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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

The state, Respondent,
VS
Ray Edward Chestnut, Appellant.

Appellate Case No. 2025-001447

PRO SE MOTION TO RELIEVE APPELLATE COUNSEL
(Filed Pro Se for purposes of this motion Only)

COMES NOW the Appellant, Ray Edward Chestnut, proceeding pro se for the limited purpose of this motion, and respectfully moves this Honorable court to relieve appellant counsel, Wesley Chandler Nowville, Esq., and in support thereof states as follows:

I. PROCEDURAL POSTURE

1. Appellant is currently represented by appellate counsel, who has filed an Anders brief, asserting that no meritorious issues exist for

appeal.

2. Appellant has repeatedly requested that counsel file a Motion for Bond Pending Appeal and a Motion to Expedite Disposition of Appeal, both of which directly implicate Appellant's liberty interests and continued incarceration
3. Counsel has refused or failed to file these motions on Appellant's behalf.
4. When Appellant attempted to file the motions pro se, the clerk of the Court of Appeals returned the filings without consideration, stating that because Appellant is represented by counsel, the court would not accept or rule on the motions.
5. As a result, Appellant is left in a procedural posture where:
 - * Counsel will not file the motions, and
 - * the court will not accept Appellant's pro se filings.

This has created a complete breakdown in representation and an effective denial of access to the court.

II. LEGAL STANDARD

While South Carolina does not recognize a right to "hybrid representation," it is well-settled that this rule cannot be applied in a manner that deprives a defendant of meaningful access to the courts or effective assistance of counsel.

The constitutional guarantees at issue include:

- the Sixth Amendment right to counsel,
- the Fourteenth Amendment right to due process, and
- the fundamental right of access to the courts.

III. SUPPORTING AUTHORITY

A. The Court Cannot Enforce the No-Hybrid Rule to Deny Access to the Courts

The United States Supreme Court has held that prisoners have a fundamental constitutional right of access to the courts, which must be "adequate, effective, and meaningful." see *Bounds v. Smith*,

430 U.S. 817, 821-22 (1977).

when procedural rules operate to completely foreclose a defendant's ability to be heard, they violate due process. See *Boddie v. Connecticut*, 401 U.S. 371, 377 (1971) (due process prohibits procedures that deny a litigant a meaningful opportunity to be heard).

Here, Appellant is barred from filing pro se, while counsel refuses to act. That result is constitutionally intolerable.

B. A Breakdown in the Attorney-Client Relationship Requires Judicial Intervention

South Carolina courts similarly hold that where counsel refuses to present issues the defendant seeks to raise — particularly liberty-related issues — continued representation may violate the Sixth Amendment. See *United States v. Taylor*, 933 F.2d 307, 312 (5th Cir. 1991) (conflict exists where counsel refuses to advocate client's position).

C. Anders Representation Does Not Extinguish the Defendant's Right to Be Heard

An Anders brief does not end the court's duty to ensure constitutional protections are preserved. See *Anders v. California*, 386 U.S. 738, 744 (1967).

Nor does Anders permit a situation where a defendant is silenced on liberty-interest motions while the appeal is pending.

Courts have emphasized that Anders procedures must not be applied in a manner that results in constructive denial of counsel. See *Penson v. Ohio*, 488 U.S. 75, 88 (1988).

D. The No-Hybrid Representation Rule Has an Explicit Exception for Motions to Relieve Counsel

South Carolina law expressly recognizes that motions to relieve counsel may be filed pro se, even when a defendant is represented. See *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527, 527 (2010).

This motion is therefore properly before the court and must be addressed on the merits.

IV. CONSTITUTIONAL CONSEQUENCES OF INACTION

If counsel is not relieved, Appellant remains trapped in a procedural paradox where:

- the court refuses to hear him because he has counsel, and
- counsel refuses to advocate on his behalf.

Such a posture amounts to a constructive denial of counsel and is a violation of due process and access to the courts. See *United States v. Cronin*, 466 U.S. 648, 659 (1984) (constructive denial of counsel occurs where circumstances prevent meaningful representation).

V. RELIEF REQUESTED

WHEREFORE, Appellant respectfully requests that this court:

1. Relieve appellate counsel, Wesley Chandler

Norville, Esq., and

2. Either:

- appoint substitute counsel, or
- permit Appellant to proceed pro se so that he may file and litigate motions affecting his liberty.

Respectfully submitted,

/s/ Ray Chestnut

Ray Edward Chestnut

Appellant, Pro se

Kirkland Correctional Institution

4344 Broad River Road

Columbia, SC 29210

January 30, 2026

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CERTIFICATE OF SERVICE SC Court of Appeals

This is to certify that a copy of the foregoing "PRO SE MOTION TO RELIEVE APPELLANT COUNSEL" was served on the parties addressed below by via U.S. mail with appropriate postage on this 30th day of January, 2026.

Addressee(s):

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