

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

R. Keith Kelly, Circuit Court Judge

RECEIVED

Jul 01 2026

SC Court of Appeals

RAEKWON DAVONTE RICHARDSON,

APPELLANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-001758

MOTION FOR APPOINTMENT OF OUTSIDE COUNSEL

Pursuant to Rule 240, SCACR, undersigned counsel respectfully move for this Court to appoint outside counsel to represent Appellant, Raekwon Davonte Richardson, in his direct appeal before this Court due to the existence of a potential or an actual conflict of interest.

1. During the February 2023 term of the Spartanburg County grand jury, Appellant was indicted for the offenses of burglary, first degree and possession of a weapon during the commission of a violent crime (PWDCVC) (2012-GS-42-0857; 857A) and attempted armed robbery (2023-GS-42-0858). On July 15, 2024, Appellant's case was called to trial before Judge R. Keith Kelly and a jury. Spenser Holloran Smith and Matthew McMauley Henderson were the assistant solicitors. Retained counsel Monier Mufid Abusaft represented Appellant.

2. On July 18, 2024, the jury found Appellant guilty as indicted. Appellant was sentenced to life without the possibility of parole (LWOP) on the burglary and attempted armed robbery charges, pursuant to South Carolina's recidivist statute.

3. Trial counsel Abusaft timely filed a notice of appeal on behalf of Appellant. Following the submission of his affidavit of indigency, Appellant was found to be indigent by then-Chief Appellate Defender Robert M. Dudek and thus eligible for representation by the South Carolina Commission on Indigent Defense (SCCID) Division of Appellate Defense. After the trial transcript was prepared, the case was assigned to Assistant Appellant Defender Jessica M. Saxon.

4. On June 20, 2024, trial counsel Abusaft moved *ex parte* to request funding from SCCID for expert services and for a hearing to be held on the matter. SCCID opposed any motions for funding in the matter, as trial counsel Abusaft had been privately retained. The *ex parte* motion was denied without a hearing. (Exhibit A).

5. While reading the transcript and lower court pleadings, Counsel Saxon realized the existence of a potential conflict of interest in Appellate Defense's representation of Appellant. *See Ex Parte: South Carolina Commission on Indigent Defense v. Eastwood*, Memorandum Opinion No. 2025-MO-043 (Heard September 23, 2025 - Filed November 19, 2025). (Exhibit B)

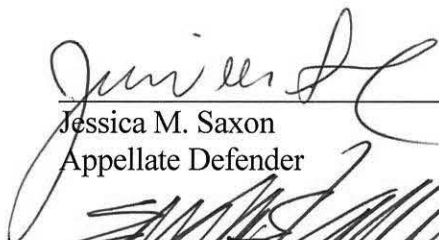
6. After reviewing the file, undersigned counsel concluded that this case presents, at a minimum, the potential appearance of a conflict of interest.

7. Since the Division of Appellate Defense, which has approved Appellant for representation on direct appeal before this Court, is a branch of SCCID, undersigned counsel respectfully move this Court to appoint outside counsel to avoid any potential appearance of a conflict of interest or impropriety or any actual conflict of interest or impropriety, *see* Rule 407, SCACR. In *Eastwood*, the Supreme Court appointed outside counsel on the same grounds presented here. Appellate

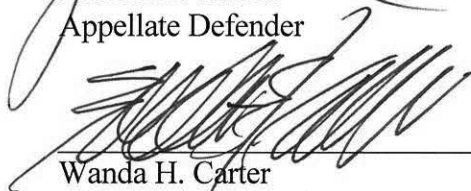
Defense's Motion and the Court's Order in the Eastwood matter are attached to this motion as Exhibit C.

WHEREFORE, undersigned counsel respectfully request the appointment of outside counsel to represent appellant in his direct appeal before this Court. Undersigned counsels also request that this Court hold the timelines for the filing of the initial brief and designation of matter on appeal in abeyance pending a ruling on this motion.

Respectfully submitted,



Jessica M. Saxon
Appellate Defender



Wanda H. Carter
Chief Appellate Defender

This 1st day of July, 2026.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

R. Keith Kelly, Circuit Court Judge

RAEKWON DAVONTE RICHARDSON,

APPELLANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-001758

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the motion for appointment of outside counsel in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 1st day of July, 2026.

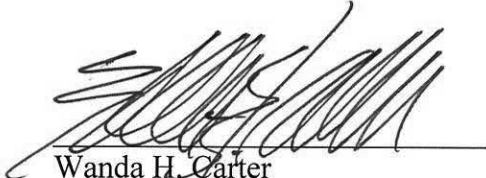

Wanda H. Carter
Chief Appellate Defender

EXHIBIT A

EXHIBIT A

SECRET

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

State of South Carolina,

vs.

