 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Appeal from Orangeburg County

Honorable Edgar W. Dickson, Circuit Court Judge

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**RECEIVED**  
JUN 04 2014  
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DEXTER DAVIS,

PETITIONER.

Appellate Case No. 2013-000598

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MOTION TO BE RELIEVED AS COUNSEL  
FILED UNDER SEAL

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Counsel moves this Court to be relieved as counsel in the above-captioned case based on the fact that the records of Mr. Davis' probation revocation hearing cannot be found by South Carolina Court Administration, and because it appears Mr. Davis, who is no longer incarcerated, has no interest in pursuing a reconstruction of the probation revocation hearing. The undersigned respectfully shows the Court:

1. On March 20, 2013, R. Douglas Mellard, Assistant Public Defender filed a notice of intent to appeal from a probation revocation hearing held on March 13, 2013.

2. On March 26, 2013, the transcript of the revocation hearing held on March 13, 2013, was requested from the court reporter present with Judge Dickson, Ms. Harry Dot Walker.

3. In the interim, Ms. Walker retired and her records were delivered to South Carolina Court Administration.

4. South Carolina Court Administration assigned the transcription of the March 13, 2013 probation revocation hearing to Harriett Bennett. Ms. Bennett informed this office on April 9, 2014, that the record was not available for transcription. Ms. Desiree Allen of Court Administration reiterated that "the tape we have for March 13, 2013 does not contain that record." (See Exhibit A attached).

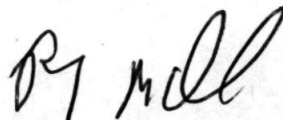
5. On March 27, 2013, the records department at the Department of Probation, Parole and Pardon Services was contacted to see if Mr. Davis was still incarcerated. Mr. Davis was not incarcerated and a home address was obtained. A letter was sent to Mr. Davis on April 24, 2014 advising him that his probation revocation hearing record could not be transcribed, and we requested that he contact this office because his assistance would be needed if a motion for a reconstruction hearing was filed and granted. To date, Mr. Davis has not contacted this office in return.

6. A message was also left for Mr. Davis on the cell phone number provided by the records department for him. That telephone message also was not returned.

7. Given the above circumstances regarding this appeal of a probation violation hearing by a person no longer incarcerated, and the lack of any cooperation from Mr. Davis, undersigned counsel has determined that he should make the present motion to be relieved. This motion is not made for purposes of delay.

WHEREFORE, Counsel respectfully requests that this Court grant his motion to be relieved as counsel on behalf of him, and this office, and commends further proceedings to the discretion of this Court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. M. Dudek", written in a cursive style.

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Robert M. Dudek  
Chief Appellate Defender

Attorney for Petitioner

This 4<sup>th</sup> day of June, 2014

# **Exhibit**

# **A**

**Loriene P. French**

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**From:** Allen, Desiree [DAllen@sccourts.org]  
**Sent:** Tuesday, April 15, 2014 11:44 AM  
**To:** Loriene P. French  
**Subject:** RE: Dexter Davis

I did get a copy, and I took it to mean that she can't transcribe because it's not available for transcription. In other words, the tape we have for March 13, 2013 does not contain that record. I think this letter is attempting to provide something for your records. I don't have anything handwrite on my copy.

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**From:** Loriene P. French [mailto:LFrench@sccid.sc.gov]  
**Sent:** Tuesday, April 15, 2014 11:27 AM  
**To:** Allen, Desiree  
**Subject:** Dexter Davis

Desiree,

I received a letter yesterday from Harriet Bennett saying that the transcript was not available on Dexter Davis, and you were copied with that letter. At the bottom of this letter she wrote that after listening she realized it was on a Timothy Davis, not Dexter. I don't know if this hand-written note was on your copy of the letter, or if you were aware of this. To clarify, I'm just wondering if we still expect the records to be found and transcribed in the near future, or is it not available?

Look forward to hearing from you and thanks for your assistance in this matter.

Loriene

4/15/2014

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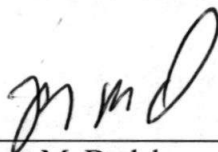
PETITIONER.

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CERTIFICATE OF SERVICE

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The undersigned attorney hereby certifies that a true copy of the Motion to be Relieved as Counsel in the above-referenced case has been served on this 4<sup>th</sup> day of June, 2014 upon Mr. Dexter Davis, 304 Oriole Lane, Holly Hill, SC 29059. April A. McFedden, Probation Agent, Post Office Box 842, Orangeburg, SC 29115 is also being served with a copy of this motion.

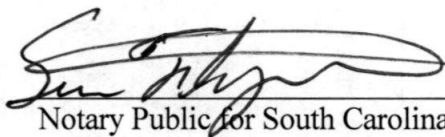


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Robert M. Dudek  
Chief Appellate Defender

Attorney for Petitioner

SUBSCRIBED AND SWORN TO before me  
this 4<sup>th</sup> day of June, 2014.



(L.S.)  
Notary Public for South Carolina

My Commission Expires: October 30, 2022



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
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Columbia, South Carolina 29201-3332  
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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

June 4, 2014

**RECEIVED**  
JUN 04 2014  
SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk, S.C. Court of Appeals  
PO Box 11629  
Columbia, SC 29211

Re: The State v. Dexter Davis  
Appellate Case No. 2013-000598

Dear Ms. Kitchings:

Enclosed are an original and six copies of the Motion to be Relieved as Counsel that I am filing in the above-captioned case. Thank you for your assistance in this matter, and please contact me if you have any questions or concerns.

Sincerely,

Robert M. Dudek  
Chief Appellate Defender

RMD/lf

Enclosure

cc: April A. McFedden, Probation Agent