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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas
Hon. R. Scott Sprouse, Circuit Court Judge

Appellate Case No. 2025-000276

In The Matter Of: Nathan Chambers. . . . . Appellant.

APPELLANT'S FARETTA NOTICE AND MEMORANDUM IN SUPPORT

NOW INTO COURT COMES the Appellant, of whom is in receipt of this Court's Order of 21st April, 2025 and submits this Faretta Notice and Memorandum in support hereof, the Appellant shall respectfully show unto the Court the following, to wit:

I. Faretta Notice

I, Nathan L. Chambers do hereby waive my right to counsel. I am aware of the risks and potential determents of waiving such right. I make this waiver freely, knowingly, intelligently, and voluntarily. I recognize that if I do not prevail then I cannot later claim that I have any right to bring a PCR action for ineffective assistance of counsel nor can I later complain on appeal of my own errors, should I make any in handling the instant case. Furthermore, I attest that I am learned in the South Carolina Appellate Court Rules (SCACR) and the South Carolina Rules of Evidence (SCRE) as well as other applicable court rules and I agree to abide by all such rules and to comport myself with civility, honesty, integrity, and I will not advance any position or argument known to me to be frivolous while handling the instant appeal in this Court.

II. Introduction & Background

This action initially arose in the Oconee County Probate Court after the Appellant was held in criminal contempt and sentenced to a term of incarceration for a period of sixty (60) days pursuant to the Order of 22nd July, 2024 executed by the Hon. Danny Singleton, Probate Court Judge. Appellant's counsel filed a timely Notice of Appeal, invoking the Circuit Court's limited appellate authority due to the fact that this matter stems from an Order from the Probate Court pursuant to S.C. Code Ann. § 62-1-308(a). On 12th August, 2024, an emergency hearing was held on the Appellant's Emergency Motion For Appeal Bond. At such hearing, the Appellant was represented by Mr. John E. Chambers, Jr., Esquire, of whom argued the motion and the Hon. R. Scott Sprouse presided. I will draw the Court's attention to the fact that the Appellant was transported from the Oconee County Detention Center— while *obviously still in custody*— to the Anderson County Courthouse; this important fact will become critical in this Court's analysis and case decision regarding the issue before this Court in the instant motion (emphasis supplied). Such importance shall be elucidated for the Court *infra*. The appellant was ultimately granted an appeal bond pursuant to S.C. Code Ann. § 18-1-90. Judge Sprouse's ruling from the bench was as follows: the Appellant was granted an appeal bond in the form of a $50,000 personal recognizance bond, and the Oconee County Detention Center was to calculate and award the Appellant credit for time served regarding the portion of the sentence that he had already served pursuant to S.C. Code Ann. § 24-13-210(c).

Curiously, the lower court entered a Form 4 Order[1] on 14th January, 2025, of which affirmed the probate court's order of 22nd July, 2024. The Appellant then timely filed a Notice of Appeal[2] with this Court along with the other requisite filings that are required to initiate an appeal in the appellate courts of this state pursuant to Rule 203(d)(1)(B), SCACR.

Also filed with this Court was a letter from the Appellant to the Attorney General's Office that put this Court and the South Carolina Attorney General's Office on notice that: in light of In re Martel, 444 S.C. 517, 909 S.E.2d 402 (2024), the Appellant believed that the authority arising from that recent decision was applicable to the instant case[3] and therefore served all filings on Mark Farthing, Esq. (the Assistant AG that was on brief and argued the *Martel* case for the State). Notwithstanding the fact that the Appellant not only attempts to stay current on all opinions filed by this Court and the South Carolina Supreme Court, (both published and unpublished) he was already aware of *Martel* due to the import such authority had to the case at bar prior to the necessity of appealing the matter to this Court. "Under section 1-7-40, the Attorney General "shall appear" for the State in appeals "in which the State is a party or interested." Rule 203, SCACR, and section 1-7-40, when read together, require a person convicted of criminal contempt to serve [his] notice of appeal on the Attorney General. . .Martel's appeal has "exposed a troubling blind spot in South Carolina law." To remove this "blind spot," we clarify that in cases governed by Rule 203, a notice of appeal from a

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[1] *See,* Form 4 Order of 27th January, 2025 (Order On Appeal).

