



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

November 16, 2012

Division of Appellate Defense
1330 Lady St., Ste 401
Columbia SC 29201

Re: *Terry Donald Davis v. The State*
Appellate Case No. 2012-212078
Lower Court Case No. 2011-CP-06-00018

Dear Division of Appellate Defense:

Your office currently represents petitioner in the above post-conviction relief appeal that is pending before this Court. The notice of appeal was served in April 2012.

Enclosed is a copy of a *pro se* Rule 60(b), SCRCP, motion that your client has sent to this office. This motion is dated November 6, 2012.

I remind all of the parties to this matter that a Rule 60(b) motion cannot be made while this appellate proceeding is pending unless this Court grants leave to do so. Rule 60(b), SCRCP ("During the pendency of an appeal, leave to make the motion must be obtained from the appellate court."). This Court has no record of granting leave for a Rule 60(b) motion to be made.

Further, since petitioner is represented by your office, this motion cannot be filed *pro se* even if it could be made without this Court's permission. *Miller v. State*, 388

S.C. 347, 697 S.E.2d 527 (2010);¹ *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).

Very truly yours,



CLERK

cc: Mary Shannon Williams, Esquire (with copy of motion)
The Honorable Doyet A. Early, III
The Honorable Rhonda Dale McElveen

¹ "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 se* by a party who is represented by counsel."