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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Laurens County

Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAVID LEE WALKER,

APPELLANT.

APPELLATE CASE NO. 2026-001636

MOTION FOR APPOINTMENT
OF OUTSIDE COUNSEL

Counsel respectfully moves this Court to appoint outside counsel to represent Petitioner in the appeal from the denial of his application for post-conviction relief based on a conflict. In support of the motion counsel shows:

1. In February of 2024, the Laurens County Grand Jury indicted Petitioner for murder and possession of a weapon during the commission of a violent crime, indictment #2014-GS-30-0228. The case went to jury trial on February 23, 2015, before the Honorable Frank R. Addy, Jr. Elizabeth P. Wiygul represented Petitioner. O. Warren

Mowry, Jr. and Ruston W. Neely prosecuted the case. The jury found Petitioner guilty of murder but not guilty of the weapon charge.

2. The direct appeal was perfected and the conviction affirmed on direct appeal. State v. Walker, 2017-UP-169 (S.C. Ct.App. filed April 19, 2017). Appellate counsel for Petitioner filed a petition for writ of certiorari with the South Carolina Supreme Court that was denied on February 1, 2018.

3. On January 15, 2019, Petitioner filed an application for post-conviction relief [PCR]. The State filed a return on April 18, 2019. Two amended PCR applications were filed on August 14, 2024, and August 15, 2024, by retained PCR counsel Dayne C. Phillips.

4. On April 3, 2025, attorney Phillips moved for a funding order to retain expert services. On May 22, 2025, the Honorable S. Bryan Doby signed an order granting the funding request. On June 24, 2025, attorney Phillips provided a copy of the funding order to SCCID. On July 8, 2025, after conversations with attorney Phillips and a review of the court filings, Hervery B.O. Young, on behalf of the South Carolina Commission on Indigent Defense [SCCID], filed a motion to reconsider and alter or amend the judgment and objection to order granting funding authority.

5. On October 16, 2025, a hearing was held before Judge Doby on the motion by SCCID. Dayne C. Phillips represented Petitioner. Hervery B.O. Young represented SCCID. In an order dated November 5, 2025, Judge Doby reversed the prior order granting the funding request. On November 17, 2025, attorney Phillips filed a motion to alter or amend judgment pursuant to Rule 59(e), SCRCP. SCCID filed a response on November 21, 2025. Judge Doby denied the motion on November 24, 2025.

6. On March 2, 2026, an evidentiary hearing was held before the Honorable William H. Seals Jr. Dayne C. Phillips represented Petitioner. Zachary W. Jones represented the State. In a written order signed June 23, 2026, Judge Seals denied relief and dismissed the application.

7. On July 13, 2026, attorney Phillips filed a motion to alter or amend judgment pursuant to Rule 59(e), SCRCP. As part of the grounds for the motion attorney Phillips asserted that, "The Order of Dismissal failed to adequately address the Honorable S. Bryan Doby's original Order granting PCR Counsel's motion on May 22, 2025, for funding to obtain expert services in Ballistics and Gun Shot Residue (GSR) and subsequent Order on November 5, 2025, reversing the prior order after a hearing based on the South Carolina Commission on Indigent Defense's motion to reconsider and alter or amend judgment." As an additional ground counsel asserted, "The Order of Dismissal failed to adequately address the issues raised by PCR Counsel that Judge Doby's subsequent Order denying funding for expert services in Ballistics and GSR denied Applicant the ability to prove Trial Counsel's ineffective assistance." The State filed a response on July 22, 2026. On August 14, 2026, Judge Seals denied the motion to alter or amend.

8. Attorney Phillips filed a timely notice of intent to appeal. On September 15, 2026, after receiving an affidavit of indigency from Petitioner, the Office of Appellate Defense took over representation of Petitioner. On September 17, 2026, Attorney Phillips moved to withdraw as counsel. On September 18, 2026, this Court granted the motion to withdraw and noted that Wanda H. Carter, Chief Appellate Defender, represented Petitioner.

9. The case was assigned to Senior Appellate Defender Kathrine H. Hudgins who moves for appointment of outside counsel because of a conflict. The Office of Appellate Defense operates under the South Carolina Commission on Indigent Defense [SCCID]. One issue that may need to be addressed on appeal is the denial of funding after SCCID challenged the initial grant of funding. The challenge by SCCID resulted in the reversal of the initial funding order. The position taken by SCCID on funding is adverse to Petitioner's interest. As the Office of Appellate Defense operates under SCCID, counsel submits Appellate Defense should not represent Petitioner and outside counsel should be appointed.

Based on the above, counsel respectfully requests the appointment of counsel outside the Office of Appellate Defense to represent Petitioner in his appeal of the PCR court's order denying relief. Counsel requests this Court hold the timelines for filing the petition for writ of certiorari and appendix in abeyance pending a decision on this motion.

Respectfully submitted,

Kathrine H. Hudgins
SENIOR APPELLATE DEFENDER
ATTORNEY FOR PETITIONER

This 30th day of October, 2026