



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

April 28, 2017

Mr. James Watson Smiley, IV, Esquire  
58 Broad St., Suite 2E  
Charleston SC 29401

Re: The State v. Kareem Simmons  
Appellate Case No. 2017-000801

Dear Counsel:

Please be advised that this is the second letter from the Court attempting to resolve the following deficiencies:

The Court received your notice of appeal, which appears to have been timely served but has not been timely filed. *See* Rule 203(d)(1)(B), SCACR ("The notice of appeal shall be filed with the clerk of the lower court and the clerk of the appellate court within ten (10) days after the notice of appeal is served."). A motion requesting permission to file the notice of appeal out-of-time will have to be made or your appeal will be dismissed.

Additionally, because this is an appeal from a guilty plea, nolo contendere plea, or plea pursuant to *Alford*, Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR) requires you 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." **Failure to make a sufficient showing may result in dismissal of this appeal.**

The explanation must be served and filed within ten (10) days of the date of this letter, or your appeal will be dismissed. Furthermore, the Court will not consider your motion to proceed pursuant to *Ex Parte Cauthen*, 291 S.C. 465, 354 S.E.2d 381 (1987), or your request for representation on appeal until these deficiencies are cured and the appeal has been allowed to proceed under Rule 203(d)(1)(B)(iv), SCACR.

Please be advised the time limits for ordering the transcript are held in abeyance.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Alan McCrory Wilson, Esquire  
John Benjamin Aplin, Esquire  
David Leon Osborne, Esquire  
Robert Michael Dudek, Esquire