

The South Carolina Court of Appeals

The State, Respondent,

v.

John Julius Smith, Appellant.

Appellate Case No. 2014-001366

ORDER

Appellant has appealed from the trial court's order denying Appellant's motion for a new trial based on after-discovered evidence. Appellant's counsel has filed a motion to be relieved as counsel, noting she was appointed below, and she does not typically handle appellate cases. We grant counsel's motion.

We acknowledge that our supreme court has held that a criminal defendant is not entitled to counsel in a post-trial motion for a new trial based upon after-discovered evidence. *State v. Clinkscales*, 318 S.C. 513, 458 S.E.2d 548 (1995). However, we note that the courts have the inherent power to appoint lawyers to serve where it appears reasonably necessary for the court to do justice. *See Ex Parte Brown*, 393 S.C. 214, 223, 711 S.E.2d 899, 904 (2011) (holding that courts have inherent power to appoint lawyers to serve subject to the lawyer's entitlement to just compensation when necessary to render justice). Because the issue raised to the circuit court relates to the child's medical records and our record reflects the trial court issued an order prohibiting the release of the child's medical records to Appellant, Appellant is unable to effectively proceed pro se and the appointment of counsel is necessary to render justice. Accordingly, due to the unique circumstances of this case, the South Carolina Office of Appellate Defense shall proceed as counsel on appeal if it determines Appellant qualifies as an indigent.

Columbia, South Carolina


FOR THE COURT

FILED

2/28/14

cc:

John Julius Smith, 246646

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