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S.C. SUPREME COURT

JAMES JOSEPH PATTERSON III

#368709 F3B. RM. 230

EVANS C.I. 610 HWY. 9 WEST

BENNETTSVILLE, S.C. 29512

IN RE: FILING PETITION FOR WRIT OF CERTIORI FROM THE S.C. COURT
OF APPEALS REGARDING CASE NO. 2023-001474

TO: THE SOUTH CAROLINA SUPREME COURT,

THE ATTACHED DOCUMENTS ARE SOUGHT FILED BEFORE THIS
COURT FOR THE PURPOSE OF SEEKING PETITION FOR WRIT OF CERTIORAI
FROM THE S.C. COURT OF APPEALS. CAN YOU PLEASE FILE THEM. ASSIGN
A CASE NUMBER AND PLEASE LET ME KNOW WHAT THAT CASE NUMBER IS?
FOR YOUR KIND ASSISTANCE I WOULD BE TRULY GRATEFUL. THANK YOU IN
ADVANCE.

RESPECTFULLY,

JAMES J. PATTERSON III

SEPTEMBER 12, 2026

IN THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CASE DOCKET NO. _____

APPEAL FROM THE SOUTH CAROLINA COURT OF APPEALS
CASE DOCKET NO. 2023-01474

CASE FROM LEXINGTON COUNTY COURT OF GENERAL SESSIONS

JAMES JOSEPH PATTERSON III

APPELLANT

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

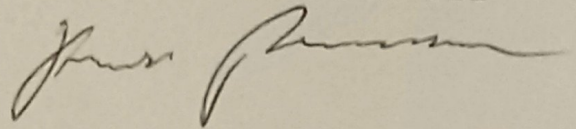
AFFIDAVIT OF SERVICE

I, JAMES JOSEPH PATTERSON III, DO HEREBY CERTIFY, THAT I HAVE MAILED AND OR SERVED A COPY OF AN AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; PETITION FOR WRIT OF CERTIORARI; MOTION FOR AN EXTENSION OF TIME TO SUBMIT ANY OTHER REQUIRED PLEADING IF NEEDED, ON THE SOUTH CAROLINA SUPREME COURT, P.O. BOX 11330,

BOX 11629 COLUMBIA, S.C. 29211, THE S.C. ATTORNEY GENERAL P.O.
BOX 11549, COLUMBIA, S.C. 29211, ATTORNEY MS. MOLLY G. KEEGAN AT
THE OFFICE OF INDIGENT DEFENSE 1330 LADY STREET, SUITE 401,
COLUMBIA, S.C. 29211-3332, AND ALL OTHER INVOLVED PARTIES BY
PLACING IT IN THE INSTITUTION MAILBOX OR BY PDF, ON SEPTEMBER 12,
2026.

RESPECTFULLY,

JAMES J. PATTERSON III

A handwritten signature in dark ink, appearing to read "James J. Patterson III", written in a cursive style.

SEPTEMBER 12, 2026

IN THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CASE DOCKET NO. _____

APPEAL FROM THE SOUTH CAROLINA COURT OF APPEALS
CASE DOCKET NO. 2023-01474

CASE FROM LEXINGTON COUNTY COURT OF GENERAL SESSIONS

JAMES JOSEPH PATTERSON III

APPELLANT

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; PETITION
FOR WRIT OF CERTIORARI; MOTION FOR AN EXTENSION OF TIME
TO SUBMIT ANY OTHER REQUIRED PLEADING IF NEEDED

TO: THE SOUTH CAROLINA SUPREME COURT ET. AL.,

ATTACHED THE COURT WILL FIND:

(1) A COPY OF THE MOTION-PETITION TO RECALL THE REMITTITUR UNDER CASE 2023-001474 OUT OF THE S.C. COURT OF APPEALS WITH THE VARIOUS ATTACHMENTS REFERRED TO THEREIN.

THE PETITIONER, JAMES JOSEPH PATTERSON III, RESPECTFULLY PETITIONS THIS COURT FOR A WRIT OF CERTIORAI TO REVIEW THE FINAL DECISION OF THE SOUTH CAROLINA COURT OF APPEALS IN THEIR REFUSAL TO APPOINT THE APPELLANT SUBSTITUTE COUNSEL AND RELATED JURISDICTIONAL MATTERS.

THIS PETITION PRESENTS SUBSTANTIAL CONSTITUTIONAL QUESTIONS CONCERNING THE LIMITS OF CRIMINAL JUDICIAL AUTHORITY, THE CONSTITUTIONAL SCOPE OF STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494(S.C.App.2005), THE SIXTH AMENDMENT AUTONOMY INTEREST RECOGNIZED BY McCOY v. LOUISIANA, 584 U.S. 414(U.S.2018), THE RIGHT TO MEANINGFUL APPELLATE REPRESENTATION, REQUESTED SUBSTITUTION OF CONFLICTED APPELLATE COUNSEL, AND THE PREMATURE TRANSMISSION OF THE REMITTITUR.

