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Jun 20 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TAI'YUAN JA'REL JACKSON,

APPELLANT

APPELLATE CASE NO. 2025-000769

RETURN TO MOTION TO BE RELIEVED

The undersigned counsel files this Return in response to trial counsel's motion to be relieved as counsel. Undersigned counsel would respectfully show the Court that:

1. Trial counsel, W. James Hoffmeyer, filed a motion to be relieved as counsel and this Court requested a return to that motion from undersigned counsel on June 13, 2025.

2. The Division of Appellate Defense operates within the Office of Indigent Defense to, inter alia, represent indigent convicted defendants on direct appeal. Appellate Defense therefore must screen a person such as Appellant Jackson for indigency to determine if it is able to represent him on appeal.

3. Undersigned counsel received Appellant Jackson's affidavit of indigency from trial counsel Hoffmeyer on June 16, 2025. After reviewing the affidavit, undersigned counsel

determined that appellant is indigent. On June 16, 2025, trial counsel provided Appellate Defense with all trial and hearing dates necessary for the appeal.

4. Therefore, undersigned counsel consents to trial counsel's motion to be relieved because Appellate Defense has received appellant's affidavit of indigency, determined that appellant is indigent, and has received all trial and hearing dates from trial counsel. For the reasons that follow, undersigned counsel submits the present motion to be relieved was not necessary.

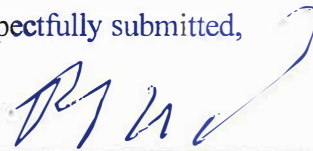
5. The present motion to be relieved was unnecessary because trial counsel was obligated to file a notice of intent to appeal as required by Rule 203, SCACR, and if counsel was retained, as here, he must request a determination of indigency from Appellate Defense if counsel wishes to be relieved. The applicable Court rules provide if Appellate Defense determines the client is indigent, *then trial counsel is automatically relieved as counsel but subject to the Supreme Court's administrative order dated December 12, 1997. See Rule 602 (e)(4), SCACR; In the Matter of an Anonymous Member of the Bar, 303 S.C. 306, 400 S.E.2d 483 (1991). (emphasis added).* That 1997 Supreme Court administrative order, which is attached to this return as Exhibit A, mandates that trial counsel is obligated to provide Appellate Defense with the trial and hearing dates in the case, the county in which the hearing was held, the name of the presiding judge, the name of the court reporter and a brief description of the hearing. The Supreme Court order mandates, "In no case shall counsel be relieved from representing the indigent until the list is provided." See also, Rule 602 (e)(3) & (4), SCACR. Rule 602 (e)(4) also provides: "If the Office of Appellate Defense determines that the accused is indigent, it will represent the accused until final judgment, including any proceeding on direct appeal, without retained trial counsel's obtaining leave to withdraw under Rule 264, SCACR. However, retained counsel shall assist in representing the accused in any manner necessary to properly establish the indigency of the accused *and properly perfect the appeal,*

including but not limited to obtaining an affidavit of indigency from the accused, obtaining a Court Order declaring the accused's indigency from either the trial judge or the Chief Administrative Judge of the Circuit, and in any other manner requested by the Office of Appellate Defense [the list of all hearing dates, the county in which hearing was held, the name of the judge, and a brief description of the nature of the hearing as provided in the Supreme Court's order dated December 12, 1997]." (emphasis added).

6. Rule 602 (e)(4), SCACR, in addition states: "If the Office of Appellate Defense determines that the accused **is not indigent**, retained counsel *shall continue representation* of the accused during the appeal, unless granted leave to withdraw under Rule 264, SCACR. (emphasis added). However, since trial counsel has assisted Appellate Defense in determining that Appellant Jackson is indigent, and counsel has provided Appellate Defense with a complete list of trial and hearing dates in this case, a motion to withdraw or to be relieved was not necessary as explained above.

WHEREFORE, undersigned counsel consents to trial counsel's motion to be relieved if this Court, in its sound discretion, chooses to issue an order granting it.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender

This 20th day of June, 2025.

EXHIBIT A

The Supreme Court of South Carolina

ORDER

Once the Office of Appellate Defense assumes responsibility for representing an indigent seeking appellate review, one of its first actions is to order any necessary transcripts of the proceedings before the lower court. A recurring problem is that the Office of Appellate Defense fails to order all of the transcripts because it is unaware of all the hearings held in the matter. Often this is not discovered until the transcript of the trial or merits hearing is received from the court reporter, resulting in a delay in the processing of the appeal since the additional transcript must be ordered and prepared.

To help prevent this from happening, counsel representing an indigent eligible for representation by the Office of Appellate Defense shall provide the Office of Appellate Defense with a list of all trials and hearings held in the matter. For each trial or hearing, the list shall indicate the date or dates of the hearing or trial; the county in which the trial or hearing was held; the name of the presiding judge; the name of

the court reporter; and a brief description of the nature of the trial or hearing. This list shall be provided to the Office of Appellate Defense no later than ten (10) days after the service of the notice of appeal. If counsel does not provide this list, the Office of Appellate Defense shall promptly contact counsel and inform counsel of the requirement to provide this list. In no case shall counsel be relieved from representing the indigent until the list is provided.

IT IS SO ORDERED.


ERNEST A. FUNNEY, JR.
CHIEF JUSTICE

Columbia, South Carolina

December 12, 1997

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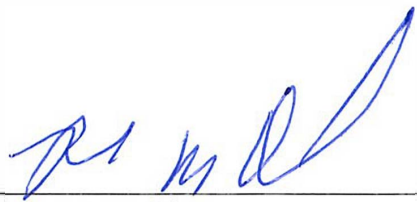
TAI'YUAN JA'REL JACKSON,

APPELLANT

APPELLATE CASE NO. 2025-000769

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Return to the Motion to Be Relieved in the above-referenced case has been served upon W. James Hoffmeyer, Esquire and Mark R. Farthing, Esquire, at their primary e-mail addresses listed in the Attorney Information System (AIS), and Tai'Yuan Jackson at 4344 Broad River Road Columbia, South Carolina 29210, this 20th day of June, 2025.



Robert M. Dudek
Chief Appellate Defender

From: [Mcinnis, Sara](#)
To: [Mark Farthing](#)
Cc: [Caroline Collins](#); jim@hoffmeyerlaw.com; [Dudek, Robert](#)
Subject: 2025-000769 The State v. Tai"Yuan Jackson Return to Motion to Be Relieved
Date: Friday, June 20, 2025 1:40:00 PM
Attachments: 2025-000769 The State v. Tai"Yuan Jackson Return to Motion to Be Relieved.pdf

Good Afternoon,

Attached for service in the above-referenced case is the Return to the Motion to Be Relieved, which will be filed with the Court of Appeals today, June 20, 2025, via email filing.

Respectfully,

Sara McInnis

Administrative Assistant

South Carolina Commission on Indigent Defense

Appellate Division

(803) 734-1330