

The Supreme Court of South Carolina

George Cleveland III, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002251

ORDER

Petitioner filed a *pro se* notice of appeal in this action. At that time, he requested the State of South Carolina be required to pay for the transcript of the hearing on his application for post-conviction relief (PCR). By order dated November 5, 2015, petitioner was informed the motion to require the State to pay for the transcript was unnecessary. Petitioner was instead informed that if he believed he was indigent, he should complete and submit an affidavit of indigency and submit it to the Commission on Indigent Defense, Division of Appellate Defense. The order further informed petitioner that if the Division of Appellate Defense determined it would provide representation in the matter, it would order any transcripts that may be necessary in the matter. Finally, based on the fact that he proceeded *pro se* in the lower court, petitioner was instructed that if he wished to proceed *pro se* before this Court, he would have to file a motion and any such motion should not be filed until after the Division of Appellate Defense determined whether it would provide representation in the case. The order stated that if the Division of Appellate Defense determined it would provide representation and this Court subsequently permitted petitioner to proceed *pro se*, the Division of Appellate Defense would remain associated for the limited purpose of obtaining the transcripts and providing copies of documents that must be served and filed in the matter.

By letter dated December 2, 2015, the Division of Appellate Defense informed petitioner it had determined he is eligible for representation by their office. The letter stated the Division of Appellate Defense was waiting for the court reporter to provide a copy of the transcript, which can take at least two months given the

number of extensions court reporters are allowed. On the same date, the Division of Appellate Defense ordered the transcript from the court reporter.

Thereafter, petitioner moved to relieve counsel and proceed *pro se*. By order dated December 15, 2015, petitioner's motion was granted. The order also stated the Division of Appellate Defense is to remain associated for the limited purpose of providing copies of the petition, appendix, and any briefs that may be necessary.

Petitioner now seeks clarification as to which documents the Division of Appellate Defense can provide to petitioner. Petitioner states that on December 9, 2015, he requested the Division of Appellate Defense provide him with copies of documents, but by letter dated December 17, 2015, the Division of Appellate Defense informed him that pursuant to this Court's order of December 15, 2015, they are only required to provide copies of the petition, appendix, and any briefs that may be necessary. Petitioner notes this Court's order of November 5, 2015, indicated the Division of Appellate Defense would pay for the transcript, but the second order does not include such language. He states he does not know if the Division of Appellate Defense has ordered the transcript of his PCR hearing. As noted above, the transcript was ordered by the Division of Appellate Defense on December 2, 2015. As petitioner was informed, it can take two months or longer for a transcript to be prepared. The Division of Appellate Defense shall provide petitioner with a copy of the transcript when it is received by their office.

Petitioner also requests the Division of Appellate Defense be required to provide the following documents: Greenville County Clerk of Court's record in the underlying PCR action; "legal copies; Blue Cover for Brief; Gray Cover for Reply Brief; And Any other legal Documents that Are Relevant to [petitioner's] arguments presented to the Greenville Count P.C.R. Court."

Section 17-27-60 provides that if a PCR applicant is unable to pay court costs and expenses of representation, including stenographic, printing and legal services, those costs and expenses shall be made available to the applicant. Petitioner has rejected legal services when he sought to relieve the Division of Appellate Defense and proceed *pro se*. The Division of Appellate Defense has provided funds for the transcript or stenographic services. The Division of Appellate Defense has been associated by this Court to provide "printing" services, which includes printing the documents to be filed with this Court. Those documents consist of petition for a writ of certiorari and an appendix. Petitioner must provide an original copy of the petition for a writ of certiorari and an original copy of the appendix to the Division of Appellate Defense and they will make the copies required to be filed pursuant to

Rule 243, SCACR. With the exception of the transcript, the Division of Appellate Defense is not required to provide copies of documents to go in the original appendix, including the records of the Greenville County Clerk of Court. Instead, the Division of Appellate Defense is only required to provide copies of the appendix compiled by petitioner.¹ The Division of Appellate Defense is also not required to provide copies of documents petitioner believes are necessary for legal research.

Finally, the petition for a writ of certiorari need not be bound. Rule 267(d), SCACR. Briefs, which do require color covers, shall *not* be filed unless the petition for a writ of certiorari is granted. Accordingly, at this juncture, the Division of Appellate Defense is not required to provide blue and gray covers to petitioner for briefs.



C.J.

FOR THE COURT

Columbia,¹ South Carolina

January 13, 2016

cc:

Karen Christine Ratigan, Esquire
George Cleveland, III, #357770
SC Appellate Defense

¹ We take this opportunity to remind petitioner that ONLY those documents that are part of the lower court record, which includes the transcript and a copy of the final order entered after the PCR proceeding, may be included in the appendix. Rule 243(f), SCACR.