

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

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SC Court of Appeals

CASE DOCKET NO. 2025-001507

APPEAL FROM SPARTANBURG COUNTY
THE HONORABLE R. SCOTT SPROUCE, CIRCUIT JUDGE

JORGE RODRIGUEZ,

APPELLANT

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MEMORANDUM
IN SUPPORT OF MOTION TO RELIEVE CONFLICT COUNSEL AND
APPOINT SUBSTITUTE CONFLICT-FREE COUNSEL PURSUANT TO
S.C.A.C.R., RULE 602 AND RULE 608; HIGHLIGHTING STRUCTURAL
ERROR AND VIOLATION OF SIXTH AMENDMENT CONSTITUTIONAL
RIGHT OF AUTONOMY UNDER McCOY v. LOUISIANA, 584 U.S.
414 (U.S.2018); MOTION TO EXPAND THE SCOPE AND FOR
INCLUSION UNDER S.C. RULES OF EVIDENCE, RULE 201 ALSO
MOTIONING TO SUPPLEMENT THE RECORD TO SUPPORT THE MOTION
AND UNDER RULE 201(b)(2), SCRE AND MOTION TO MOTION THEREFOR

TO: THE S.C. COURT OF APPEALS,
THE SOUTH CAROLINA OFFICE OF APPELLATE DEFENSE,
THE S.C. ATTORNEY GENERAL ET. AL.,

HERE THE COURT AND PARTIES WILL FIND:

(1) A COPY OF THE THREE PAGE LETTER THAT THE APPELLANT SENT TO HIS ATTORNEY OF RECORD, ATTORNEY W. CHANDLER NORVELLE, DATED JUNE 26, 2026.

(2) A COPY OF THE RESPONSE LETTER THE ATTORNEY OF RECORD SENT TO THE APPELLANT DATED MAY 28, 2026 ALONG WITH THE COPY OF THE CONTINUE AFFIDAVIT.

(3) A COPY OF THE POST CONVICTION RELIEF APPLICATION THAT MAKE UP CASE 2026-CP-42-04234 IN SPARTANBURG COUNTY THAT THE APPELLANT WAS FORCED TO FILE DUE TO THE CURRENT CONFLICT OF INTEREST THAT EXIST INVOLVING THE ATTORNEY OF RECORD AND THE SOUTH CAROLINA INDIGENT DEFENSE OFFICE ESTABLISHING INJURY AND PREJUDICE.

INSOMUCH, THE APPELLANT, JORGE A. RODRIGUEZ, PROCEEDING PRO SE, AND RESPECTFULLY MOTIONS BEFORE THE S.C. COURT OF APPEALS FOR AN ORDER RELIEVING THE SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE (SCCID)--OFFICE OF APPELLATE DEFENSE FROM FURTHER REPRESENTATION IN THE ABOVE CAPTIONED MATTER. THE APPELLANT FURTHER MOTIONS FOR THE IMMEDIATE APPOINTMENT OF INDEPENDENT, CONFLICT-FREE SUBSTITUTE COUNSEL FROM THE (SCCID) RULE 608 CONTRACT ATTORNEY ROSTER.

THE APPELLANT MOTIONS AND GIVE THE COURT OF APPEALS JUDICIAL NOTICE UNDER SOUTH CAROLINA RULES OF EVIDENCE, RULE 201, AND MOTION TO SUPPLEMENT THE RECORD AND FOR INCLUSION AND THAT ALL DOCUMENTS AND PLEADINGS FILED UNDER CASE 2023-001474 THE JAMES JOSEPH PATTERSON III APPEAL, AND CASE 2025-001856 THE LAWRENCE L. CRAWFORD APPEAL THAT WAS FILED AND CURRENTLY EXIST

PENDING BEFORE THIS COURT. ADMISSIBILITY OF THE COURT'S OWN RECORDS UNDER THESE CIRCUMSTANCES IS APPROPRIATE IN SUPPORT OF THE APPELLANT'S MOTION TO RELIEVE COUNSEL AND SEEK SUBSTITUTE COUNSEL. IT IS A WELL-ESTABLISHED SOUTH CAROLINA PRECEDENT THAT AN APPELLANT COURT MAY TAKE JUDICIAL NOTICE OF ITS OWN RECORDS AND JUDGMENTS IN RELATED CASES, PARTICULARLY WHEN THOSE RECORDS DIRECTLY IMPACT THE ADMINISTRATION OF JUSTICE OR ILLUSTRATE A SYSTEMATIC PROCEDURAL BAR IN THE CASES AT BAR, STATE v. RIVERS, 421 S.C. 631, 809 S.E.2d. 411(S.C.App.2018)(THE DOCUMENTS, ORDERS AND ACTIVITIES INVOLVING THE INDIGENT DEFENSE OFFICE AND THIS COURT INVOLVING THESE TWO CASES RESIDE WITHIN THE COURT'S IMMEDIATE CONTROL AND CANNOT BE REASONABLY DISPUTED).

THE NECESSITY OF EXPANDING THE SCOPE TO HIGHLIGHT RELEVANT ANTECEDENTS--THE APPELLANT IS NOT ATTEMPTING TO RELITIGATE THE MERITS OF THOSE PRIOR INMATES APPEALS. RATHER, THE APPELLANT SEEKS INCLUSION OF THESE FILES BECAUSE THEY CONSTITUTE THE INDISPENSABLE FACTUAL FOUNDATION PROVING THE ACTUAL, INSTITUTIONAL CONFLICT OF INTEREST CURRENTLY PARALYZING APPELLANT'S OWN COUNSEL WHICH IS CLEARLY INDICATED BY THE ATTACHED RESPONSE LETTER THAT HE SENT THE APPELLANT DATED MAY 28, 2026. AS STATED IN STATE v. LYTCH, 429 S.C. 280, 838 S.E.2d. 214(Ct.App.2019) SUPPORTED BY GONZALES v. STATE, 419 S.C. 2, 795 S.E.2d. 835(S.C.App.2017); UNITED STATES v. CLAY, --F.4TH.--, 2026 WL 2222360 (4TH.Cir.2026)(A COURT MUST EVALUATE THE STRUCTURAL INTEGRITY OF APPOINTED REPRESENTATION WHEN A CONFLICT IS RAISED. APPELANT CANNOT FULLY DEMONSTRATE TO THIS COURT HOW THE INDIGENT DEFENSE OFFICE IS SYSTEMATICALLY COLLUDING WITH THE S.C. ATTORNEY GENERAL AND POTENTIAL OTHER OFFICERS OF THE COURT IN OBSTRUCTING, "CRASHING" THE STATE v. GENTRY JURISDICTIONAL CHALLENGE WITHOUT REFERRING TO THE IMMEDIATE, CHRONOLOGICAL TIMELINE OF THE TWO PRIOR APPEALS WHERE THE EXACT SAME COLLUSION, OBSTRUCTION AND SUPPRESSION OCCURRED UNDER THE GUISE OF "HYBRID-DEFENSE" AND OTHER RELATED OBSTRUCTIONIST ACTS THAT OCCURRED.

