



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

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April 10, 2013

Mr. Spencer Utsey, #192660
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

Dear Mr. Utsey:

This responds to your correspondence entitled "complaint board." No action will be taken on this *ex parte* communication.

If you are trying to seek appellate review in a post-conviction relief (PCR) case, then you will need to timely appeal in the manner provided by Rules 243 and 203 of the South Carolina Appellate Court Rules (SCACR). A copy of the SCACR should be available to you in your prison library. Please note that the time to serve a notice of appeal on opposing counsel is relatively short and this time cannot be extended. Rule 263(b), SCACR.

If you are trying to seek relief directly from this Court, then you will need to comply with the requirements of Rules 245 and 240, SCACR. This includes providing a proof of service showing that a copy has been served on opposing counsel (or the party if unrepresented by counsel).

When making any filing with this Court, please be sure to include the lower court case name and docket number if the filing is related to a lower court case.

Upon reviewing the last case that you had pending before this Court, *Utsey v. State*, Appellate Case No. 2012-212752 (appeal from 2011-CP-05-00265), I see that you sent this Court a copy of a motion seeking relief under Rule 60(b) and Rule 59(e) of the South Carolina Rules of Civil Procedure (SCRCP) in November 2012, and this office has made no response to this filing. While I think my staff

may have assumed this motion was not being made to this Court since the SCRCP does not apply to appellate proceedings before this Court,¹ it appears to me that you may have intended for this motion to be a petition for rehearing regarding the order of this Court dated September 13, 2012.

The order of September 13, 2012, denied your petition for rehearing regarding the earlier dismissal of this case. The SCACR does not contain any provision that allows for a rehearing of the denial of a petition for rehearing. Further, even if it did, your petition for rehearing, which was not received until November 8, 2012, is untimely under Rule 221(a), SCACR ("Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court.").

Further, the remittitur was sent in this matter on September 14, 2012. The sending of the remittitur ended appellate jurisdiction and no further motion can be considered in that case. Accordingly, no action will be taken on the motion that you filed in November 2012.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel E. Shearouse', with a long horizontal flourish extending to the right.

Daniel E. Shearouse

cc: Office of the Attorney General

¹ See Rule 81, SCRCP ("These rules, or any of them, shall apply to every *trial court* of civil jurisdiction within this state . . ." (emphasis added))