

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to York County

Honorable Lee S. Alford, Circuit Court Judge  
\_\_\_\_\_

**RECEIVED**

OCT 24 2014

**S.C. Supreme Court**

JAMES D. ROBERTSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2012-001968  
\_\_\_\_\_

**RETURN TO MOTION FOR  
SUBSTITUTION OF *PRO BONO* COUNSEL**  
\_\_\_\_\_

Undersigned counsel, making this return to the motion for substitution of *pro bono* counsel respectfully shows this Court, for the reasons below, that undersigned counsel and co-counsel Matt Bogan do not oppose and consent to Petitioner Robertson's motion to substitute counsel in this case:

(1) Petitioner James Robertson filed a second application for post-conviction relief in the York County Court of Common Pleas after favorable findings were made by the United States District Court in his federal habeas case.

(2) The Honorable Lee S. Alford appointed Emily C. Paavola and Keir M. Weyble to represent Petitioner Robertson in his post-conviction relief action dated July 5, 2011.

(3) Petitioner Robertson's post-conviction action was dismissed, and since petitioner was represented by appointed counsel in the lower court his case was automatically accepted by the Appellate Division of the Commission on Indigent Defense for representation on appeal.

(4) Undersigned counsel elicited the *pro bono* assistance of Matt Bogan on this case as part of the Appellate Division-Nelson Mullins Project. Matt Bogan agreed to serve as lead counsel and worked extremely hard on this case during the certiorari phase. With the agreement of undersigned, Keir Weyble was actively consulted during the certiorari phase given his national expertise in federal habeas. This Court granted certiorari by the vote of all five Justices in its order dated September 24, 2014.

(5) On October 20, 2014, Counsels Paavola and Weyble filed a motion to be substituted as *pro bono* counsel in this case. Attached was an affidavit from Petitioner James Robertson stating that it was his desire to have Keir Weyble and Emily Paavola substituted as counsel for Matt Bogan and undersigned counsel.

(6) Undersigned do not wish to frustrate the wishes of Petitioner Robertson and therefore do not oppose and consent to the motion to substitute counsel.

WHEREFORE, undersigned counsel, and Matt Bogan, do not oppose and consent to the motion for substitution of *pro bono* counsel.

Respectfully submitted,



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ROBERT M. DUDEK  
Chief Appellate Defender  
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
P.O. Box 11589  
Columbia, SC 29211-1589  
(803) 734-1343

A. MATTISON BOGAN  
Nelson Mullins Riley & Scarborough, LLP  
Attorney at Law  
1320 Main Street  
Columbia, SC 29201  
(803) 799-2000

ATTORNEYS FOR PETITIONER

This 24<sup>th</sup> day of October, 2014.

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to York County  
Honorable Lee S. Alford, Circuit Court Judge

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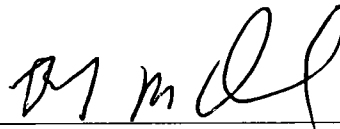
APPELLATE CASE NO. 2012-001968

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CERTIFICATE OF SERVICE

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The undersigned attorney hereby certifies that a true copy of the Return to Motion for Substitution of *Pro Bono* Counsel in the above-captioned case has been served upon William E. Salter, III, Esquire of the Office of the Attorney General at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, upon Emily C. Paavola, Esquire at 900 Elmwood Avenue, Suite 101, Columbia, SC 29201, and upon Keir M. Weyble, Esquire at Cornell Law School, 158B Myron Taylor Hall, Ithaca, NY 14853-4901, this 24<sup>th</sup> day of October, 2014.



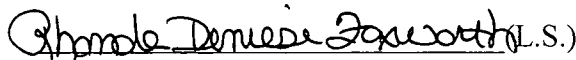
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ATTORNEYS FOR PETITIONER

SUBSCRIBED AND SWORN TO before me  
this 24<sup>th</sup> day of October, 2014.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: October 17, 2021.