

EDGEFIELD COUNTY
CLERK OF COURT
SHIRLEY F. NEWBY

STATE OF SOUTH CAROLINA)

2014 JUN -3 PM 2:40

IN THE COURT OF GENERAL SESSIONS

COUNTY OF EDGEFIELD)

THE STATE,)

ORDER

vs.)

2005-GS-19-00273 / No Warrant # (Kidnapping)

2005-GS-19-00457 / Warrant G679755 (Murder)

STEVEN LOUIS BARNES,)

Defendant.)

The issue before the court is appointment of counsel for the defendant, Mr. Steven Louis Barnes. The State, through the office of the Solicitor of the 11th Judicial Circuit, challenges the authority of the undersigned judge to deal with this case based on the order vesting exclusive jurisdiction to The Honorable R. Knox McMahon. This matter has to be raised to Judge McMahon.

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Mr. Barnes was sentenced to death in November 2010. The convictions and sentence were appealed. The Supreme Court of South Carolina reversed his convictions and sentence in *State v. Barnes*, 407 S.C. 27, 753 S.E.2d 545 (2014). The *remittitur* was delivered to the Clerk of Court of Edgefield County. The primary basis for the reversal was that Mr. Barnes should have been allowed to represent himself. However, the court was notified that Mr. Barnes now wants to have appointed counsel.

Since the undersigned judge is currently serving as the Chief Judge for Administrative Purposes for the 11th Judicial Circuit, the information about Mr. Barnes' decision to seek counsel was called to this court's attention. Contact was made by attorneys who were previously involved in the case, including an attorney who represented the defendant on appeal and

attorneys with the South Carolina Commission on Indigent Defense, including its Capital Trial Division.

The court notified Mr. Barnes, the Solicitor's office, and the attorneys who had been in contact with the court that a status conference would be held and, if the case is still a capital case and Mr. Barnes desires to represent himself, a *Faretta* hearing may be conducted. The court made inquiry about whether the State intended to continue to pursue the matter as a capital case. If so, the court noted that Court Administration would need to be notified so that a judge could be assigned to handle the case, as is standard practice in all capital trials and capital PCR cases.

The defendant and the attorneys appeared on April 23, 2014. Solicitor Donald V. Myers stated that he intends to seek the death penalty. Mr. Barnes indicated that he wants appointed counsel, and he insisted upon having Elizabeth Franklin-Best, Esquire as one of those attorneys. Ms. Franklin-Best formerly served as an Appellate Defender at the Office of Appellate Defense and represented Mr. Barnes on appeal. Mr. Barnes had no issue with William S. McGuire, Chief Attorney of the Capital Trial Division serving as the other attorney, but did voice concerns about allowing J. Hugh Ryan, III, Deputy Director and General Counsel of the South Carolina Commission on Indigent Defense (SCCID) to argue against appointing Ms. Franklin-Best.

Mr. Ryan argued that there are other competent attorneys available at the Capital Trial Division who can serve with Mr. McGuire, so he argued there is no need to appoint Ms. Franklin-Best or to incur the extra expense that would involve. The defendant and Ms. Franklin-Best objected to the court hearing from SCCID and objected to consideration of financial issues in making the appointment. They raised a number of objections. Solicitor Myers objected to appointing any attorney to represent the defendant, in light of his prior position and the decision

of the Supreme Court. At the conclusion of the April 23 proceeding, the court asked the defendant and the attorneys to submit briefs. Briefs have been received.

In Solicitor Myers' brief, he challenges the jurisdiction of the undersigned judge to hear and decide these issues. He attached a copy of an order issued by Chief Justice Jean H. Toal, dated January 25, 2010, which vests exclusive jurisdiction over this case to Judge McMahon. The order apparently has never been rescinded. The caption of the case lists different case numbers, but the court believes that the order relates to the same capital litigation.

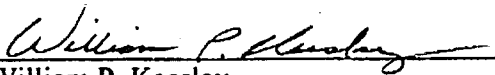
In light of the order of Chief Justice Toal, the court declines to decide the matter and refers all issues related to this case to Judge McMahon. He may decide how to proceed. If any rulings were made on the record in the April 23 proceeding, they are hereby vacated.

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THEREFORE, IT IS ORDERED that the undersigned judge defers to The Honorable R. Knox McMahon regarding any issues related to this case. The defendant and the attorneys are directed to contact Judge McMahon.

IT IS FURTHER ORDERED that a copy of this order be mailed by the Clerk of Court to the following:

Hon. R. Knox McMahon, Circuit Judge, Westbrook/Lexington Co. Judicial Ctr., 205 E. Main St., Lexington, SC 29071
Mr. Steven Louis Barnes, Aiken County Jail, 435 Wire Road, Aiken, SC 29801
Elizabeth A. Franklin-Best, Blume Norris & Franklin-Best, 900 Elmwood Ave., Ste. 101, Columbia, SC 29201
J. Hugh Ryan, III, General Counsel, SCCID, 1330 Lady St., Ste. 401, Columbia, SC 29201
William S. McGuire, Chief Attorney, Capital Division, SCCID, 1330 Lady St., Ste. 401, Columbia, SC 29201
Hon. Donald V. Myers, Solicitor, 11th Judicial Circuit, Westbrook/Lexington Co. Judicial Ctr., 205 E. Main St., Lexington, SC 29071

AND IT IS SO ORDERED.


William P. Keesley
Chief Judge for Administrative Purposes

June 3, 2014