

STATE OF SOUTH CAROLINA
In The Supreme Court

Eugene C. Griffith Jr. Judge
York, County, South Carolina

Affidavit; Amend Motion To Relieve
Counsel; Notice; of Cause for Conflict of Interest;
Request for Return; Vacate or Remand

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OCT 02 2024

S.C. SUPREME COURT

Ben Robert Stewart, 223016
990 Wisacky Highway
Bishopville S.C. 29010

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QUESTIONS PRESENTED

Whether, Conflict of Interest Exist whereas Petitioner is filing a civil suit against Appellate Counsel stewardship rendering such conflict?

Whether, Petitioner is systematically being hindered, deprived and denied access to the Courts?

Whether, Due Process compels Vacation and or Remand?

APPLICABLE LAW AND STANDARD OF REVIEW

South Carolina Constitution Article 1 Section 3; Article 1 Section 14. S.C. Const Article V, Section 4; 5.

Barker v. Wingo 407 U.S. 514 (1972) Cuyler v. Sullivan 466 U.S. 335 (1980)

Stokes v. Stirling, 64 F. 4th 131 (4th Cir 2023)

Kneece v. State, 269 S.C. 177, 236 S.E.2d 746 (1977)

Amended

AFFIDAVIT; NOTICE; OF CAUSE FOR CONFLICT OF INTEREST;
REQUEST FOR RETURN; VACATE OR REMAND

The Petitioner, Ben Robert Stewart, 223006, confined at Lee Correctional Institutions in Bishopville S.C., certify herein that the foregoing is true and correct and swear to penalty for perjury as says:

1. This Honorable Court has jurisdiction pursuant Rule 243 SCACR and before it is Writ of Certiorari; filed June 3, 2024 by Attorney Sarah E. Shipe, Affidavit, Motion To Relieve Counsel And Vacate or Remand for Default, filed; June 21, 2024 by Petitioner including, Petition for leave to Make And file A Motion 60 (b); Subpeona Duces Tecum, Affidavit Motion For Substitution of Parties, Amendment to Brief (only) Applicable Law and Standard of Review, and by Order August 13, 2024, Petitioner filed Affidavit; Motion To Relieve Counsel Pursuant to, *Faretta v. California*, 422 U.S. 806 (1975) filed August 22, 2024.

2. Petitioner brought notice previously that Attorney Shipe indeed has violated rules of professional conduct and committed misconduct against Petitioner and as such, has also brought redress of grievances in civil court pursuant

to Section 42. USC, 1983 against PCR Attorney Ola A. Johnson, Sarah E. Shipe, and York County Clerk of Court Angre Bryant in the Tower v. Glover, framework of, "conspiracy with State officials to deprive another of Federal rights; and intentional misconduct," 467 U.S. 914 (1984)

3. Petitioner brings notice to this Honorable Court that there is indeed a conflict of interest. see Rubin v. Gee, 292 F.3d 396 (4th Cir 2002), Cuyler v. Sullivan, 466 U.S. 335 (1980); Micken v. Taylor, 240 F.3d 348 (4th Cir 2001), see Strickland v. Washington, 466 U.S. 668 (1984), Holloway v. Arkansas, 435 U.S. 475 (1978) also Nance v. Ozmint, 367 S.C. 547, 626 S.E.2d 878 (2006) citing United States v. Cronin, 466 U.S. 648 (1984)

4. Petitioner request that two mishaps be stricken by Attorney Sarah E. Shipe, (1) that the Writ of Certiorari filed June 3, 2024 by her is disregarded because she did not file the remaining 34 issues, nor cite the falsity contained in the Order of Dismissal in totality regarding the applicable law and facts of the case and events at the actual PCR hearing refuted by the PCR transcript and (2) that the Appendix filed by her is disregarded in its totality before this Honorable Court because nothing was properly submitted into evidence at the PCR ~~Court's~~ Hearing therefore it was

and can not be considered before this Court and in violation of Rule 243 () and 28 USC section 2254 (e)(2) and furthermore the Order of dismissal is a violation of 17-27-80, South Carolina Code, final Judgment. Moreover, professional conduct and misconduct in both defense and adversary is breached and app

5. Petitioner brings notice to the Honorable Court that although competent and sound he faces a crisis where family confession confirms the murders of both my Father-step and Mother; Ronald Nelson and Earline Nelson and in attempt to hinder judicial proceedings, (Monday Bishop) Petitioners half sister perjured intentionally inflicting to deprive Petitioner of justly ruling at the PCR hearing; Note; Exh A1, Monday Bishop Affidavit dated, Jan 4th 2013,

at pg 3, No 31. "That the Rock Hill Solicitors came to my apartment and questioned me but apparently choose not to call me to the witness stand because what I said conflicted with Reed Allen, Davonius Mark and Terrell Addison said"

Compared to April 17, 2013, PCR hearing at pg 40-41. "I talk to Snow about it and I told him that they never came to my house".

This was her answer to a questioned PCR Attorney, not someone prior to the Solviter's office coming to her home being important. More plain put, it would not make any sense for Mr. Snow (trial attorney) to ask or for Monday Bishop to offer such a question. This was intentionally done to deprive compulsory process as calling her as a witness and to injure Petitioner's defense in addition to losing Val Hudson as a witness including caveat-warnings in several motions even a Writ of Prohibition before this Honorable Court for the availability of her being a witness in a ten year intentional delay where injury is clear again, as a second strike, shockingly adding PCR Counsel Ola Johnson and attorney Sarah E. Shipe refused to hold the State accountable and assert the Barker v. Wingo, 409 U.S. 514 (1972) standard. Petitioner moved the York County Clerk of Court refused to file the Rule 55(a)(e) Motion for Default and lied several times that Petitioner had counsel to obstruct or otherwise hinder judicial proceedings when she in fact received notice Exh B) Letter expressing he no longer represented Petitioner, and thereby making herself a defendant in the mentioned

Section 1983 for violation of the, *Lewis v Casey* 518 U.S. 343 (1996) circumstances and holding where injury is recorded in her office as Exh B17) and interalia I even filed a Motion To Relieve Counsel which was ignored in good faith however, obstruction is clear, hinderance is clear and a denial of access to the Courts is a fact.

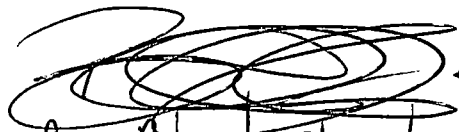
REQUEST FOR RETURN

6. Petitione bring notice that on pg (4) of this instant Petition whereas even including attorney Shippe Writ of Certiorari, and unquestionable Petitioner's motions, there has been an absence of the Return pursuant to Rule 243 (g). There has been over ninety (90) days in these proceedings and clear procedural, professional and substantive violations regarding this case and the State did not respond according to the facts and law therefore Petitioner seeks to apply the *Stoke v Stirling*, 64 F.4th 131 (4th Cir 2023), *Barker v. Wingo supra*, *Kneece v State*, 269 S.C. 177, 236 S.E.2d 746 (1977), an Rule 55 (a) (e) against the State pursuant to SCRPC., and S.C. Const Art. 1 § 3, S.C. Const. Art 1 § 14,

RELIEF

WHEREFORE; Petitioner prays that the argument in Affidavit; Notice of Cause for Conflict of Interest; Request For Return; Vacate or Remand is ruled according to the applicability of the law and facts of this case and according to the; Affidavit Motion To Revoke Counsel Pursuant to Faretta v California, 422 U.S. 806 (1975)

On this 28th of September 2024


Ben Robert Stewart, 223006
990 Wisacky Highway
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