[2] *See,* NOA (bearing the electronic signature of *Nathan L. Chambers* not John E. Chambers, Jr., Esquire).

[3] Insofar as the Appellant is aware, the instant case is the first case in either the Court of Appeals or the Supreme Court of South Carolina in which the authority promulgated by *Martel* has been applied.

criminal contempt conviction imposed on or after the date of this opinion must be served on the Attorney General." Martel, 444 S.C. at 520, 909 S.E.2d at 403-404. This appeal followed.

III. Standard of Review

"An attorney of record in a matter pending before an appellate court may not withdraw from representation of his client without justifiable cause, or the consent of his client; and then only after proper written notice to his client, on petition to and by written order of the appellate court, and with notice to the adverse party." Rule 264(b), SCACR. An attorney who has been retained solely for the purpose of trial by a client who is not indigent is required to serve and file a notice of appeal, if the client wishes to appeal and to continue to represent the client until relieved by the [appellate] Court under [Rule 264]. The attorney may be relieved if he or she shows that she was not hired to represent the non-indigent client on appeal. *See*, Re Anonymous Member of the Bar, 303 S.C. 306, 400 S.E.2d 483 (1991) (alteration from original). The *onus probandi* regarding a motion to relieve counsel in South Carolina lies with the movant, who must demonstrate satisfactory cause for the removal of counsel. This determination is addressed to the discretion of the trial judge and will not be overturned absent an abuse of discretion. The movant must provide sufficient evidence to justify the request, and the trial court must balance the defendant's right to counsel of choice with the need to maintain ethical standards and the orderly administration of justice. *See*, State v. Gregory, 364 S.C. 150, 612 S.E.2d 449 (2005); s*ee also*, State v. Cottrell, 421 S.C. 622, 809 S.E.2d 423 (2017). In evaluating such motions, the Court considers factors such as the timing of the motion, the inconvenience to witnesses, the elapsed time since the alleged offense, and whether new counsel would face the same conflict. The Court

must also assess whether an irreconcilable conflict exists between the attorney and the defendant, which could impede effective representation. However, dissatisfaction with counsel alone, without evidence of a significant conflict or other valid reasons, is generally insufficient to warrant relief. *See*, State v. Childers, 373 S.C. 367, 645 S.E.2d 233 (2007).

Additionally, if the motion to relieve counsel is based on an alleged conflict of interest, the movant must show that an actual conflict exists. "Mere speculation or the possibility of a conflict is not enough to meet this burden." State v. Gregory, *supra*.

IV. Relevant Facts

The motion currently pending before this Court is a Motion To Relieve Counsel. This motion was filed by the Appellant in *propia persona* on 27th March, 2025 after the receipt of this Court's "hybrid representation letter" of 7th March, 2025. The State then filed a Return to such motion on 7th April, 2025 accompanied by a litany of attachments totaling forty-six (46) pages, of which vary in nature from being duplicative, superfluous, inflammatory, irrelevant, unsubstantiated, or a combination of two (2) or more of the aforesaid descriptors. Needless to say, none of the attachments serve any real, useful purpose for the Court in its narrowly focused objective regarding the simple and uncomplicated motion pending before this Court.

In order to prevent further convolution of this matter by the Attorney General regarding the *actual issues on appeal* that shall be forthcoming upon the resolution of the instant motion when the matter finally reaches the briefing stage; of which will require the careful consideration by this Court and clearly would be a more logically and appropriately focused expenditure of the members of this Court's and its staff's time than reviewing voluminous copies of unsubstantiated

news articles filed by the Respondent— the Appellant will provide the following detailed explication of certain factual relevancies for the benefit of the Court.

