

STATE OF SOUTH CAROLINA  
In the Court Of Appeals

APPEAL FROM GREENVILLE COUNTY  
D. Garrison Hill, Circuit Court Judge  
Appellate Case No. 2015-000066

RECEIVED  
DEC 02 2015  
SC Court of Appeals

THE STATE,

Respondent,

v.

FURMAN EUGENE TAYLOR, JR.,

Appellant.

**RETURN TO MOTION FOR APPOINTMENT OF COUNSEL**

Respondent (the State), by and through undersigned counsel and making Return to the Motion for Appointment of Counsel, would respectfully show unto this Court:

1. Appellant was convicted in Greenville County of burglary in the first degree and petit larceny after a jury trial held before the Honorable D. Garrison Hill on January 5 – 7, 2015. Appellant was sentenced to life imprisonment for burglary and thirty (30) days for petit larceny.
2. Appellant filed and served notice of appeal and is currently represented by the South Carolina Office of Appellate Defense.
3. On July 1, 2015, Appellate Defender Robert M. Pachak submitted: (1) an Anders Brief of Appellant presenting the issue of whether the trial court erred in denying Appellant's motion for a directed verdict, (2) a Petition to be Relieved, and (3) a Record on Appeal. Appellant thereafter filed and served a *pro se* Designation of Matter and *pro se* Brief of Appellant. Appellant attached

the documents he listed in his Designation of Matter to his *pro se* designation.

4. On October 16, 2015, the State filed a Motion to Strike Matter from Appellant's *Pro Se* Designation of Matter and *Pro Se* Brief. On October 28, 2015, at the request of the Court, Appellant filed a *pro se* objection to the motion to strike.

5. Appellant has now moved for new counsel to be appointed and substituted as his attorney for the appeal from the trial.

5. The State opposes Appellant's request for substitution of another attorney as appellate counsel for Appellant due to the late stage in the appellate process. The matter has been briefed by Mr. Pachak and the Record on Appeal submitted. That Record includes all matters that were presented to the lower court as allowed by Rule 210(c), SCACR. There is nothing left to be done in the appeal except for this Court to conduct its review pursuant to Anders v. California, 386 U.S. 738 (1967). The process delineated by Anders should be allowed to run its course and the request should be denied. Otherwise, there is great likelihood Appellant's new counsel will seek to the opportunity to submit a substituted brief and the briefing process could be repeated again for the same case causing a delay and an unnecessary expenditure of duplicate effort for a second briefing not authorized by the appellate court rules.

6. The State submits that it appears Appellant may be second guessing appointed appellate counsel's performance of professional responsibility prior to this Court's view of the record in this matter. Should this Court find arguable merit to the claim presented or suggested by the record, thereafter appellate counsel will be professionally able to brief the matter as directed by the court. Accord In Re: Stacy R., 311 S.C. 312, 428 S.E.2d 869 (1993); State v. Fussell, 299 S.C. 162, 383 S.E.2d 1 (1989); State v. Logan, 279 S.C. 345, 306 S.E.2d 622 (1983) (examples of cases where Anders briefs have been rejected and counsel required to brief designated issued). Here, Appellate Defender Robert M. Pachak is properly performing his professional and constitutional obligation.

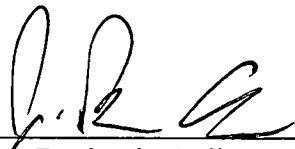
WHEREFORE, having made Return, the State opposes Appellant's motion for substitution of counsel due to the late stage of the appeal.

Respectfully submitted,

ALAN WILSON  
Attorney General

J. BENJAMIN APLIN  
Interim Senior Assistant Deputy Attorney General

W. WALTER WILKINS  
Solicitor, Thirteenth Judicial Circuit

BY:   
\_\_\_\_\_  
J. Benjamin Aplin  
S.C. Bar No: 8729

Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEYS FOR RESPONDENT

December 2, 2015

STATE OF SOUTH CAROLINA  
In the Court Of Appeals

---

RECEIVED

APPEAL FROM GREENVILLE COUNTY  
D. Garrison Hill, Circuit Court Judge

DEC 02 2015

SC Court of Appeals

Appellate Case No. 2015-000066

---

THE STATE,

Respondent,

v.

FURMAN EUGENE TAYLOR, JR.,

Appellant.

---

**PROOF OF SERVICE**

---

I, Angela Bennett, certify that I have served the Return to Motion for Appointment of Counsel on Appellant by depositing a copy of the same in the United States mail, postage prepaid, addressed to Robert M. Pachak, Esquire, S.C. Commission on Indigent Defense, Division of Appellate Defense, Post Office Box 11589, Columbia, South Carolina 29211-1589 and Furman Eugene Taylor, 198161, Perry Correctional Institution, Q4A, Pelzer, SC 29669.

I further certify that all parties required by Rule to be served have been served.

This 2<sup>nd</sup> day of December, 2015.

  
ANGELA BENNETT

Administrative Assistant  
Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727



ALAN WILSON  
ATTORNEY GENERAL

RECEIVED  
DEC 02 2015  
SC Court of Appeals

December 2, 2015

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: State v. Furman Eugene Taylor, Jr., 198161

Dear Ms. Kitchings:

Enclosed for filing are the original and six copies of the Respondent's Return to Motion for Appointment of Counsel in the above-referenced case.

Sincerely,

J. Benjamin Aplin  
Interim Senior Assistant Deputy Attorney General

Enclosures

cc: Robert M. Pachak, Esquire  
Furman E. Taylor, Jr., 198161  
Victim Services