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THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

R. Lawton McIntosh, Circuit Court Judge

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NOV 20 2013
SC Court of Appeals

Case No. 2012-GS-42-05979
Appellate Case No. 2013-001209

The State of South Carolina,..... Respondent,
v.
John D. Garvin,..... Appellant.

MOTION TO BE RELIEVED AS COUNSEL

Pursuant to Rule 240 of the South Carolina Rules of Appellate Procedure, undersigned counsel moves to be relieved as counsel for Appellant in the above captioned matter. Undersigned counsel was appointed as counsel in this matter by this Court's Order dated September 9, 2013, pursuant to the motion of the Division of Appellate Defense as part of the 2013 Appellate Practice Project.

A necessary predicate before undertaking this representation was for undersigned counsel to inform Mr. Garvin of the potential conflict of interest arising from the fact that other attorneys at his counsel's firm aid the State by prosecuting criminal domestic violence matters. Although counsel informed Mr. Garvin of this conflict promptly, it was not until quite recently that Mr. Garvin gave a definitive response, refusing to waive the potential conflict and declining to consent to representation. Despite the best and repeated efforts of undersigned counsel and Bob Dudek to explain to Mr. Garvin, both in writing and in telephonic conversation, the nature of the potential conflict and the fact that it

would not taint his representation, Mr. Garvin remained steadfast in his refusal to waive the potential conflict.

Pursuant to communication between undersigned counsel and the South Carolina Commission on Indigent Defense ("SCCID"), LaNelle C. DuRant, Esquire, of SCCID has expressed her willingness to undertake Mr. Garvin's representation. In addition, pursuant to his communications with SCCID and in accordance with the terms of the 2013 Appellate Practice Project, undersigned counsel has undertaken to serve as co-counsel in a pending Petition for Certiorari for review of a trial court's denial of post-conviction relief in a capital case. Accordingly, pursuant to Mr. Garvin's wishes, undersigned counsel respectfully requests that this Court relieve him as Mr. Garvin's counsel and return the case to the appellate division of the office of indigent defense.

Respectfully submitted,

Nelson Mullins Riley & Scarborough, LLP

By: 

Miles E. Coleman
SC Bar No. 78264
E-Mail: miles.coleman@nelsonmullins.com
Post Office Box 11070 (29211-1070)
Columbia, South Carolina 29201
(803) 799-2000

South Carolina Commission on Indigent Defense
Robert M. Dudek
E-Mail: rdudek@sccid.sc.gov
1330 Lady Street, Suite 401
Columbia, South Carolina 29201
(803) 734-1343

ATTORNEYS FOR APPELLANT

Columbia, South Carolina
November 19, 2013

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

R. Lawton McIntosh, Circuit Court Judge

Case No. 2012-GS-42-05979
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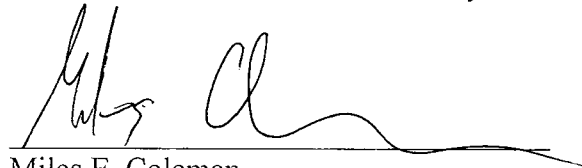
The State of South Carolina,..... Respondent,

v.

John D. Garvin,..... Appellant.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Motion to Supplement the Record on Appeal in the above reference case has been served upon Salley W. Elliott, Esquire, Assistant Attorney General, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 19th day of November, 2013.



Miles E. Coleman
SC Bar No. 78264
Nelson Mullins Riley & Scarborough, LLP
E-Mail: miles.coleman@nelsonmullins.com
Post Office Box 11070 (29211-1070)
Columbia, South Carolina 29201
(803) 799-2000

SUSBSCRIBED AND SWORN TO before me
This 19th day of November, 2013

Notary Public for South Carolina
My Commission Expires _____

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.255.9025
www.nelsonmullins.com

Miles E. Coleman
Tel: 803.255.5549
Fax: 803.255.5908
miles.coleman@nelsonmullins.com

November 19, 2013

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

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SC Court of Appeals

RE: State v. John Garvin
Case No. 2012-GS-42-05979
Appellate Case No.: 2013-001209
Our File No.: 38769/01502

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of undersigned counsel's Motion to be Relieved as Counsel. We would ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed is our Firm check in the amount of \$25.00 as the required filing fee.

With kind regards, I remain

Sincerely yours,



Miles Coleman

Enclosure

cc: Salley W. Elliott, Esquire

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

Post Office Box 11070

Columbia, SC 29211-1070

The Honorable Jenny Abbott Kitchings

Clerk of Court

SC Court of Appeals

1015 Sumter St., 5th Floor

Columbia, SC 29201