Firstly, as was set forth *supra*, Mr. John E. Chambers, Esquire did in fact represent the Appellant while this matter was in the Lower Court's jurisdiction in a limited capacity. Specifically, such representation was only with respect to the appellate litigation in the Circuit Court as the Appellant was denied his right to Counsel during the criminal contempt proceeding held on 22nd July, 2024 in the Probate Court. Moreover, although litigation strategy is typically privileged pursuant to the doctrine of attorney-client privilege, the State's outlandish and inflammatory assertions has made it necessary to divulge the fact that it was never the Appellant's intent for Attorney Chambers to continue to represent Appellant after the successful outcome of the emergency motion hearing held on 12th August, 2024 before Hon. R. Scott Sprouse. This tactical and strategic necessity arose due to the fact that in light of Appellant being denied his right to counsel by Hon. Danny Singleton at the contempt hearing and the fact that Appellant was incarcerated, it would be nearly impossible to timely appeal the Probate Court's Order of commitment while confined nor would the Appellant be capable of perfecting such appeal while devoid of access to research tools such as his WestLaw account, extensive personal collection of hardcopy legal treatises, practice manuals, court rules, the South Carolina Code, etc. Furthermore, in consideration of the short duration of the sentence, swift action was paramount. As such, without the assistance of counsel with respect to filing the NOA, motion for appeal bond, and other necessary filings, such as proposed transport orders[4], etc., then the matter would have most certainly become moot. Thusly, Attorney Chambers agreed to represent the Appellant

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[4] *See*, Exhibit C (Transport Order executed by Hon. R. Lawton McIntosh; submitted electronically by John E. Chambers, Jr., Esquire).

in the Circuit Court appellate phase, merely to ensure the effective preservation of Appellant's rights.

Next, for the Court's consideration is the fact that, upon the Appellant's release from the Oconee County Detention Center, the Appellant's counsel attempted to withdraw from representation; whereupon counsel e-filed a Proposed Consent Order Relieving Counsel[5]. The filing was rejected based on the Oconee County Clerk of Court's refusal to accept any further filings in the lower court matter. Her rationale was, upon information and belief, that the Clerk of Court could no longer accept filings after the final order (Form 4 Order (on appeal)) had been entered.

Furthermore, the Appellant's counsel, Mr. John E. Chambers, Jr., Esquire is conflicted out of representing the Appellant due to the fact that during the contempt proceeding, Hon. Danny Singleton specifically mentions Attorney Chambers on the record and therefore, he may become a fact witness in the event this matter is remanded to the Probate Court for a new trial.

Lastly, with respect to the Appellant's contention that Attorney Chambers never made an appearance in the instant case, such assertion was made with respect to the present Court of Appeals matter ***only***. Quite obviously one needs to look no further than the fact that during the period in which Appellant's counsel e-filed[6] all lower Court filings, the Appellant was incarcerated. The Attorney General's own attachments containing such electronic filing time stamp make it such that the State's attachment ***flies in the face*** of its own arguments. As such,

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[5] *See*, Exhibit A (Proposed Consent Order rejected by Oconee County Clerk of Court) *See Also*, Exhibit B (NEF Rejection).

[6] It is likely that due to opposing counsel's position in the Criminal Appeals Division of the South Carolina Attorney General's Office, he is unaware that only licensed attorneys in good standing with the Bar are provided with login credentials to the Circuit Court E-Filing system, thusly it is *reductio ad absurdum* to assume that a document that overtly displays the blue vertical time stamp with the words "Electronically Filed" could have possibly been filed by an individual without such credentials; much less one of whom is incarcerated and without any access to the internet nor even a computer at the time.

the Attorney General's oppressive request that this Court require an ***Officer of the Court*** to verify that which logic and commonsense can do and should have already done, is not only an affront to said Officer of the Court but to this Court and is inconsiderate of the Court's time and its resources.

In no way shape or form was it meant to be construed that Attorney Chambers was not the attorney of record in the lower court. Appellant apologizes to the Court for any misunderstanding caused on the part of the Appellant with respect to that particular area of convolution the State injected into this matter— in the series of red herrings contained within its hackneyed Return.

V. Argument

A) The Allegations Advanced By The Respondent In The State's Return And The Attached Materials Are Without Merit

It is noteworthy that the State relies almost exclusively on a series of red herrings in lieu of advancing any meritorious grounds in opposition to the Appellant's motion to relieve counsel. Remaining cognizant of the principles of civility, integrity, and respect that the legal profession as a whole in South Carolina does such a stellar job of emphasizing not just in philosophy but more importantly— in practice, I will only address the merits or lack there of regarding my opponent's contentions in a strict factual sense as far as is necessary to dispel any concerns that may have arisen within the Court; irrespective of the poor choice of modality that the State has selected in raising such issues. Moreover, I will rely on the truth and the law, not unsubstantiated newspaper articles or other such items or acts of poor taste to present my arguments to this Court. As such that brings us to the first issue needing resolution: the utilization of newspaper articles to prove the truth of the matter asserted.

