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May 09 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Jocelyn Newman, Circuit Court Judge

TINA PATTON,

APPELLANT

V.

LINDA DOTY,

RESPONDENT.

APPELLATE CASE NO. 2021-001527

RETURN TO MOTION TO SUBSTITUTE COUNSEL AND BE RELIEVED

1. This is an appeal from a Magistrate Court conviction in Richland County. The conviction was appealed to the Richland County Court of Common Pleas which affirmed the Magistrate Court conviction. The Division of Appellate Defense does not handle convictions that originate in Magistrate's Court because an indigent criminal defendant is only entitled to appointed counsel in his or her first appeal as a matter of right. The right to appointment of counsel does not extend to a discretionary second or subsequent appeal under the Due Process and Equal Protection Clauses of the Fourteenth Amendment. See Ross v. Moffit, 417 US 600 (1974); Douglas v. California, 372 US 353 (1963). See, also, Wainwright v. Torna, 455 U.S. 586 (1982),

where the United States Supreme Court reaffirmed its holding in Ross that a criminal defendant does not have a constitutional right to counsel to pursue discretionary state appeals or applications for review by the United States Supreme Court.

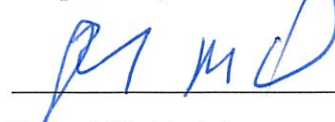
2. Appellant in this case has had her one appeal as of right from Magistrate's Court to the Court of Common Pleas in this case. Therefore, she is not entitled to the appointment of counsel for this discretionary appeal to this Court.

3. Further, the Division of Appellate Defense does not have the resources necessary to handle discretionary appeals from Magistrate's Court convictions. Requiring this office to handle criminal convictions originating in Magistrate's Court would respectfully place an undue burden and hardship upon the Division of Appellate Defense which already has an extremely high caseload.

4. The Division of Appellate Defense therefore opposes any request that it be appointed as counsel in this case if present counsel is relieved.

WHEREFORE, the Division of Appellate Defense opposes any request to be appointed as counsel in this appeal that originated in the Richland County Magistrate's Court for the reasons stated above. The Division of Appellate Defense does not take any position on the motion by present appellate counsel to be relieved.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender
South Carolina Commission on Indigent
Defense
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Columbia, SC 29211-1589
(803) 734-1330

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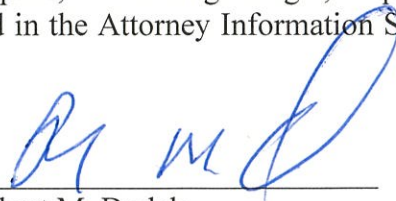
LINDA DOTY,

RESPONDENT.

APPELLATE CASE NO. 2021-001527

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Return to Motion to Substitute Counsel and Be Relieved in the above-referenced case has been served upon Thornwell Simmons, Esquire, E. Fielding Pringle, Esquire, Charnell Peake, Esquire at the primary e-mail addresses listed in the Attorney Information System (AIS), at this 9th day of May, 2024.



Robert M. Dudek
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
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From: [Warren, Kaylynn](#)
To: [Fielding Pringle](#)
Cc: ["thornwellsimons@gmail.com"](#); ["cgpeake@peakefowler.com"](#); [Dudek, Robert](#); [Pollard, Shelby](#)
Subject: 2021-001527 Tina Patton v. Linda Doty
Date: Thursday, May 9, 2024 4:34:00 PM
Attachments: [2021-001527 Tina Patton v. Linda Doty Return to Motion to Substitute Counsel and Be Relieved.pdf](#)

Good Afternoon,

Attached for service in the above-referenced case is the Return to Motion to Substitute Counsel which will be filed today, May 9, 2024, with the Court of Appeals via email filing.

Respectfully,
Kaylynn

Kaylynn Warren

Administrative Assistant
South Carolina Commission on Indigent Defense
Division of Appellate Defense
(803) 734-1330