INASMUCH, IN SUPPORT OF PRESENTING MEMORANDUM OF LAW IN SUPPORT OF SEEKING TO RELIEVE THE CURRENT COUNSEL AND HAVE

SUBSTITUTE COUNSEL APPOINTED, THE APPELLANT HUMBL Y AVERS:

I. THE SIXTH AMENDMENT GUARANTEES AN INDIGENT APPELANT THE RIGHT OF AN ADVOCATE POSSESSING UNDIVIDED, ABSOLUTE LOYALTY UNTAINTED BY INSTITUTIONAL BIAS---THE RIGHT TO COUNSEL UNDER THE 6TH. AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLE 1 § 14 OF THE SOUTH CAROLINA CONSTITUTION IS NOT A MERE FORMALITY; IT IS THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL SUPPORTED BY U.S. SUPREME COURT HOLDINGS UNDER McCOY v. LOUISIANA, 584 U.S. 414, 138 S.Ct. 1500 (U.S.2018). IN THE CASE OF CUYLER v. SULLIVAN, 446 U.S. 335 (1980)(A FOUNDATIONAL CORNERSTONE OF "EFFECTIVE" REPRESENTATION IS THE ABSOLUTE REQUIREMENT OF CONFLICT-FREE COUNSEL. THE UNITED STATES SUPREME COURT HAS LONG RECOGNIZED THAT A DEFENDANT IS DENIED DUE PROCESS WHEN THEIR ATTORNEY'S LOYALTIES ARE DIVIDED). ALSO SEE GLASSER v. UNITED STATES, 315 U.S. 60 (U.S.1942).

IN SOUTH CAROLINA, WHILE AN INDIGENT DEFENDANT DOES NOT POSSESS A QUALIFIED RIGHT TO SELECT A SPECIFIC PRIVATE ATTORNEY OF THEIR CHOOSING, THEY POSSESS AN ABSOLUTE RIGHT TO THE REMOVAL OF COURT APPOINTED COUNSEL UPON A SHOWING OF "SATISFACTORY CAUSE", STATE v. GREGORY, 364 S.C. 150, 152, 612 S.E.2d. 449, 450(S.C.App.2005); STATE v. RIVERS, S.E. Rptr., 2023 WL 4489438 (S.C.App.2023); STATE v. LYNCH, 429 S.C. 280, 283, 838 S.E.2d. 214, 216 (Ct.App.2019). SATISFACTORY CAUSE IS ESTABLISHED AS A MATTER OF LAW WHEN THE ASSIGNED DEFENSE ENTITY SUFFERS FROM AN ACTUAL STRUCTURAL CONFLICT OF INTEREST THAT MATERIALLY LIMITS ITS CAPACITY TO ZEALOUSLY ADVOCATE FOR THE CLIENT, STATE v. PAGE, 403 S.C. 420, 742 S.E.2d. 825(S.C.2013); JORDAN v. STATE, 406 S.C. 443, 752 S.E.2d. 538(S.C.Ap..2013).

II. AN ACTUAL CONFLICT OF INTEREST IS CONSTITUTED BY THE INDIGENT DEFENSE OFFICE'S SYSTEMATIC PATTERN OF APPELLATE ABANDONMENT AND THE ENFORCEMENT OF AN UNWRITTEN ANTI-CHALLENGE POLICY---AN ACTUAL CONFLICT OF INTEREST OCCURS WHEN A DEFENSE ATTORNEY OR THEIR ENTIRE INSTITUTIONAL APPARATUS OWES A COMPETING

DUTY TO A THIRD PARTY, TO THE STATE, OR TO THEIR OWN SELF-PRESERVATION THAT RUNS DIRECTLY COUNTER TO THE VITAL LEGAL INTERESTS OF THEIR CURRENT CLIENT, JACKSON v. STATE, 329 S.C. 345, 495 S.E.2d. 768 (S.C.App.1998); UNITED STATES v. CLAY,--F.4TH.--, 2026 WL 2222360(4th.Cir.2026). UNDER RULE 1.7(a)(2) OF THE SOUTH CAROLINA RULES OF PROFESSIONAL CONDUCT (SCRPC), RULE 407, SCACR, A CONCURRENT CONFLICT OF INTEREST EXISTS IF:...."THERE IS A SIGNIFICANT RISK THAT THE REPRESENTATION OF ONE OR MORE CLIENTS WILL BE MATERIALLY LIMITED BY THE LAWYER'S RESPONSIBILITIES TO ANOTHER CLIENT, FORMER CLIENT OR A THIRD PERSON OR BY A PERSONAL INTEREST OF THE LAWYER.

