

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**Jul 14 2025**

Appeal from the Spartanburg County  
Court of Common Pleas

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S.C. SUPREME COURT

Appellate Case No. 2025-001377

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RICKY LEE BLACKWELL ..... PETITIONER,

v.

STATE OF SOUTH CAROLINA .....RESPONDENT.

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**MOTION FOR APPOINTMENT OF OUTSIDE COUNSEL**

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The undersigned, Lindsey S. Vann and Rosalind S.D. Major, respectfully move this Court for the appointment of outside counsel for Petitioner, Ricky Lee Blackwell, because the Appellate Division of South Carolina Commission on Indigent Defense has a conflict of interest, to promote efficiency and conservation of resources, and to allow Petitioner continuity of counsel. In support of this motion, the undersigned submit the following.

**INTRODUCTION AND PROCEDURAL BACKGROUND**

Petitioner was indicted by the Spartanburg County grand jury for the offenses of murder and kidnapping. The State sought the death penalty on the murder charge. Petitioner was represented at trial by William (“Bill”) McGuire and Clay Allen. After a pre-trial hearing, the circuit court found Blackwell was not a person with intellectual disability and, therefore, was not ineligible for the death penalty pursuant to *Atkins v. Virginia*, 536 U.S. 304 (2002). At trial, the

jury found Blackwell guilty as charged and recommended a sentence of death, following a penalty hearing. A death sentence was imposed by the Honorable Roger L. Couch on March 16, 2014.

Petitioner appealed his convictions and sentences. He was represented on direct appeal by Robert M. Dudek and David J. Alexander of the South Carolina Office of Appellate Defense. This Court affirmed Petitioner's convictions and death sentence. *State v. Blackwell*, 420 S.C. 127, 801 S.E.2d 713 (2017).

On March 12, 2018, Petitioner filed a timely application for post-conviction relief ("PCR") in the Spartanburg County Court of Common Pleas. This Court assigned the case to the Honorable Daniel D. Hall who appointed Lindsey S. Vann and Charles Grose to represent Petitioner. Attorneys Vann and Grose represented Petitioner throughout his PCR proceedings below. Rosalind S.D. Major, an attorney who works with Ms. Vann at Justice 360, began assisting with pre-hearing preparation and testimony preparation in November 2022. Ms. Major appeared as pro bono counsel on Petitioner's post-hearing briefing.

With the assistance of counsel, Petitioner amended his PCR application on February 19, 2019; February 20, 2019; and November 10, 2021. The State filed returns on April 23, 2018; March 22, 2019; and March 27, 2023. Petitioner's PCR application raised allegations of arising under *Atkins v. Virginia* and ineffective assistance of trial and appellate counsel. Judge Hall convened an evidentiary hearing on Petitioner's PCR claims. At this hearing, Petitioner was represented by Lindsey S. Vann and Charles Grose. The court heard testimony from nineteen witnesses on March 27-31, 2023; July 31-August 2, 2023; and December 15, 2023.

At the conclusion of the hearing, given the number of PCR allegations and complexities of the issues before the court, the parties requested the opportunity to submit post-hearing briefing, which Judge Hall permitted. Petitioner filed his post-hearing briefing on July 7, 2024.

Respondent's return was filed on November 5, 2024, and Petitioner's reply briefing was filed on January 15, 2025. By written order dated April 7, 2025, Judge Hall denied Petitioner's capital PCR action in full. Petitioner filed a motion to alter or amend judgment on April 17, 2025, and Respondent filed its response on May 16, 2025. Judge Hall denied Petitioner's motion to alter or amend judgment by an order signed and received by counsel for Petitioner on June 10, 2025, and filed with the Clerk of Court on June 16, 2025. Petitioner filed a timely notice of appeal in this Court on July 10, 2025.

