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ALAN WILSON
ATTORNEY GENERAL

April 21, 2017

RECEIVED
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SC Court of Appeals

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. John Dodge Haynes
Appellate Case No: 2017-000799

Dear Ms. Kitchings:

I am writing in response to Appellant's "Petition To Reconsider Order of Dismissal of April 6, 2016 And To Reinstate Appeal" in the above referenced case. Please accept this letter in lieu of a formal return. To the extent this Court requires a more formal return, the State requests permission to file such a return.

Appellant asks this Court to reconsider its Order filed April 6, 2017, which dismissed his appeal as interlocutory because it was taken from the denial of a motion to suppress evidence in the trial court, and to reinstate his appeal. This Court issued the order of dismissal in compliance with our Supreme Court's decision in State v. Hubbard, 277 S.C. 568, 290 S.E.2d 817 (1982), which is consistent with longstanding precedent in South Carolina that a criminal case is not final, and therefore not subject to appeal by a defendant, until a judgment is rendered on the indictment.

In reliance upon language from our Supreme Court's recent decision in State v. Rearick, 417 S.C. 391, 790 S.E.2d 192 (2016), cert. denied, ___ S. Ct. ___, 2017 WL 1366762 (April 17, 2017), Appellant argues his appeal should be allowed to proceed because the Supreme Court recognized there are "other remedies" available to challenge a motion to dismiss even where an immediate appeal is not otherwise available. However, those "other remedies" consist of "a petition for federal habeas corpus relief" or "a petition for [the Supreme Court] to issue an extraordinary writ." Id. at 405, 790 S.E.2d at 199. Although Appellant claims "the ultimate prayer of his appeal will contain a prayer for a writ of prohibition," this appeal is not before our Supreme Court and was not filed as an extraordinary writ pursuant to Rule 245(b), SCACR. To the extent Appellant wishes to pursue some "other remedy" he should do so and should accept that his appeal was properly dismissed by this Court.

The petition to reconsider and reinstate should be denied.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Benjamin Aplin". The signature is fluid and cursive, with the first name "J." being particularly prominent.

J. Benjamin Aplin
Senior Assistant Deputy Attorney General
S.C. Bar No: 8729

cc: William L. Runyon, Jr., Esquire
Glenn Paul Justis, Esquire
Robert M. Dudek, Esquire

Victim Services