



The Supreme Court of South Carolina

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March 08, 2019

Timothy Kirk Truslow, Esquire
T. Kirk Truslow, P.A.
PO Box 238
North Myrtle Beach SC 29597

Re: Keith S. Levan v. State
Appellate Case No. 2019-000186
Lower Court Case Number 2017CP2607016

Dear Mr. Truslow:

Petitioner filed a *pro se* notice of appeal in this case. This notice of appeal was dismissed by order dated February 20, 2019. Since the public case index for Horry County indicated that Mr. Levan's attorney was Jonathan Micah Hiller, Esquire, Mr. Hiller was provided with a copy of the dismissal order. A copy of the notice of appeal and dismissal order is enclosed.

Mr. Levan has now filed the enclosed *pro se* document dated February 28, 2019. Based on this document and its attachments, it appears that you are Mr. Levan's counsel rather than Mr. Hiller.¹ I remind you that you remain as Mr. Levan's

¹ I assume that you and Mr. Hiller do not both represent Mr. Levan, and that the public case index for Horry County is simply wrong. If that is the case, then either your or Mr. Hiller needs to contact the Horry County Clerk's Office to have this record corrected.

counsel before this Court. Rule 71.1(g) of the South Carolina Appellate Court Rules (" 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."); Rule 264 of the South Carolina Appellate Court Rules ("The attorneys' and/or guardians ad litem of the respective parties in the court below shall be deemed the attorneys and guardians of the same parties in the appellate court until withdrawal is approved and notice is given as provided in this Rule.').

Since you represent him in this case, no action will be taken on the February 28th *pro se* document. Instead, if it is appropriate to seek rehearing regarding the dismissal, the petition for rehearing will have to be filed by you as his counsel. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).

To give you the opportunity to serve and file a petition for rehearing, I will hold the remittitur for an additional fifteen (15) days from the date of this letter. If a petition for rehearing is not *actually received* by this Court on or before that date, the remittitur will be sent to the circuit court. If a petition for rehearing is filed, you should provide this Court with a copy of the decision being appealed.²

Very truly yours,



CLERK

Enclosures

² As of the date of this letter, the public case index for Horry County does not reflect that a final decision has been entered in this post-conviction relief case.

cc: Johnny Ellis James, Jr., Esquire (with copy of February 28, 2019
correspondence)
Keith Sheldon Levan, 00371451
Jonathan Micah Hiller, Esquire