B) <u>Hearsay Upon Hearsay Is Just As Inadmissible In Motions Practice As It Is At Trial</u>

As a threshold matter before we address the less objectionable arguments raised by the State, the Appellant hereby respectfully moves this Court to strike the State's Return and "Attachment E" in its entirety based on the fact that the Return is without merit, and such return attempts to rely on said attachment to prove the truth of the matter asserted. As such, the arguments raised that rely on such attachment and the attachment itself should be struck. I submit that— in some way, shape, or form— all of the State's arguments rely on such attachment; therefore, all should be struck. In the alternative, the Appellant moves this Court to strike "Attachment E" as being inadmissible, and to not utilize it when deciding the motion presently pending before this Court.

The Appellant shall address the law and the procedural aspects of this unfortunate evidentiary abomination submitted by the State while reserving comment on the questionably ethical components in an attempt to save this Court from falling into an *ad infinitum* digression of integrity that the State would seemingly have the Court engage in by doing so. Such an endeavor is more fit for teenagers in a locker room or office workers standing around the infamous water-cooler than is befit for professional jurists of whom sit on this honorable court. Nevertheless, the Appellant submits that this Court does not even need to reach any substantive aspects of the State's contentions; as it is rather well settled in our state's jurisprudence, that the attachment and the arguments it is meant to bolster are inadmissible. Regardless, the appellant denies that the newspaper articles contain even a scintilla of veracity.

To the extent it is necessary and not inconsistent with the averments herein, the Appellant hereby asserts his constitutionally protected rights pursuant to <u>U.S. Const. amend V</u> as well as its South Carolina counterpart. *See*, <u>S.C. Const. Art. I § 12</u>. "No person shall be. . .compelled in any

criminal case to be a witness against himself." Id. S*ee also*, State v. Miller, 375 S.C. 370, 652 S.E.2d 444 (Ct. App. 2007); accord, Malloy v. Hogan, 378 U.S. 1, 6, 84 S. Ct. 1489 (1964) ("[w]e hold today that the Fifth Amendment's exception from compulsory self-incrimination is also protected by the Fourteenth Amendment against abridgment by the States.").

In South Carolina, newspaper articles are generally inadmissible as hearsay when used in a return to a motion or a motion that relies on such articles as exhibits. First and foremost, hearsay is not admissible except as provided by [the Rules of Evidence] or by other rules prescribed by the Supreme Court of this State, or by statute." Rule 802, SCRE. *See*, State v. LaCoste, 347 S.C. 153, 553 S.E.2d 464 (Ct. App. 2001) cert. dismissed as improvidently granted, 353 S.C. 538, 579 S.E.2d 318 (2001) (hearsay is not admissible in South Carolina courts except as provided by the South Carolina Rules of Evidence, other rules prescribed by the Supreme Court of South Carolina, or by statute).

Consequently, newspaper articles generally sound in the Rules of Evidence and are likewise generally inadmissible as evidence. This fundamental principle of evidence law creates a significant barrier to the admission of newspaper articles, which typically contain out-of-court statements offered for the truth of the matter asserted. Moreover, in the context of motions and supporting documents, South Carolina law requires that materials used to support or refute a motion must be those which would be admissible in evidence. Given that newspaper articles are generally inadmissible hearsay, they fail to meet this standard for use in motions practice. Newspaper articles, when offered to prove the truth of their contents, constitute hearsay within hearsay, or double hearsay. The first level of hearsay is the statement by the newspaper asserting that a witness made a statement, and the second level is the actual out-of-court statement

reported in the article. For such evidence to be admissible, each level of hearsay must fall within an exception to the hearsay rule. *See*, Bain v. Self Mem'l Hosp., 281 S.C. 138, 314 S.E.2d 603 (Ct. App. 1984) (the general rule is that hearsay included within hearsay is not excluded if each part of the combined statements falls within some exception). *See also*, Rule 805, SCRE.

While certain out-of-court statements reported in newspaper articles might potentially qualify as admissions by a party opponent under Rule 801(d)(2)(A), (C), or (D) of the South Carolina Rules of Evidence, the newspaper's mere assertion that these statements were made does not fall within any recognized hearsay exception. *See*, Rule 801, SCRE, as well as Rule 802, SCRE.

