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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

January 16, 2026

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. Mack Allen Davis – Appellate Case No. 2025-001964

Dear Ms. Kitchings:

Through an ex parte motion dated January 6, 2026, Mack Allen Davis, the appellant in the above-referenced criminal appeal, has asked for his appointed appellate counsel to be relieved based on allegations of conflict of strategy and incompetence. As support for that requested relief, Davis maintains appellate counsel should be terminated for apparently failing to “recall the [search] warrant,” which was supposedly faulty and defective for various reasons. Meanwhile, through the same ex parte motion, Davis does *not* indicate he intends to retain counsel if his appointed counsel is relieved and has not expressed any desire whatsoever to represent himself in a pro se capacity on appeal.

Through a letter dated January 14, 2026, this Court asked both Davis’s appellate counsel and counsel for the State to file returns to Davis’s ex parte motion. Please accept this letter in lieu of a formal return from the State.

In response to Davis’s ex parte motion to relieve counsel, the State wishes to note the following four points: (1) a criminal defendant does not have a right to compel appointed counsel to raise nonfrivolous issues on appeal if counsel, as a matter of professional judgment, decides not to raise the issues; (2) there is no right to appointed counsel of choice or “to special rapport or even a meaningful relationship with appointed counsel”; (3) there is no right to self-representation on appeal; and (4) any waiver of the right to counsel must be clearly, knowingly, intelligently, and voluntarily made. Jones v. Barnes, 463 U.S. 745 (1983); Faretta v. California, 422 U.S. 806 (1975); State v. Roberts, 364 S.C. 583, 614 S.E.2d 626 (2005); State v. Brewer, 328 S.C. 117, 492 S.E.2d 97 (1997); State v. Boykin, 324 S.C. 552, 478 S.E.2d 689 (Ct. App. 1996). Aside from noting those four points, please be advised the State takes no position on the matter and wishes to leave it to the sound discretion of this Court as to whether to grant Davis’s

ex parte request to relieve the well-trained, highly-qualified, and highly-competent appellate counsel currently representing him.

Furthermore, because Davis is a represented party in the matter to which his ex parte motion relates, the State believes it is prohibited from engaging in direct communications with Davis at this time. Rule 4.2, RPC, Rule 407, SCACR. Based on that, the State respectfully asks Davis's counsel, Jordan M. Wayburn, Esquire, to share the State's response to the ex parte motion with his client.

Thank you very much, and, if you have any questions or concerns or if a more formal return is needed, please do not hesitate to contact me.

Sincerely,



Mark R. Farthing
Senior Assistant Deputy Attorney General
S.C. Bar Number 76901

MRF/cc

cc: Jordan M. Wayburn, Esq. (via electronic mail)
Victim Advocacy Division