

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Florence County

Honorable Edgar W. Dickson, Circuit Court Judge

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RECEIVED

SEP 03 2015

S.C. Supreme Court

ROBERT SINGLETARY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000883

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MOTION TO HOLD IN ABEYANCE PENDING  
CONFLICT DECISION BY THE OFFICE OF DISCIPLINARY COUNSEL

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The undersigned respectfully shows the Court:

1. The appeal of the post-conviction relief (PCR) case of Petitioner Robert Singletary was assigned to the undersigned counsel in June 2015. Petitioner Singletary was convicted at trial of criminal sexual conduct first degree with a minor (CSC) and committing a lewd act on a minor. He was sentenced to thirty years on the CSC and fifteen years on the lewd act.

2. The Division of Appellate Defense of the South Carolina Commission on Indigent Defense handled his direct appeal. Attorney Breen Stevens of the Division handled the appeal.

Petitioner's convictions were affirmed by the Court of Appeals on October 31, 2012. State v. Singletary, Op. No. 2012-UP-589 (Ct. App. filed October 31, 2012).

3. Petitioner Singletary filed an application for post-conviction relief on April 30, 2013. The Honorable Edgar W. Dickson issued an order on March 25, 2015 denying Petitioner's PCR application and dismissing it with prejudice. An appeal was timely filed.

4. On August 28, 2015, appellate counsel received a letter from the Office of Disciplinary Counsel indicating that Petitioner Singletary filed a grievance on August 20, 2015.

5. In his grievance notice to the Office of Disciplinary Counsel, Petitioner Singletary asked if there were a conflict of interest with Attorney DuRant handling his PCR appeal because Attorney Stevens from the same office handled his direct appeal. (Exhibit A).

6. In her response to the Office of Disciplinary Counsel, Attorney DuRant explained that when she received a PCR appeal, she reviewed the PCR judge's order to determine if there a conflict with any attorney currently employed in the Division. (Exhibit B). If the appellate attorney did not testify at the PCR hearing, and the judge's order contains no ruling on the effectiveness or ineffectiveness of appellate counsel, the Division of Appellate Defense considers there to be no conflict. This is based on the Division's understanding from experience of what this Court would consider a conflict of interest.

7. Petitioner Singletary did not make any claim of the ineffectiveness of appellate counsel, Breen Stevens. Mr. Stevens did not testify at the PCR hearing, and the judge's order contained no ruling on appellate counsel. Therefore, there was deemed to be no conflict with the Division of Appellate Defense handling his PCR appeal.

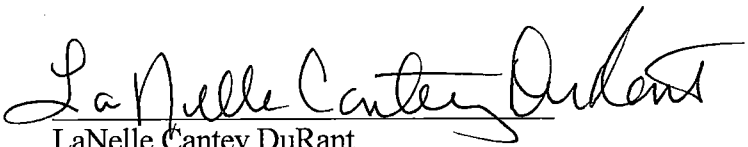
8. Attorney Breen Stevens is no longer employed with the Division of Appellate Defense.

9. Undersigned counsel is requesting that this case of Singletary v. State be held in abeyance pending a decision from the Office of Disciplinary Counsel regarding the conflict of interest.

10. While of the opinion there is no conflict, undersigned counsel submits that the case should not go forward with an unresolved issue of conflict pending before Disciplinary Counsel.

WHEREFORE, counsel respectfully requests this Court for an Order placing Petitioner Singletary's appeal from his PCR application in abeyance pending the determination of a conflict by the Office of Disciplinary Counsel.

Respectfully submitted,

  
LaNelle Cantey DuRant  
Appellate Defender

Attorney for Petitioner

This 3rd day of September, 2015

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Florence County

Honorable Edgar W. Dickson, Circuit Court Judge

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ROBERT SINGLETARY,

PETITIONER,

V.

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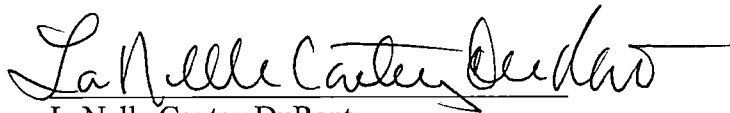
APPELLATE CASE NO. 2015-000883

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CERTIFICATE OF SERVICE

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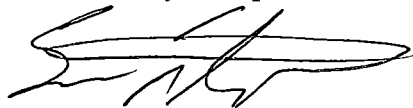
The undersigned attorney hereby certifies that a true copy of the Motion to Hold in Abeyance Pending Conflict Decision by the Office of Disciplinary Counsel in the above referenced case has been served upon opposing counsel, J. Croom Hunter, Esquire and Robert Singletary, #189516 at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 3rd day of September, 2015.