(A). **THE MECHANICS OF THE INSTITUTIONAL BLOCKADE**---IN THE INSTANT SCENARIO, THE CONFLICT IS NOT A SUBJECTIVE "PERSONALITY CLASH" OR A ROUTINE DISAGREEMENT OVER APPELLATE STRATEGY. IT IS AN OBJECTIVE SYSTEMATIC ALIGNMENT BETWEEN THE INSTITUTIONAL DEFENSE OFFICE AND THE PROSECUTING AUTHORITIES. THE APPELLANT SEEKS TO ASSERT A FUNDAMENTAL, NON-WAIVABLE CHALLENGE TO THE STATE'S CRIMINAL JURISDICTION VIA RULE 217, SCACR, ARGUING THAT STATE v. GENTRY IS BUILT UPON A LEGALLY DEFICIENT FOUNDATION THAT COMPLETELY IGNORES THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION (ie. FATAL INDICTMENT DEFECTS THAT VOID JURISDICTION PURSUANT TO ARTICLE 1 § 11 OF THE S.C. CONSTITUTION). THE ASSIGNED DEFENSE OFFICE, HOWEVER, HAS ESTABLISHED A DEMONSTRABLE, HISTORICAL PATTERN OF "CRASHING", "OBSTRUCTING", "COLLUDING IN THE PREVENTING OF HEARING" IDENTICAL APPEALS SUBMITTED BY THE TWO PRIOR INMATES IN QUESTION, WEAPONIZING THE PROCEDURAL DOCTRINE OF "NO HYBRID DEFENSE" AND OTHER OBSTRUCTIONIST ACTS TO SUPPRESS THESE CLAIMS IN THEIR JOINT EFFORTS, CONSPIRING UNDER COLOR OF STATE LAW, TO INSULATE THE STATE v. GENTRY PRECEDENT FROM THE SUPREME COURT'S REVIEW.

(B). **THE IMPOSSIBILITY OF ZEALOUS ADVOCACY**---BECAUSE THE ASSIGNED OFFICE HAS REPEATEDLY AND FORMALLY TAKEN THIS POSITION IN PARALLEL CASES THAT THIS SPECIFIC JURISDICTIONAL CHALLENGE CANNOT OR SHOULD NO BE ADVANCED, THE OFFICE HAS LOCKED ITSELF INTO A POSITION OF INSTITUTIONAL HOSTILITY TOWARD'S THE

APPELLANT'S PRIMARY LEGAL OBJECTIVE. IF THE SAME OFFICE REPRESENTS THE APPELLANT IN THIS APPEAL, THE APPELLANT FACES AN UNRESOLVABLE ETHICAL DILEMMA: IT MUST AGGRESSIVELY PROSECUTE THE RULE 217 MOTION AND OR CHALLENGE--THEREBY EXPLICITLY EXPOSING ITS OWN PRIOR INEFFECTIVE ASSISTANCE AND COLLUSION AND SYSTEMATIC EFFORTS ON THE SABOTAGE OF THE PRIOR APPELLANTS APPEALS; OR IT MUST SUPPRESS THE APPELLANT'S JURISDICTIONAL CLAIMS TO PROTECT ITS OWN INSTITUTIONAL REPUTATION AND MAINTAIN ITS COOPERATIVE RELATIONSHIP WITH THE S.C. ATTORNEY GENERAL AND OTHER CONSPIRING OFFICERS OF THE COURT. THIS IS THE VERY DEFINITION OF A "MATERIAL LIMITATION" CONFLICT UNDER RULE 1.7, SCRPC. THE OFFICE CANNOT PRINT A BRIEF ATTACKING THE EXACT JURISDICTIONAL OMISSION IT SPENT THE LAST TWO CASES CONCEALING AND OR COLLUDING IN WITHOUT VIOLATING ITS DUTIES OF CONSISTENCY AND LOYALTY.

III. THE CONFLICT MUST BE IMPUTED TO THE ENTIRE OFFICE AS A MATTER OF LAW, RENDERING EXTERNAL CONTRACT COUNSEL SPECIFICALLY MANDATED BY SOUTH CAROLINA STATUTE---THE STATE CANNOT REMEDY THE CONFLICT BY SIMPLY SHIFTING THE APPELLANT'S FILE TO A DIFFERENT ASSISTANT PUBLIC DEFENDER WITHIN THE SAME OFFICE OR DIVISION. RULE 1.10(a) OF THE SCRPC PROVIDES THE STRICT RULE OF IMPUTED DISQUALIFICATION: "WHILE LAWYERS ARE ASSOCIATED IN A FIRM, NONE OF THEM SHALL KNOWINGLY REPRESENT A CLIENT WHEN ANY ONE OF THEM PRACTICING ALONE WOULD BE PROHIBITED FROM DOING SO BY RULES 1.7 OR 1.9...". FOR THE PURPOSE OF CONFLICT ANALYSIS, A GOVERNMENT PUBLIC DEFENDER OR APPELLATE DEFENSE OFFICE IS CONSIDERED A SINGLE "FIRM". ETHICS ADVISORY OPINION 04-10 (SOUTH CAROLINA BAR). THE STRUCTURAL BIAS AND DEFENSIVE SELF INTEREST GENERATED BY THE DELIBERATE ABANDONMENT OF THE TWO PRIOR APPEALS OF PATTERSON III AND CRAWFORD INFECTS THE ENTIRE ORGANIZATIONAL CHAIN OF COMMAND. NO SUBORDINATE ATTORNEY IN THAT OFFICE CAN EXERCISE INDEPENDENT PROFESSIONAL JUDGMENT WHEN THE OFFICE'S STRUCTURAL POLICY DICTATES THE AVOIDANCE OF THE STATE v. GENTRY JURISDICTIONAL CHALLENGE.

SOUTH CAROLINA LAW EXPLICITLY ANTICIPATES THIS EXACT

STRUCTURAL BREAKDOWN. THE GENERAL ASSEMBLY CREATED A LEGAL ESCAPE VALVE WITHIN THE SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE (SCCID) FRAMEWORK. PURSUANT TO S.C. CODE ANN. § 17-3-310(6), THE COMMISSION IS GRANTED THE EXPLICIT STATUTORY AND FUNDING TO: "...ENTER INTO CONTRACTS WITH PRIVATE COUNSEL...TO PROVIDE INDIGENT DEFENSE SERVICES IN CASES IN WHICH A CONFLICT OF INTEREST EXISTS IN THE PUBLIC DEFENDER OFFICE". FURTHERMORE, RULE 608, SCACR, PROVIDES THE OPERATIONAL MACHINERY FOR THE APPOINTMENT OF THESE INDEPENDENT, CONFLICT-FREE PRIVATE CONTRACT ATTORNEYS. WHEN AN INSTITUTIONAL CONFLICT IS SHOWN TO EXIST, THE COURT DOES NOT POSSESS THE DISCRETION TO LEAVE THE DEFENDANT TRAPPED WITHIN THE CONFLICTED SYSTEM; IT IS STATUTORILY AND CONSTITUTIONALLY BOUND TO EMPLOY A PRIVATE PRACTITIONER FROM THE RULE 608 ROSTER.

