



# The Supreme Court of South Carolina

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November 19, 2012

Jerry Leo Finney, Esquire  
2117 Park St.  
Columbia SC 29201

Re: Jonathan A. Davis v. State  
Appellate Case No. 2012-213160  
Lower Court Case No. 2010-CP-40-08361

Dear Counsel:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

Except for the claim that petitioner is entitled to a *White v. State* belated direct appeal, the PCR judge held that all other claims were barred by the statute of limitations. This Court has received your letter regarding the explanation required by Rule 243(c), SCACR, which was submitted under *Dennison v. State*, 371 S.C. 221, 639 S.E.2d 35 (2006), and no *pro se* response has been received.

However, the *White v. State* claim cannot be barred by the statute of limitations. *Wilson v. State*, 348 S.C. 215, 559 S.E.2d 581 (2002). Instead, to pursue an appeal from a guilty plea, petitioner would have to "provide a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the

issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal.” Rule 203(d)(1)(B), SCACR (explanation required when an appeal is taken from a guilty plea, *Alford* plea, or plea of nolo contendere). Therefore, I ask that you please provide the explanation required for a guilty plea appeal within fifteen (15) days of the date of this letter.<sup>1</sup> Until this explanation is provided no action will be taken on our motion to be relieved as counsel.<sup>2</sup>

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at [www.sccourts.org/courtreg](http://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/HTMLFiles/2007-08-13-02.htm](http://www.sccourts.org/courtOrders/HTMLFiles/2007-08-13-02.htm). 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

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<sup>1</sup> In the event you determine that you do not have a good faith explanation to provide for the appeal from the guilty plea, I would recommend that you follow a procedure similar to that provided for in *Dennison v. State, supra*, for the explanation required by Rule 243(c), SCACR. This will give the petitioner an opportunity to provide a *pro se* explanation for allowing an appeal from the guilty plea.

<sup>2</sup> Normally, it is not necessary for appointed counsel in a post-conviction relief case to make a motion to be relieved since counsel will be automatically relieved if the Division of Appellate Defense assumes responsibility for the appeal. Rule 71.1(g), SCRCR ("If an applicant represented by counsel desires to appeal, counsel shall serve and file a Notice of Appeal as required by Rule 243, SCACR, and shall continue to represent the applicant on appeal unless automatically relieved under Rule 602, SCACR, or allowed to withdraw under Rule 264, SCACR. If the applicant is indigent, counsel shall assist the applicant in obtaining representation by the Division of Appellate Defense of the Office of Indigent Defense.").

will *not* review filings for redaction or to determine if materials should be sealed.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a series of loops and a long horizontal stroke extending to the right.

CLERK

cc: Robert Daniel Corney, Esquire