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S.C. SUPREME COURT

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June 26, 2019

Gary Jerrell Means, Jr., 359700
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Re: Gary Jerrell Means, Jr., #359700 v. State of South Carolina; 2015-CP-02-00711

Dear Mr. Means,

As you know, I filed a Notice of Appeal for you with the Supreme Court of South Carolina preserving your right to appeal both the Order of Dismissal and the Order denying the Rule 59(e), SCRCF, I filed on your behalf, in your circuit court PCR action. Since that time, I have been waiting to hear from you and your family as to whether you were going to hire me to represent you in your PCR appeal, hire another lawyer to represent you in that appeal or whether you were going to have to seek court-appointed representation through the Appellate Division of the South Carolina Commission on Indigent Defense. I spoke with your Mom by phone concerning this issue about a month ago and she indicated that she would talk to the family and get back in touch with me as quickly as possible. Thus far, I have not heard anything back from her. I tried to call her today and was not able to reach her by phone. I did leave a phone message with your cousin LaKeisha, asking that she return my call as soon as she can and let me know what if anything she knows about the status of your family's decision in this matter. The fee agreement I entered with your mother Teresa Thompson included the following,

The representation agreed to *specifically excludes representation on any subsequent appeal*. The fees paid for the circuit court PCR action do not cover representation in any PCR appeal which might become necessary following the circuit court PCR action.

If the results of this action are unfavorable to Client in the Court of Common Pleas, and Client desires to appeal that decision, *a separate fee of \$15,000.00 plus expenses* will be required to hire Counsel to represent Client in the appeal. This fee would be *due and payable in three installments. The first installment of \$5,000.00 would be due prior to the filing of the Notice of Intent to Appeal. A second installment of \$5,000.00 would be due sixty days later. The third and final installment of \$5,000.00 would be due sixty (60) days after the date the second installment was due.* In addition to this fee, Client, or someone acting on his behalf, would have to agree to be responsible for payment of costs associated with perfecting the appeal including, *but not limited to,*

the cost of transcripts, filing fees, research services and research materials, and printing costs associated with producing the Appendix to the Petition for Writ of Certiorari and any briefs which may be filed. Client, or someone on his behalf, would be required to deposit \$2,000.00 in trust for appeal expenses to be billed against in addition to any balance remaining in trust from the circuit court proceeding. Thereafter, Client, or someone on his behalf, would be required to maintain a minimum trust account balance of \$500.00 until the conclusion of Counsel's representation of Client in the PCR appeal.

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Retainer of counsel for the PCR action in the circuit court under the terms outlined above does not bind the client to retain counsel to represent him on appeal from a decision in the circuit court. Counsel, however, agrees that if she is hired to represent Client in a PCR appeal, she agrees to provide that representation under the terms set forth herein. A separate fee contract would be required in the event Counsel were to be hired for a PCR Appeal. In the event the Client is unable to pay counsel's fees for an appeal, he may apply for representation on appeal by the South Carolina Office of Appellate Defense which is responsible for representation of indigent persons in PCR appeals, or, he may choose to retain a different lawyer. Fees for a PCR appeal, as quoted herein, are for informational purposes only. Nothing herein binds Client to hire Counsel to retain Counsel for a PCR appeal, nor does this agreement bind Counsel to agree to be hired to represent Client in such an appeal.