IV. DENYING SUBSTITUTION OF COUNSEL FACED WITH A SYSTEMATIC INDIGENT CONFLICT CONSTITUTES REVERSIBLE ABUSE OF DISCRETION AND A STRUCTURAL DUE PROCESS DEFECT---WHILE A TRAIL OR APPELLATE COURT IS GRANTED BROAD DISCRETION IN MANAGING ITS DOCKET AND COUNSEL ASSIGNMENTS, THAT DISCRETION VANISHES WHEN A DEFENDANT DEMONSTRATES AN UNCONSTITUTIONAL OBSTRUCTION OF THEIR RIGHT TO COUNSEL, STATE v. RIVERS, 421 S.C. 631, 809 S.E.2d. 411 (S.C.App.2018); STATE v. RIVERS, S.E. Rptr., 2023 WL 4489438 (S.C.App.2023). UNDER THE CONTROLLING MANDATES OF STATE v. RIVERS, STATE v. JONES, 417 S.C. 54, 788 S.E.2d. 431 (Ct.App.2016) AND HERNANDEZ v. STATE, 2020 WL 1723958(S.C.App.2020)(WHEN AN INDIGENT APPELLANT PRESENTS SPECIFIC, FACTUAL, NON-FRIVOLOUS ALLEGATIONS THAT THEIR ASSIGNED COUNSEL IS STRUCTURALLY COMPROMISED, THE JUDICIARY CANNOT SIMPLY IGNORE THE CLAIM OR TREAT IT AS A ROUTINE ADMINISTRATIVE MATTER. THE COURT HAS AN AFFIRMATIVE DUTY TO INQUIRE. THE COURT INCURS AN IMMEDIATE, NON-DISCRETIONARY CONSTITUTIONAL DUTY TO CONDUCT A SEARCHING, ON-THE-RECORD INQUIRY INTO THE DEPTH OF THE CONFLICT, STATE v. FELDER, 290 S.C. 521, 351 S.E.2d. 852 (S.C.App.1986). FORCING THE APPELLANT TO PROCEED WITH AN OFFICE THAT HAS ACTIVELY ERECTED A PROCEDURAL BARRIER AGAINST THE APPELLANT'S CORE CONSTITUTIONAL

DEFENSE--UNDER THE ADMINISTRATIVE GUISE OF PREVENTING "HYBRID-DEFENSE" OR TO MANIPULATE APPELLATE COURT RULES TO FORCE UNCONSTITUTIONAL DISMISSALS--CONSTITUTE A CLEAR ABUSE OF DISCRETION UNDER STATE v. GRADDICK, 345 S.C. 383, 548 S.E.2d. 210 (S.C.App.2001). TO FORCE THE APPELLANT TO ACCEPT REPRESENTATION FROM AN OFFICE THAT HAS EFFECTIVELY ACTED AS AN ARM OF THE STATE BY SUPPRESSING JURISDICTIONAL CHALLENGES TRANSFORMS THE ADVERSARIAL PROCESS INTO A FARCE. IT FORCES THE APPELLANT INTO A STRUCTURAL TRAP WHERE THEIR APPEAL IS ESSENTIALLY GUARANTEED TO BE "CRASHED", "OBSTRUCTED" AND "COLLUDED" EXACTLY LIKE THOSE TWO PRIOR APPEALS INVOLVING PATTERSON III AND CRAWFORD, IN THEIR EFFORTS TO DEPRIVE THEM OF ANY MEANINGFUL ACCESS TO THE SOUTH CAROLINA SUPREME COURT.

V. THE INDIGENT DEFENSE OFFICE'S REFUSAL TO PROSECUTE APPELLANT'S JURISDICTIONAL CHALLENGE VIOLATES THE AUTONOMY GUARANTEED BY McCOY v. LOUISIANA---WHILE STRATEGIC DECISIONS, SUCH AS WHAT EVIDENCE TO INTRODUCE OR HOW TO PHRASE AN ARGUMENT--ARE WITHIN THE DOMAIN OF THE LAWYER, THE APPELLANT RETAINS ABSOLUTE AUTHORITY OVER THE FUNDAMENTAL "OBJECTIVES OF THE DEFENSE", ID AT. 422, 138 S.Ct. AT. 1508. WHEN AN ATTORNEY OVERRIDES A CLIENT'S EXPLICIT, TIMELY ASSERTED OBJECTIVE, THEY VIOLATE THE 6TH. AMENDMENT, COMMITTING A STRUCTURAL CONSTITUTIONAL ERROR THAT COMPLETELY VITIATES THE INTEGRITY OF THE APPELLATE PROCESS. IN THIS MATTER, THE APPELLATE HAS EXPLICITLY MANDATED THAT THE CENTRAL OBJECTIVE OF THIS APPEAL IS TO ASSERT A RULE 217 CHALLENGE AGAINST STATE v. GENTRY TO ADDRESS THE UNADJUDICATED CONSTITUTIONAL ELEMENT TO SUBJECT MATTERS JURISDICTION WHERE IN THIS CASE, IT IS ALSO SUPPORTED BY THE "DENT" DOCTRINE REGARDING CONSTRUCTIVE AMENDMENT OF THE INDICTMENT, ALTERING THE LEGAL THEORY THAT WAS RETURNED BY THE GRAND JURY AGAINST THE ACCUSED. THE APPELLATE DEFENSE OFFICE HAS PURPOSELY OVERRIDDEN THE APPELLANT'S CORE OBJECTIVE. THIS IS EVIDENT BY THE APPELLANT'S FORCED FILING OF A SEPARATE POST-CONVICTION RELIEF (PCR) APPLICATION (ATTACHED HERETO AS AN EXHIBIT), APPELLANT HAS BEEN SYSTEMATICALLY BLOCKED FROM PURSUING HIS CHOSEN APPELLATE OBJECTIVE WITHIN HIS DIRECT APPEAL. THIS IS

NOT A ROUTINE DISAGREEMENT OVER APPELLATE BRIEF EDITING; IT IS AN OUTRIGHT USURPATION OF APPELLANT'S CONSTITUTIONAL RIGHT OF AUTONOMY UNDER McCOY v. LOUISIANA.