QUESTIONS PRESENTED:

(1) WHETHER THE COURT OF APPEALS ERRED BY TREATING A CONSTITUTIONAL CHALLENGE TO THE STATE'S AUTHORITY TO PROSECUTE AND OBTAIN A CRIMINAL JUDGMENT AS MERELY A STATUTORY SUBJECT MATTER JURISDICTION OR INDICTMENT-SUFFICIENCY QUESTION UNDER STATE v. GENTRY;

(2) WHETHER SUBSTANTIAL CONSTITUTIONAL ISSUES REQUIRE RECONSIDERATION OF THE SCOPE AND CONTINUING APPLICATION OF GENTRY WHERE PETITIONER CONTENDS THAT THE CONSTITUTIONAL DIMENSION OF CRIMINAL JUDICIAL AUTHORITY WAS NOT ADEQUATELY ADDRESSED;

(3) WHETHER APPOINTED APPELLATE COUNSEL VIOLATED PETITIONER'S SIXTH AMENDMENT AUTONOMY INTERESTS BY EXPRESSLY REFUSING TO SEEK REHEARING OR PURSUE FURTHER APPELLATE REVIEW AFTER PETITIONER EXPRESSLY DIRECTED THAT THE CONSTITUTIONAL

(4) WHETHER COURT OF APPEALS ERRED BY FAILING TO JUDICIALLY ADJUDICATE PETITIONER'S REQUEST FOR SUBSTITUTION OF APPOINTED APPELLATE COUNSEL AND INSTEAD PERMITTING A CLERK'S LETTER CHARACTERIZING THE REQUEST AS "HYBRID DEFENSE" TO STAND IN PLACE OF A JUDICIAL RULING;

(5) WHETHER THE COURT OF APPEALS VIOLATED RULE 221(b), SCACR, BY TRANSMITTING THE REMITTITUR ON THE SAME DAY IT DENIED REHEARING, BEFORE EXPIRATION OF THE RULE 242(c) PERIOD FOR SEEKING A WRIT OF CERTIORARI;

(6) WHETHER A PREMATURE TRANSMISSION OF THE REMITTITUR, WHEN COMBINED WITH UNRESOLVED COUNSEL-AUTONOMY AND CONSTITUTIONAL-JURISDICTIONAL ISSUES, DEPRIVED PETITIONER OF A MEANINGFUL OPPORTUNITY TO OBTAIN REVIEW BY THIS COURT.

STATEMENT OF CASE:

THE COURT OF APPEALS ENTERED ITS DECISION ON JULY 22, 2026. THE PETITIONER WAS REPRESENTED BY ATTORNEY MS. MOLLY M. KEEGAN OF THE S.C. OFFICE OF INDIGENT APPELLATE DEFENSE. ON JULY 28, 2026 COUNSEL INFORMED THE PETITIONER IN WRITING THAT COUNSEL WOULD NOT SEEK REHEARING. PETITIONER EXPRESSLY DISAGREED AND SOUGHT CONTINUED APPELLATE REVIEW OF THE CONSTITUTIONAL JURISDICTIONAL ISSUE(S). THE PETITIONER ALSO SOUGHT SUBSTITUTION OF COUNSEL BECAUSE HE BELIEVED COUNSEL'S REFUSAL TO PRESENT AND PRESERVE THE CONSTITUTIONAL ISSUE(S) CREATED A CONFLICT BETWEEN COUNSEL'S POSITION AND PETITIONER'S APPELLATE OBJECTIVE. THE PETITIONER DID NOT SEEK SIMULTANEOUS HYBRID REPRESENTATION. HE SOUGHT SUBSTITUTE COUNSEL AS RULE 608 PROVIDES UNDER SUCH CIRCUMSTANCES. WHEN THE REQUEST WAS TREATED AS A REQUEST FOR PRO SE REPRESENTATION OR HYBRID DEFENSE, THE PETITIONER ATTEMPTED TO CLARIFY THE REQUEST. PETITIONER THEREAFTER PERSONALLY SUBMITTED A TIMELY EMERGENCY PETITION FOR REHEARING BY PDF/ELECTRONIC FILING. THE PETITION WAS ACTUALLY RECEIVED BY THE COURT OF APPEALS ON

AUGUST 5, 2026. THE COURT DENIED OR OTHERWISE DISPOSED OF THE REHEARING ON AUGUST 31, 2026 BY A CLERK'S LETTER. THE REMITTITUR WAS TRANSMITTED ON AUGUST 31, 2026 THE SAME DAY. AT THAT TIME, THE RULE 242(c) PERIOD FOR SEEKING SUPREME COURT REVIEW HAD NOT EXPIRED. PETITIONER SIMULTANEOUSLY SEEKS RELIEF FROM THE COURT OF APPEALS BY MOTION TO RECALL THE REMITTITUR.

ARGUMENT:

I. THIS CASE PRESENTS SPECIAL AND IMPORTANT REASONS FOR CERTIORARI:

RULE 242(c), SCACR, IDENTIFIES CIRCUMSTANCES SUPPORTING DISCRETIONARY SUPREME COURT REVIEW, INCLUDING NOVEL QUESTIONS OF LAW, CONFLICT WITH SUPREME COURT PRECEDENT, SUBSTANTIAL CONSTITUTIONAL QUESTIONS, AND FEDERAL QUESTIONS CONFLICTING WITH DECISIONS OF THE UNITED STATES SUPREME COURT. THIS CASE PRESENTS SUBSTANTIAL CONSTITUTIONAL QUESTIONS CONCERNING THE LIMITS OF CRIMINAL JUDICIAL AUTHORITY, THE RELATIONSHIP BETWEEN STATUTORY AND CONSTITUTIONAL JURISDICTION, THE CONTINUING SCOPE OF GENTRY, DEFENDANT AUTONOMY CONCERNING THE OBJECTIVE OF APPELLATE REPRESENTATION, COUNSEL'S ALLEGED REFUSAL TO PURSUE AN EXPRESSLY IDENTIFIED CONSTITUTIONAL ISSUE, SUBSTITUTION OF CONFLICTED APPELLATE COUNSEL, AND THE EFFECT OF PREMATURE TRANSMISSION OF THE REMITTITUR UPON SUPREME COURT REVIEW.