There is no published South Carolina authority that is directly on point; although, we can glean invaluable instruction from authority arising from the recent decision by the Fourth Circuit Court of Appeals. *See*, Greene v. Scott, 637 F.App'x 749 (4th Cir. 2016) (newspaper articles considered to be rank hearsay). In *Greene*, a news article was offered by a former employee in a civil rights action against the defendants based on allegations surrounding her termination that went to her character and reputation. The Fourth Circuit Court of Appeals held that the article was inadmissible hearsay because the article's writer did not make any attestation before the District Court that the allegations printed in the article actually occurred. The court also held in *Greene*, that a statement by the Mayor in a newspaper article was inadmissible as an admission by a party opponent due to the fact that the statement was indistinguishable from the conveyance of that statement in the newspaper article, which was hearsay. Greene v. Scott, *supra*.

Furthermore, even if a party were to attempt to introduce live testimony to prove the contents of a newspaper article, such testimony would still be inadmissible under the hearsay rule. The South Carolina Court of Appeals has held that Rule 803(6), SCRE does not apply to admit live

testimony offered to prove the contents of a record containing hearsay when that record is not offered in evidence. *See*, Deep Keel, LLC v. Atl. Private Equity Grp., LLC, 413 S.C. 58, 773 S.E.2d 607 (Ct. App. 2015). Thusly, the newspaper articles submitted by Respondent should accordingly be deemed inadmissible due to the fact that there has never been an opportunity to confront the writer of such articles in the "crucible of cross examination." *See*, Crawford v. Washington, 541 U.S. 36, 124 S. Ct. 1354 (2004).

In summation, newspaper articles are inadmissible hearsay when used to attack a motion via a return that relies on such articles as exhibits or in motions practice in general. They do not fall within any recognized exception to the hearsay rule in South Carolina, and their use as evidence in motions practice is precluded by the requirement that only admissible evidence may be considered in such contexts. Therefore, any attempt to use newspaper articles for this purpose should be rejected as a matter of law.

C) The Cloak of Innocence And The Principles It Stands For Should Prevail Over The State's Improper And Unmeritorious Attempts To Rely On Propensity Evidence To Impeach The Appellant's Character

The Appellant expressly objects to the entirety of the contents of "Attachment D" and "Attachment E" of the Respondent's Return. It is the Appellant's position that not only should "Attachment E" be struck but "Attachment D" should also be struck as well due to the fact that all documents contained within such attachments are unduly prejudicial, consist of propensity evidence in which the door was never opened, the allegations raised therein are unproven, and no conviction has been obtained regarding the matters that the State has put before this Court.

I will draw the Court's attention to the fact that all charges in which the attached warrants relate to ***have not*** been indicted nor has a preliminary hearing been held regarding the same. As

such, no probable cause has been established in any of the matters the State would ask this Court to improperly consider. It is the Appellant's position that attempting to raise arguments that are supported by unsubstantiated newspaper articles and copies of arrest warrants containing allegations that have not been indicted does not meet any reasonable standard of proof.

The State rests its arguments on nothing more than speculation, hearsay, and propensity evidence. Accordingly, if this Court were to rule against the Appellant based on the double hearsay, speculation, and propensity evidence in which opposing counsel has presented in support of the State's position, then it would set a disturbing and unfortunate trend.

Quite obviously the Attorney General is attempting to proffer propensity evidence in support of its position. Propensity evidence refers to evidence of a person's character or prior acts introduced to show that the person has a tendency or disposition to act in a certain way, particularly in conformity with those prior acts. In South Carolina, Rule 404(b), SCRE prohibits the admission of evidence of "other crimes, wrongs, or acts" to prove a person's character in order to show action in conformity therewith. This prohibition is often described as a ban on "propensity evidence." *See*, State v. Galloway, 443 S.C. 229, 904 S.E.2d 866 (2024). *See also*, State v. Dinkins, 435 S.C. 541, 868 S.E.2d 181 (Ct. App. 2021).