BECAUSE THE APPELLATE DEFENSE OFFICE INSIST ON PURSUING AN OBJECTIVE (MAINTAINING THE STATE v. GENTRY STATUS QUO) THAT STANDS IN DIRECT OPPOSITION TO THE APPELLANT'S EXPLICIT MANDATE, AN UNRESOLVABLE ETHICAL AND CONSTITUTIONAL CHASM EXISTS. THE ONLY REMEDY THAT CAN PRESERVE THE APPELLANT'S 6TH. AMENDMENT AUTONOMY IS THE IMMEDIATE REMOVAL OF CONFLICTED COUNSEL AND THE APPOINTMENT OF AN INDEPENDENT ATTORNEY FROM THE RULE 608 ROSTER WHO WILL HONOR AND EXECUTE THE APPELLANT'S LAWFUL DEFENSE OBJECTIVES.

VI. CONCLUSION:

BECAUSE AN ACTUAL, IMPUTED INSTITUTIONAL CONFLICT OF INTEREST EXISTS AND BECAUSE SOUTH CAROLINA HAS AN ESTABLISHED, FUNDED, AND OPERATIONAL REMEDY ROSTER OF INDEPENDENT PRIVATE COUNSEL UNDER S.C. CODE ANN. § 17-3-310(6) AND RULE 608, THIS COURT IS COMPELLED TO RELIEVE THE CURRENT ASSIGNED APPELLATE DEFENSE OFFICE AND ITS ALCOLYTES AND ORDER THE IMMEDIATE APPOINTMENT OF INDEPENDENT, CONFLICT-FREE SUBSTITUTE COUNSEL. THE APPELLANT PRAYS FOR THIS RELIEF TO INCLUDE ANY AND ALL OTHER RELIEF THE COURT WOULD DEEM JUST, FAIR AND PROPER.

RESPECTFULLY,

JORGE A. RODRIGUEZ

* *Jorge Rodriguez*

AUGUST 27, 2026

JORGE A. RODRIGUEZ
#389273 F3B. RM. 126
EVANS C.I. 610 HWY. 9 WEST
BENNETTSVILLE, S.C. 29512

IN RE: APPELLATE CASE NO. 2025-001507 SEEKING AN EXTENSION OF
TIME TO FILE THE REQUIRED AFFIDAVIT(S) DUE TO FRAUD UPON THE
COURT, CONFLICT OF INTEREST, CONSPIRING UNDER COLOR OF STATE LAW
BY THE S.C. APPELLATE DEFENSE OFFICE WITH THE S.C. ATTORNEY
GENERAL AND OBSTRUCTION OF JUSTICE.

TO: APPELLATE DEFENDER, ATTORNEY W. CHANDLER NORVILLE,

SIR, I AM OFFICIALLY REQUESTING THAT YOU MOVE BEFORE
THE S.C. COURT OF APPEALS FOR AN EXTENSION OF TIME FOR THIS
APPELLANT TO FILE COPY OF THE REQUIRED AFFIDAVIT THAT YOU SENT ME
REGARDING WITHDRAWING THE APPEAL, DUE TO EGREGIOUS ACTS OF FRAUD
UPON THE COURT, CONFLICT OF INTEREST, YOUR OFFICE CONSPIRING
UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL'S OFFICE
TO PREVENT, HINDER, IMPEDE THE FILING OF THE SUBSEQUENT POST
CONVICTION RELIEF APPLICATION THAT WAS SENT TO THE SPARTANBURG
COUNTY CLERK OF COURT ENGAGING IN ACTS OF OBSTRUCTION OF JUSTICE
TO DENY THE APPLICANT SUBSTANTIAL DUE PROCESS PROTECTIONS
REGARDING THIS APPEAL AND THE APPELLANT'S DESIRE TO ARGUE
AGAINST THE PRECEDENT ESTABLISHED BY THE STATE v. GENTRY 2005
CASE REGARDING SUBJECT MATTER JURISDICTION.

THE APPELLANT GOES ON THE RECORD TO SUPPORT THE CLAIM OF
FRAUD UPON THE COURT, CONSPIRING UNDER COLOR OF STATE LAW WITH
THE S.C. ATTORNEY GENERAL'S OFFICE AND OBSTRUCTION OF JUSTICE; IS
THAT BY YOUR RESPONSE DATED FILED JUNE 8, 2026 YOU WENT ON THE
RECORD WITH THE SOUGHT RESPONSE BUT NOWHERE WITHIN THAT RESPONSE
DID YOU IN ACTS OF FRAUDULENT CONCEALMENT AND SUPPRESSION OF

TRUTH NOTIFY THE COURT OF THE LEGAL POSITION THAT YOU TOOK WITHIN YOUR CORRESPONDENCE SENT TO THE APPELLANT DATED MAY 28, 2026 THAT WAS ATTACHED TO THE AFFIDAVIT YOU SENT THE APPLICANT FOR THE PURPOSE OF WITHDRAWING THE APPEAL.

