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SEP 01 2014

S.C. SUPREME COURT

State of South Carolina
The Circuit Court of the Fifteenth Judicial Circuit

Benjamin H. Culbertson
Resident Circuit Judge

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401 Cleland St. (zip code 29440)
Georgetown, South Carolina
Telephone: (843) 545-3030
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September 26, 2014

Via Email and U.S. Mail Delivery

James N. Bryant, III, #6001
Lieber Correctional Institution, U-1, B-Side
P.O. Box 205
Ridgeville, SC 29472

No email address; U.S. Mail Only

Alphonso Simon, Jr., Asst. Attorney General
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RE: *James Nathaniel Bryant, III, #6001 v. State of South Carolina*
Case Number: 2013-CP-26-6631

Dear Gentlemen:

By order of the S.C. Supreme Court dated 9/23/2014 (a copy of which is enclosed), the above referenced action for post-conviction relief ("PCR") is assigned to me. Pursuant to that order and S.C. Code Annotated §17-27-160, I have scheduled a hearing regarding the applicant's desire to counsel in the above referenced PCR action for **10/16/2014 at 9:30 a.m.** in the **Georgetown County Judicial Center** located at **401 Cleland Street** in **Georgetown, SC.**

I apologize for any inconvenience in scheduling this hearing in Georgetown but, I am assigned to that county that week, my schedule does not permit the scheduling of a hearing any sooner and, I must have counsel appointed (or at least have a hearing on the issue) within 30 days of the Supreme Court's order assigning this case to me.

James N. Bryant, III, #6001
Alphonso Simon, Jr., Asst. Attorney General
Donald J. Zelenka, Asst. Attorney General
Jimmy A. Richardson, Solicitor

September 26, 2014
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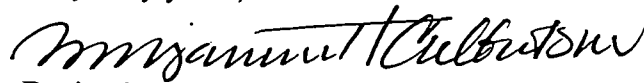
If Mr. Bryant desires court-appointed counsel, he must complete and return to me the Affidavit of Indigency and Application For Counsel enclosed herein.

I notice that attorneys Marta K. Kahn and Elizabeth Franklin-Best were provided copies of the order appointing me to this case and, therefore, assume that they are potential attorneys for the applicant or involved in this PCR case in some way. Therefore, by copy of this letter and enclosures to them, I am notifying them of the scheduled hearing and ask that they contact me regarding the degree of their involvement in this case, if any. I have not found where Mr. Kahn is admitted to practice law in South Carolina. Therefore, she will need to file a verified application for admission *pro hac vice* if she is to participate in this case.

If Mr. Bryant qualifies for court-appointed counsel and everyone agrees to the attorneys to be appointed, please notify me of their names and addresses. I can then obtain everyone's consent and dispense with the hearing on 10/16/2014. If not, please let me know so that I can issue an order to transport Mr. Bryant to the hearing.

I look forward to working with everyone on this case and with kindest regards, I remain

Very truly yours,


Benjamin H. Culbertson

BHC/bhc

Enclosures (a/s)

pc: U. S. Mail Only

Hon. Daniel E. Shearouse, Clerk of Court, S.C. Supreme Court
Rosalyn W. Frierson, Director, S.C. Court Administration
Hon. Melanie Huggins-Ward, Horry County Clerk of Court

Marta K. Kahn, Esquire
Law Office of Marta K. Kahn, LLC
8 E. Mulberry St.
Baltimore, MD 21202-2105

Email and U.S. Mail Delivery

Elizabeth Anne Franklin-Best, Esq. (via email: elizabeth.a.franklin@gmail.com)
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Columbia, SC 29201

The Supreme Court of South Carolina

RECEIVED

James Nathaniel Bryant,

Appellant,

OCT 01 2014

v.

S.C. SUPREME COURT

The State,

Respondent.

Horry County
2013-CP-26-06631

ORDER

Appellant was initially convicted of murder and armed robbery and was sentenced to death. State v. Bryant, 354 S.C. 390, 581 S.E.2d 157 (2003). This Court reversed appellant's conviction on appeal. A new trial was held and appellant was again convicted and sentenced to death. State v. Bryant, 372 S.C. 305, 642 S.E.2d 582 (2007). The United States Supreme Court denied certiorari on October 1, 2007. Bryant v. South Carolina, 552 U.S. 899, 128 S.Ct. 245 (2007). Appellant filed an application for post-conviction relief (PCR) which was dismissed with prejudice by the Court of Common Pleas on September 9, 2010. On January 8, 2013, appellant filed a motion to stay his execution and to petition for habeas corpus in the United States District Court for South Carolina. Appellant also filed a PCR action in the Court of Common Pleas on October 2, 2013. On November 22, 2013, the District Court issued an order granting a motion to stay the habeas corpus action pending resolution of the PCR action. Bryant v. Byars, C/A No. 1:13-2665-DCN-SVH.

The Honorable Benjamin H. Culbertson is hereby assigned to the PCR action appellant has filed. Judge Culbertson shall retain jurisdiction over this case regardless of where he may be assigned to hold court and may schedule such hearings as may be necessary at any time without regard to whether there is a term of court scheduled.

