

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Jasper County

J. Derham Cole, Circuit Court Judge

RECEIVED

Dec 10 2024

S.C. SUPREME COURT

ROHAIME JAMAR HOPKINS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-001503

MOTION FOR APPOINTMENT OF OUTSIDE COUNSEL

Undersigned counsel respectfully moves this Court to appoint outside counsel to represent petitioner Rohaime Jamar Hopkins in his appeal from the denial of his application for post-conviction relief (PCR).

1. During the June 2015 term of the Jasper County grand jury, petitioner was indicted for the offense of murder (2015-GS-27-00144). Petitioner's case was called to trial before the Honorable Perry M. Buckner and a jury on May 15, 2017. Mary Jones and Brian Hollen were the assistant solicitors. Scott Lee represented petitioner.

2. Petitioner was found guilty as indicted on May 17, 2017, and Judge Buckner sentenced petitioner to life without the possibility of parole.

3. Petitioner's trial counsel, Scott Lee, filed a timely notice of appeal on May 25, 2017. On direct appeal, Chief Appellate Defender Robert M. Dudek of the South Carolina Commission on Indigent Defense filed the final brief and the record on appeal. In the brief Mr. Dudek raised two issues:

1) [W]hether the court erred by admitting the cell phone and text message evidence (State's Exhibits 7-9), since the probative value of that evidence was substantially outweighed by its unduly prejudicial effect under Rule 403, SCRE, the exhibits were not statement against penal interest as the court ruled, and they were confusing to the jury, including the text message, which even if sent by appellant was ambiguous and where the court ruled the Verizon Wireless records custodian did not have the expertise necessary to impart the cell tower evidence to the jury?; and

2) [W]hether the court erred by not exercising its discretion to exclude Michael Taylor's testimony which claimed that appellant burned his clothes in a barrel outside Taylor's home on the night of the murder, since Taylor made this claim for the first time on the day of the trial, the defense had no notice of this newly claimed devastating evidence prior to that time—which violated fundamental fairness since it was 'trial by ambush'—and the court had the inherent authority, and duty, to ensure appellant received a fair trial?.

On August 19, 2020, the South Carolina Court of Appeals affirmed petitioner's conviction and sentence. *State v. Hopkins*, 431 S.C. 560, 848 S.E.2d 368 (Ct. App. 2020). The remittitur was issued on September 9, 2020.

4. Petitioner timely filed an application for PCR on September 7, 2021. Respondent filed a return and motion for a more definite statement on December 20, 2021, and petitioner amended his application. Petitioner's allegations included ineffective assistance of appellate counsel, Robert M. Dudek. An evidentiary hearing was held on May 7, 2024, before the Honorable J. Derham Cole. Chelsey Marto represented petitioner. Bryan Hall, assistant attorney general, represented the state. Chief Appellate Defender Robert M. Dudek testified at the evidentiary

hearing.

5. Judge Cole signed an order denying PCR on August 7, 2024. Since petitioner is indigent, the appeal came to the South Carolina Commission on Indigent Defense Division of Appellate Defense. Undersigned counsel was assigned the case on December 6, 2024.

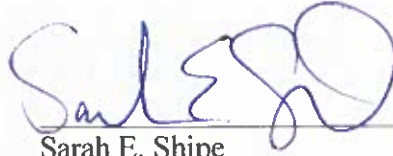
6. On December 10, 2024, for the first time, undersigned counsel spoke to Chief Appellate Defender Robert Dudek regarding this case. After the discussion, undersigned counsel believes that because Mr. Dudek is undersigned counsel's direct supervisor at South Carolina Commission on Indigent Defense Division of Appellate Defense, that, to avoid any appearance of conflict, undersigned counsel should move this Court to appoint outside counsel in this case.

7. Undersigned counsel leaves it to this Court's discretion whether outside counsel should be appointed to represent petitioner on appeal given the above. The undersigned discovered this potential conflict of interest or conflict of interest early and endeavored to prepare this motion before taking any extensions in petitioner's case.

8. Undersigned counsel can provide the Court additional specificity, if desired by the Court, prior to the ruling on this motion for the appointment of outside counsel.

WHEREFORE, undersigned counsel respectfully requests the appointment of outside counsel to represent petitioner in his appeal before this Court on the order of the PCR court denying relief. Undersigned counsel also requests that this Court hold the timelines for filing the petition for writ of certiorari and appendix in abeyance pending a decision on this motion. If the motion for outside counsel is granted, undersigned counsel will immediately turn over her file and the compiled appendix to newly appointed counsel.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Sarah E. Shipe", written over a horizontal line.

Sarah E. Shipe
Appellate Defender
Attorney for Petitioner

This 10th day of December, 2024.