LaNelle Cantey DuRant  
Appellate Defender

Attorney for Petitioner

SUBSCRIBED AND SWORN TO before me  
this 3<sup>rd</sup> day of September, 2015.



(L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

September 3, 2015

The Honorable Daniel E. Shearouse  
Clerk, S.C. Supreme Court  
PO Box 11330  
Columbia, SC 29211

Re: Robert Singletary v. State of South Carolina

Dear Mr. Shearouse:

Enclosed are an original and six copies of the Motion to Hold in Abeyance Pending Conflict Decision by the Office of Disciplinary Counsel in the above-captioned case. Thank you for your assistance in this matter.

Sincerely,

LaNelle Cantey DuRant  
Appellate Defender

LCD/lmv

Enclosure

cc: J. Croom Hunter, Esquire  
Mr. Robert Singletary

# EXHIBIT A

Robert Singletary 189516

B.R.C.I. mt. 2086

4460 Broad River Rd.

COLUMBIA, S.C.

29210

**RECEIVED**

AUG 20 2015

OFFICE OF  
DISCIPLINARY COUNSEL

Dear Judge,

my question is, IF two Attorneys From the same LAW Firm handle Your case, IS there A CONFLICT OF Intrest? my Attorney that did my Direct Appeal WAS Mr. Breen Richard Stevens From the. S.C. Indigent Defense. The Attorney I have now is MS. LANELE CANTY DURANT OF the. S.C. Indigent De Fence. IS this A CONFLICT OF Intrest? IF this is not Your department, CAN You tell me where to ASK. Thank You For ALL Your help.

Sincerely, Robert Singletary

**RECEIVED**

AUG 20 2015

COMMISSION ON  
LAWYER CONDUCT

# **EXHIBIT B**



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
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Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

September 3, 2015

Kelly B. Arnold  
Office of Disciplinary Counsel  
The Supreme Court of South Carolina  
Post Office Box 12159  
Columbia, South Carolina 29211

RE: Robert Singletary  
Matter Number 15-DE-L-1043

Dear Ms. Arnold:

Robert Singletary's appeal from his post-conviction relief (PCR) denial was assigned to me in June 2015. His petition for a writ of certiorari was initially due to the South Carolina Supreme Court August 3, 2015. The Supreme Court will grant us a maximum of three thirty day extensions for PCR appeals if necessary due to our workload. Mr. Singletary's case has had one extension. Consequently, due to my current workload, I have not filed the petition for a writ of certiorari in his case to date.

I am writing in response to Mr. Singletary's concern of a conflict because the attorney, Breen Stevens, who processed the appeal from Mr. Singletary's direct appeal case, was employed with the Appellate Division of the South Carolina Commission of Indigent Defense where I am also employed. When I receive a PCR appeal, I review the PCR judge's order carefully to determine if there is a conflict with any attorney currently employed in our office. If the appellate attorney does not testify at the PCR hearing, and the judge's order contains no ruling on the effectiveness or ineffectiveness of appellate counsel, our office considers there to be no conflict. This is based on our understanding from experience of what the Supreme Court would consider a conflict of interest. Mr. Singletary did not make any claim of the ineffectiveness of appellate counsel, Breen Stevens. Mr. Stevens did not testify at the PCR hearing, and the judge's order contained no ruling on appellate counsel. Therefore, there was deemed to be no conflict with the Division of Appellate Defense handling his PCR appeal.

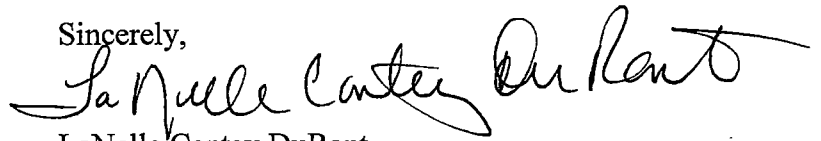
In addition, Breen Stevens is no longer employed with the Division of Appellate Defense.

I trust this addresses your concerns.

Please let me know if I can be of further assistance.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "LaNelle Cantey DuRant". The signature is written in a cursive style with a long horizontal flourish extending to the right.

LaNelle Cantey DuRant  
Appellate Defender

LCD/lmv