

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal from Colleton County

Honorable Edgar W. Dickson, Circuit Court Judge

LESLIE TWYMAN

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Lower Court Case No. 2014-CP-15-00127

PETITION FOR APPOINTMENT OF OUTSIDE COUNSEL

Pursuant to Rule 240, SCACR, the undersigned counsel would petition this Court for the appointment of outside counsel to represent Petitioner in the appeal from the denial of his application for post-conviction relief (PCR) due to the appearance of a conflict of interest. In support of the petition, the undersigned counsel would submit the following information:

1. At the April 14, 2011 term of the Colleton County grand jury, Petitioner was indicted in a two-count indictment for the offenses of criminal sexual conduct in the first-degree and criminal sexual conduct in the third-degree (2010-GS-15-00849). On April 18, 2011, Petitioner's case was called to trial before the Honorable Perry M. Buckner, III, and a jury. On April 20, 2011, Petitioner was found guilty as indicted, and Judge Buckner sentenced petitioner to twenty-five years' imprisonment for criminal sexual conduct in the first-degree and ten years' concurrent for

criminal sexual conduct in the third-degree.

2. Petitioner was first represented on direct appeal by appellate defender Elizabeth Franklin-Best and then by appellate defender Susan Barber Hackett after counsel Franklin-Best left the Office of Appellate Defense. On July 17, 2013, the Court of Appeals affirmed petitioner's convictions on direct appeal following oral argument. State v. Twyman, Unpublished Opinion No. 2013-UP-325 (Heard June 6, 2013 – Filed July 17, 2013).

3. On February 11, 2014, Petitioner filed an application for post-conviction relief. On August 21, 2014, the state filed a return. On October 29, 2014, an evidentiary hearing was convened before the Honorable Edward W. Dickson. At the hearing, PCR counsel Tristan Shaffer amended the PCR application alleging ineffective assistance of appellate counsel.

4. On December 15, 2015, Judge Dickson issued an Order of Dismissal. A notice of intent to appeal was not filed by PCR counsel Shaffer.

5. On June 24, 2019, Petitioner filed a second PCR application asking for a belated appeal of his prior PCR action pursuant to Austin v. State, 305 S.C. 453, 409 S.E. 2d 395 (1991). On July 1, 2020, the state filed a return. On July 20, 2022, an evidentiary hearing was convened before the Honorable Kristi F. Curtis. Late PCR Counsel James Falk argued that petitioner had wanted his prior PCR counsel to file a Rule 59(e) motion, and that the state now consented to petitioner being granted a belated appeal pursuant to Austin v. State. On July 23, 2024, Judge Curtis issued an Order granting relief pursuant to Austin v. State and denying all other relief. On August 5, 2024, PCR Counsel Chelsey Marto filed a notice appeal.

6. On March 21, 2025, the late Chief Appellate Defender Robert M. Dudek filed a petition for writ of certiorari pursuant to Austin v. State with this Court seeking Fishburne remand of Judge Dickson's Order. On August 6, 2025, the state made its return consenting to the limited

remand to the PCR court for findings of fact and conclusions of law specifically related to the claims raised during the original evidentiary hearing, including the allegation of ineffective assistance of appellate counsel.

7. On November 19, 2025, this Court issued an Order granting the petition for a writ of certiorari from Judge Curtis's Order, vacating Judge Dickson's Order, and remanding this matter to the circuit court to issue an order that complies with S.C. Code Ann. § 17-27-80 (2014) and Rule 52(a), SCRPC. The remittitur from the appeal of Judge Curtis's order was sent on December 5, 2025.

8. On February 23, 2026, Judge Dickson issued a new Order denying Petitioner's claims and dismissing his application with prejudice. The order included findings of facts and conclusions of law regarding the assistance of appellate counsel. The Order was clocked received by the Colleton County Clerk of Court on February 25, 2026.

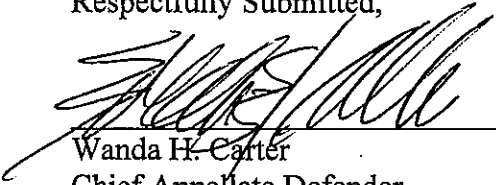
9. As a result, the PCR appeal in this case presents a conflict with our office inasmuch as any staff attorney assigned to this case would be placed in the position of having to evaluate the effectiveness or ineffectiveness of the work product of another appellate defender. Although attorneys Franklin-Best and Hackett are no longer staff attorneys here, the agency endeavors to avoid any impropriety or the appearance of impropriety that would suggest dual representation and/or divided loyalties on appeal. Duncan v. State, 281 S.C. 435, 315 S.E.2d 809 (1984) *citing* Cuyler v. Sullivan, 446 U.S. 335 (1980), and Zuck v. State of Alabama, 588 F.2d 436 (5th Cir. 1979). See also Rule 407, SCACR.

10. Undersigned counsel believes that outside counsel should be appointed to represent petitioner on appeal so that there is not even the appearance of a conflict of interest. The undersigned discovered this potential conflict of interest or conflict of interest early and endeavored to prepare

this motion before taking any extensions in petitioner's case.

WHEREFORE, undersigned counsel respectfully requests the appointment of outside counsel to represent petitioner in his appeal before this Court on the order of the PCR court denying relief. Undersigned counsel also requests that this Court hold the timelines for filing the petition for writ of certiorari and appendix in abeyance pending a decision on this petition. If the petition for outside counsel is granted, undersigned counsel will immediately turn over her file and the compiled appendix to newly appointed counsel.

Respectfully Submitted,



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Wanda H. Carter  
Chief Appellate Defender

South Carolina Commission on Indigent Defense  
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This 4th day of March, 2026.