



The Supreme Court of South Carolina

PATRICIA A. HOWARD
CLERK OF COURT

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July 29, 2021

Frank Tolen, Jr., 246966
Broad River Correctional Institution
4460 Broad River Road
Columbia SC 29210

Re: Frank Tolen, Jr. v. State
Appellate Case No. 2021-000795
Lower Court Case No. 2019CP4100156

Dear Mr. Tolen:

This responds to your letter dated July 19, 2021, which was received by this Court on July 26, 2021.

While this office has been unable to locate any record of having received your petition for a writ of certiorari dated April 2, 2021, prior to your July 19th letter, a copy of this petition has been obtained from the Office of the Attorney General. Since review in a post-conviction relief case is commenced by served and filing a notice of appeal under Rule 243(b) of the South Carolina Appellate Court Rules (SCACR), this petition has been construed as a notice of appeal.¹

¹ This Court has obtained a copy of the conditional order of dismissal, the final order of dismissal and the order denying the Rule 59, SCRCP, motion from the public case index for Saluda County.

This case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267, SCACR. The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Since the circuit court determined that this post-conviction relief action is barred as being successive and/or as being untimely under the statute of limitations, Rule 243(c), SCACR, requires you to provide a written explanation as to why this determination was improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper. The failure to make a sufficient showing may result in the dismissal of this matter.

Please provide the explanation required by Rule 243(c) within twenty (20) days of the date of this letter. If you would like this Court to consider your petition for a writ of certiorari as your Rule 243(c) explanation, you may simply advise this Court of that fact.

Very truly yours,

A handwritten signature in blue ink that reads "Patricia A. Howard". The signature is written in a cursive, flowing style.

CLERK

cc: Office of the Attorney General