

State of South Carolina
County of Lexington

Nathaniel A. Hunter # 382378
Petitioner

v.

State of South Carolina
Respondent

Supreme Court of
South Carolina

Appellate Case No.
2023-001611

Petitioner's Response to
Respondent's Response to
Petitioner's motion to
Relieve Counsel and
Appoint New Counsel

Response to Respondent's Response to Petitioner's
motion to Relieve Counsel and Appoint New Counsel

In response to Ashley A. McMathan's response to
Petitioner's motion to Relieve Counsel and Appoint New Counsel
on March 6th, 2024,

Now comes the petitioner, respectfully requesting this Court
to relieve Ashley A. McMathan as his counsel based upon the
following facts. Petitioner and Counsel McMathan's attorney/client
relationship is damaged beyond repair. In Counsel's response
to Petitioner's motion to Relieve Counsel, Counsel McMathan's
reliance on Wick v. State, 305 S.C. 448 (1991) is in error
and totally misplaced.

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S.C. SUPREME COURT

Petitioner is not asking this court for another Post-Conviction - Relief hearing as counsel McMahan is Relying on pursuant to Aice v. State. Prior to my Post-Conviction - Relief hearing starting, I motioned the PCR court to relieve Ashley A. McMahan as my attorney. The PCR court denied my Request and forced me to go forward with the PCR proceedings. I had no choice but to go forward in those proceedings, when I informed the PCR court of my Request for Ashley A. McMahan to be Relieved as my Counsel Ashley McMahan stated to the PCR court that "she would be happy to be Relieved as my Counsel due to the conflict in our attorney / client Relationship."

I am extremely baffled as to why Counsel McMahan is so adamant to represent me now and it's become very worrisome. Counsel McMahan even told me that I threatened her at one point, so why would she want to represent me? My trust in Ashley A. McMahan is totally gone and cannot be repaired at all.

Under no circumstances do I consent to Counsel McMahan representing me, I have personally witnessed her deceitfulness, dishonesty, disrespect, lack of preparation, inadequate representation of me and her Egregious errors before, during and after my Post-Conviction - Relief hearing.

Counsel memmahran's failure to file pleadings, proposed order, actions against client's interest, and failure to timely turn over client files violates the Rules of Professional Conduct Rules 1.1 (lawyer shall provide competent representation to client) Rules 1.3 (lawyer shall act with reasonable diligence and promptness in representing client) Rule 1.4 (lawyer shall keep client reasonably informed about the status of matter, lawyer shall take promptly comply with reasonable requests for information)

Rule 1.16(d) (upon termination of representation, lawyer shall take steps to the extent reasonably practicable to protect clients interests, such as giving reasonable notice to client, allowing time for employment of other counsel, and surrendering papers and property to which client is entitled) and Rule 8.4(e) (it is professional misconduct to engage in conduct prejudicial to administration of justice).

Counsel memmahran violated each and every one of these rules in petitioner's Post-Conviction-Relief proceedings when she failed to raise viable claims, failed to do a proposed orders, raised frivolous claims, failed to hire a Touch-DNA expert to testify at the PER hearing and failed to timely give petitioner his amended Post-Conviction-Relief application, his Post-conviction Relief hearing transcript and the state's proposed order.

Petitioner still has not received his PER hearing transcript nor the State's proposed order pursuant to In re Sheek, 399 S.C. 351 (2012), holding, the Supreme Court held that attorney failure to file pleadings, proposed order, and notices of appeals, actions against clients interest, and failure timely to turn over client files warranted public reprimand.

Therefore, it will not be in the interest of justice for Ashley A. Memahan to represent Petitioner in his writ of certiorari appeal due to Counsel Memahan's incompetent representation of Petitioner in his Post-Conviction - Relief proceedings.

Furthermore, if Counsel Memahan is to be relieved it will not be a substantial hardship to Petitioner because at this point, she has been involved as Counsel for petitioner's appeal for only one month, in which she still hasn't notified Petitioner that she was appointed to represent him for his appeal.

Petitioner respectfully asks this Court to grant petitioner's motion to relieve Counsel and appoint new Counsel based upon the afore mentioned facts.

NOTE: If this Court were to grant Ashley Memahan's response to Petitioner's motion to relieve Counsel, petitioner respectfully asks this Court to grant Petitioner an evidentiary hearing to resolve this issue.