

DANIEL E. SHEAROUSE, CLERK OF COURT
P.O.BOX 11330
COLUMBIA, SC 29211
AUGUST 3rd, 2017

RE: TOBY MOORE V. THE STATE-MOTIONS-APPELLATE CASE
NO. 2017-001360

IN RE: CASE NO. 2014CP4202768

Dear Mr. Shearouse,

This letter is in reference to a response from Mr. Robert M. Dudek, Chief Appellate Defender, on August 8, 2017. As of today, Mr. Dudek has yet to "dismiss my appeal without prejudice" pending a ruling on my 59(e) motions. Attached, please find a copy of the response (Aug.8,2017), and my response to that letter.

I humbly thank you for your time and attention in regard to this legal matter.

RECEIVED

SEP 05 2017

S.C. SUPREME COURT

Respectfully Submitted,



cc: Valerie Garcia Giovanoli, Esquire



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

August 8, 2017

Toby Eugene Moore, #350242
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

Re: Your recent letter

Dear Mr. Moore:

Thank you for your letter of July 28th, 2017. Your post-conviction relief (PCR) lawyer filed a notice of intent to appeal in the Supreme Court prior to your motion for reconsideration being filed in the Circuit Court. Therefore, the Circuit Court no longer had jurisdiction to entertain your motion since jurisdiction became vested in the Supreme Court when the notice of intent to appeal was timely filed and served. The Supreme Court had and has jurisdiction over your case.

What you asked your PCR lawyer to do, and when, does not control jurisdiction over your case. I hope this helps you better understand the jurisdictional issue even if it is not what you want to hear.

Sincerely,

Robert M. Dudek
Chief Appellate Defender

RMD/mpm

AFFIDAVIT OF SERVICE

I, Toby Moore, certify that on the day of August 30, 2017, that I have served a copy of the attached letter on the below listed individual by delivering a copy of same to the McCormick Mail Room (MCI Mail Room), postage prepaid, and addressed as follows:

DANIEL E. SHEAROUSE, Clerk of Court
P.O.Box 11330
Columbia SC, 29211

Sworn to and subscribed before
me this 30 day of August 2017

J. Franklin
Notary Public of South Carolina

My Commission Expires: 12/16/2019

Toby Moore
Toby Moore, #350242
McCI F1-120-B
386 Redemption Way
McCormick, SC 29899

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SEP 04 2017
S.C. SUPREME COURT

ROBERT M. DUDEK, CHIEF APPELLATE DEFENDER
DIVISION OF APPELLATE DEFENSE
P.O.BOX 11589
COLUMBIA, SC 29211-1589
AUGUST 30, 2017

RE: TOBY MOORE V. THE STATE-MOTIONS-APPELLATE CASE NO. 2017-
001360

IN RE: CASE NO. 2014CP02768

Dear Mr. Dudek,

Thank you for your response to my letter on August 8, 2017. Pursuant to Hudson v. Hudson, 290 S.C. 215, 349 S.E.2d 341 (1986), "Service and filing of notice of appeal before filing of timely post trial motions by any party does not deprive lower court of Jurisdiction to consider motion (Rules of Civ.Proc. 59,59(e)).<see also: Moore v. Richardson, 5 S.C. 142 (S.C.1874). In the words of Justice Beatty, I pray, that this Honorable Court, along with your assistance, does not "Turn a Blind Eye" to my Due Process violations.

I humbly thank you for your time and attention in regard to this legal matter.

Respectfully Submitted,

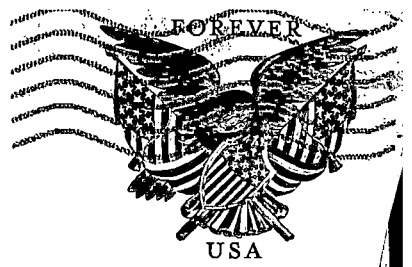


cc: Valerie Garcia Giovanoli, Esquire
Daniel E. Shearouse, Clerk of Court

F1-120-B-MCI
386 Redemption Way
M^cLornick, SC 29899

AUGUSTA, GA 309

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Attn: Daniel E. Shearouse, Clerk of Court
P.O. Box 11330
Columbia, SC 29211

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