II. GENTRY SHOULD NOT BE TREATED AS FORECLOSING A DISTINCT CONSTITUTIONAL JURISDICTIONAL QUESTION:

IN STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494(S.C.App.2005), THE COURT ADDRESSED SUBJECT MATTER JURISDICTION AND DISTINGUISHED THAT QUESTION FROM INDICTMENT SUFFICIENCY. THE PETITIONER DOES NOT ASK THIS COURT MERELY TO REVIVE A RULE THAT EVERY DEFECTIVE INDICTMENT DEPRIVES A CIRCUIT COURT OF SUBJECT MATTER JURISDICTION. PETITIONER'S CONTENTION IS THAT A STATUTORY DESCRIPTION OF SUBJECT-MATTER JURISDICTION

CANNOT ITSELF ANSWER EVERY CONSTITUTIONAL QUESTION CONCERNING WHETHER THE STATE POSSESSED LAWFUL CONSTITUTIONAL AUTHORITY TO OBTAIN AND MAINTAIN THE PARTICULAR CRIMINAL JUDGMENT. THE COURT SHOULD THEREFORE DISTINGUISH STATUTORY SUBJECT MATTER JURISDICTION, INDICTMENT SUFFICIENCY, CONSTITUTIONAL PREREQUISITES TO CRIMINAL PROSECUTION, AND CONSTITUTIONAL LIMITATIONS UPON THE STATE'S AUTHORITY TO OBTAIN A CRIMINAL JUDGMENT. THE GENTRY RULING CREATED A "CONSTITUTIONAL BLINDSPOT". IT FAILS TO DETERMINE AT WHAT POINT DO SUBSTANTIAL DUE PROCESS VIOLATIONS EFFECTS A COURT'S CONSTITUTIONAL AUTHORITY TO OBTAIN OR LEAVE IN PLACE A CONVICTION. IT IS A WELL ESTABLISHED FUNDAMENTAL PRINCIPLE OF LAW THAT "SILENCE" ON A PARTICULAR CLAIM EQUATES TO "NON-FINALITY" ON THE ISSUE, STATE v. DENT, 446 S.C. 121, 919 S.E.2d. 394(S.C.App.2025); SANTOS-ZACARIA v. GARLAND, 598 U.S. 411, 143 S.Ct. 1103, 215 L.Ed.2d. 375(U.S.2023); STATE v. SWEET, 446 S.C. 356, 919 S.E.2d. 909(S.C.App.2025); UNITED STATES v. AJRAWAT,--Fed. Appx'--, 2018 WL 3045619(4th.Cir.2018); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003(U.S.1998); FIRST PROTECTION INSURANCE COMPANY v. LEWIS EDWARD O'LEARY, 2025 WL 1936566 (4th.Cir.2025); ESTATE OF CUNNINGHAM v. MAYOR AND CITY COUNCIL OF BALTIMORE, 128 F.4TH. 238(4th.Cir.2025); ESCOBAR-SALMERON v. MOYER, 150 F.4TH. 360(4th.Cir.2025); LOWY v. DANIEL DEFENSE, LLC.,--F.4TH.--, 2026 WL 376731 (4th.Cir.2026)(WITHOUT EXPRESSED LANGUAGE SILENCE EQUAL NON FINALITY).

III. THE CONSTITUTIONAL QUESTION WARRANTS DIRECT SUPREME COURT REVIEW:

THE SOUTH CAROLINA CONSTITUTION ESTABLISHES THE CONSTITUTIONAL STRUCTURE OF THE JUDICIAL SYSTEM, INCLUDING THE AUTHORITY OF THE CIRCUIT COURTS. PETITIONER CONTENDS THAT THE CONSTITUTIONAL ANALYSIS CANNOT END MERELY WITH IDENTIFICATION OF THE GENERAL CLASS OF CRIMINAL CASES. SEE MONTGOMERY v. LOUISIANA, 577 U.S. 190 (U.S.2016) AND THE CITY OF OCALA, FLORIDA v. ROJAS, 143 S.Ct. 764 (U.S.2023)(IN THE DISSENT). THE SUPREME COURT SHOULD DETERMINE WHETHER CONSTITUTIONAL CONDITIONS UPON THE

STATE'S EXERCISE OF CRIMINAL AUTHORITY REMAINS JUDICIALLY RECOGNIZABLE EVEN WHEN THE CIRCUIT COURT GENERALLY POSSESS JURISDICTION OVER CRIMINAL CASES BY STATUTE.

IV. ALLEGED HISTORICAL DEFECTS SURROUNDING GENTRY WARRANT EXAMINATION:

PETITIONER ALLEGES THAT THE DEVELOPMENT AND SUBSEQUENT APPLICATION OF THE JURISDICTIONAL RULE OCCURRED UNDER CIRCUMSTANCES IN WHICH MATERIAL CONSTITUTIONAL AUTHORITIES, ARGUMENTS, OR DISTINCTIONS WERE NOT ADEQUATELY PRESENTED OR CONSIDERED. PETITIONER DOES NOT ASK THIS COURT TO ACCEPT ALLEGATIONS OF FRAUD MERELY BECAUSE THEY HAVE BEEN ASSERTED. PETITIONER ASKS THIS COURT TO EXAMINE THE UNDERLYING RECORD TO DETERMINE WHETHER THE CONSTITUTIONAL ISSUE (THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION) WAS ACTUALLY ADJUDICATED.

