



The Supreme Court of South Carolina

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February 20, 2020

Mr. Emory W. Roberts, Jr., 373393
Lieber Correctional Institution
136 Wilborn Ave
Ridgeville, SC 29472

RECEIVED

FEB 24 2020

SC Court of Appeals

Re: The State v. Emory W. Roberts
Appellate Case No. 2017-001676
Lower Court Case Nos. 2016GS4700002 and 2016GS4700003

Dear Mr. Roberts:

This responds to your *pro se* documents received by this Court on February 20, 2020. These documents are related to the above appeal that is pending before the South Carolina Court of Appeals. You are represented by counsel in this appeal, and your counsel has filed a petition for rehearing regarding the Court of Appeals' opinion affirming your convictions.

Since counsel currently represents you, I cannot accept these documents for filing and no action will be taken on them by this Court. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010);¹ *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State*

¹ "Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel. [citations omitted]. Because petitioner was represented by counsel, the *pro se* motion was not proper, should not have been accepted, and should not have been ruled upon. The motion was essentially a nullity. . . . We also take this opportunity to remind judges and clerks of court of our directive in *Foster* not to accept substantive documents, with the exception of

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). If, after the Court of Appeals rules on the petition for rehearing, you desire to seek review of the decision of the Court of Appeals, you will need to do so in the manner provided by Rule 242 of the South Carolina Appellate Court Rules (SCACR). A copy of the SCACR should be available to you in your prison library and is also available at www.sccourts.org/courtreg.

To the extent that your documents could be construed as a request to relieve Susan Barber Hackett, Esquire, as your counsel in the above appeal, this is a matter you will need to raise by motion to the South Carolina Court of Appeals rather than to this Court.

I note that many of the allegations you raise are related to claims of ineffective assistance of counsel. As a general rule, these allegations are raised in an application for post-conviction relief under the Uniform Post-Conviction Procedure Act (S.C. Code Ann. §§ 17-27-10 to -160), and such an application may not be made until the above appellate case is concluded (including any review by this Court under Rule 242, SCACR. *See* Rule 71.1 of the South Carolina Rules of Civil Procedure (SCRCP) ("An application for post-conviction relief cannot be made while an appeal from the conviction or sentence is pending or during the time in which an appeal may be perfected."). A copy of the SCRCP, and the South Carolina Code of Laws should be available to you in your prison library. I would encourage you to discuss the post-conviction relief application process with your counsel.

Very truly yours,



CLERK

cc: Susan Barber Hackett, Esquire (with copy of documents)
Jonathan Scott Matthews, Esquire (with copy of documents)
~~[The Honorable Jenny Abbott Kitchings]~~

motions to relieve counsel, filed *pro se* by a party who is represented by counsel."