

# The Supreme Court of South Carolina

David Dale Sheriff, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-001012

Lower Court Case No. 2013-CP-04-01359

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## ORDER

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Petitioner has filed a Notice of Appeal from the denial of his application for post-conviction relief (PCR). The South Carolina Commission on Indigent Defense, Division of Appellate Defense, is now representing petitioner in this matter. Petitioner moves to have substitute counsel appointed on the ground that Appellate Defense has a conflict of interest because his counsel on direct appeal, LaNelle C. DuRant of Appellate Defense, filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967). Because no allegation of ineffective assistance of appellate counsel was ruled on by the PCR judge, that allegation cannot be raised to this Court,<sup>1</sup> and there is no conflict of interest. The motion to substitute counsel is, therefore, denied.

  
C.J.  
FOR THE COURT

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July 27, 2015

Columbia, South Carolina

cc:

John Walter Whitmire, Esquire

Robert Michael Dudek, Esquire

David Dale Sheriff

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<sup>1</sup> *Marlar v. State*, 375 S.C. 407, 653 S.E.2d 266 (2007).