The Appellant contends that such evidence is certainly not relevant to this Court's narrow focus of whether or not to grant Appellant's motion to relieve counsel. Also the propensity evidence offered by the State has no logical relevancy to any material fact at issue in the instant *appeal*. "In criminal a case, the State must convince the trial court that the prior bad act evidence is logically relevant to a material fact at issue in the case." Johnson v. State, 433 S.C. 550, 860 S.E.2d 696 (Ct. App. 2021). For such evidence to be considered at the trial court level, the

evidence must withstand a balancing test pursuant to Rule 403, SCRE. Moreover, the evidence should be excluded under Rule 404(b), SCRE. "The State must demonstrate to the trial court that there is in fact a scheme or plan common to both crimes, and that evidence of the other crime serves some purpose other than using the defendant's character to show his propensity to commit the crime charged." State v. Perry, 430 S.C. 24, 44, 842 S.E.2d 654, 664-65 (2020).

If *arguendo*, this Court applied a similar framework to the "logical relevancy test" utilized at the trial court level, I submit that the evidence would fall short of passing such test due to the fact that there is no logical connection between the contested evidence and the very narrowly focused issue before the Court in the case at bar, especially as it pertains to this Court's determination as to granting the Appellant leave to proceed in *propia persona*. "In criminal a case, the State must convince the trial court that the prior bad act evidence is logically relevant to a material fact at issue in the case." Johnson v. State, 433 S.C. 550, 860 S.E.2d 696 (Ct. App. 2021). "Whether evidence of other distinct crimes properly falls within any of the recognized exceptions noted is often a difficult matter to determine. The acid test is its logical relevancy to the particular excepted purpose or purposes for which it is sought to be introduced." State v. Lyle, 125 S.C. 406, 118 S.E. 803 (1923).

It is the Appellant's position that such evidence would likewise be found to be inadmissible if subjected to the the "rigid scrutiny" required when evaluating the probative value of the evidence in question, as well as due to the likelihood of such evidence creating a "legally spurious presumption of guilt." *See*, State v. Lyle, *supra*. "The dangerous tendency and misleading probative force of this class of evidence require that its admission should be subjected by the courts to rigid scrutiny. Whether the requisite degree of relevancy exists is a judicial question to

be resolved in the light of the consideration that the inevitable tendency of such evidence is to raise a legally spurious presumption of guilt." Lyle, 125 S.C. at 411, 118 S.E. at 805.

The Appellant contends that such evidence is certainly not relevant to this Court's narrow focus of whether or not to grant Appellant's motion to relieve counsel nor does the propensity evidence offered by the State have any logical relevancy to any material fact at issue in the instant *appeal*.

Furthermore, after extensive research, I can find no authority on point in which an *appellate court* was asked to consider evidence of alleged prior bad acts that are *not* the subject of a conviction in the context of *appellate* motions practice. "Evidence of prior bad acts that are ***not*** the subject of a conviction must be established by clear and convincing evidence." State v. Holder, 382 S.C. 278, 676 S.E.2d 690 (2009) (emphasis supplied). I will reiterate, there has been no convictions nor even indictments returned in any of the cases the State proffers to this Court in "Attachment D." I submit, that the State has not made a sufficient showing to meet the *Holder* standard, even if this Court were to apply such standard in the instant appeal.

In light of the fact that this evidence was not raised to and ruled on by the trial court, the evidence the State attempts to rely on should not be considered by this Court because it is not ripe for appellate review. *See*, Kosciusko v. Parham, 428 S.C. 481, 836 S.E.2d 362 (Ct. App. 2019) (issues not raised to and ruled on by the lower court will not be considered on appeal). The propensity evidence offered by the State through its Return should also be barred from consideration because the Appellant never opened the door at any point in this matter on appeal nor in the lower court.

D) *Roberts*, *Brewer*, & *Faretta*: The Relevant Authority Regarding The Resolution of The Narrowly Focused Issue Currently Before The Court

There is a scarcity of precedent in South Carolina's body of law that pertains to motions to relieve counsel at the appellate level. Although, there are three cases that are instructive. One of which is the controlling authority with respect to the instant case. For the Court's consideration is the authority found in State v. Roberts, 364 S.C. 583, 614 S.E.2d 626 (2005). The gravamen of *Roberts* is as follows: despite the lack of a specific constitutional provision conferring a specific right to self representation in criminal appeals, the South Carolina Supreme Court held that, "[h]owever, the Court may, in its discretion, *allow an appellant to proceed pro se in an appeal* from a criminal conviction." Roberts, 364 S.C. at 588-589, 614 S.E.2d at 629 (emphasis supplied).

