

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Spartanburg County

Honorable J. Mark Hayes II, Circuit Court Judge

RECEIVED

JUN - 9 2011

S.C. Supreme Court

NATHANIEL GREEN,

Petitioner,

VS.

THE STATE,

Respondent.

RETURN TO PETITIONER'S MOTION TO SUBSTITUTE COUNSEL

Respondent, making its Return to Petitioner's Motion to substitute counsel, filed on or around June 2, 2011, would show:

I.

The Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted during the November 2004 term of the Spartanburg County Grand Jury trafficking in crack cocaine (04-GS-42-4993). Thomas A.M. Boggs, Esquire, represented the Applicant. On February 15, 2005, a bench trial was held before the Honorable J. Derham Cole. Judge Cole found the Applicant guilty and sentenced him to confinement for a period of twenty-five (25) years with credit

for time served.

A timely notice of appeal was filed and Joseph L. Savitz, III, Esquire, submitted an Anders appeal on the Applicant's behalf. The Court of Appeals dismissed the appeal by order filed June 11, 2007. The Remittitur was issued on June 27, 2007.

The Petitioner subsequently filed an application for post-conviction relief (PCR) for these indictments on June 23, 2008. The Honorable J. Mark Hayes II denied and dismissed Petitioner's application by order dated November 2, 2009. The Petitioner then submitted a Motion to Alter or Amend the Order of Dismissal on November 17, 2009. The motion was denied December 2, 2009.

Petitioner subsequently filed a Notice of Appeal with this Court, dated January 20, 2010. The Division of Appellate Defense was appointed to represent Petitioner in this matter. On behalf of Petitioner, LaNelle C. DuRant, Esquire, filed a Johnson Petition for Writ of Certiorari on July 14, 2010. This Petition is currently pending before this Court.

II.

Respondent opposes Petitioner's request to substitute retained Counsel, almost one year from the time Petitioner's Johnson brief was filed. Respondent submits that the substitution of counsel at this time would only cause further delay. In addition, Respondent notes that following this Court's decision, if it is not in the Petitioner's favor, Petitioner has the right to file a pro se brief on his own behalf.

Respectfully submitted,

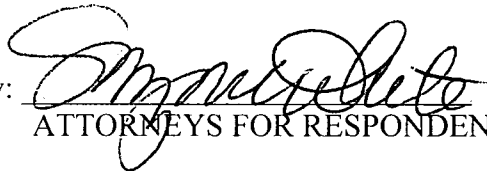
ALAN WILSON
Attorney General

[signatures continued on the next page]

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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Columbia, SC 29211
(803) 734-3737

June 9, 2011.

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
In The Court of Common Pleas

The Honorable J. Mark Hayes, II, Circuit Court Judge

Case No. 2008-CP-42-3298

NATHANIEL GREEN,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

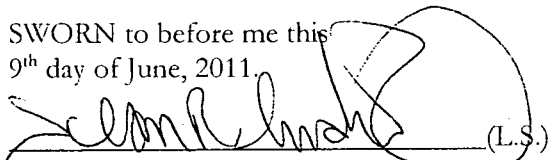
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Return to Petitioner's Motion to Substitute Counsel was served upon Petitioner by depositing the same in the United States mail, postage prepaid, addressed to his attorneys of record, LaNelle C. DuRant, Esquire, Division of Appellate Defense, South Carolina Commission on Indigent Defense, Post Office Box 11589, Columbia, South Carolina, 29211, and J. Falkner Wilkes, 114 Whitsett Street, Greenville, South Carolina 29601.



Anne A. Mueller
Legal Assistant for Petitioner

SWORN to before me this
9th day of June, 2011.



(L.S.)

Notary Public for South Carolina.

My Commission Expires: **My Commission Expires**
January 30, 2013