

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
CERTIORARI THE COURT OF APPEALS

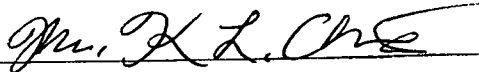
APPELLATE COURT CASE #2013-002735

THE STATE, , RESPONDENT,

vs.

KEVIN CHOICE, , PETITIONER.

APPENDIX



KEVIN CHOICE, 257223
LEE C.I.
990 WISACKY HWY.
BISHOPVILLE, S.C 29010

cc: SALLEY W. ELLIOTT, Esq.
ASSIST ATTY. GENREAL COUNSEL
PO BOX 11549
COLUMBIA, S.C 29211-1549
RESPONDENT

APPENDIX

COURT OF APPEALS ORDER DATED 2/24/14.....1.
COURT OF APPEALS ORDER DATED 5/16/14.....2.
COURT OF APPEALS ORDER DATED 7/2/14.....3.
PETITIONER'S PET. FOR REHEAR. RELATED TO ORDER 7/2/14.....4.
COURT OF APPEALS CLERK LETTER DATED 7/23/14.....5.
CERTIFICATE OF SERVICE.....6.

The South Carolina Court of Appeals

COPY

The State, Respondent,

v.

Kevin Choice, Appellant.

Appellate Case No. 2013-002735

RECEIVED
2/25/14

ORDER

This is an appeal from the trial court's denial of Appellant's motion for a new trial on the basis of newly discovered evidence pursuant to Rule 29(b) of the South Carolina Rules of Criminal Procedure. Appellant's counsel has filed a motion to be relieved, explaining he was not retained to represent Appellant on appeal. Appellant has filed a pro se motion to appoint counsel.

Counsel's motion to relieve counsel is granted. If Appellant does not obtain new counsel within thirty days, this court will presume Appellant is proceeding pro se. Appellant's motion to appoint counsel is denied. *See State v. Clinkscales*, 318 S.C. 513, 515, 458 S.E.2d 548, 549 (1995) (holding the defendant's motion for a new trial on the ground of after-discovered evidence was not heard and decided at a critical stage of his criminal prosecution; therefore, the defendant's constitutional right to counsel did not extend to his motion for a new trial).


FOR THE COURT

Columbia, South Carolina

cc:

Salley W. Elliott, Esquire
Alan McCrory Wilson, Esquire
Ernest Adolphus Finney, III, Esquire
Jeremy Adam Thompson, Esquire

FILED
2/24/14

The South Carolina Court of Appeals

The State, Respondent,

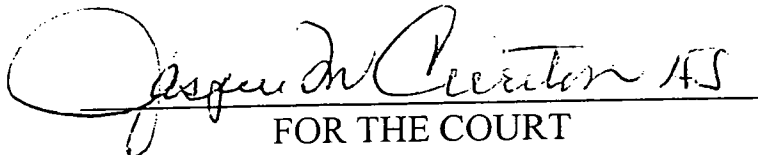
v.

Kevin Choice, Appellant.

Appellate Case No. 2013-002735

ORDER

Appellant has filed a motion for an extension of time to retain counsel. Appellant's request is granted. Appellant has until June 2, 2014 to retain counsel; if Appellant does not notify this court of the new counsel by June 2, this court will presume Appellant is proceeding pro se and the appeal will move forward. Any further extension requests must be made based on a showing of good cause.


FOR THE COURT

Columbia, South Carolina

cc:

Kevin Choice, 257223

Alan McCrory Wilson, Esquire

Donald J. Zelenka, Esquire

FILED
5/16/14

The South Carolina Court of Appeals

The State, Respondent,

v.

Kevin Choice, Appellant.

Appellate Case No. 2013-002735

ORDER

Appellant has filed for an extension of time to retain counsel. On June 2, 2014, this Court granted Appellant a thirty day extension to retain counsel and further ordered that any further extension requests must be based on a showing of good cause. Because Appellant has failed to show good cause, his request for an extension is denied. Within thirty days, Appellant shall file and serve his initial brief and designation of matter.


FOR THE COURT

Columbia, South Carolina

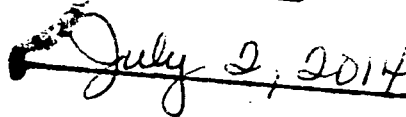
cc:

Kevin Choice, 257223

Alan McCrory Wilson, Esquire

Donald J. Zelenka, Esquire

FILED



The South Carolina Court Of Appeals

The State, Respondant,

V.

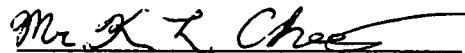
Kevin Choice, Appellant,

Appellant Case No. 2013-002735

Motion For Rehearing En Banc

Comes, Now the Appellant motions this court for rehearing en banc of the most recent order issued denying extension of time to retain counsel, filed July 2, 2014. Appellant contends that the reason for the extension was to generate funds to retain counsel. However, Appellant has not had enough time to do so and this has created a great burden upon the Appellant where this court refuses to appoint counsel, due to the inapplicable citing of State v. Clinkscales. Unlike Clinkscales, Appellant was in fact represented by counsel at every stage of his motion for new trial. In fact counsel was appointed by the lower court. Also Appellant's record will reflect evidence that will support a new trial. Based upon these facts, Clinkscales is not applicable to the Appellant's case, and therefore, should be appointed counsel due to the fact that this court has not allow him the time in which to retain counsel.

Respectfully Submitted:



Kevin L. Choice, Appellant.

cc:

Clerk S.C. Court of Appeals

Donald J. Zelenka, Esq.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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July 23, 2014

Kevin Choice, 257223
Lee Correctional Inst.
1204 East Church St.
Bishopville SC 29010

Re: The State v. Kevin Choice
Appellate Case No. 2013-002735

Dear Mr. Choice:

This office has received your Motion for Rehearing En Banc relating to the order dated July 2, 2014. That order denied a motion for an extension of time. Pursuant to Rule 240(i), SCACR, no action will be taken on your motion because the motion did not dismiss or finally decide the appeal.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Alan McCrory Wilson, Esquire
Donald J. Zelenka, Esquire

CERTIFICATE OF SERVICE BY U.S. MAIL

I, CERTIFY THAT I DID SERVED TO THE RESPONDENT A TRUE COPY OF THE PETITION FOR CERTIORARI TO THE COURT IF APPEALS AND THE APPENDIX AS IS REQUIRED BY THE RULES OF THE APPELLATE COURT BY WAY OF THE U.S. MAIL, PREPAID POSTAGE, ADDRESSED TO THE RESPONDENT'S OFFICE AT PO BOX 11549, COLUMBIA, S.C. 29211-1549, ON THIS 31 DAY OF July 2014, ALL VERIFIED BY THE PRISON MAIL ROOM DIRECTOR. THIS IS THE PROPER WAY TO COMMUNICATE WITH THE RESPONDENT AND IS THE REGULAR WAY TO SEND MAIL TO THE RESPONDENT.

July 31, 2014

s/ Kevin L. Choice
KEVIN CHOICE, 257223
LEE C.I.
990 WISACKY HWY.
BISHOPVILLE, S.C. 29010
PETITIONER

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RESPONDENT