Judge Culbertson shall conduct a hearing on appellant's desires regarding counsel within thirty days of the date of this order. Within sixty days of the date of this order, Judge Culbertson shall issue a scheduling order setting forth the schedule that shall be followed in this matter, including the date of the hearing on the merits. The scheduling order may be amended as necessary. A copy of the scheduling order and any amended scheduling order shall be provided to counsel, this Court and Court Administration. In addition to appellant's obligation to notify the Clerk of this Court of the Status of this matter every sixty days under In re Stays of Execution in Capital Cases, supra, 321 S.C. 544, 471 S.E.2d 140 (1996), Judge Culbertson is requested to provide the Clerk of this Court and Court Administration with an update on the status of this matter every one hundred and twenty days.



C.J.
FOR THE COURT

September 23, 2014
Columbia, South Carolina

cc: The Honorable Benjamin H. Culbertson
Donald J. Zelenka
Daniel E. Shearouse
Melanie Huggins-Ward
Marta K. Kahn, Esquire
Elizabeth Franklin-Best, Esquire

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FIFTEENTH JUDICIAL CIRCUIT
 COUNTY OF HORRY) CASE NUMBER: 2013-CP-26-06631

James Nathaniel Bryant, III, #6001)
 Plaintiff,)
 vs.)
State of South Carolina)
 Defendant.)

**AFFIDAVIT OF INDIGENCY
 AND
 APPLICATION FOR COUNSEL
 RE: Post Conviction Relief**

NAME OF APPLICANT	
ADDRESS	
TELEPHONE NUMBER(S)	
DATE OF BIRTH	
SOCIAL SECURITY NO.	
NAMES OF CO-DEFENDANTS	

1. Are you presently employed? Yes No

a. If "yes", state the amount of your salary or wages per month, and give the name and address of your employer.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER

If "no", state the name and address of last employment, date of termination of employment, and amount of your salary or wages per month.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	TERMINATION DATE

2. Include employment information for the spouse, if applicable.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER

If the spouse is not currently employed, state the name and address of last employment, date of termination of employment, and amount of salary or wages per month.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	TERMINATION DATE

3. List by name, age and relationship to you, any persons who are dependent upon you for support. Indicate beside each how much you contribute toward their support.

NAME	AGE	RELATIONSHIP	AMOUNT OF SUPPORT

4. Have you received within the past twelve months any money from any of the following sources?

- a. Business, profession or form of self-employment? Yes No
- b. Rent payments, interest or dividends? Yes No
- c. Pensions, annuities or life insurance payments? Yes No
- d. Gifts or inheritances? Yes No
- e. Any other sources? Yes No

If the answer to any of the above is "yes", describe each source of money and state the amount received from each during the past twelve months.

SOURCE OF MONEY	AMOUNT

5. Do you own cash, or do you have any money in a checking or savings account?

Yes No

If the answer is "yes", state the total amount of the cash owned. _____

6. Do you own any real estate, stocks, bonds, notes, or other valuable property (excluding ordinary household furnishings and clothing)?

Yes No

If the answer is "yes", describe the property and state the appropriate value of the items owned.

7. What kind of motor vehicle do you own? _____

Is it paid for? Yes No

If not, what are the payments? _____

8. How much do you owe (on liens, mortgages, other encumbrances or debts)?

I do solemnly swear that the account by me delivered into this court with my application for counsel does contain a true and full account of all my real and personal estate, debts, credits and effects whatsoever without exception, which I or any person in trust for me have or at the time of my possession had, or am, or was, in any respect, entitled to, in possession, remainder or reversion and that I have not at any time since charges were made against me or before, directly or indirectly sold, leased, assigned or otherwise disposed of or made over, in trust for myself or otherwise, other than is mentioned herein.

I understand the appointment of counsel creates a claim against the assets and estate of the person who is provided counsel or the parents or legal guardians of a juvenile in an amount equal to the cost of representation less the amount paid to appointed counsel, the public defender office and/or the Commission on Indigent Defense. I understand that such claim shall be filed in the office of the Clerk of Court in the county where I, my child, or ward are assigned counsel, but that the filing of a claim shall not constitute a lien against my real or personal property unless, in the discretion of the court, part of all of such claim is reduced to judgment by appropriate order of the court after serving me with at least thirty (30) days notice that judgment will be entered.

I understand that, pursuant to §17-3-30(b), I am required to pay a non-refundable \$40.00 application fee to the Clerk of Court for public defender services or other appointed counsel.

I am financially unable to employ counsel and request that counsel be assigned to represent me. I understand that I am entitled to at least thirty days' notice before a claim against me may be reduced to judgment, and I do hereby waive the right to such notice.

This _____ day of _____, _____

Defendant or Parent/Guardian of Defendant if applicable

Subscribed and sworn to before me this
_____ day of _____,

(L.S.)
Notary Public for South Carolina
My Commission Expires: _____



The applicant's request for court-appointed counsel is hereby granted / denied.

Dated: _____

Judge/Clerk or Deputy Clerk

_____, South Carolina