"The ultimate test of whether a defendant had made a knowing and intelligent waiver of the right to counsel was not the trial judge's advice, but the defendant's understanding." State v. Brewer, 328 S.C. 117, 119, 492 S.E.2d 97, 98 (1997). If the trial judge finds that the defendant understands his decision, the defendant can be deemed competent to make such a waiver.

After finding Appellant competent, the Court should then determine if the decision is a knowing, intelligent, and voluntary one (the waiver promulgated by Faretta v. California, *supra*). After finding that Appellant has made such waiver, the Court will then finally consider if there is a valid basis for the relief sought and if good cause has been shown to grant such relief; whilst taking into careful consideration the following factors: the rights of the Appellant and the procedural posture of the case, then— the Court, "in its discretion" decides if it will grant the Appellant leave to proceed in the representation of himself. *See*, Roberts, 364 S.C. at 589, 614 S.E.2d at 629.

Granting Appellant leave to proceed in *propia persona* is fair, equitable, and reasonable. Such relief should be granted in the interests of justice and in accordance with the rights of the Appellant provided by the U.S. Const. amend. VI made applicable to the sates via U.S. Const. amend. XIV. "Although a defendant's decision to proceed pro se had be to the defendant's own detriment, it had to be honored out of that respect for the individual which was the lifeblood of the law." State v. Brewer, *supra*. Thusly, the Appellant submits to this Court that he is fully aware of the risks, detrimental impact, and inadvisability of the decision to proceed in *propia persona.* Knowing such deleterious potentialities, the Appellant hereby declares that it is still his decision to proceed with the representation of himself. This decision by the Appellant remains indomitable, resolute, and is made entirely at his own impetus.

"It is undeniable that in most criminal prosecutions defendants could better defend with counsel's guidance than by their own unskilled efforts. But where the defendant will not voluntarily accept representation by counsel, the potential advantage of a lawyer's training and experience can be realized, if at all, only imperfectly. . .Moreover, it is not inconceivable that in some rare instances, ***the defendant might in fact present his case more effectively by conducting his own defense.*** Personal liberties are not rooted in the law of averages. The right to defend is *personal*. The defendant, and not his lawyer or the State, will bear the personal consequences of a conviction. It is the defendant, therefore, who must be free personally to decide whether in his particular case counsel is to his advantage. And although he may conduct his own defense ultimately to his own detriment, *his choice must be honored* out of that respect for the individual which is the lifeblood of the law." Faretta v. California, 422 U.S. 806, 834, 95 S. Ct. 2525, 2540-41 (1975) (internal citations omitted, emphasis supplied). As such, the

Appellant moves this Court to enter an Order granting Appellant's request to perfect the instant appeal without appointed Counsel nor any other counsel, of whom would be unwillingly foisted upon him.

Allowing the Appellant to proceed in *propia persona* is also the most justiciably appropriate course of action in the interests of justice. "Courts have the inherent power to do all things reasonably necessary to insure that just results are reached to the fullest extent possible."*See*, Ex Parte Dibble, 279 S.C. 592, 595 310 S.E.2d 440 (Ct. App. 1983) *citing*, State ex rel. Gentry v. Becker, 351 M.O. 769, 174 S.W.2d 181 (1943).

VI. Conclusion

WHEREFORE, in consideration of the law and facts set forth above, as well as the waiver made by Appellant, the Appellant respectfully moves this Court to enter an Order granting the motion to relieve counsel pursuant to the Appellant's declaration that he knowingly, intelligently, and voluntarily waives the right to counsel in this matter. The Appellant also respectfully moves this Court for such other relief that the Court deems just and proper.

Respectfully, Submitted,

By: **s/ *Nathan L. Chambers***
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FOR THE APPELLANT

19th April, 2025
Seneca, South Carolina

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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PROOF OF SERVICE

I, Nathan L. Chambers do hereby certify that I haver served the Appellant's **Faretta Notice and Memorandum In Support** on the Respondent via U.S. Mail by depositing a true copy of such document in the U.S. Mail addressed to opposing counsel at counsel's address set forth below. I further certify that I have served an electronic copy of such document via email addressed to counsel's last known email address as indicated by the AIS.

Parties Served:

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FOR THE APPELLANT

19th April, 2025
Seneca, South Carolina