

The Supreme Court of South Carolina

Keith S. Levan, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2019-000186

Lower Court Case No. 2017CP2607016

ORDER

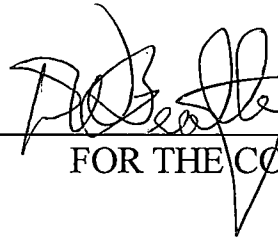
In this post-conviction relief case, petitioner has served and filed a *pro se* notice of appeal. Petitioner did not provide this Court with a copy of the order under appeal as required by Rules 243(b) and 203(d)(1)(B)(ii) of the South Carolina Appellate Court Rules (SCACR).

The public case index for Horry County fails to reveal the filing of any order dated January 28, 2019, as petitioner alleges in the notice of appeal. Indeed, the public case index indicates that the last order filed in this case is dated November 30, 2019, and states "The Application for Post Conviction Relief is Under Advisement. Formal Order to follow by Attorney Johnny James Jr."

Under Rule 243(a), SCACR, and S.C. Code Ann. §17-27-100, only a final decision or judgment in a post-conviction relief case is subject to appellate review. *See Lewis v. State*, 368 S.C. 630, 630 S.E.2d 464 (2006) (defining final decision or judgment). Since the form order that has been filed is not the final decision or judgment in this matter, the notice of appeal is hereby dismissed without prejudice to petitioner's ability to timely serve and file a notice of appeal once a final decision or judgment is filed with the clerk of the circuit court.¹ The remittitur will

¹ In the notice of appeal, petitioner alleges that his counsel has advised him that he will need to serve and file any notice of appeal. This Court reminds petitioner's

be sent as provided by Rule 221(b), SCACR.



C.J.

FOR THE COURT

Columbia, South Carolina
February 20, 2019

cc: Alan McCrory Wilson, Esquire
Jonathan Micah Hiller, Esquire
Johnny Ellis James, Jr., Esquire
Mr. Keith Sheldon Levan, 00371451

counsel of his obligation to serve and file a notice of appeal if requested to do so by his client. Rule 71.1(g) of the South Carolina Rules of Civil Procedure ("A final decision entered under the [Uniform Post-Conviction Procedure] Act shall be reviewed according to the procedure specified by Rule 243, SCACR. If an applicant represented by counsel desires to appeal, counsel shall serve and file a Notice of Appeal as required by Rule 243, SCACR, and shall continue to represent the applicant on appeal unless automatically relieved under Rule 602, SCACR, or allowed to withdraw under Rule 264, SCACR. If the applicant is indigent, counsel shall assist the applicant in obtaining representation by the Division of Appellate Defense of the Office of Indigent Defense.").