

## A. J. Z. Law Firm, LLC

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December 7, 2018

V. Claire Allen, deputy Clerk  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

**RECEIVED**

DEC 11 2018

SC Court of Appeals

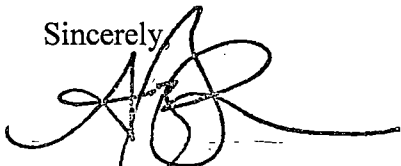
RE: State of South Carolina v. Robert Geter  
Appellate Case No.: 2018-001647

Dear Madam Clerk:

In regard to your letter of November 13, 2018, please be advised this appeal stems from a trial and sentencing rather than a plea as indicated in your letter.

I am enclosing a copy of the Motion for New Trial and Judgment in Arrest of Verdict which was filed post-trial in this matter.

Sincerely,



Aimee Zmroczek

Enclosure

cc: Robert Dudek, Esq.  
Richard Cathcart, Sr., Esq.  
John Aplin, Esq.  
Alan Wilson, Esq.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 The State of South Carolina, )  
 v. )  
 Robert Xavier Geter, )  
 Defendant. )

IN THE COURT OF GENERAL SESSIONS  
 Case Numbers: 2015GS40002757-58  
 1) New Trial and Judgment in Arrest of Verdict

RICHLAND COUNTY  
 FILED  
 2018 APR 23 PM 4:09  
 JENNETTE W. HARRISON  
 C.C.P. & G.S.

YOU WILL PLEASE TAKE NOTICE that counsel will move before this Court on Monday, May 28, 2018<sup>1</sup>, at 9:00 a.m. or, as soon thereafter as this matter may be pursuant to Rule 29 of the S.C.R.Crim.P. This motion is made in part based on violations of Rule 3.3(a) specifically prohibits any statement by a lawyer to any tribunal of material fact or law known by the lawyer to be false. The assistant solicitors opened the door to the decedent's violent past, then objected to the question being asked on redirect. Both assistant solicitors went on in closing and in sentencing to state the victim had no history of violence when the descendant had a pending charge in the very same solicitor's office for violence. The rule applies to statements made in open court as well as to pleadings and other papers filed with the court. See *In re Weinberg*, 317 S.C. 300, 454 S.E.2d 316 (1995) (lawyer denied knowledge of forged order when questioned by judge and misrepresented to judge resolution of matter); *In re Gates*, 311 S.C. 246, 428 S.E.2d 716 (1993) (lawyer misrepresented to court that client had been notified of hearing); *In re Dumas*, 309 S.C. 5, 419 S.E.2d 791 (1992) (deliberate misrepresentation to clerk of court); *In re Iseman*, 290 S.C. 391, 350 S.E.2d 922 (1986) (filing of false CLE compliance report); *In re Amick*, 288 S.C. 486, 343 S.E.2d 623 (1986) (lawyer misrepresented that matter had been settled in order to obtain a dismissal); *In re Altman*, 287 S.C. 321, 338 S.E.2d 334 (1985) (lawyer made inconsistent statements regarding CLE attendance); *In re Belser*, 277 S.C.

<sup>1</sup> Counsel understands that this is a Common Pleas term, but perhaps could get permission to have this motion heard this terms since there are no terms of general sessions for this Judge in the remaining months of the published calendar.

250, 287 S.E.2d 139 (1982) (lawyer misrepresented to the court that he had conflicting court appearance). A more difficult problem for the lawyer may be whether to disclose certain information to the court to avoid its misunderstanding of the law or facts. The adversarial system contemplates that each party will present its case in the most favorable light possible. However, it is not clear that this principle extends so far as to permit a lawyer to distort the truth intentionally by the selective omission of material information. See *In re Gates*, 311 S.C. 246, 428 S.E.2d 716 (1993) (lawyer acted improperly by failing "to disclose facts necessary to correct a misapprehension known by him to have arisen" in a disciplinary matter). The comment to Rule 3.3, without providing examples, notes that in certain circumstances the "failure to make a disclosure is the equivalent of an affirmative misrepresentation." See *In re James*, 267 S.C. 474, 229 S.E.2d 594 (1976) (executor deliberately failed to disclose to court when attorney's fees were approved that he also served as lawyer for estate).

Additionally, the State suborned perjury by putting up a jailhouse snitch who had never been in the same housing unit (or even close) to give a statement that allegedly came from the defendant. It is for these specific and several other reasons, that the defendant asks the Court to set aside the conviction in this case and requests a new trial.

IT IS SO MOVED. - - -

Respectfully Submitted,

By: 

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and



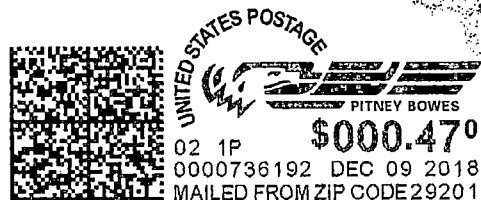
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Attorneys for Defendant

April 19, 2018  
Columbia, South Carolina

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