V. McCOY RECOGNIZES A CONSTITUTIONAL AUTONOMY INTEREST IN FUNDAMENTAL DEFENSE OBJECTIVES:

IN McCOY v. LOUISIANA, 584 U.S. 414 (U.S.2018), THE SUPREME COURT HELD THAT A CRIMINAL DEFENDANT RETAINS AUTHORITY OVER FUNDAMENTAL OBJECTIVES OF THE DEFENSE, WHICH EXTENDS TO DIRECT APPEALS, EVEN WHEN REPRESENTED BY COUNSEL. THE COURT IDENTIFIED DECISIONS RESERVED TO THE DEFENDANT, INCLUDING WHETHER TO FORGO AN APPEAL. PETITIONER DID NOT CHOOSE TO ABANDON APPELLATE REVIEW. HE CHOSE THE OPPOSITE: CONTINUED APPELLATE LITIGATION, PRESERVATION OF THE CONSTITUTIONAL JURISDICTIONAL ISSUE, REVIEW OF GENTRY, AND EVENTUAL SUPREME COURT REVIEW. PETITIONER THEREFORE CONTENDS THAT COUNSEL'S UNILATERAL REFUSAL TO PURSUE FURTHER REVIEW SHOULD NOT HAVE BEEN TREATED AS DISPOSITIVE OF PETITIONER'S EXPRESSLY STATED APPELLATE OBJECTIVE.

VI. THE ISSUE IS NOT MERELY A STRATEGIC DISAGREEMENT:

PETITIONER RECOGNIZES THAT COUNSEL ORDINARILY

CONTROLS TACTICAL AND STRATEGIC DECISIONS. THE CONSTITUTIONAL QUESTION IS WHETHER COUNSEL MAY UNILATERALLY ABANDON FURTHER APPELLATE REVIEW OF AN EXPRESSLY IDENTIFIED CONSTITUTIONAL CLAIM AFTER THE DEFENDANT HAS AFFIRMATIVELY DIRECTED THAT THE ISSUE BE PURSUED AND REQUESTED SUBSTITUTE COUNSEL BECAUSE EXISTING COUNSEL REFUSES TO PURSUE IT.

VII. THE REQUEST FOR SUBSTITUTE COUNSEL WAS NEVER JUDICIALLY ADJUDICATED:

PETITIONER'S ACTUAL REQUEST WAS FOR REPLACEMENT OF APPOINTED APPELLATE COUNSEL. HE DID NOT REQUEST SIMULTANEOUS REPRESENTATION BY HIMSELF AND COUNSEL. IF COUNSEL'S REFUSAL TO PURSUE THE CONSTITUTIONAL ISSUE CREATED A CONFLICT BETWEEN COUNSEL'S POSITION AND PETITIONER'S FUNDAMENTAL APPELLATE OBJECTIVE, THE APPROPRIATE INQUIRY WAS WHETHER SUBSTITUTE SHOULD BE APPOINTED--NOT WHETHER PETITIONER SHOULD SIMULTANEOUSLY ACT AS HIS OWN LAWYER WHILE REPRESENTED BY COUNSEL.

THE PROCEDURAL DEFECT IS NOT CURED BY THE CLERK'S LETTER. AN ADMINISTRATIVE COMMUNICATION STATING THAT THERE IS NO "HYBRID DEFENSE" DOES NOT, BY ITSELF, ESTABLISH THAT A JUDGE EXERCISED JUDICIAL DISCRETION AND DENIED THE ACTUAL MOTION FOR SUBSTITUTION. THE SUPREME COURT SHOULD THEREFORE CONSIDER WHETHER THE COURT OF APPEALS SHALL NOT SEND THE REMITTITUR UNTIL THE TIME TO PETITION FOR CERTIORARI UNDER RULE 242(c) HAS EXPIRED. HERE, REHEARING WAS DENIED ON AUGUST 31, 2026 BY A CLERK'S LETTER, THE REMITTITUR WAS SENT ON AUGUST 31, 2026 THE SAME DAY AND THE RULE 242(c) PERIOD HAD NOT EXPIRED. IF CONFIRMED BY THE APPELLATE RECORD, THE REMITTITUR WAS PREMATURELY TRANSMITTED.

IX. THE PREMATURE REMITTITUR THREATENED THE VERY REVIEW PROVIDED BY RULE 242:

RULE 242(c) PROVIDES THE PERIOD FOR FILING THE CERTIORARI PETITION AFTER REHEARING HAS BEEN FINALLY DECIDED. RULE 242(d)(1) MAKES PRESERVATION IN THE COURT OF APPEALS AND

REHEARING PETITION SIGNIFICANT TO THE QUESTIONS PRESENTED. PETITIONER'S TIMELY REHEARING PETITION WAS THEREFORE IMPORTANT TO PRESERVING THE CONSTITUTIONAL ISSUES. PREMATURE TRANSMISSION OF THE REMITTITUR BEFORE EXPIRATION OF THE CERTIORARI PERIOD CREATED A PROCEDURAL BARRIER TO SUPREME COURT REVIEW FOR WHICH THE REHEARING PETITION HAD BEEN FILED.

