



# 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](http://www.sccourts.org)

October 13, 2016

Nathan James Sheldon, Esquire  
PO Box 36682  
Rock Hill SC 29732

Re: Johnell Porter v. State  
Appellate Case No. 2016-002053  
Lower Court Case No. 2015-CP4601186

Dear Mr. Sheldon:

As you know, the order on appeal determined that petitioner was entitled to belated appeal under *Austin v. State*. The order on appeal indicates that there was also a claim for relief based on after-discovered evidence, but I do not see where this claim was addressed or ruled on by the circuit court.

I ask that you please advise this office if you believe the claim for relief based on after-discovered evidence is still pending before the circuit court. If you believe it is, then I ask that you please explain how the order on appeal is appealable since this order is not the final judgment or decision in this post-conviction relief case.<sup>1</sup>

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<sup>1</sup> *Lewis v. State*, 368 S.C. 630, 630 S.E.2d 464 (2006) (by statute and court rule, "only a final decision or judgment in a post-conviction relief action is subject to review. 'Any judgment or decree, leaving some further act to be done by the court before the rights of the parties are determined, is interlocutory; but if it so completely fixes the rights of the parties that the court has nothing further to do in the action, then it is final.' *Adickes v. Allison & Bratton*, 21 S.C. 245 (1884); see

This response should be served and filed within ten (10) days of the date of this letter.

Very truly yours,

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

CLERK

cc: Justin James Hunter, Esquire

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*also Mid-State Distributors, Inc. v. Century Importers, Inc.*, 310 S.C. 330, 426 S.E.2d 777 (1993).").