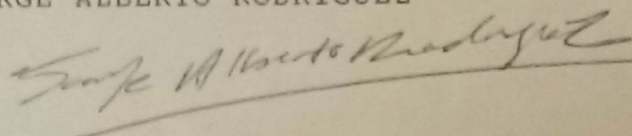
THIS IS COMPOUNDED BY THE FACT THAT YOU AND YOUR OFFICE ARE CURRENTLY CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL'S OFFICE TO PREVENT THE FILING OF A SUBSEQUENT SUCCESSIVE PCR ACTION FILED UNDER THE INDEPENDENT ACTION RULE FOR FRAUD UPON THE COURT WITHIN THE SPARTANBURG COUNTY COURT OF COMMON PLEAS, A PLEADING THAT YOU OPENED THE DOOR TO BE FILED DUE TO THE RESPONSE THAT YOU GAVE WITHIN YOUR CORRESPONDENCE DATED MAY 28, 2026. BY WHAT JUST OCCURRED INVOLVING YOUR OFFICE THERE NOW EXIST A CLEAR CONFLICT OF INTEREST PRODUCING STRUCTURAL ERROR IN HOW THE APPELLANT WISHES THIS APPEAL TO PROCEED IN VIOLATION OF HIS CONSTITUTIONALLY PROTECTED RIGHT OF AUTONOMY. HAD YOU NOT TAKEN THE POSITION THAT YOU DID IN YOUR CORRESPONDENCE DATED MAY 28, 2026. THIS WOULD NOT HAVE FORCED THE APPELLANT TO FILE THE SUBSEQUENT PCR ACTION TO ADDRESS THESE INJUSTICES DONE IN YOUR EFFORTS TO PREVENT THE APPELLANT FROM ARGUING AGAINST THE PRECEDENT ESTABLISHED BY THE GENTRY CASE OF 2005. I WANT YOU TO FILE FOR A CONTINUANCE OF AN ADDITIONAL (30) DAYS TO ALLOW ME TO ENSURE THAT THE SUBSEQUENT PCR APPLICATION IS NO LONGER OBSTRUCTED FILING BECAUSE WHAT IS WITHIN IT IS SUBSTANTIALLY RELATED AND BEARS DIRECTLY UPON THIS CURRENTLY PENDING APPEAL UNDER CASE 2025-001507 DUE TO SUBJECT MATTER JURISDICTION BY LAW CAN BE RAISED FOR THE FIRST TIME ON APPEAL AND CANNOT BE WAIVED AND OR FORFEITED. I ALSO INTEND TO FILE MOTION TO SUBSTITUTE STATE APPOINTED COUNSEL BY THE INAPPROPRIATE CONDUCT THAT JUST MANIFESTED ITSELF BEFORE THIS COURT. THIS LETTER IS TO GIVE YOU NOTICE. S.C. ATTORNEY GENERAL PLEASE INSTRUCT THE SPARTANBURG CLERK TO STOP CONSPIRING UNDER COLOR OF STATE LAW WITH YOU AND THE PARTIES INVOLVED AND FILE THE SUCCESSIVE PCR ACTION THAT WAS SENT TO HER OR I WILL BE FORCED TO SEND ANOTHER COPY THIS TIME BY CERTIFIED MAIL WITH A RETURN CARD. THAT SUBSEQUENT PCR APPLICATION CONTAINS THE JURISDICTIONAL CLAIMS THAT BY YOUR ACTIONS YOU'VE OBSTRUCTED ADJUDICATION BEFORE THIS APPELLATE

COURT. THE APPELLANT THANK YOU IN ADVANCE. STILL REMAIN,

RESPECTFULLY,
JORGE A. RODRIGUEZ

JUNE 26, 2026

CC: THE S.C. COURT OF APPEALS
THE S.C. DIVISION OF APPELLATE DEFENSE
THE S.C. ATTORNEY GENERAL
JORGE ALBERTO RODRIGUEZ

A handwritten signature in dark ink, reading "Jorge Alberto Rodriguez", is written over a horizontal line.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
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Wanda H. Carter, Chief Appellate Defender

May 28, 2026

Jorge Alberto Rodriguez, #389273
Evans Correctional Institution
610 Hwy. 9 West
Bennettsville, SC 29512

Re: Your Case

Dear Mr. Rodriguez:

Enclosed with this letter, you will find two affidavits. Please sign one of them in front of a notary based on your decision. If you wish to drop your appeal, please sign the drop affidavit. If you wish to continue your appeal, please sign the continue affidavit. Once you have signed one of the affidavits, please send it back to my office.

As we discussed on the phone, **I advise you in the strongest possible terms not to drop your appeal.** Specifically, I advise you again that dismissing your appeal will permanently foreclose your ability to seek state post-conviction relief and will very likely foreclose your ability to seek federal *habeas corpus* relief. The law only entitles you to **one** single state PCR action except in extremely rare circumstances, none of which apply in your case. *Odom v. State*, 337 S.C. 256, 261, 523 S.E.2d 753, 755 (1999). You cannot file a second PCR action unless you raise claims that “*could not have been raised* in the previous application.” *Id.* (emphasis added).

In your letter to me, you raised a number of arguments that you said you intended to make in your successive PCR action. One of them was that your attorney “denied [your] request and desire that the castle doctrine...be argued as [your] ‘primary defense,’” which violated your “constitutionally protected due process right of autonomy, in acts of fraud upon the court, conspiracy and obstruction of justice.” You then asserted that this argument wasn’t preserved for appellate review, and you needed to withdraw the appeal so that you could refile your PCR. Those claims **cannot** be raised in a new PCR application. Those claims existed at the time of your trial and therefore could have been raised in your first PCR application. *Odom*, 337 S.C. at 261, 523 S.E.2d at 755.

You also stated that you wanted to argue that the Supreme Court should overrule *State v. Gentry* to attack the “substantial constitutional defects in [your] indictment.” You will also not be able to raise this claim in a second PCR action. For one, a challenge to the indictment needed to be made at trial and then attacked on direct appeal. Your lawyer did not challenge the indictment at trial. And even to the extent that you might argue that your lawyer was ineffective for failing to challenge the indictment at trial, *Gentry* was the law at the time of your trial, and your lawyer will never be held ineffective for failing to challenge binding precedent. See *Gilmore v. State*, 314 S.C. 453, 457, 445 S.E.2d 454, 456 (1994) (trial counsel is not required to be “clairvoyant” or “anticipate changes in the law”). Secondly, even if you could challenge the validity of *Gentry*, your indictment stated the elements of the offense and was therefore valid under the law even before *Gentry*. *Gentry*, 363 S.C. at 102-03, 610 S.E.2d at 500 (indictment must (1) state the offense with sufficient certainty to enable the court to know what judgment to pronounce and the defendant to know what he is called upon to answer, and (2) state the elements of the offense).