### **CONFLICT OF COUNSEL**

Undersigned counsel respectfully request that they be appointed to represent Petitioner in this appeal. Outside counsel should be appointed because the Office of Appellate Defense has a conflict of interest given that Robert Dudek, the Chief Attorney of the Office of Appellate Defense, and David Alexander, the Deputy Chief Attorney for Capital Appeals of the Office of Appellate Defense, were appellate counsel and issues regarding the competency of their representation were raised in the proceeding below and must be evaluated for inclusion in this appeal. Both Mr. Dudek and Mr. Alexander testified as witnesses at the PCR hearing. The circuit court's order of dismissal made specific findings regarding the issue of ineffective assistance of appellate counsel and denied relief on that basis in its order denying relief.

Mr. Dudek passed away on June 30, 2025. At the time of his passing, Mr. Dudek served as the chief appellate attorney. Because Mr. Dudek was the chief attorney, the entire Office of Appellate Defense would have a conflict in handling this appeal because it would require any other attorney in the office to review his work and evaluate and litigate the competency of representation provided by their boss. A similar conflict would exist for Mr. Alexander in handling this appeal as this is a capital case, the area of appellate litigation he helps supervise, and any other attorney from

the office would be required to similarly evaluate and litigate the competency of representation provided by their supervisor. Moreover, given the unique circumstances of this case, appointment of the undersigned as outside counsel would be the most efficient use of judicial time and resources.

### **JUDICIAL EFFICIENCY AND CONTINUITY OF COUNSEL**

Appointment of undersigned counsel would create judicial efficiencies. Petitioner, with the assistance of counsel, identified and alleged twenty-one claims for post conviction relief.<sup>1</sup> Included among these claims are claims related to Petitioner's mental illnesses, his mental state at the time of the offense, and claims about Petitioner being a person with intellectual disability and therefore ineligible for the death penalty pursuant to *Atkins*. The hearing on Petitioner's claims involved testimony from nine expert witnesses. Given the complexities of the claims for relief raised, extensive post-hearing briefing was required. Petitioner's post-hearing brief and post-hearing reply brief were 92 and 40 pages, respectively.

If new counsel were appointed to handle this appeal, there would be thousands of pages of documents to review. This includes the entirety of Petitioner's trial proceedings, over 1500 pages of transcripts from the PCR hearing, over 1000 pages of exhibits from the PCR hearing, and nearly 300 pages of post-hearing briefing. Undersigned counsel are intimately familiar with the facts and diagnostic issues in this case, including the psychological and psychiatric evaluations of Petitioner testified about at the PCR hearing and the records underlying these evaluations. Attorney Vann represented Petitioner in his PCR proceedings in this case. Attorney Rosalind S.D. Major has been

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<sup>1</sup> Petitioner's third amended application for post-conviction relief sets forth twenty-four distinct claims for relief. Three of these claims were explicitly waived both at the evidentiary hearing in this case and in Petitioner's post-hearing briefing.

assisting Attorneys Vann and Grose with Petitioner’s case since 2022, including assisting with preparing the case for the PCR hearing, attending most of the PCR hearing, and drafting the post-hearing briefing and subsequent motion to amend or alter judgment. As a result, undersigned counsel is already familiar with the trial, appeal, and PCR record and it would be most efficient for them to handle this appeal.<sup>2</sup>

Finally, though he understands he does not have a right to counsel of his choice, Petitioner had worked with undersigned counsel for several years and has indicated he desires undersigned counsel to represent him in appeal of the denial of his PCR.

**REQUEST AND LEGAL AUTHORITY FOR APPOINTMENT OF TWO ATTORNEYS**

State law is silent on the appropriate number of attorneys to be appointed in a capital appeal of any kind. This Court has the “inherent power to control the order of its business to safeguard the rights of litigants,” as part of its adjudicative power. *State v. Langford*, 400 S.C. 421, 429, 735 S.E.2d 471, 475 (2012). The Indigent Defense Act similarly recognizes “the discretionary authority of a judge [or court] to appoint counsel in any case. . . .” S.C. Code § 17-3-100. Petitioner, by and through undersigned counsel, asks this Court to use this authority to appoint Lindsey S. Vann and Rosalind S.D. Major to represent him in this capital post-conviction relief appeal. Doing so is in line with the national standard of care in capital cases, what is mandated by state law in all other capital contexts, the common practice of the Office of Appellate Defense, and how this Court has handled appointment of counsel in other capital post-conviction relief appeals.