Rackwon DaVante Richardson,

Defendant.

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

Case No. ~~2023-07-23-05524~~

2022 A 42 101022 10, 11, 12

**MOTION TO RECONSIDER EX PARTE
MOTION TO REQUEST A HEARING
FOR INDIGENT FUNDING**

COMES NOW, the Defendant, Rackwon DaVante Richardson by and through his undersigned counsel, and respectfully moves this Honorable Court to reconsider Defendant's Ex Parte Motion to request a hearing for Indigent Funding for Expert and in the event the motion to be heard is not reconsidered, Defendant requests the Court to issue a formal Order with findings and conclusions of law outlining its decision. Grounds for this motion are as follows:

On June 19, 2024, Defendant submitted a Motion to Request a Hearing for Indigent Funding for Expert to the Honorable Judge R. Keith Kelly for consideration. Defendant received an email the same day denying Defendant's motion to for a hearing to be heard on the issue of eligibility of indigent funding. In response to the email, Defendant's counsel requested a formal Order. On June 20, 2024, a one-word order was filled denying Defendant's motion for a hearing.

For the forgoing reasons, Defendant respectfully request the Court reconsider its decision in denying Defendant's Ex Parte Motion to Request a Hearing for Indigent Funding and set this matter for a hearing to determine Defendant's eligibility for indigent funding. In the alternative,

Defendant requests that the Court issue a formal Order with facts of findings and conclusions of

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SPARTANBURG COUNTY
AMY W. COX

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SPARTANBURG COUNTY
AMY W. COX

EXHIBIT A

Respectfully submitted,

s/Monier Abusoft
Monier Abusoft, Esq.
SC Bar # 101654
Law Office of Mo Abusoft
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(864) 208-9281
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Attorney for the Defendant

June 20, 2024
Spartanburg, South Carolina

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2024 JUN 27 AM 9:01
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SPARTANBURG COUNTY
AMY W. COX

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SPARTANBURG COUNTY
AMY W. COX

EXHIBIT B

EXHIBIT B

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

Ex Parte: South Carolina Commission on Indigent
Defense, Respondent,

In Re: The State, Respondent,

v.

Kenneth Henry Eastwood, Appellant.

Appellate Case No. 2024-000583

Appeal From Orangeburg County
Maite Murphy, Circuit Court Judge

Memorandum Opinion No. 2025-MO-043
Heard September 23, 2025 – Filed November 19, 2025

AFFIRMED

Ashley B. Cornwell, of Cornwell Law Firm, LLC, of
Mount Pleasant, for Appellant.

Executive Director James Hugh Ryan, III and Deputy
Director and General Counsel Herverly B. O. Young, both
of Columbia, for Respondent South Carolina
Commission on Indigent Defense.

EXHIBIT B

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Melody Jane Brown,
both of Columbia, for Respondent The State of South
Carolina.

PER CURIAM: Kenneth Henry Eastwood appeals the trial court's ruling that he is not entitled to reimbursement from the Commission on Indigent Defense for expert witness expenses incurred for his murder trial. We affirm.

In order to fulfill this State's constitutional duty to provide legal defense for individuals who are unable to provide for themselves, our legislature enacted the South Carolina Defense of Indigents Act¹ (the Act). With section 17-3-50 and Provisos 61.1 and 61.4 of the yearly Appropriations Acts,² the legislature designed ex parte proceedings for indigent defendants to request expert fees. It further empowered this Court to establish rules and regulations for the proper administration of the Act. § 17-3-110. This Court did so through Rule 602 of the South Carolina Appellate Court Rules and an order setting forth the procedures for processing indigent defense vouchers, 2006-09-29-01 (S.C. Sup. Ct. Order dated September 29, 2006) (Voucher Order). The legislature also enabled the Commission to develop policies and procedures to carry out the Act. §§ 17-3-310(G)(2) & -340(I). Similarly, in the Voucher Order, this Court authorized the Commission to establish additional procedures for the electronic award of fees and costs, subject to the Chief Justice's approval.

The Voucher Order requires counsel to register online with the Commission within fifteen days of appointment to the case. Upon appointment and registration, counsel is entitled to reasonable costs under section 17-3-50 and must submit vouchers to the Commission. The Voucher Order provides that when the Office of Indigent Defense objects to a voucher request, it "shall notify the trial court and counsel of any objection and shall forward any necessary materials to the trial court in writing or electronically." It further authorizes the trial court to "determine the matter with or without a hearing, as may be appropriate, or upon the submission of written materials."

¹ S.C. Code Ann. §§ 17-3-5 to -600 (2014 & Supp. 2025).

