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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from the Greenville County
Court of Common Pleas

Appellate Case No. 2026-001205

STATE OF SOUTH CAROLINA,..... PETITIONER,

v.

JOHN RICHARD WOOD,.....RESPONDENT.

MOTION TO APPOINT OUTSIDE COUNSEL

The undersigned, Emily Paavola and Allison Franz, respectfully move this Court for the appointment of outside counsel for Respondent, John Richard Wood, to promote efficiency and conservation of resources, and to allow Respondent continuity of counsel. In support of this motion, the undersigned submit the following.

INTRODUCTION AND PROCEDURAL BACKGROUND

Respondent was convicted of murder and sentenced to death by a Greenville County jury. Wood's convictions and death sentence were affirmed on direct review. *State v. Wood*, 362 S.C. 135, 607 S.E.2d 57 (2004), *cert denied*, 545 U.S. 1132 (2005). Respondent subsequently sought post-conviction relief and federal habeas corpus relief, which were denied. *Wood v. Stirling*, 27 F. 4th 269, 275, 280 (4th Cir. 2022).

On October 31, 2022, counsel for Respondent filed a successive post-conviction relief application alleging that he is incompetent to be executed pursuant to *Ford v. Wainwright*, 477

U.S. 399 (1986), and *Singleton v. State*, 313 S.C. 75, 437 S.E.2d 53 (1993). Specifically, the application asserted that Respondent “(1) is unable to rationally and/or factually understand the nature of the proceedings, what he was tried for, the reason for his punishment, or the nature of the punishment; and (2) he lacks sufficient capacity or ability to rationally communicate with counsel.” App. for Post-Conviction Relief at 2 (citing *Singleton*, 313 S.C. at 84, 437 S.E.2d at 58). This court assigned the case to the Honorable Grace Knie, who appointed Emily Paavola and Lindsey Vann to represent Respondent. Undersigned attorney Allison Franz, who had worked on Respondent’s case for several years prior to appointment, was appointed to replace Attorney Vann on December 30, 2025.

Judge Knie convened an evidentiary hearing on March 24–25, 2026. Respondent called Dr. Susan Knight, a forensic psychologist, and Dr. Amanda Salas, a forensic psychiatrist. The State called Dr. Matthew Gaskins, a DMH psychiatrist who evaluated Wood pursuant to the PCR court’s order. All three experts found that Wood was incompetent to be executed under both prongs of *Singleton*, noting that Wood’s active psychosis, disorganized thought processes, and delusional beliefs prevent him from assisting counsel, engaging in rational communication with counsel regarding his case, or having a rational and factual understanding of his punishment. On April 27, 2026, Judge Knie issued an order finding Wood incompetent to be executed, granting post-conviction relief, and staying Wood’s execution pending review by this Court.

I. Judicial Efficiency and Continuity of Counsel

Appointing the undersigned to represent Respondent on appeal would facilitate judicial efficiency because both attorneys are already familiar with Respondent’s case. Undersigned counsel represented Respondent at his post-conviction hearing, prepared post-hearing briefing, and are intimately familiar with the facts and diagnostic issues in Respondent’s case, including the

trial, appeal, and PCR records and the competency evaluations presented at Respondent's evidentiary hearing. Respondent's case involves complex medical issues, numerous experts, and voluminous medical records with which undersigned counsel is already well-acquainted, and any newly appointed attorney would require significant time to familiarize themselves with the record in Respondent's case. In short, appointing the undersigned to represent Respondent would conserve state resources and serve the interest of judicial economy.

Further, undersigned counsel have a long history with Respondent. Ms. Paavola has represented him for over a decade, and Ms. Franz has worked with him for several years. Their appointment would honor Respondent's right to continuity of counsel. While Respondent is not currently capable of communicating rationally with counsel, it is still in his interest to maintain counsel who know him and who have a deep understanding of his case.

II. Request and Legal Authority for Appointment of Two Attorneys

State law is silent on the appropriate number of attorneys to be appointed in a capital appeal of any kind. This Court has the "inherent power to control the order of its business to safeguard the rights of litigants." *State v. Langford*, 400 S.C. 421, 429, 735 S.E.2d 471, 475 (2012). The Indigent Defense Act similarly recognizes "the discretionary authority of a judge [or court] to appoint counsel in any case. . . ." S.C. Code § 17-3-100. Thus, Respondent, by and through undersigned counsel, asks this Court to appoint Emily Paavola and Allison Franz to represent him in this capital post-conviction relief appeal. This appointment would comport with the national standard of care in capital cases, state law requirements in all other capital contexts, the common practice of the Office of Appellate Defense, and this Court's appointment practices in prior capital post-conviction relief appeals.

