Counsel respectfully asks the Court to allow Petitioner an opportunity to file a *pro se* explanation as to issues to be raised in the direct appeal from the guilty plea.

Sincerely,



Kathrine H. Hudgins
Appellate Defender

cc: Jessica Elizabeth Kinard, Esquire
Maurice C. Kinard