



ALAN WILSON  
ATTORNEY GENERAL

October 8, 2013  
HAND DELIVERED

RECEIVED

OCT - 8 2013

The Honorable Daniel E. Shearouse  
Clerk, South Carolina Supreme Court  
1231 Gervais Street  
Columbia, SC 29211

S.C. Supreme Court

**Re: Quincy J. Allen, #6019 v. The State  
2010-CP-40-3644 (Capital PCR Action)**

Dear Mr. Shearouse,

We are in receipt of a copy of the October 4, 2013 letter from opposing counsel requesting this Court "vacate or rescind its June 18, 2013 order..." The Order directed Judge Cothran to hold a hearing to determine Mr. Allen's competency to waive his appeals and be executed. The State submits counsel's request should be denied at this juncture for several reasons.

First, as this Court is aware, Mr. Allen has a history of requesting to waive his appeals and then requesting to retract the waiver. He has most recently twice directly requested this Court's assistance in allowing him to waive his appeals and be executed. (See Allen Letter of June 13, 2013 and Allen Letter of August 5, 2013). Counsel for Mr. Allen in the PCR action has now submitted two additional statements from Mr. Allen. (Adams Letter of October 4, 2013). The latest of those - dated October 4, 2013 - purports to conditionally withdraw the request to waive if another attorney is appointed for his PCR action. Specifically, Mr. Allen asserts he will continue his "PCR if Elizabeth Franklin-Best is [his] attorney." (Allen Statement dated October 4, 2013, Attached to Adams Letter of October 4, 2013). In short, the most recent statement from Mr. Allen does not clearly and unequivocally seek to withdraw his request to waive his appeals and be executed. It appears from the history of vacillation in letters to this Court, and the present tension between the most recent statements submitted with PCR counsel's request, that it would be most prudent to hear from Mr. Allen directly.

Second, to effectively evaluate the multiple and divergent requests, an opinion on competency should be rendered and provided to Judge Cothran. Judge Cothran has ordered that Mr. Allen be evaluated for competency. Judge Cothran has also conditionally set a hearing for the week of October 21<sup>st</sup> or 28<sup>th</sup> as his court schedule permits. In anticipated compliance, professionals from the Department of Mental Health have already spent significant time reviewing voluminous records. Mr. Allen's interview for the DMH evaluation is presently scheduling for Monday of next week, October 14, 2013. To suspend the evaluation at this time would deprive the lower court of

LETTER TO DANIEL E. SHEAROUSE  
October 8, 2013

Re: Quincy J. Allen, #6019

Page 2 of 2

---

necessary information to fairly evaluate Mr. Allen's shifting positions. There is also a secondary conditional concern that suspension of the evaluation at this time would likely cause additional repetitive expenditures of limited time and resources and potentially months of additional delay if Mr. Allen's present conditional terms for withdrawal are not met. Further, nothing in allowing the evaluation to go forward at this time prevents Mr. Allen from informing Judge Cothran directly at the hearing, under oath, that he wishes to unconditionally retract his prior request. Therefore, there is nothing inappropriate or limiting in allowing the process to continue.

Respondent respectfully submits, for all the above reasons, that PCR counsel's informal motion to rescind this Court's Order of June 18, 2013 should be denied.

Sincerely,



Melody J. Brown  
Senior Assistant Attorney General

cc: The Honorable R. Ferrell Cothran, Jr., Circuit Court Judge (with e-mail courtesy copy)  
Christopher W. Adams, Esq. (with e-mail courtesy copy)  
Michael A. Siem, Esq. (with e-mail courtesy copy)