CONCLUSION:

THIS CASE PRESENTS MORE THAN AN ORDINARY DISAGREEMENT CONCERNING APPELLATE STRATEGY. IT PRESENTS A CONSTITUTIONAL QUESTION CONCERNING DEFENDANT AUTONOMY; A COUNSEL-SUBSTITUTION QUESTION; A CHALLENGE TO THE CONTINUING CONSTITUTIONAL SCOPE OF GENTRY; AND A PROCEDURAL QUESTION CONCERNING WHETHER THE COURT OF APPEALS TRANSMITTED THE REMITTITUR BEFORE THE PERIOD FOR SUPREME COURT REVIEW HAS EXPIRED.

PRAYER FOR RELIEF:

WHEREFORE, PETITIONER RESPECTFULLY REQUESTS THAT THIS COURT:

- (1) GRANT THE PETITION FOR WRIT OF CERTIORARI;
- (2) REVIEW THE COURT OF APPEALS DECISION;
- (3) REVIEW WHETHER THE COURT OF APPEALS IMPROPERLY TREATED PETITIONER'S REQUEST FOR SUBSTITUTION OF COUNSEL AS A REQUEST FOR HYBRID REPRESENTATION;
- (4) REVIEW THE SIXTH AMENDMENT AUTONOMY ISSUE UNDER McCOY v. LOUISIANA, 584 U.S. 414 (U.S.2018);
- (5) REVIEW THE CONSTITUTIONAL JURISDICTIONAL AND CONTINUING SCOPE OF STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d.

494(S.C.App.2005) BY THE DOCUMENTS ESTABLISHED WITHIN THE RECORD
IN THE COURT OF APPEALS;

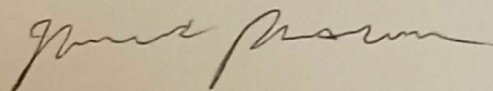
(6) REVIEW WHETHER THE COURT OF APPEALS VIOLATED RULE
221(b), SCACR, BY TRANSMITTING THE REMITTITUR BEFORE EXPIRATION
OF THE RULE 242(c) CERTIORARI PERIOD;

(7) GRANT EXTENSION OF TIME TO SUBMIT ANY OTHER REQUIRED
PLEADING NECESSARY TO SEEKING WRIT OF CERTIORAI, AND GRANT SUCH
FURTHER RELIEF AS IS NECESSARY TO PRESERVE PETITIONER'S
CONSTITUTIONAL AND APPELLATE RIGHTS; AND

(8) GRANT ANY AND ALL OTHER RELIEF THAT THE COURT WOULD
DEEM JUST, FAIR, AND PROPER.

RESPECTFULLY,

JAMES J. PATTERSON III



SEPTEMBER 11, 2026

JAMES JOSEPH PATTERSON III
#368709 F3B. RM. 230
EVANS C.I. 610 HWY. 9 WEST
BENNETTSVILLE, S.C. 29512

IN RE: CASE 2023-001474 MOTIONING TO RECALL THE REMITTITUR,
REINSTATE THE APPEAL, PRESERVE APPELLATE JURISDICTION AND
SUBSTITUTE APPOINTED COUNSEL.

TO: THE S.C. COURT OF APPEALS,

THE ATTACHED PLEADING IS BEING FILED FOR THE PURPOSE
OF SEEKING TO RECALL THE REMITTITUR AND OTHER RELIEF SOUGHT
WITHIN THE (12) PAGE DOCUMENT. PLEASE FILE IT IN THE ABOVE
CAPTIONED CASE AND FORWARD IT FOR ADJUDICATION. THANK YOU IN
ADVANCE. STILL REMAIN,

RESPECTFULLY,
JAMES JOSEPH PATTERSON III

SEPTEMBER 10, 2026

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

CASE DOCKET NO. 2023-001474

APPEAL FROM LEXINGTON COUNTY
THE COURT OF GENERAL SESSIONS

INDICTMENT NO.(S) 2022-GS-32-6146, 6147

JAMES JOSEPH PATTERSON III,

APPELLANT

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

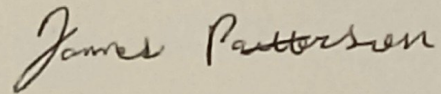
AFFIDAVIT OF SERVICE

I, JAMES JOSEPH PATTERSON III, DO HEREBY CERTIFY, THAT I HAVE MAILED AND OR SERVED A COPY OF AN AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; EMERGENCY MOTION TO RECALL THE REMITTITUR, REINSTATE APPEAL, PRESERVE APPELLATE JURISDICTION, AND SUBSTITUTE CONFLICT-FREE COUNSEL, ON THE S.C. COURT OF APPEALS P.O. BOX 11629, COLUMBIA, S.C. 29221, ATTORNEY MOLLY M. KEEGAN OF THE

OFFICE OF INDIGENT DEFENSE 1330 LADY STREET, SUITE 401, COLUMBIA,
S.C. 29211-3332, THE S.C. ATTORNEY GENERAL P.O. BOX 11549,
COLUMBIA, S.C. 29221, BY U.S. MAIL AND OR PDF, POSTAGE PREPAID BY
DEPOSITING IT IN THE INSTITUTION MAILBOX ON SEPTEMBER 10, 2026.

RESPECTFULLY,

JAMES J. PATTERSON III

A handwritten signature in cursive script that reads "James Patterson".