Next, you said that the state’s only evidence at trial was the testimony of your mother, which violated *State v. Collins*, 442 S.C. 444, 900 S.E.2d 426 (2024), and S.C. Code Ann. §§ 19-1-80 and -90. Again, this is an issue that would have needed to be raised either at trial or in your first PCR. It is too late to raise it now. Further, that argument does not have merit. *Collins* says absolutely nothing about whether a statement from *anyone other than the defendant* can be admitted. It was a case about the sufficiency of *Miranda* warnings. It simply does not apply to your mother’s testimony. Neither do the two statutes you referenced. For one, a *recording* of your mother’s testimony was entered as evidence at your trial, not a *written statement*, which the statute refers to. Further, again, this objection needed to be made at trial, or at least in your first PCR hearing. It is simply too late to raise the issue now.

Based on your letter, it seems that your understanding is that, as long as you make the arguments you want to make before your appeal is finalized, those arguments are properly made. This is **not** true. The end of your PCR hearing was the **last** opportunity for you to make any arguments that could have been made at that time. Every argument that you presented to me in your letter both could have been made at the first PCR hearing and is wholly without legal merit.

I filed a petition for certiorari on your behalf which raises two strong, meritorious issues. I will reiterate again, in my professional opinion as a trained appellate attorney, it is absolutely not in your best interest to withdraw your appeal at this time. The result of you dismissing your appeal will be that you will **permanently** lose the ability to raise the two issues that I briefed, your ability to file a state PCR action, and very likely your ability to file a federal *habeas corpus* action. I also want to remind you that, if the Court grants certiorari on my issue II—which is that you are entitled to a belated appeal—we will be able at that time to address arguments related to your trial.

I understand that you are attempting to protect your rights and get out of prison as soon as possible. But that is what I am doing. Furthermore, I am a trained attorney. I argue appeals just like yours for a living. I would advise you strongly to heed my advice and allow me to continue pressing your appeal. While I cannot guarantee that the petition I have filed for you will lead to a

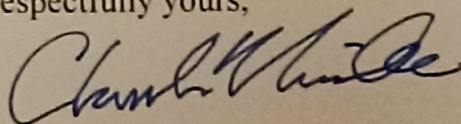
positive outcome, **I can guarantee** that you dismissing your appeal **will not lead** to a positive outcome.

Ultimately, this is your case, and the decision of whether to drop your appeal is yours. The purpose of this letter is not to be rude or to demean you. I have an ethical and legal duty to act in your best interests and to give you advice that I believe is in your best interest. What you are considering doing, in my professional opinion, would be a tremendous mistake. I would not be upholding my oath as an attorney if I did not advise you as strongly as possible against what you are planning to do.

Finally, I want to add one more note. You also sent a copy of your last letter to both the attorney general's office and the Court of Appeals. **Please do not send letters addressed to me to anyone other than me.** You and I enjoy attorney-client privilege, which means that I am forbidden by law from discussing any details about your case, or anything that we talk about, with anyone other than you and the people employed in my office. However, that right can be waived. And if you continue to send private, privileged correspondence to other parties, you could potentially waive our attorney-client privilege.

If you have any questions, please do not hesitate to call me. I look forward to hearing from you.

Respectfully yours,



W. Chandler Norville
Appellate Defender

WCN/kpw

Enclosures

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
JORGE ALBERTO RODRIGUEZ,)
)
Petitioner,)
)
v.)
)
THE STATE)
)
Respondent.)
)
_____)

IN THE SOUTH CAROLINA SUPREME COURT
APPELLATE CASE NO. 2025-001507

**CONTINUE
AFFIDAVIT**

PERSONALLY appeared before me, Jorge Alberto Rodriguez, who being duly sworn, deposes and says:

1. I am the petitioner in the above captioned case.
2. A Spartanburg County grand jury indicted me on June 15, 2020 for attempted murder and possession of a weapon during the commission of a violent crime (2020-GS-42-4148). My case was called to trial on October 11, 2022, before the Honorable J. Mark Hayes, II, and a jury. I was represented by Ricky Harris. The jury found me not guilty of attempted murder but guilty of the lesser-included offense of assault and battery of a high and aggravated nature and possession of a weapon during the commission of a violent crime. Judge Hayes sentenced me to twenty (20) years' imprisonment, suspended upon the service of ten years, followed by probation for ABHAN and five (5) years' imprisonment for the firearm charge to run concurrently.
3. I did not pursue direct appeal.
4. On May 26, 2023, I filed an application for post-conviction relief (PCR). The state filed its Return to the application for PCR on April 18, 2024.
5. An evidentiary hearing was convened before the Honorable R. Scott Sprouse on February 18, 2025. I was represented by Rodney W. Richey, Esquire. By order filed April 16, 2025, Judge Sprouse denied

and dismissed my application for post-conviction relief. On July 28, 2025, my attorney timely filed a notice of appeal.

6. On September 30, 2025, Appellate Defender W. Chandler Norville filed a petition for writ of certiorari with the Supreme Court on my behalf raising two issues of arguable merit; 1.) that the PCR court erred in finding that my trial counsel articulated a reasonable strategy for failing to interview my mother, the key witness in my case; and 2.) that the PCR court erred in finding that I knowingly waived my right to direct appeal. The state made its return on January 13, 2026. My case was then transferred to the Court of Appeals on February 4, 2026. My case is now ready for consideration before the Court of Appeals.

7. On May 16, 2026, I submitted a correspondence to my attorney W. Chandler Norville and to the Court of Appeals expressing my desire to abandon the appeal of the denial of my application for post-conviction relief so that I may pursue a successive PCR action.