Given the unique finality of a death sentence, it is common practice in all capital case contexts for multiple attorneys to be appointed. The national standard of care in capital cases, as set forth in the American Bar Association’s *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases*, contemplates “[q]uality representation” in state collateral review proceedings and recognizes that a capital “defense team should consist of no fewer than two attorneys” regardless of the stage of the proceedings. 31 Hofstra L. Rev. 913, 932–35, 952, 955.¹ In all other contexts involving individuals facing a sentence of death, state law mandates the appointment of at least two attorneys. See S.C. Code §§ 16-3-26(B)(1) (mandating the appointment of two attorneys for trial once a notice of intent to seek the death penalty is filed in a case), 17-27-160(B) (mandating the appointment of two attorneys in a capital post-conviction relief action).

In most capital appeals, the Office of Appellate Defense (“OAD”) would be automatically appointed to represent the appellant. S.C. Code § 17-3-360. The automatic appointment allows OAD to determine which and how many of its attorneys to assign to capital cases. In all recent capital appeals handled by OAD, no fewer than two attorneys have been assigned to handle the appeal. *E.g.*, *State v. Blackwell*, 420 S.C. 127, 801 S.E.2d 713 (2017) (Chief Appellate Defender Robert Michael Dudek and Appellate Defender David Alexander); *State v. Jerome Jenkins*, Appellate Case No. 2019-001280 (Chief Appellate Defender Robert Michael Dudek, Appellate Defender Katherine H. Hudgins, and Appellate Defender Adam Sinclair Ruffin); *State v. Timothy Ray Jones, Jr.*, 440 S.C. 214, 891 S.E.2d 347 (2023) (Chief Appellate Defender Robert Michael

¹ This Court has recognized these guidelines as authoritative on the question of what is required for counsel to be effective in capital cases. *Council v. State*, 380 S.C. 159, 670 S.E.2d 356 (2008); *Ard v. Catoe*, 372 S.C. 318, 332, 642 S.E.2d 590, 597 (2007).

Dudek, Appellate Defender David Alexander, Appellate Defender Susan Barber Hackett, Appellate Defender Lara M. Caudy, and Appellate Defender Taylor Davis Gilliam).

This practice extends to OAD's staffing on appeals from capital post-conviction relief actions. *E.g.*, *Marion Lindsey v. State*, Appellate Case No. 2019-001271 (Chief Appellate Defender Robert Michael Dudek, Appellate Defender David Alexander, and Appellate Defender Lara M. Caudy); *Richard Bernard Moore v. State*, Appellate Case No. 2011-198472 (Chief Appellate Defender Robert Michael Dudek and Appellate Defender Susan Barber Hackett).

Finally, Respondent's request is also consistent with this Court's prior practice in capital PCR appeals involving the appointment of outside counsel, in which this Court has appointed two attorneys. *E.g.*, Order Appointing Counsel, *Terry v. State*, No. 2025-001760 (Oct. 21, 2025) (appointing two attorneys); Order Appointing Counsel, *Blackwell v. State*, No. 2025-001377 (Sept. 10, 2025) (appointing two attorneys); Order Appointing Counsel, *Aleksey v. State*, No. 2024-000140 (Mar. 28, 2024); Order Appointing Counsel, *Inmon v. State*, No. 2020-000881 (Aug. 24, 2020) (appointing two attorneys); Order Appointing Outside Counsel, *Finklea v. State*, No. 2019-001104 (Sept. 27, 2019) (appointing two attorneys); Order Appointing Outside Counsel, *Alkebulanyahh v. State*, No. 2019-000529 (Aug. 2, 2019); Order Appointing Counsel, *Bryant v. State*, No. 2019-000610 (May 30, 2019). Given the heightened interest in reliability in capital cases due to the finality of capital punishment, appointment of two attorneys is appropriate in this case. *See Caldwell v. Mississippi*, 472 U.S. 320, 323 (1985) (noting the state's heightened "need for reliability in the determination that death is the appropriate punishment in a specific case" under the Eighth Amendment (quoting *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976) (plurality opinion))).

CONCLUSION

For the foregoing reasons, undersigned counsel respectfully request that this Court appoint them to represent Respondent on appeal.

Respectfully submitted,

/s/ Allison Franz

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