

ORIGINAL

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

OCT 28 2013

Appeal from Richland County

**S.C. Supreme Court**

Honorable James W. Johnson, Jr., Circuit Court Judge

RANDY B. THOMAS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

Appellate Case No. 2013-001287

MOTION FOR APPOINTMENT  
OF OUTSIDE COUNSEL

The undersigned respectfully shows the Court:

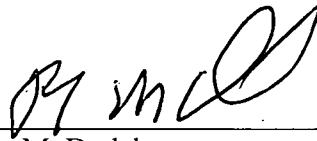
1. On February 6, 2006, Petitioner was convicted, following a jury trial, of criminal sexual conduct first degree, assault and battery of a high and aggravated nature, and two counts of kidnapping. Appellate Defender LaNelle Durant was petitioner's trial counsel. Petitioner was sentenced by the Honorable James W. Johnson, Jr. to twenty-two years each for kidnapping and criminal sexual conduct, and ten years for the assault and battery of a high and aggravated nature. The sentences were concurrent.

2. Chief Appellate Defender, Robert M. Dudek represented petitioner on appeal. Petitioner's convictions were affirmed by the Court of Appeals in State v. Thomas, Op. No. 2009-UP-437 (Ct. App. filed September 10, 2009).
3. Chief Appellate Defender Robert M. Dudek sought a writ of certiorari from this Court on three separate grounds on January 28, 2010.
4. This Court denied the petition for writ of certiorari on March 2, 2011.
5. Petitioner filed an application for post conviction relief on February 23, 2012 and amended the application on December 21, 2012. Petitioner alleged ineffective assistance of trial counsel and appellate counsel.
6. An evidentiary hearing was held before the Honorable G. Thomas Cooper on January 16, 2013.
7. Appellate Defender LaNelle Durant testified at the PCR hearing. An Order of Dismissal was filed by Judge Cooper on May 7, 2013. In his order, Judge Cooper made a finding that trial counsel and appellate counsel were not ineffective.
8. The PCR appeal was received by the South Carolina Commission on Indigent Defense, the Division of Appellate Defense in June 2013.
9. Because trial counsel, LaNelle DuRant, is currently employed in the Division of Appellate Defense as an appellate attorney, and Robert M. Dudek is the Chief Appellate Defender, Attorney DuRant talked with Mr. Thomas to determine how he wanted to proceed with his PCR appeal. Mr. Thomas indicated he wishes for his PCR appeal to be conflicted out of the Division of Appellate Defense due to the potential conflict. He prefers to have outside counsel appointed by this Court.

10. For the above reasons, this motion is made to request outside counsel due to the conflict with the Division of Appellate Defense.

WHEREFORE, counsel respectfully requests that counsel outside of the Office of Appellate Defense be appointed to represent petitioner, and that the time limits for filing the petition for writ of certiorari be held in abeyance pending a ruling on this motion.

Respectfully submitted,



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Robert M. Dudek  
Chief Appellate Defender

Attorney for Petitioner

This 28th day of October, 2013

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from Richland County  
Honorable James W. Johnson, Jr., Circuit Court Judge

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RANDY B. THOMAS,

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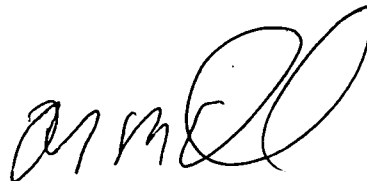
Appellate Case No. 2013-001287

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CERTIFICATE OF SERVICE

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The undersigned attorney hereby certifies that a true copy of the Motion for Appointment of Outside Counsel in the above referenced case has been served upon opposing counsel, Megan Harrigan, Esquire and Randy B. Thomas, #313802 at McCormick Correctional Institution this 28th day of October, 2013.



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Robert M. Dudek  
Chief Appellate Defender

Attorney for Petitioner

SUBSCRIBED AND SWORN TO before me  
this 28 day of October, 2013.

 (L.S.)  
Notary Public for South Carolina

My Commission Expires: August 21, 2023.

ORIGINAL



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

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OCT 28 2013

October 28, 2013

S.C. Supreme Court

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

Re: The State v. Randy B. Thomas

Dear Mr. Shearouse:

Enclosed are an original and six copies of the Motion for Appointment of Outside Counsel in the above-captioned case. Thank you for your assistance in this matter.

Sincerely,

Robert M. Dudek  
Chief Appellate Defender

RMD/lcd

Enclosure

cc: Megan Harrigan, Esquire  
Mr. Randy B. Thomas