² The Appropriations Act in effect at the relevant time was the 2023-2024 Appropriations Act, H.4300, 125th, Leg. 1st Reg. Sess. (S.C. 2023).

EXHIBIT B

The Commission's Voucher Payment Policy (the Policy)³ acknowledges that section 17-3-50 and Provisos 61.1 and 61.4 require the trial court to provide prior written approval for expert witness expenses before the Commission can pay them. The Policy requires the attorney to submit the funding order to the Commission within fifteen days of the date of the order and before the expenses are incurred. It further states that if the Commission determines the voucher is not in order, it will notify the trial court and counsel of its objection in writing or electronically. The Commission "will then pay such amount as the trial court may authorize."

Eastwood contends the Commission's procedures for reviewing voucher requests do not apply when the trial court has issued a funding order from an ex parte proceeding. As Eastwood points out, the Voucher Order provides "Nothing herein shall preclude the trial court from taking immediate action on ex parte requests for fees and costs during the pendency of a case as may be authorized by statute or court rule." However, neither this Court's nor the Commission's procedures contradict this provision. Indigent defendants still must present voucher requests for expert witness fees to the trial court. Then, as the legislature specifically required, defendants must submit the court-approved vouchers to the Commission for its review pursuant to the Commission's procedures and policies. *See* Proviso 61.1 ("Indigent defense vouchers authorized in this provision must be reviewed and paid pursuant to procedures and policies established by the Commission on Indigent Defense."). As the Policy explains, "Submission of the funding order prior to the expenses being incurred will allow SCCID to address any issues with the Order prior to the attorney or service providers incurring any costs."

The procedures this Court and the Commission developed for the Commission to conduct its statutorily-mandated review of vouchers do not set a time limit for the Commission's objections nor do they require the objections to be in the form of a motion. Instead, the Commission must relay its objections to the trial court in writing or by e-mail. Here, the Commission's December 20, 2023, letter to the trial court followed those procedures. Therefore, we hold that the Commission sufficiently conveyed its objections to the Funding Orders to the trial court, and the trial court had jurisdiction to consider those objections.

³ SC Commission on Indigent Defense Voucher Payment Policy (February 26, 2021) [https://www.scstatehouse.gov/reports/CommOnIndigentDefense/SCCID%20Voucher%20Payment%20Policy-Rev2021%20\(Final\).pdf](https://www.scstatehouse.gov/reports/CommOnIndigentDefense/SCCID%20Voucher%20Payment%20Policy-Rev2021%20(Final).pdf).

EXHIBIT B

In addition, we hold the trial court correctly found Eastwood failed to adhere to the Policy in seeking payment for the expert witness fees. The Policy requires defendants to submit funding orders to the Commission within fifteen days of the trial court signing them. Here, the trial court issued the Funding Orders on October 13, 2023, and November 2, 2023. It tried the case on November 8-9, 2023. Eastwood did not submit the Funding Orders to the Commission until December 12, 2023. Eastwood does not challenge the trial court's finding that his failure to follow the Policy prevents him from being able to compel the Commission to pay the expert witness fees. Accordingly, we affirm the trial court's ruling that the Commission was not in contempt for failing to remit the expert funding.⁴

AFFIRMED.

KITTREDGE, C.J., FEW, JAMES, HILL and VERDIN, JJ., concur.

⁴ To the extent Eastwood raises a constitutional issue, we hold he was not deprived of any constitutional right as the expert witnesses did, in fact, testify at his trial.

EXHIBIT C

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Orangeburg County
Matie Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH HENRY EASTWOOD,

APPELLANT.

APPELLATE CASE NO. 2023-001798

MOTION FOR APPOINTMENT
OF OUTSIDE COUNSEL

Undersigned counsel respectfully moves this Court to appoint outside counsel to represent appellant in his direct appeal before this Court.

1. Appellant was indicted at the February 13, 2023 term of the Orangeburg County Grand Jury for the offense of murder. His case was called for trial on November 6, 2023 before the Honorable Maite Murphy, and a jury. Catherine Hunter, Thomas Scott and Mark Hines were the assistant solicitors. Retained counsel Ashley Cornwell represented appellant. Tr. 1.

2. On November 9, 2023, the jury found appellant guilty of murder. Tr. 663, ll. 12-19. Judge Murphy sentenced appellant to life imprisonment without parole. Tr. 669, ll. 12-14.

EXHIBIT C

3. After the notice of intent to appeal was filed and served, appellant was found to be indigent by Chief Appellate Defender Robert M. Dudek, and eligible for representation by the Appellate Division of the South Carolina Commission on Indigent Defense (SCCID) following the submission of his affidavit of indigency.

