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SC SUPREME COURT

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
L. Casey Manning, Presiding Judge

2010-CP-40-7500

CLINTON FOLKES, #216506

Petitioner,

v.

THE STATE OF SOUTH CAROLINA,

Respondent.

**PETITION FOR APPOINTMENT OF COUNSEL AND TO
DISQUALIFY APPELLATE DIVISION OF SCCID**

Now comes the Petitioner in the above captioned Post-Conviction Relief action, acting by and through his undersigned counsel, asking that the Appellate Division of the South Carolina Commission on Indigent Defense¹ be conflicted out of representing Petitioner in this Post-Conviction Relief appeal. Petitioner was represented on direct appeal by M. Celia Robinson, Esquire. Attorney Robinson left that state agency shortly before the direct appeal was decided by the South Carolina Court of Appeals. Following that decision, a letter was sent to Petitioner by a legal assistant at that SCCID. That form letter, a copy of which was introduced as an exhibit in this PCR action, erroneously informed Petitioner that his Certiorari Petition had been denied and that he had exhausted his State remedies.

¹ Hereafter, SCCID



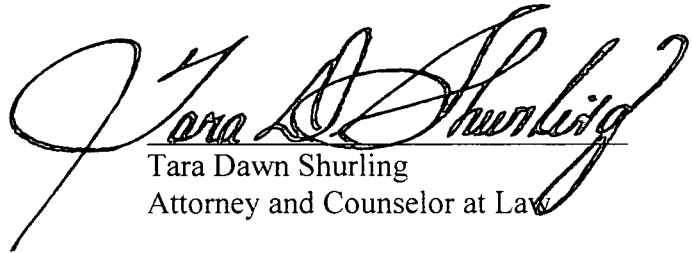
In the PCR action before this Honorable Court in this appeal, both M. Celia Robinson and Chief Attorney, Robert M. Dudek, testified on behalf of Petitioner. A copy of their PCR testimony is attached hereto as **Attachment A**. Attorney Robinson testified that she would have filed a Petition for Rehearing in the Court of Appeals and would have petitioned the Supreme Court of South Carolina to review the findings of the Court of Appeals in this case if that petition had been denied. PCR Tr. p. 38, ll. 15-22. Chief Appellate Defender Bob Dudek testified that he did not know why another attorney was not assigned to this file after Attorney Robinson's departure. He indicated that he had reviewed this file, including the decision of the Court of Appeals, and that he wished the case had been pursued beyond the Court of Appeals. Dudek specifically emphasized that he disagreed with the Court of Appeals decision in this case, and "wish that, you know, it had been taken up." PCR Tr. p. 31, l. 24- p. 32, l. 7.

The Petitioner alleged ineffective assistance of Appellate Counsel on collateral review. It was his position that he received deficient representation on direct appeal. The development of that allegation necessitated specific allegations of errors and omissions on the part of his original appellate attorney, M. Celia Robinson, in that among other allegations, she neglected to file a Petition for Rehearing in the Court of Appeals and failed to seek review of the decision of the Court of Appeals by the Supreme Court. Petitioner additionally alleged that Chief Attorney Bob Dudek was deficient in the manner in which Petitioner's case was handled after Attorney Robinson left the employment of SCCID. For that reason, Petitioner now asserts that the Appellate Division of SCCID should be disqualified from representing him in his pending PCR

appeal. He asserts, most respectfully, that the Appellate Division of SCCID would have a significant conflict of interest in representing him on appeal.

Undersigned counsel was court-appointed in this matter for the circuit court proceedings. She was substituted, by consent of the parties, for the original attorney appointed to this file, Zoe Sanders, Esquire. In light of SCCID's conflict of interest in representing Petitioner on appeal, Counsel would be willing to represent Petitioner on appeal if it is the desire of this Honorable Court to appoint her in this matter.

Respectfully submitted,



Tara Dawn Shurling
Attorney and Counselor at Law

3614 Landmark Dr., Suite A
Columbia, S.C. 29204
(803) 738-8622
(803) 738-1600 (fax)
tdslaw@shurlinglaw.com

Attorney for the Petitioner

This 24th day of February, 2016.

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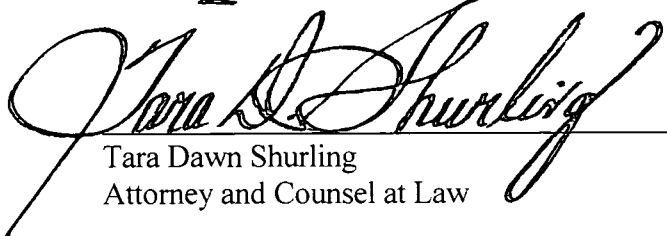
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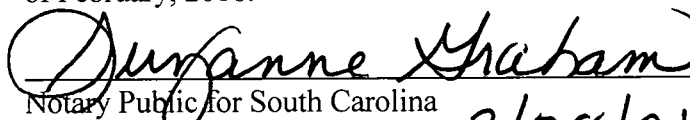
Respondent.

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that one copy of the Petition for Appointment of Counsel and to Disqualify Appellate Division of SCCID in the above-entitled cause has been served upon Chief Attorney, Robert M. Dudeck, of the Appellate Division of the South Carolina Commission on Indigent Defense by mailing in an envelope properly addressed with postage prepaid on this 24th day of February, 2016.


Tara Dawn Shurling
Attorney and Counsel at Law

SWORN TO BEFORE me this 24th day
of February, 2016.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: 2/28/24

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In The Supreme Court

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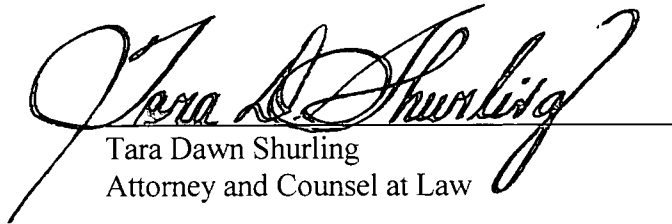
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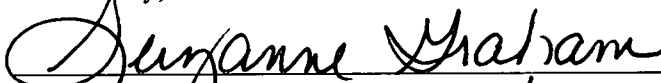
Respondent.

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that one copy of the Petition for Appointment of Counsel and to Disqualify Appellate Division of SCCID in the above-entitled cause has been served upon opposing counsel, Megan Harrigan Jameson, Assistant Attorney General, by mailing in an envelope properly addressed with postage prepaid on this 24th day of February, 2016.


Tara Dawn Shurling
Attorney and Counsel at Law

SWORN TO BEFORE me this 24th day
of February, 2016.

 (L.S.)
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