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State of South Carolina
In the Supreme Court

DEC 21 2015

S.C. Supreme Court

Certiorari to Fairfield County
Brian M. Gibbons, Circuit Court Judge

Lower Court case No. : 2015-CP-20-078

Appellate case No. :

R. James Miller, Jr., Petitioner,

v.

State of South Carolina, Respondent.

Motion to Appoint Appellate Counsel

Petitioner respectfully requests that this Court grant an Order appointing appellate counsel to represent Petitioner and would show the Court:

- 1) A Final Order of Dismissal was signed by the Honorable Brian M. Gibbons on October 19, 2015 and filed with the Fairfield County Clerk of Court on October 26, 2015.
- 2) Petitioner filed a Notice of Appeal on November 25, 2015.

- 3) Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief.
- 4) An indigent criminal defendant is constitutionally entitled to an effective attorney in his "one and only appeal as of right". Evitts v. Lucey, 469 U.S. 387, 396 (1985) ("[A] first appeal as of right therefore is not adjudicated in accord with due process of law if appellant does not have the effective assistance of an attorney.")
- 5) The interests of Justice require appointed counsel in this case.
- 6) The Court must appoint counsel when the complexities are such that the denial of counsel would amount to a denial of due process. Brown v. United States, 623 F.2d 54, 61 (9th Cir. 1980).
- 7) Counsel must be appointed when the plaintiff is of such limited education as to be incapable of presenting his claims in such a way that the court can afford a fair hearing. Hawkins v. Bennett, 423 F.2d 948, 951 (4th Cir. 1970).

Dated: December 17, 2015

Respectfully,
R. James Miller

State of South Carolina

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CERTIFICATE OF SERVICE

I certify that I have served a copy of the Petitioner's Motion to Appoint Appellate Counsel on the Attorney's for the Respondent by depositing a copy in the institutional mail box on this 17th day of December 2015, addressed to:

J. Croom Hunter, Esq.

Office of the Attorney General

P.O. Box 11549

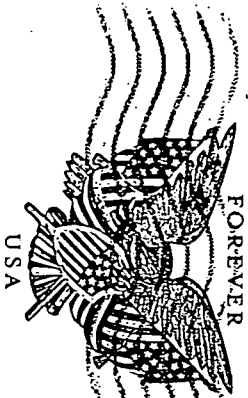
Columbia, SC 29211

Respectfully,

R. James Miller

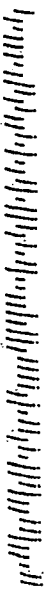
R. James Miller, Jr. #316047
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The Supreme Court of South Carolina
Daniel E. Shearouse, Clerk of Court
P.O. Box 11330
Columbia, SC 29211

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