

LaNelle Cantey DuRant, Appellate Defender  
South Carolina Commission Of Indigent Defense  
Post Office Box 11589  
Columbia, SC 29211-1589  
January 3, 2018

RECEIVED

JAN 10 2018

RE: Toby Moore V. State

S.C. SUPREME COURT

Dear Ms./Mrs. DuRant,

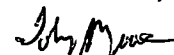
Thank you for your response Dated, December 18, 2017. I received your letter on December 28, 2017. My "feelings" are not the "issue" in reference to my letter to you. My "ISSUE" is pertaining to the Law, Due Process, and my Attorney's "Fiduciary Duty" to fully exhaust my remedies in the Lower Court. My 59(e) motion was "timely" submitted within the ten (10) day time limitation pursuant to SCRCP 59, & 59 (e). Also, pursuant to Hudson V. Hudson, 290 S.C. 215, 349 S.E.2d 341 (1986)... (Three days after filing notice of Appeal, Appellant filed post-trial motions and moved to remand case to Family Court for consideration of those motions. Respondent moved to dismiss Appeal. The Supreme Court held that "service and filing of notice of Appeal did not deprive lower court of jurisdiction to consider motions.")

Appeal and Error (criminal law key 428 (2):

Service and filing of notice of appeal before filing timely post-trial motions by "any" party does not deprive Lower Court of "jurisdiction" to consider motion. Rules Civ.Proc., Rules 59, 59(e). Wicker V. Anderson County, 347 S.E.2d 96 (1986); Otten V. Otten, 287 S.C. 166, 377 S.E.2d 207(1985).

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

Respectfully Submitted,



cc: Valerie Garcia Giavanoli, Esquire  
Daniel E. Shearouse, Clerk Of Supreme Court  
Of South Carolina  
M.Hope Blackley, Clerk of Court, Spartanburg County

M.Hope Blackley  
Clerk of Court, Spartanburg County  
Post Office Box 3483  
Spartanburg, SC 29304-3483  
January 8, 2018

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JAN 10 2018

RE: Pending 59(e) motion, Case No.: 2014-CP-2768


S.C. SUPREME COURT

Dear Ms./Mrs. Blackley, HONORABLE CLERK:

On June 20, 2017, I, Toby Moore #350242, received a copy of the Honorable Judge R.Ferrell Cothran, Jr., Order of Dismissal pertaining to my PCR case, from my Attorney Leah B. Moody, ESQ. I immediately provided Ms. Moody a copy of a 59(e) motion (see attach.) pursuant to Marljar V. State, 653 S.E.2d 266, along with a letter of my "Intent" for her to file this said motion on June 23, 2017. I also provided your office with the same said 59 (e) motion along with a motion to Hold my Appeal in Abeyance. Mr. Daniel E. Shearouse, Clerk Of The South Carolina Supreme Court, has informed the Division of Appellate Defense Attorney, Robert M. Dudek, Chief Appellate Defender, to Dismiss my Appeal "without prejudice" under Hudson V. Hudson, 290 S.C.215, 349 S.E.2d 341 (1986). Upon this day, I still have not received a ruling on said "pending" 59 (e) motion. The circumstances in Hudson are identical to my current Legal matter.

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

Respectfully Submitted,



cc: Valerie Garcia Giavanoli, Esquire  
Daneil E. Shearouse, Clerk of Supreme Court  
Of South Carolina  
LaNelle Cantey DuRant, Appellate Defender

AFFIDAVIT OF SERVICE

I, Toby Moore #350242, certify that on this day he has served a copy of the attached letter on the below listed individual(s) by delivering a copy of same to the McCormick Correctional Mail Room, with sufficient postage prepaid, and addressed as follows:

M.Hope Blackley  
Clerk of Court,  
Spartanburg County  
P.O.Box 3483  
Spartanburg, SC 29304-3483

Daniel E. Shearouse  
Clerk Of Supreme Court  
South Carolina  
P.O. Box 11330  
Columbia, SC 29211

Valerie Garcia Giovanoli  
Esquire  
SC Attorney General's  
Office  
Rembert C. Dennis  
Building  
P.O. Box 11549  
Columbia, SC 29211-  
11549

LaNelle Cantey DuRant,  
Appellate Defender  
SC Commission of  
Indigent Defense  
P.O. Box 11589  
Columbia, SC 29211-  
1589

SWORN TO AND SUBSCRIBED BEFORE ME THIS

08 DAY OF January, 2018

J. Franklin  
NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES: 12.16.2019

Toby Moore  
Toby Moore #350242  
McCI F-1-120-B  
386 Redemption Way  
McCormick, SC 29899

RECEIVED

JAN 10 2018

S.C. SUPREME COURT



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  
Facsimile: (803) 734-1397

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

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JAN 10 2018

S.C. SUPREME COURT

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



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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

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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

December 18, 2017

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JAN 10 2018

S.C. SUPREME COURT

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

Re: Your Case

Dear Mr. Moore:

Thank you for your letter. Unfortunately, your 59(e) motion was filed after your PCR attorney filed the Notice of Appeal. Therefore, your 59(e) motion was not timely filed. Please note that Mr. Shearouse's letter states that if the 59(e) motion was timely filed.

Mr. Dudek informed you of this in a letter to you dated August 8, 2017. I have enclosed letters from Mr. Dudek to you; his letter to the Supreme Court; and Mr. Shearouse's letter. You were copied on these letters but I have enclosed another copy.

I am sorry as I know you feel the process has not been right. Please call me if you have questions.

Sincerely,

LaNelle Cantey DuRant  
Appellate Defender

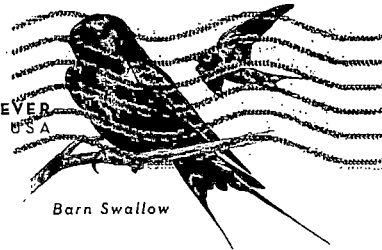
LCD/lis

Toby Moore # 550242  
F1-120-B-MC7  
386 Redemption Way  
McCormick, SC 29897

AUGUSTA GA 309

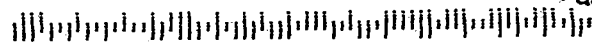
08 JAN 2018 PM 2 T

FOREVER  
USA



Attn: Honorable Daniel E. Shearose  
Clerk of South Carolina Supreme Court  
P.O. Box 11330  
Columbia, SC 29211

2521131330



SCDC  
Christmas  
Packet