

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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Sep 11 2023

S.C. SUPREME COURT

Certiorari to York County
R. Keith Kelly, Circuit Court Judge

Case No. 2011-CP-46-0072
Appellate Case No. 2023-000505

James Dejarnette Robertson,

Petitioner,

-vs-

State of South Carolina,

Respondent.

MOTION FOR COSTS

On May 17, 2023 this Court appointed undersigned counsel to represent the petitioner and also ordered, “The Commission on Indigent Defense, Division of Appellate Defense is to remain associated with the case for the purpose of paying for copying and filing services.” The office of appellate defense has informed counsel that their conflict of interest prohibits them from doing anything other than printing, serving, and filing a “print ready” copy of the appendix. The Office of Appellate Defense expresses the opinion that the attorney’s conflict resulting in appointment of outside counsel extends to the Office of Appellate Defense’s print staff and no adequate firewall can be erected to shelter the conflicted attorney.

Counsel Enderlin agreed to help Counsel Ehlies with this petition because Counsel Ehlies has an extensive factual knowledge of the case and Counsel Enderlin has brief writing experience; however, Counsel Enderlin has practiced appellate law only in the Fourth Circuit for the last ten years. The Fourth Circuit pays for paralegal and printing services to assemble the appendix and brief. Neither attorney has the staff to assemble the Petition for Certiorari and Appendix in keeping with the SCACR's.

Before counsels' appointment, counsel reached out to other attorneys to see if they would be co-counsel in this matter. They were unable to find any counsel willing to represent the petitioner and Mr. Enderlin reluctantly agreed. Mr. Enderlin does not have the expertise to easily put together PDF documents in proper form, nor does he have the expertise to assemble the petition in the appropriate format with a table of authorities. Furthermore, it would most likely be cost prohibitive for the attorneys to learn how to finalize this matter. Therefore, undersigned would ask the Court to clarify whether the order allows counsel to hire paralegal services, such as Legal Eagle in Greenville, South Carolina, to ultimately be paid for by the Commission on Indigent Defense. In the alternative, counsel would ask that Mr. Enderlin be relieved and a large law firm with the capabilities necessary to finalize the appendix and petition be appointed to represent the petitioner.

WHEREFORE, Petitioner moves to allow counsel to hire paralegal services or in the alternative to appoint other counsel with the ability to finalize the petition.

Finally, counsel moves that the briefing schedule be held in abeyance pending resolution of this issue.

September 11, 2023

s/ William Harry Ehlies, II

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