It is common practice in all capital case contexts for multiple attorneys to be appointed given the unique finality of a death sentence. The national standard of care in capital cases, as set

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<sup>2</sup> Attorney Grose has indicated to undersigned counsel that because of his current case load, he is unable to handle this appeal but submits that he would be available to assist Attorneys Vann and Major in a *pro bono* capacity.

forth in the *American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases*, contemplates “[q]uality representation” in state collateral review proceedings and recognizes that a capital “defense team should consist of no fewer than two attorneys,” irrespective of which particular stage of review the case is at. 31 Hofstra L. Rev. 913, 932–35, 952, 955.<sup>3</sup> In all other contexts involving individuals facing a sentence of death, state law mandates the appointment of at least two attorneys. See S.C. Code §§ 16-3-26(B)(1) (mandating the appointment of two attorneys once a notice of intent to seek the death penalty is filed in a case), 17-27-160(B) (mandating the appointment of two attorneys in a capital post-conviction relief action).

In most capital appeals, the Office of Appellate Defense would get automatic appellate appointment. S.C. Code § 17-3-360. The automatic appointment allows Appellate Defense to determine which and how many inter-agency attorneys to assign to capital cases. If not for the above-discussed conflict, the Office of Appellate Defense could be appointed and its usual practice in capital appeals is, therefore, informative in this context. In all recent capital appeals that Appellate defense has handled, its practice has been to have no fewer than two attorneys assigned to represent a client. *E.g.*, *State v. Blackwell*, 420 S.C. 127, 801 S.E.2d 713 (2017) (Chief Appellate Defender Robert Michael Dudek and Appellate Defender David Alexander); *State v. Jerome Jenkins*, Appellate Case No. 2019-001280 (Chief Appellate Defender Robert Michael Dudek, Appellate Defender Katherine H. Hudgins, and Appellate Defender Adam Sinclair Ruffin); *State v. Timothy Ray Jones, Jr.*, 440 S.C. 214, 891 S.E.2d 347 (2023) (Chief Appellate Defender Robert Michael Dudek, Appellate Defender David Alexander, Appellate Defender Susan Barber Hackett,

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<sup>3</sup> This Court has recognized these guidelines as authoritative on the question of what is required for counsel to be effective in capital cases. *Council v. State*, 380 S.C. 159, 670 S.E.2d 356 (2008); *Ard v. Catoe*, 372 S.C. 318, 332, 642 S.E.2d 590, 597 (2007).

Appellate Defender Lara M. Caudy, and Appellate Defender Taylor Davis Gilliam). This staffing practice extends to how Appellate Defense staffs appeals from capital post-conviction relief actions. *E.g.*, *Marion Lindsey v. State of South Carolina*, Appellate Case No. 2019-001271 (Chief Appellate Defender Robert Michael Dudek, Appellate Defender David Alexander, and Appellate Defender Lara M. Caudy); *Richard Bernard Moore v. State*, Appellate Case No. 2011-198472 (Chief Appellate Defender Robert Michael Dudek and Appellate Defender Susan Barber Hackett). Petitioner's request is also consistent with this Court's prior practice in capital PCR appeals involving the appointment of outside counsel. This Court has appointed two attorneys in other capital PCR appeals. *E.g.*, *Jerry Buck Inmon v. State*, Appellate Case No. 2020-000881 (Diana Holt and E. Charles Grose).

Given the complexity of this case, the voluminous record, and the fact that both undersigned counsel worked in the case below, appointment of two attorneys is appropriate in this case. Indeed, it would conserve judicial resources because undersigned counsel previously divided work on the post-hearing briefing in the court below and will similarly work together to prepare the pleadings in this appeal. Undersigned counsel will take care to avoid duplicating efforts in Petitioner's PCR appeal, as they did in completing the post-hearing briefing below.

### **CONCLUSION**

Respectfully, for the above reasons, undersigned counsel requests that this Court appoint them to represent Petitioner on appeal. Furthermore, counsel requests that time limits governing assembling the appendix and filing of a petition for a *writ of certiorari* be tolled during the pendency of this motion.

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Respectfully submitted,

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