

The Supreme Court of South Carolina

The State, Petitioner

v.

Devin Johnson, Respondent.

Appellate Case No. 2019-000844

Lower Court Case No. 2018GS1006264

ORDER

Counsel for the petitioner moves to dismiss this appeal and states that a motion for a new trial is pending before the court of general sessions. Further, because a hearing on the motion for a new trial has been scheduled for May 29, 2019, counsel asks that the remittitur be sent immediately.

Since it appears that the motion for a new trial is timely, this appeal is dismissed without prejudice to appellant's ability to appeal once the court of general sessions rules on the motion for a new trial. Rule 203(b)(2) of the South Carolina Appellate Court Rules (time to appeal is stayed by the filing of a timely motion under Rule 29 of the South Carolina Rules of Criminal Procedure); *see also Hudson v. Hudson*, 290 S.C. 215, 349 S.E.2d 341(1986) (appeal to be dismissed without prejudice if a timely post-trial motion has been filed). Further, the Clerk of this Court is directed to immediately send the remittitur to the court of general sessions.



FOR THE COURT

C.J.

Columbia, South Carolina
May 24, 2019

cc: Office of the Attorney General
John Joseph Kozelski, III, Esquire
Stephanie Bianco Linder, Esquire
The Honorable Julie J. Armstrong