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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

Appeal from the Lexington County  
Court of Common Pleas

Appellate Case No. 2025-001760

GARY DUBOSE TERRY, ..... PETITIONER,

v.

STATE OF SOUTH CAROLINA, .....RESPONDENT.

**REPLY TO RETURN TO MOTION FOR APPOINTMENT OF OUTSIDE COUNSEL**

Petitioner, Gary Dubose Terry, by and through his undersigned attorneys, makes the following reply to the Office of Appellate Defense’s return to his motion for the appointment of outside counsel.

First, as SCCID notes, outside counsel has been appointed to handle multiple other capital appeals. Order Appointing Counsel, *Blackwell v. State*, No. 2025-001377 (Sept. 10, 2025) (appointing two attorneys); Order Appointing Counsel, *Aleksey v. State*, No. 2024-000140 (Mar. 28, 2024); Order Appointing Counsel, *Inmon v. State*, No. 2020-000881 (Aug. 24, 2020) (appointing two attorneys); Order Appointing Outside Counsel, *Finklea v. State*, No. 2019-001104 (Sept. 27, 2019) (appointing two attorneys); Order Appointing Outside Counsel, *Alkebulanyahh v. State*, No. 2019-000529 (Aug. 2, 2019); Order Appointing Counsel, *Bryant v. State*, No. 2019-000610 (May 30, 2019).

This Court has appointed outside counsel in capital cases even where the Office of Appellate Defense has no conflict of interest. *See* Mot. for App't of Outside Counsel, *Aleksey v. State*, No. 2024-000140 (Feb. 7, 2024) (moving for appointment of outside counsel in an *Atkins* case on the grounds that counsel represented petitioner in circuit court proceedings and in federal habeas proceedings, and that petitioner desired her continued representation); Mot. to Appoint Counsel, *Bryant v. State*, No. 2019-000610 (Apr. 12, 2019) (moving for appointment of outside counsel on the grounds of petitioner's interest in continuity of counsel).

Second, Attorney Franz has worked on Mr. Terry's case since 2021 and has been appointed to represent him in federal court since 2023. *See Terry v. Stirling*, No. 4:12-CV-1798-RMG (D.S.C.) (appointing Attorney Franz for collateral and clemency proceedings). Because of the nature of clemency proceedings, and the short period of time between issuance of an execution notice and an execution in South Carolina, Attorney Franz has been preparing for potential clemency proceedings while representing Mr. Terry in his state court *Atkins* proceedings. This increases the importance of continuity of counsel, warranting her appointment in this appeal, and is similar to this Court's appointment of outside counsel in the *Aleksey* and *Bryant* cases where counsel was also appointed in federal court proceedings. *See* Mot. for App't of Outside Counsel, *Aleksey v. State*, No. 2024-000140, at 2 (Feb. 7, 2024); Mot. to Appoint Counsel, *Bryant v. State*, No. 2019-000610 (Apr. 12, 2019). Appointing the Office of Appellate Defense in this case would needlessly add an entire separate team of counsel, who would need to get up to speed on Petitioner's case from scratch. Allowing undersigned counsel, who are already up to speed and able to begin work on Mr. Terry's petition for a writ of certiorari immediately, to simply continue their work on the case rather than appointing an entirely new team of attorneys both serves the

interest of judicial efficiency and honors Mr. Terry's desire for undersigned counsel to continue their representation.

### **CONCLUSION**

For the foregoing reasons, this Court should grant Petitioner's motion and appoint undersigned attorneys Allison Franz and Brianna Cruz to handle this appeal.

Respectfully submitted,

/s/ Allison Franz

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