4. On January 18, 2024 a virtual hearing was held before Judge Murphy on a Rule to Show Cause filed by appellant through his retained trial counsel, Ashley Cornwell, against SCCID. Trial counsel maintained SCCID should be ordered to pay for two expert witnesses she retained prior to appellant's trial. SCCID answered that trial counsel had not followed applicable statutes, court rules, Supreme Court orders and SCCID policies in the process of retaining these two trial experts, and therefore SCCID did not have the legal authority to reimburse trial counsel for these expert services.

5. Judge Murphy issued an order denying trial counsel's Rule to Show Cause dated February 26, 2024. On March 7, 2024 trial counsel filed a motion to reconsider the denial of the Rule to Show Cause. Judge Murphy denied the motion to reconsider in an order dated March 25, 2024.

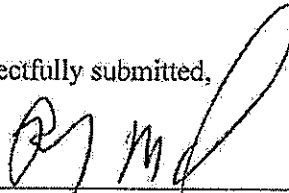
6. Trial counsel then filed a notice of intent to appeal on April 5, 2024 from Judge Murphy's order denying the Rule to Show Cause and Motion to Reconsider. A copy of that notice of intent to appeal is attached as Exhibit A to this motion.

7. Since the Appellate Division, which has approved appellant for representation on direct appeal before this Court, is a branch of SCCID undersigned counsel moves this Court to appoint outside counsel to avoid any potential appearance of a conflict of interest.

EXHIBIT C

WHEREFORE, undersigned counsel respectfully requests the appointment of outside counsel to represent appellant in the direct appeal of his conviction before this Court. Undersigned counsel also requests that this Court hold the timelines for the filing of the initial brief and designation of matter on appeal by the Appellate Division in abeyance pending a ruling on this motion.

Respectfully submitted,



ROBERT M. DUDEK
CHIEF APPELLATE DEFENDER

ATTORNEY FOR APPELLANT

This 9th day of April, 2024

EXHIBIT C

EXHIBIT

A

EXHIBIT C

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Apr 05 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

Maite Murphy, Circuit Court Judge

Case Nos.: 2020-GS-38-0943

The State,

Respondent,

V.

Kenneth Henry Eastwood

Appellant.

NOTICE OF APPEAL

Kenneth Henry Eastwood appeals the Circuit Court's denial of his Petition for a Rule to Show Cause. The denial of Appellant's petition was ordered by the Honorable Maite Murphy, on February 28, 2024. Appellant filed a motion to reconsider on March 7, 2024. That motion was denied by the Honorable Maite Murphy on March 26, 2024. This appeal is taken as to the denial of the petition and pursuant to the statutes made and provided in the applicable provisions of the South Carolina Code of Law, 1976, as amended.

April 5, 2024

/s Ashley B. Cornwell

Ashley B. Cornwell

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843-595-6003

acornwell@cornwellfirm.com

Attorney for Appellant

Other Counsel of Record:

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EXHIBIT C

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Apr 05 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

Maite Murphy, Circuit Court Judge

Case Nos.: 2020-GS-38-0943

The State,

Respondent,

V.

Kenneth Henry Eastwood

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Herverly Young, South Carolina Commission of Indigent Defense, by emailing a copy to him at hyoung@sccid.sc.gov on April 5, 2024.

April 5, 2024

/s Ashley B. Cornwell

Ashley B. Cornwell

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Attorney for Appellant

Other Counsel of Record:
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hyoung@sccid.sc.gov

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

KENNETH HENRY EASTWOOD,

APPELLANT.

APPELLATE CASE NO. 2023-001798

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Motion for Appointment of Outside Counsel in the above-referenced case has been served upon Ashley B. Cornwell, Esquire and Melody J. Brown, Esquire, at the primary e-mail addresses listed in the Attorney Information System (AIS) and Kenneth Henry Eastwood, #392480, at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 9th day of April, 2024.

ROBERT M. DUDEK
CHIEF APPELLATE DEFENDER

ATTORNEY FOR APPELLANT

The South Carolina Court of Appeals

The State, Respondent,

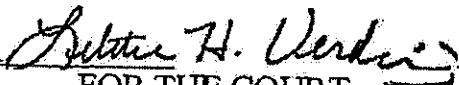
v.

Kenneth Henry Eastwood, Appellant.

Appellate Case No. 2023-001798

ORDER

Appellant's motion for the appointment of outside counsel is granted. The Clerk of Court for Orangeburg County shall immediately appoint the next lawyer on the Rule 608, SCACR, appointment list to represent Appellant on appeal. Upon receiving notice of the appointment, counsel shall immediately file a notice of appearance with this court.


FOR THE COURT

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
Ashley B. Cornwell, Esquire
Robert Michael Dudek, Esquire
The Honorable Winnifa Brown-Clark

FILED
Apr 26 2024