Filing # 104688215 E-Filed 03/11/2020 10:27:29 AM

COUNTY

Filing # 104422929 E-Filed 03/05/2020 03:55:13 PM

**IN THE CIRCUIT COURT OF THE FOUTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA**

**CASE NO.: 2009-CF-4417**
**CAPITAL CASE**

STRICKEN

RECEIVED, 03/11/2020 10:29:31 AM, Clerk, Supreme Court

**STATE OF FLORIDA,**

*Plaintiff,*

v.

**TERRY SMITH,**

*Defendant.*

_____/

**STATE'S NOTICE OF CROSS-APPEAL**

NOTICE IS GIVEN OF THE STATE'S CROSS-APPEAL. On October 18, 2018, Smith, represented by Capital Collateral Regional Counsel Karen Moore, filed a notice of appeal in this postconviction capital case. The case is currently pending in the Florida Supreme Court. *Smith v. State*, SC18-1763. This is the State's notice of belated cross-appeal of the postconviction court's granting of a new penalty phase based on *Hurst v. State*, 202 So. 3d 40 (Fla. 2016), which was recently overruled in part by the Florida Supreme Court in *State v. Poole*, 2020 WL 370302 (Fla. Jan. 23, 2020) (SC18-245). A belated notice of cross-appeal is not jurisdictional. *Lopez v. State*, 638 So. 2d 931 (Fla. 1994). The State seeks to cross-appeal Circuit Judge

ACCEPTED: DUVAL COUNTY, RONNIE FUSSELL, CLERK, 03/06/2020 02:15:13 PM

Adrian G. Soud's September 20, 2018, order granting a new penalty phase is the rule 3.851 postconviction order.

ASHLEY MOODY

ATTORNEY GENERAL
TALLAHASSEE, FLORIDA

/s/ *Lisa A. Hopkins*
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CO-COUNSEL FOR THE STATE

STRICKEN

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing State's Notice of Cross-Appeal has been furnished via e-portal to Karen Moore, Counsel for Terry Smith at Karen.Moore@ccrc-north.org; Mark Caliel, Assistant State Attorney at mcaliel@coj.net; this 5th day of March, 2020.

/s/ *Lisa A. Hopkins*
Lisa A. Hopkins
Assistant Attorney General
Attorney for the State

STATE OF FLORIDA
DUVAL COUNTY
I, UNDERSIGNED Clerk of the Circuit & County Courts, Duval County, Florida, DO HEREBY CERTIFY the within and foregoing, consisting of 2 pages, is a true and correct copy of the original as it appears on record and file in the office of the Clerk of Circuit & County Courts of Duval County, Florida.
WITNESS my hand and seal of Clerk of Circuit & CountyCourts at Jacksonville, Florida, this the 11 day of MAR A.D., 2020.
RONNIE FUSSELL
Clerk, Circuit and County Courts
Duval County, Florida
By _____ Deputy Clerk
CLERK OF THE CIRCUIT COURT SIGILLUM CURIAE DUVAL COUNTY, FLORIDA