8. On May 28 2026, my attorney W. Chandler Norville initiated a legal call with me to discuss the advantages and disadvantages of moving forward with my appeal or withdrawing my appeal. I have thoroughly discussed this with Mr. Norville, and I understand the consequences of my actions.

9. I have made this decision on my own, with a full understanding of all the possible consequences of this action.

10. I do not wish to abandon the appeal the denial of post-conviction relief.

Jorge Alberto Rodriguez, #389273
Date of Birth: _____

SWORN TO before me this _____
day of _____, 2025.

_____(L.S.)
Notary Public for South Carolina
My Commission Expires: _____

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
JORGE ALBERTO RODRIGUEZ,)
Petitioner,)
v.)
THE STATE)
Respondent.)
_____)

IN THE SOUTH CAROLINA SUPREME COURT
APPELLATE CASE NO. 2025-001507

DROP
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8. On May 28 2026, my attorney W. Chandler Norville initiated a legal call with me to discuss the advantages and disadvantages of moving forward with my appeal or withdrawing my appeal. I have thoroughly discussed this with Mr. Norville, and I understand the consequences of my actions.

5. I understand that I am entitled to an appeal of the denial of my application for post-conviction relief and that, because I am indigent, I am entitled to the assistance of an attorney from the South Carolina Office of Appellate Defense. I have been informed that if I drop my appeal of the denial of post-conviction relief that I forever waive those issues that could be raised.

6. In light of the risks which have been explained to me, it is my desire that the South

Carolina Office of Appellate Defense drop the appeal formerly filed on my behalf.

7. I have made this decision on my own, with a full understanding of all the possible consequences of this action.

8. It is my desire to **abandon** the appeal of the denial of post-conviction relief.

Jorge Alberto Rodriguez #389273
Date of Birth: _____

SWORN TO before me this _____
day of _____, 2024.

_____(L.S.)
Notary Public for South Carolina
My Commission Expires: _____

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Aug 26 2026

SC Court of Appeals

CASE DOCKET NO. 2025-001507

APPEAL FROM SPARTANBURG COUNTY
THE HONORABLE R. SCOTT SPROUCE, CIRCUIT JUDGE

JORGE RODRIGUEZ,

APPELLANT

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

AFFIDAVIT OF SERVICE

I, JORGE ALBERTO RODRIGUEZ, DO HEREBY CERTIFY, THAT I HAVE MAILED AND OR SERVED A COPY OF AN AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MEMORANDUM IN SUPPORT OF MOTION TO RELIEVE COUNSEL AND APPOINT SUBSTITUTE CONFLICT-FREE COUNSEL PURSUANT TO S.C.A.C.R., RULE 602 AND RULE 608; HIGHLIGHTING STRUCTURAL ERROR AND VIOLATION OF SIXTH AMENDMENT CONSTITUTIONAL RIGHT OF AUTONOMY UNDER MCCOY v. LOUISIANA, 584 U.S. 414 (U.S.2018); MOTION TO

EXPAND THE SCOPE AND FOR INCLUSION UNDER S.C. RULES OF EVIDENCE,
RULE 201 ALSO MOTIONING TO SUPPLEMENT THE RECORD TO SUPPORT THE
MOTION AND UNDER RULE 201(b)(2), SCRE AND MOTION TO MOTION
THEREFOR, ON THE S.C. COURT OF APPEALS P.O. BOX 11629 COLUMBIA,
S.C. 29211, THE S.C. COMMISSION OF INDIGENT DEFENSE APPELLATE
DIVISION P.O. BOX 11589, COLUMBIA, S.C. 29211-1589, THE S.C.
ATTORNEY GENERAL P.O. BOX 11549 COLUMBIA, S.C. 29211, BY U.S.
MAIL, POSTAGE PREPAID, BY PLACING IT IN THE INSTITUTION MAILBOX
ON SEPTEMBER 1, 2026.

RESPECTFULLY,

JORGE A. RODRIGUEZ

* *Jorge Rodriguez*

SEPTEMBER 1, 2026

JORGE ALBERTO RODRIGUEZ
#389273 F3B. RM. 126
EVANS C.I. 610 HWY. 9 WEST
BENNETTSVILLE, S.C. 29512

IN RE: TO FILING MOTION TO RELIEVE CURRENT COUNSEL AND TO SEEK TO
SUBSTITUTE COUNSEL DUE TO CONFLICT OF INTEREST UNDER CASE
2025-001507

RECEIVED

Aug 26 2026

SC Court of Appeals

TO: THE S.C. COURT OF APPEALS ET. AL.,

ATTACHED THE COURT WILL FIND A COPY OF A (11) PAGE
DOCUMENT DATED AUGUST 27, 2026 WITH ITS ATTACHMENTS REFERRED TO
THEREIN, FILED FOR THE PURPOSE OF SEEKING THAT THE COURT OF
APPEALS RELIEVE CURRENTLY APPOINTED COUNSEL AND SUBSTITUTE FOR
CONFLICT-FREE COUNSEL AS I HAVE ARTICULATED WITHIN THE DOCUMENT.
PLEASE BE ADVISED THE THE DOCUMENT IS INITIALLY BEING SENT BY PDF
BUT THE HARD COPY INCLUDING ITS EXHIBITS REFERRED TO THEREIN IS
FORTHCOMING DUE TO STATE INTERFERENCE WHERE THE INSTITUTION COPY
MACHINE IS OUT OF TONER CREATING AN INABILITY FOR ME TO SERVE
COPY OF THE APPELLATE DEFENSE OFFICE AND ATTORNEY GENERAL. ONCE
THE INSTITUTION GETS IN TONER, THE APPELLANT WILL COMPLETE
SERVICE THEREUPON BEING CURRENTLY SUBJECT TO THIS INTERFERENCE
AND PREJUDICE. I THANK YOU IN ADVANCE. STILL REMAIN,

RESPECTFULLY,

JORGE A. RODRIGUEZ

* *Jorge Rodriguez*

AUGUST 26, 2026

CC: THE OFFICE OF INDIGENT DEFENSE
THE S.C. ATTORNEY GENERAL