I went ahead and served and filed the Notice of Appeal to preserve your rights even though your family had not committed to hire me for the appeal. The Notice of Appeal was post marked for filing on April 10, 2019. Therefore, the **first payment of \$5,000.00** on an appeal was due before that Notice of Appeal was filed and a **\$2,000.00 deposit in my firm's trust account was due at that same time** for expenses relating to the appeal to be billed against. **the second payment of \$5,000.00 for the appeal would have been due by June 9, 2019 and the third installment of \$5,000.00 on the fee for the appeal would now be due by August 8, 2019.** Therefore, in order for me to represent you on appeal, you would have to pay **\$10,000.00 toward the \$15,000.00 fee, and the \$2,000.00 trust deposit for expenses to be billed against, NOW.** The last **\$5,000.00 of my fee would be due on or before August 8, 2019.** I have no idea whether the **\$2,000.00 would cover all the fees for this appeal, but it might.** ~~Someone would have to sign a contract agreeing to be responsible for all the fees and the expenses incurred for the appeal.~~ That person, presumably your Mom, would have to agree to keep a minimum trust balance in my firm's account. The total expenses for a PCR Appeal usually depend a lot on the cost of the PCR transcript and , in your case, we already have that in the file. So, I have good reason to hope that the **\$2,000.00 deposit might cover the remaining costs for the appeal.** In fact, the expenses may in up being less than the **\$2,000.00.** In that case, I would issue a refund of any expense money not spent on the appeal process. I looked up all the expenses from the circuit court PCR action to see if they have been paid. I have not had time to finish up that bill, I am sorry it was not done sooner, but it appears that there was close to enough in the trust account to cover those expenses. I will review those records and do a final expense bill for the circuit court PCR next week. I apologize, I thought that had already been done after the final order was received. Apparently it was not. If there are any expenses that can not be paid from money you still have in trust, then those will have to be paid before I

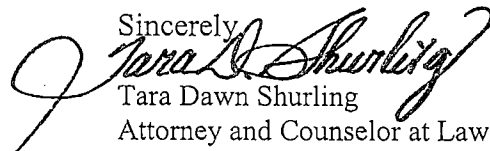


would take the PCR appeal. It does not look like there will be anything much that was not covered by the last money your cousin paid.

I am willing to represent you on appeal for the fees and expenses as quotes in my original discussions with your mother. Please understand that I have no desire to pressure anyone about this difficult decision. That being said, however, I was only hired to represent you in the circuit court PCR action and the fee paid for the PCR in the circuit court did not cover representing you in a subsequent PCR appeal should such an appeal become necessary. As soon as you can, please discuss this issue with your family and make a decision as to whether you are going to 1) hire me to represent you on your PCR Appeal to the Supreme Court, 2) hire some other private lawyer to represent you on your PCR Appeal or 3) whether you are going to have to ask for court-appointed counsel for the appeal through the Appellate Division of the South Carolina Commission on Indigent Defense. (SCCID). I am enclosing a copy of the Affidavit of Indigency that SCCID requires if you are going to be applying to have them take over your appeal. You will need to read this form very thoroughly and fill it out carefully. Do not sign it until you are standing in front of a Notary at your institution. They will not notarize your signature unless they physically watch you sign the document. THEY DO NOT NEED TO READ THE DOCUMENT TO NOTARIZE IT. You may actually prefer that they do not since the document contains personal information. All they have to do is notarize your signature. That simply means that they have checked your ID, watched you sign the document and they swear that they have done so. In the event that you are going to be asking SCCID to take over your appeal, I will need to get this affidavit to them, so please fill it out, get your signature notarized and return it to me in the enclosed self addressed envelope as quickly as possible. You also need to write me immediately and tell me what you are going to do about this appeal. For example, you can say you have decided you want to hire someone else for the appeal, or that you are still hoping your family will hire me, but if they do not, you want me to ask SCCID to represent you.

I would still be very willing to represent you on appeal inasmuch as I already know your case quite well, but if that is not going to be possible, you have got to make a decision about what you are going to do. The Supreme Court simply is not going to wait indefinitely to hear what you and your family intends to do about this appeal. For now, I strongly suggest you fill out the Affidavit enclosed, and return it to me properly notarized in the return envelope provided, so that I will have it available to forward to SCCID and the Supreme Court in the event you have to rely on court-appointed counsel for this appeal. I need to have your decision by the time my office comes back from the Fourth of July break on July 8, 2019. One way or the other, I intend to ask to be relieved of any further responsibility for this appeal if I have not heard from you and/or your family by July 8, 2019. I look forward to hearing from you very soon and hope I get to represent you on appeal. I remain,

Sincerely,


Tara Dawn Shurling
Attorney and Counselor at Law

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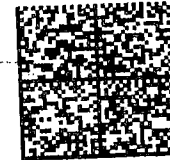
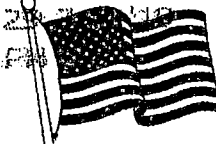
Enclosures


cc: The Honorable Daniel E. Shearouse, Clerk, Supreme Court of South Carolina ✓
Teresa Thompson (w/enclosure)



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