

IN THE SUPREME COURT  
FOR THE STATE OF SOUTH CAROLINA

**RECEIVED**

Marshall Ray Miller, # 249557, )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
State of South Carolina )  
 )  
Respondents. )  
 )  
\_\_\_\_\_ )

Appellate Case No. 2013-001076

JAN 08 2014

**S.C. SUPREME COURT**

**MOTION TO SUBSTITUTE COUNSEL  
PURSUANT TO RULE 240, SCACR**

The undersigned Petitioner, Marshall Ray Miller, appearing *pro se*, moves this Honorable Court, pursuant to Rule 240, SCACR, to substitute outside counsel [John D. Compton, III] appointed in lieu of The Office of Appellate Defense, per an order of this Court dated December 16, 2013 and received January 2, 2014.

For the identical reason put forth in the December 16<sup>th</sup> order; due to a conflict of interest arising from the fact that the issue of whether Robert Dudek... .. "was ineffective in his representation of petitioner on direct appeal was raised to an ruled upon by the PCR judge;" the Petitioner will purse issues on federal habeas corpus, under *Martinez v. Ryan*, that John D. Compton, III, failed to pursue in the PCR and subsequent Rule 59 (e) motion.

Petitioner is cognizant there exists no Sixth Amendment right in South Carolina to PCR counsel, but maintains these matters constitute a conflict of interest with John D. Compton, III.

Respectfully submitted,

*Marshall L Miller*

January 2, 2014

Marshall Ray Miller  
#249557  
Lieber Corr. Inst. SB-56  
P.O. Box 205  
Ridgeville, SC 29472-0205  
**PETITIONER, *pro se***

**IN THE SUPREME COURT  
FOR THE STATE OF SOUTH CAROLINA**


Marshall Ray Miller, # 249557	)	<b>Appellate C/A No. 2013-001076</b>
	)	
Petitioner,	)	
	)	
vs.	)	
	)	<b>CERTIFICATE OF SERVICE</b>
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

The undersigned certifies that a true copy of Petitioner's Motion to Substitute Counsel was served on counsel for Respondents by placing same in the U.S. Mail, first-class postage affixed thereto, this 3<sup>rd</sup> day of January 2014, addressed as follows:

Ashley Anne McMahan, Esquire  
Asst. Attorney General  
P.O. Box 11549  
Columbia, S.C. 29211-1549

John D. Compton, III, Esquire  
212 Grace Street  
Greenwood, S.C. 29646

Robert Pachak, Esquire  
Appellate Defense  
P.O. Box 11589  
Columbia, S.C. 29211-1589

  
Marshall Ray Miller  
#249557  
Lieber Corr. Inst. SB-56  
P.O. Box 205  
Ridgeville, S.C. 29472

**Petitioner, Pro-se**

# The Supreme Court of South Carolina

Marshall Miller, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2013-001076

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## ORDER

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This matter is before the Court by way of a notice of appeal from an order denying petitioner's application for post-conviction relief. Following the filing of the notice, the Commission on Indigent Defense, Division of Appellate Defense, assumed representation of petitioner. The Division of Appellate Defense now moves to be relieved as counsel and for outside counsel to be appointed due to a conflict of interest arising from the fact that the issue of whether Robert Dudek, Chief Appellate Defender, was ineffective in his representation of petitioner on direct appeal was raised to and ruled upon by the PCR judge. The State has not filed a return to the motion.

The motion is granted and the Division of Appellate Defense is hereby relieved as counsel for petitioner in this matter. John D. Compton, III, who represented petitioner in the lower court in this matter, is hereby reappointed to represent petitioner. The Division of Appellate Defense shall remain associated for the limited purpose of paying for any necessary transcript(s) and providing copies of the petition, appendix and briefs.

  
C.J.  
FOR THE COURT

Columbia, South Carolina.

December 16, 2013

cc:

Ashley Anne McMahan, Esquire

Robert M. Pachak, Esquire

John Compton, Esq.

Marshall Miller

Marshall R. Miller #249557  
Lieber Corr. Inst. Stono B-56  
P.O. Box 205  
Ridgeville, S.C. 29472

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JAN 08 2014

**S.C. SUPREME COURT**

January 3, 2014

South Carolina Supreme Court  
Honorable Daniel Shearhouse  
Clerk  
P.O. Box 11330  
Columbia, S.C. 29211

**Re: Motion for Substitute Counsel  
Appellate Case No. 2013-001076**

Honorable Daniel Shearhouse,

Please find enclosed the original and six (6) copies of the motion for substitute counsel. Please clock stamp them and file them in your court.

I would like thank you in advance for any help you can give me in this matter.

Kindest Regards,

*Marshall R Miller*

Marshall R. Miller #249557

Cc/file

Marshall R. Miller #249557  
Lieber C.I. SB-56  
P.O. Box 265  
Ridgeville S.C.  
29472

Interdepartmental  
Mail

**RECEIVED**

JAN 03 2014

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**SCDC**

DEC 21 2013

MAIL ROOM

South Carolina Supreme Court  
Honorable Daniel Shearhouse  
Clerk  
P.O. Box 11330  
Columbia, S.C. 29211

Interdepartment  
Mail

LIEBER CORRECTIONAL INSTITUTION  
S. C. DEPARTMENT OF CORRECTIONS

THE DEPARTMENT OF CORRECTIONS HAS NOT  
INSPECTED OR CENSORED THIS ITEM; THEREFORE,  
THE DEPARTMENT DOES NOT ASSUME RESPONSIBILITY  
FOR ITS CONTENTS.