

IN THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

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Case No. 09-CP-23-0741  
Appellate Case No. 2013-001026

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Freddie Eugene Owens, #5065,

v.

State of South Carolina.

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MOTION FOR OUTSIDE COUNSEL

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The undersigned respectfully moves this Court for the appointment of outside counsel for petitioner, Freddie Eugene Owens, based on a conflict of interest. In support of this motion, the undersigned would show this Court:

(1) Petitioner was originally tried, convicted and sentenced to death on February 17, 1999, for an armed-robbery shooting that occurred at a Speedway convenience store on November 1, 1997, in Greenville, South Carolina. After this Court reversed the death sentence on two occasions, *see State v. Owens*, 346 S.C. 637, 552 S.E.2d 745 (2001); *State v. Owens*, 362 S.C. 175, 607 S.E.2d 78 (2004), the state again sought a death sentence. In 2006, attorneys William Godfrey and Kenneth Gibson represented petitioner at a third capital sentencing proceeding. The jury returned a death verdict.

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S.C. SUPREME COURT

(2) Petitioner appealed his sentence. He was represented on direct appeal by Joseph Savitz of the South Carolina Office of Appellate Defense. This Court affirmed. *State v. Owens*, 378 S.C. 636, 664 S.E.2d 80 (2008).

(3) Petitioner filed a timely application for post-conviction relief. Keir M. Weyble and Emily C. Paavola were appointed to represent him in post-conviction. In the final amended application for post-conviction relief, petitioner raised issues of ineffectiveness of appellate counsel in addition to ineffectiveness of trial counsel. Appellate counsel Joseph Savitz testified in detail at the PCR hearing. The PCR court entered an order of dismissal, which contains specific findings regarding the issue of ineffective assistance of appellate counsel. Petitioner timely filed a notice of appeal.

(4) Undersigned counsel respectfully requests that she be appointed to represent petitioner in connection with this appeal. Outside counsel should be appointed because the Office of Appellate Defense has a conflict of interest given that the former Chief Attorney of the office was petitioner's appellate counsel. Moreover, undersigned counsel is already intimately familiar with the trial and PCR record and was responsible for handling extensive post-hearing briefing which, in addition to the record below, draws on voluminous social history records entered as exhibits during the PCR hearing. Thus, even aside from the conflict of interest, undersigned counsel is better situated to provide representation on appeal. Under these circumstances, the appointment of outside counsel would be a more efficient use of judicial time and resources. Further, should this Court decide to appoint outside counsel, Keir Weyble, who also served as PCR counsel, has agreed to assist undersigned counsel in a *pro bono* capacity.

Respectfully, for the above reasons, undersigned counsel requests that this Court appoint her to represent petitioner on appeal. Furthermore, counsel requests that time limits governing

assembling of the appendix and filing of a petition for a *writ of certiorari* be tolled during the pendency of this motion.

Respectfully submitted,



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May 22, 2013

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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Court of Common Pleas

Edward W. Miller , Circuit Court Judge

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Case No. 2013-001026

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Freddie Eugene Owens, #5065, Petitioner

v.

State of South Carolina, Respondent.

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**CERTIFICATE OF SERVICE**

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I, Jill Rider, hereby certify that I have served upon the attorney for the Respondent one (1) copy of Petitioner's Motion for Outside Counsel in the above-captioned case by depositing a copy of same in the United States Mail, first class, postage pre-paid, addressed as follows:

J. Anthony Mabry  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211-1549

This the 22<sup>nd</sup> day of May, 2013, in Columbia, South Carolina.

  
JILL RIDER