SEPTEMBER 10, 2026

CC: THE OFFICE OF INDIGENT DEFENSE
THE S.C. ATTORNEY GENERAL
JAMES J. PATTERSON III
THE S.C. DISTRICT COURT

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

CASE DOCKET NO. 2023-001474

APPEAL FROM LEXINGTON COUNTY
THE COURT OF GENERAL SESSIONS

INDICTMENT NO.(S) 2022-GS-32-6146, 6147

JAMES JOSEPH PATTERSON III,

APPELLANT

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; EMERGENCY
MOTION TO RECALL THE REMITTITUR, REINSTATE APPEAL,
PRESERVE APPELLATE JURISDICTION, AND SUBSTITUTE
CONFLICT APPELLATE COUNSEL

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

ATTACHED THE COURT WILL FIND SEVERAL EXHIBITS THAT ARE
3-of-12

THE SOURCE OF THE CONTROVERSY. THE APPELLANT IN THE ABOVE CAPTIONED MATTERS RESPECTFULLY MOVES THIS COURT FOR AN EMERGENCY ORDER RECALLING THE REMITTITUR, REINSTATING THE APPEAL TO THE ACTIVE DOCKET, PRESERVING APPELLATE JURISDICTION PENDING SUPREME COURT REVIEW, AND PERMITTING SUBSTITUTION OF APPELLATE COUNSEL. THE MOTION ARISES FROM EXTRAORDINARY PROCEDURAL CIRCUMSTANCES IN WHICH APPELLANT TIMELY ATTEMPTED TO PRESERVE CONSTITUTIONAL ISSUES FOR FURTHER APPELLATE REVIEW AFTER APPOINTED APPELLATE COUNSEL EXPRESSLY INFORMED THE APPELLANT THAT COUNSEL WOULD NOT SEEK REHEARING. APPELLANT THEREAFTER PERSONALLY SUBMITTED A TIMELY PETITION FOR EMERGENCY REHEARING BY PDF/ELECTRONIC FILING. RATHER THAN TREATING THE APPELLANT'S FILING AS AN ATTEMPT TO PRESERVE HIS APPELLATE RIGHTS REQUEST FOR SUBSTITUTE COUNSEL AS SUCH, THE FILING WAS CONSTRUED AS AN ATTEMPT TO PROCEED PRO SE OR AS AN IMPERMISSIBLE HYBRID REPRESENTATION. APPELLANT RESPECTFULLY SUBMITS THAT THIS CHARACTERIZATION DID NOT ACCURATELY REFLECT THE RELIEF REQUESTED. APPELLANT SOUGHT SUBSTITUTION OF COUNSEL, NOT SIMULTANEOUS REPRESENTATION BY COUNSEL AND HIMSELF. THE COURT THEREAFTER DISPOSED OF THE REHEARING REQUEST AND TRANSMITTED THE REMITTITUR THE SAME DAY, NOTWITHSTANDING RULE 221(b), SCACR.

RELIEF REQUESTED:

THE APPELLANT RESPECTFULLY REQUESTS OF THIS COURT:

- (1) RECALL THE REMITTITUR IMMEDIATELY;
- (2) REINSTATE THE APPEAL TO THE ACTIVE APPELLATE DOCKET;
- (3) DETERMINE THAT THE REMITTITUR WAS PREMATURELY TRANSMITTED IF IT WAS SENT BEFORE EXPIRATION OF THE RULE 242(c), SCACR, CERTIORARI PERIOD;
- (4) RECOGNIZE THAT APPELLANT'S TIMELY REHEARING PETITION WAS FILED FOR THE PURPOSE OF PRESERVING CONSTITUTIONAL AND

JURISDICTIONAL QUESTIONS FOR FURTHER APPELLATE REVIEW;

(5) CLARIFY THAT APPELLATE'S REQUEST WAS FOR SUBSTITUTION OF APPOINTED APPELLATE COUNSEL, NOT HYBRID REPRESENTATION OR SIMULTANEOUS PRO SE REPRESENTATION;

(6) PERMIT THE APPELLANT TO OBTAIN CONFLICT-FREE APPELLATE COUNSEL PURSUANT TO RULE 264, SCACR, OR OTHERWISE PROVIDE APPROPRIATE RELIEF CONCERNING COUNSEL;

(7) PRESERVE APPELLANT'S RIGHT TO PETITION THE SOUTH CAROLINA SUPREME COURT FOR A WRIT OF CERTIORARI; AND

(8) GRANT SUCH OTHER RELIEF THE COURT WOULD DEEM JUST, FAIR AND PROPER AS WOULD BE NECESSARY TO PREVENT THE LOSS OF APPELLATE'S CONSTITUTIONAL AND APPELLATE RIGHTS.

PROCEDURAL HISTORY:

(1) THE COURT OF APPEALS ENTERED ITS JUDGMENT ON JULY 22, 2026.

(2) APPELLANT WAS REPRESENTED BY BY APPOINTED APPELLATE COUNSEL IN THE FORM OF MOLLY M. KEEGAN.

(3) ON OR ABOUT JULY 28, 2026 APPOINTED COUNSEL SENT APPELLANT WRITTEN CORRESPONDENCE INFORMING HIM THAT COUNSEL THAT COUNSEL WOULD NOT SEEK REHEARING.

(4) THE APPELLANT DID NOT AGREE TO ABANDON FURTHER APPELLATE REVIEW.

