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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

In The Supreme Court

Appellate Case No. 2022-000934

DARRELL L. GOSS,

Appellant,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

MOTION TO RECONSIDER

Appellate Darrell L. Goss respectfully asks this Court to reconsider its order denying his motion to proceed pro se in this matter. Appellate maintains the Court's reliance upon *State v. Roberts* is misplaced here because this is not a direct appeal case, this is a PCR appeal. Therefore, this Court should have analyzed Appellate's motion under *Richardson* and *Whitehead*. see, Richardson v. State, 377 S.C. 103, 659 S.E.2d 493 (2008) ("while

an applicant seeking postconviction relief may have the right to reject or discharge court-appointed counsel and proceed pro se or retain his own counsel, he does not have the right, without a showing of satisfactory cause, to refuse or dismiss the counsel appointed and have other counsel appointed".) ; and Whitehead v. State, 310 S.C. 532, 426 S.E.2d 315 (1992) (" Rule of civil procedure mandates appointment of counsel for indigent postconviction relief applicants whenever hearing is held to determine questions of law or fact ; therefore, when postconviction relief application is not dismissed before hearing is held, judge must either appoint counsel or obtain knowing and intelligent waiver by applicant of right to counsel ".) ; see also, Odom v. State, 337 S.C. 256, 523 S.E.2d 753 (1999) (" Pro se petitioner for postconviction relief was entitled to evidentiary hearing on issue of whether he knowingly and intelligently waived his right to appellate counsel after his first pro se application for postconviction relief was summarily dismissed ".) ; and Rule 71.1(g), SCRPC ; Rule 264, and 602, SCACR .

In the case at hand, Appellant Goss has knowingly, intelligently, and voluntarily waived his right to have appellate counsel appointed to represent him in this postconviction appeal, and he further relies upon the state and federal constitutional law of due process and equal protection in exercising this state-created right .

WHEREFORE, premises considered, this Court should reconsider its order denying Appellant the right to proceed pro se in this appeal .

Respectfully Submitted,

Darrell L. Goss

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September 29, 2022