

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

Honorable Frank R. Addy, Circuit Court Judge

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NOV - 7 2013

S.C. Supreme Court

TODD MAURICE BUSSEY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2013-001466

AMENDED MOTION FOR APPOINTMENT OF OUTSIDE COUNSEL
OR AN ORDER OF CONTINUANCE FOR REPRESENTATION BY
THE APPELLATE DIVISION OF THE COMMISSION OF INDIGENT DEFENSE

The undersigned respectfully shows the Court:

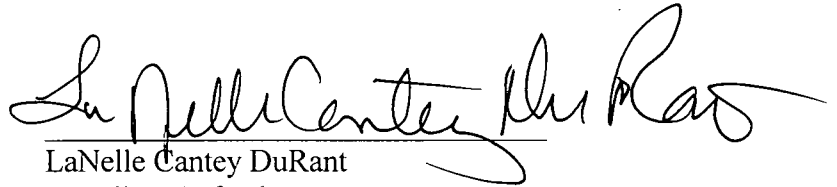
1. Petitioner was convicted by a jury of armed robbery on May 19, 2009 and was sentenced by the Honorable R. Knox McMahon to fifteen years confinement. Petitioner was represented at trial by William Gorski.
2. Appellate Defender LaNelle DuRant represented petitioner on his direct appeal to the Court of Appeals.
3. On the date that oral argument was scheduled in the Court of Appeals, Appellate Defender DuRant was scheduled to attend a conference out of state. Appellate Defender

- Robert Pachak handled the oral argument. He argued one of the three issues contained in the brief.
4. The Court of Appeals affirmed petitioner's conviction and sentence on April 22, 2011. State v. Bussey, Op. No. 2011-UP-139 (Ct. App. filed April 5, 2011). In the opinion, the Court of Appeals wrote that appellate counsel "abandoned" Issues One and Two.
 5. Petitioner filed an application for post conviction relief (PCR) on June 8, 2011 alleging ineffective assistance of trial counsel and both appellate attorneys DuRant and Pachak. .
 6. The state filed a return on January 10, 2012. Petitioner filed a reply on February 21, 2012.
 7. An evidentiary hearing was held before the Honorable Frank R. Addy, Jr. on April 17, 2013.
 8. Both Appellate Defenders DuRant and Pachak testified via telephone.
 9. An Order of Dismissal with Prejudice was filed by Judge Addy on June 25, 2013 dismissing the post-conviction relief application.
 10. In his order, Judge Addy made a finding that neither Appellate Defender DuRant nor Appellate Defender Pachak was ineffective.
 11. For the above reasons, and because this PCR appeal involves two appellate defenders, appellate counsel leaves it to the discretion of the Court as to whether outside counsel should be appointed to handle petitioner's PCR appeal or whether another appellate defender within the Division of Appellate Defense should handle the appeal due to the conflict with the two appellate defenders involved.

WHEREFORE, counsel requests this Court to issue an order appointing outside counsel or in the alternative, issue an order for the Division of Appellate Defense to handle

the appeal other than the appellate defenders named herein. Appellant also requests that this case be held in abeyance pending the decision of this Court.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "LaNelle Cantey DuRant". The signature is written in black ink and is positioned above a horizontal line.

LaNelle Cantey DuRant
Appellate Defender

Attorney for Petitioner

This 8th day of November, 2013

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

Honorable Frank R. Addy, Circuit Court Judge

TODD MAURICE BUSSEY,

PETITIONER,

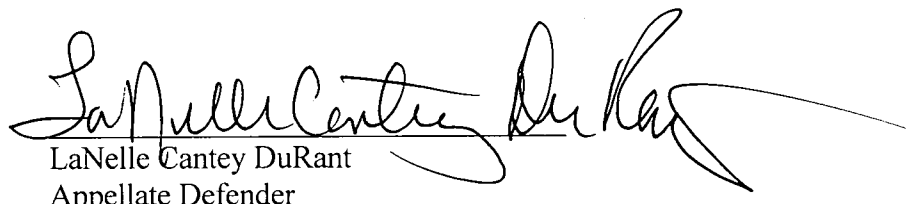
V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

CERTIFICATE OF SERVICE


The undersigned attorney hereby certifies that a true copy of the Amended Motion for Appointment of Outside Counsel Or An Order Of Continuance For Representation by the Division of Appellate Defense in the above referenced case has been served upon opposing counsel, John Walt Whitmire, Esquire and Mr. Todd Maurice Bussey, #334871 at Kershaw Correctional Institution, 4848 Gold Mine Highway, Kershaw, SC 29067-8069, this 7th day of November, 2013.



LaNelle Cantey DuRant
Appellate Defender

Attorney for Petitioner

SUBSCRIBED AND SWORN TO before me
this 7th day of November, 2013.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

November 7, 2013

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S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk, S.C. Supreme Court
PO Box 11330
Columbia, SC 29211

Re: Todd Maurice Bussey v. State of South Carolina

Dear Mr. Shearouse:

Enclosed are an original and six copies of the Amended Motion for Appointment of Outside Counsel Or for An Order of Continuance For Representation By The Division of Appellate Defense in the above-captioned case. Thank you for your assistance in this matter.

Sincerely,

LaNelle Cantey DuRant
Appellate Defender

LCD/mpm

Enclosure

cc: John Walt Whitmire, Esquire
Mr. Todd Maurice Bussey