(5) APPELLANT EXPRESSLY SOUGHT TO CONTINUE LITIGATING THE CONSTITUTIONAL ISSUE CONCERNING THE SCOPE OF SUBJECT MATTER JURISDICTION AND THE VALIDITY OR SCOPE OF THE PRECEDENT UPON WHICH THE COURT(S) RELIED.

(6) APPELLANT FURTHER SOUGHT SUBSTITUTION OF COUNSEL BECAUSE HE BELIEVED APPOINTED COUNSEL'S REFUSAL TO PREVENT AND PRESERVE THE CONSTITUTIONAL ISSUE CREATED A FUNDAMENTAL CONFLICT CONCERNING THE OBJECTIVE OF THE REPRESENTATION.

(7) APPELLANT DID NOT REQUEST HYBRID REPRESENTATION.

(8) APPELLANT DID NOT REQUEST TO SIMULTANEOUSLY ACT AS HIS OWN ATTORNEY WHILE REMAINING REPRESENTED BY APPOINTED COUNSEL.

(9) INSTEAD, APPELLANT SOUGHT SUBSTITUTE COUNSEL WHO WOULD PRESENT THE ISSUES APPELLANT HAD DIRECTED COUNSEL TO PRESERVE.

(10) THE COURT NEVERTHELESS CONSTRUED APPELLANT'S REQUEST AS IMPLICATING PRO SE OR HYBRID REPRESENTATION.

(11) APPELLANT ATTEMPTED TO CLARIFY THAT THE REQUEST WAS FOR SUBSTITUTION OF COUNSEL.

(12) THEREAFTER, APPELLANT TIMELY SUBMITTED AN EMERGENCY PETITION FOR REHEARING BY PDF/ELECTRONIC FILING ON AUGUST 5, 2026.

(13) THE FILING WAS ACTUALLY RECEIVED BY THE COURT OF APPEALS AUGUST 5, 2026 WITHIN THE PERIOD PRESCRIBED BY RULE 221(a), SCACR.

(14) THE PETITION EXPRESSLY SOUGHT PRESERVATION OF THE CONSTITUTIONAL JURISDICTIONAL QUESTION, THE COUNSEL/AUTONOMY ISSUE, AND APPELLANT'S ABILITY TO SEEK REVIEW BY THE SOUTH CAROLINA SUPREME COURT.

(15) THE COURT DISPOSED OF THE REHEARING PETITION ON

BY CLERK OF COURT LETTER DATED AUGUST 31, 2026.

(16) THE REMITTITUR WAS TRANSMITTED ON THAT SAME DATE, AUGUST 31, 2026.

(17) AT THE TIME THE REMITTITUR WAS TRANSMITTED, THE PERIOD PRESCRIBED BY RULE 242(c), SCACR, FOR SEEKING SUPREME COURT REVIEW HAD NOT EXPIRED.

III. RULE 221(b) REQUIRED WITHHOLDING OF THE REMITTITUR:

RULE 221(b), SCACR, PROVIDE THAT WHEN A PETITION FOR REHEARING HAS BEEN RECEIVED BEFORE THE REMITTITUR IS SENT, THE REMITTITUR SHALL NOT BE SENT WHILE THE REHEARING PETITION IS PENDING. MORE IMPORTANTLY, WHERE REHEARING HAS BEEN DENIED, RULE 221(b) PROVIDE THAT THE COURT OF APPEALS SHALL NOT SEND THE REMITTITUR UNTIL THE TIME TO PETITION FOR A WRIT OF CERTIORARI UNDER RULE 242(c) HAS EXPIRED. IF CERTIORARI IS FILED, THE REMITTITUR REMAINS WITHHELD UNTIL THE SUPREME COURT ACTS. ACCORDINGLY, DENIAL OF REHEARING DID NOT ITSELF AUTHORIZE IMMEDIATE TRANSMISSION OF THE REMITTITUR. THE RULE CREATES A SECOND PERIOD OF PROTECTION AFTER REHEARING HAS BEEN DENIED.

IV. RULE 242(c) CONFIRMS THAT SUPREME COURT REVIEW REMAINED AVAILABLE:

RULE 242(c), SCACR, PROVIDES THE PROCEDURE AND TIME PERIOD FOR SEEKING SUPREME COURT REVIEW AFTER DISPOSITION OF REHEARING. APPELLANT'S FILING WAS INTENDED TO PRESERVE THE CONSTITUTIONAL QUESTIONS FOR THAT REVIEW.

V. THE APPELLANT'S REQUEST WAS FOR SUBSTITUTE COUNSEL, NOT HYBRID REPRESENTATION:

APPELLANT'S REQUEST SHOULD BE UNDERSTOOD ACCORDING TO IT'S ACTUAL SUBSTANCE: REPLACE APPOINTED COUNSEL BECAUSE COUNSEL HAD EXPRESSLY DECLINED TO PURSUE THE CONSTITUTIONAL ISSUE

APPELLANT DIRECTED COUNSEL TO PRESERVE. IT WAS NOT A REQUEST FOR SIMULTANEOUS HYBRID REPRESENTATION. APPELLANT SOUGHT SUBSTITUTE COUNSEL.

VI. THE MOTION FOR SUBSTITUTE COUNSEL WAS NEVER JUDICIALLY ADJUDICATED:

APPELLANT'S REQUEST FOR SUBSTITUTION MUST BE EVALUATED ACCORDING TO THE RELIEF ACTUALLY SOUGHT, NOT ACCORDING TO THE CHARACTERIZATION PLACED UPON IT BY AN ADMINISTRATIVE COMMUNICATION. APPELLANT SOUGHT REPLACEMENT OF APPOINTED APPELLATE COUNSEL. HE DID NOT REQUEST PERMISSION TO REPRESENT HIMSELF WHILE COUNSEL REMAINED COUNSEL OF RECORD. THE DISTINCTION IS MATERIAL. A REQUEST FOR SUBSTITUTE COUNSEL UNDER RULE 608, SCACR, ASKS THE COURT TO EXERCISE JUDICIAL DISCRETION CONCERNING CONTINUED REPRESENTATION. A REQUEST FOR HYBRID REPRESENTATION ASKS FOR SIMULTANEOUS PARTICIPATION BY THE DEFENDANT AND COUNSEL. THOSE ARE DIFFERENT REQUESTS REQUIRING DIFFERENT INQUIRIES. HERE, THE COURT DID NOT ENTER AN ORDER DENYING THE SUBSTITUTION REQUEST. INSTEAD, THE CLERK ISSUED A LETTER STATING THAT THERE WAS NO HYBRID DEFENSE. IF THE RECORD CONFIRMS THAT NO JUDGE EVER ENTERED AN ORDER ADJUDICATING SUBSTITUTION, THE LETTER CANNOT BE TREATED AS A JUDICIAL DISPOSITION OF THE MOTION MERELY BECAUSE IT COMMUNICATED A POSITION ATTRIBUTED TO THE COURT. APPELLANT THEREFORE RESPECTFULLY REQUESTS THAT THIS COURT EXAMINE THE DOCKET AND RECORD TO DETERMINE WHETHER ANY JUDICIAL ORDER ACTUALLY RULED ON THE SUBSTITUTION MOTION, WHAT RELIEF THE MOTION REQUESTED, AND WHAT AUTHORITY, IF ANY, PERMITTED THE CLERK TO DISPOSE OF OR FORECLOSE THAT JUDICIAL REQUEST WITHOUT AN ORDER OF THE COURT. THE ABSENCE OF A JUDICIAL RULING IS PARTICULARLY CONSEQUENTIAL BECAUSE THE SUBSTITUTION REQUEST AROSE AFTER APPOINTED COUNSEL EXPRESSLY STATE THAT SHE WOULD NOT SEEK REHEARING, WHILE APPELLANT EXPRESSLY SOUGHT CONTINUED REVIEW AND PRESERVATION OF THE CONSTITUTIONAL ISSUES. THE UNRESOLVED REQUEST THEREFORE CONCERNED THE MEANS BY WHICH APPELLANT SOUGHT TO CONTINUE EXERCISING HIS APPELLATE RIGHTS, NOT AN ATTEMPT TO

CONDUCT A HYBRID DEFENSE.

VII. THE SIXTH AMENDMENT AUTONOMY PRINCIPLE RECOGNIZED IN
McCOY v. LOUISIANA:

IN McCOY v. LOUISIANA, 584 U.S. 414 (U.S.2018), THE UNITED STATES SUPREME COURT HELD THAT THE 6TH. AMENDMENT GIVES A CRIMINAL DEFENDANT AUTHORITY OVER FUNDAMENTAL OBJECTIVES OF THE DEFENSE AND THAT COUNSEL MAY NOT USURP A DECISION RESERVED TO THE DEFENDANT. THE COURT IDENTIFIED DECISIONS RESERVED TO THE DEFENDANT, INCLUDING TO FOREGO APPEAL, ID. AT. 422-23. THE APPELLANT DID NOT CHOSE TO ABANDON APPELLATE REVIEW. TO THE CONTRARY, APPELLANT EXPRESSLY SOUGHT CONTINUED APPELLATE LITIGATION, PRESERVATION OF THE CONSTITUTIONAL JURISDICTIONAL ISSUES, REVIEW OF STATE v. GENTRY, AND EVENTUAL S.C. SUPREME COURT REVIEW. APPELLANT THEREFORE SUBMIT THAT COUNSEL'S UNILATERAL REFUSAL TO PURSUE FURTHER REVIEW SHOULD NOT HAVE BEEN TREATED AS DISPOSITIVE OF APPELLANT'S EXPRESSLY STATED APPELLATE OBJECTIVE.

VIII. THIS IS NOT MERELY A STRATEGIC DISAGREEMENT:

APPELLANT RECOGNIZES THAT COUNSEL ORDINARILY CONTROLS TACTICAL AND STRATEGIC DECISIONS. THE ISSUE HERE IS WHETHER COUNSEL COULD UNILATERALLY ABANDON FURTHER APPELLATE REVIEW OF AN EXPRESSED IDENTIFIED CONSTITUTIONAL CLAIM AFTER THE DEFENDANT AFFIRMATIVELY DIRECTED THAT THE ISSUE BE PURSUED AND REQUESTED SUBSTITUTE COUNSEL BECAUSE EXISTING COUNSEL REFUSED TO PURSUE IT.

IX. APPELLANT SEEKS TO CHALLENGE, NOT EVADE, THE STATE v. GENTRY RULING:

APPELLANT RECOGNIZES THAT STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494(S.C.App.2005), ADDRESSES SUBJECT MATTER JURISDICTION AND DISTINGUISHES THAT CONCEPT FROM INDICTMENT SUFFICIENCY. APPELLANT NEVERTHELESS SEEKS TO CHALLENGE THE