

RECEIVED

MAR - 1 2016

SC SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

ON WRIT OF CERTIORARI TO GREENVILLE COUNTY
Court of Common Pleas

G. Edward Welmaker, Circuit Court Judge

Case No. 2010-CP-23-09792
Appellate Case No. 2013-001945

Charles Christopher
Williams,

Petitioner,

v.

The State of South
Carolina

Respondent.

**MOTION TO ACCEPT BRIEF OF *AMICUS CURIAE*
OF THE FEDERAL REPUBLIC OF GERMANY**

Louis O'Neill
Member of the New York Bar
White & Case LLP
1155 Avenue of the Americas
New York, New York 10036-2787
United States of America
Telephone (212) 819-8200

John Shannon Nichols
Bluestein Nichols Thompson
& Delgado, LLC
Post Office Box 7965
Columbia, South Carolina 29202
United States of America
Telephone (803) 779-7599

Counsel for Amicus Curiae

Pursuant to South Carolina Appellate Court Rule 213, The Federal Republic of Germany moves for leave of the Court to file an amicus brief as amicus curiae in support of Petitioner. The above matter, scheduled for argument before this Court, addresses issues of substantial concern to the Federal Republic of Germany. Petitioner, Charles Christopher Williams, a dual citizen of Germany and the United States, is on death row in South Carolina. The Federal Republic of Germany therefore has a direct interest in the life of this young man and the outcome of his appeal.

Germany has a constitutional obligation to assist German citizens who face the death penalty in foreign jurisdictions. Bundesverfassungsgericht [BVerfG] [Federal Constitutional Court] Dec. 16, 1980, 90 ILR 386, 396-97 (Ger.). Along with the European Union more broadly, the German government opposes capital punishment and routinely becomes involved in cases where its citizens face a death sentence. See, e.g., LaGrand Case (Germany v. United States of America), International Court of Justice (ICJ), 27 June 2001.

The international community, including the United States, has recognized a nation's interest in assisting citizens charged with crimes in foreign jurisdictions. Both the United States and Germany are signatories to the Vienna Convention on Consular Affairs, an agreement that ensures access to detained citizens on foreign soil and allows foreign governments to secure legal representation and assistance for their citizens. United Nations, Vienna Convention on Consular Relations, Art. 36(1)(b) and (c), April 24, 1963. The United States and Germany have also entered into a bilateral agreement reinforcing those rights. Treaty of Friendship, Commerce and Navigation Between the United States of America and the Federal Republic of

Germany, Art. III (July 14, 1956). In the spirit of these agreements, the German government has prepared an amicus brief in support of the Petitioner.

As more fully stated in the brief to be filed with the Court, Germany is concerned that here respected members of the bar, acting as Mr. Williams' court-appointed trial counsel, did not provide Mr. Williams with effective assistance of counsel due to their failure to investigate Mr. Williams' Partial Fetal Alcohol Syndrome ("PFAS") and present his medical condition to the jury as a mitigating factor. Mr. Williams was, as a result, denied a sentencing that placed his culpability within the context of his cognitive impairment due to PFAS, in addition to his having been previously denied the considerable assistance that Germany affords to German nationals facing capital punishment. Thus, due to the ineffective assistance of counsel he received, Mr. Williams was substantially prejudiced at his trial and sentencing hearing.

The Federal Republic of Germany's interest in this case is also animated by the great importance it places on human rights and the principle of equality before the law.¹ Germany is dedicated to ensuring that a fair trial is afforded to its nationals, particularly where those nationals are indigents from disadvantaged groups and where they face the possibility of a death sentence.

¹ See, e.g., Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221 (protecting the right to a fair trial, and equality through the collective enforcement of discrimination, among other fundamental rights and freedoms); International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195; G.A. res. 2106 (XX), Annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966) (State parties to CERD "undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee . . . equality before the law, notably in the enjoyment of . . . (a) [the] right to equal treatment before the tribunals and all other organs administering justice." CERD at Art. V).

The Federal Republic of Germany is also deeply committed to South Carolina as an economic partner, as demonstrated by an investment of approximately \$13 billion in the State, and annual German purchases of South Carolina's goods valued at several billion dollars. Germany therefore has a keen interest in this and all cases affecting German nationals in South Carolina.

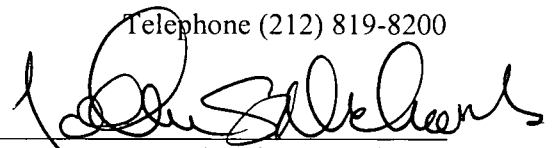
For the foregoing reasons, the Federal Republic of Germany respectfully requests that this Court grant leave to present an amicus curiae brief. A copy of the Republic's proposed amicus brief is attached hereto, and is being filed with this motion in accordance with Rule 213, SCACR.

Respectfully submitted,



Louis O'Neill, Esq.
Pro Hac Vice, South Carolina

Louis O'Neill
Member of the New York Bar
White & Case LLP
1155 Avenue of the Americas
New York, New York 10036-2787
United States of America
Telephone (212) 819-8200



John Shannon Nichols
Member of the South Carolina Bar

John Shannon Nichols
Bluestein Nichols Thompson
& Delgado, LLC
Post Office Box 7965
Columbia, South Carolina 29202
United States of America
Telephone (803) 779-7599

Counsel for Amicus Curiae

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

MAR - 1 2016

ON WRIT OF CERTIORARI TO GREENVILLE COUNTY
Court of Common Pleas

SC SUPREME COURT

G. Edward Welmaker, Circuit Court Judge

Case No. 2010-CP-23-09792
Appellate Case No. 2013-001945

Charles Christopher Williams,

Petitioner,

v.

The State of South Carolina

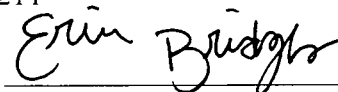
Respondent.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below she served counsel of record with a copy of the *Motion to Accept Brief of Amicus Curiae and the conditionally filed Brief of Amicus* by mailing copies of the same by United States Mail with first class postage prepaid to the following addresses:

Derek J. Enderlin, Esquire
Ross and Enderlin, PA
330 E. Coffee Street
Greenville, SC 29601

Donald J. Zelenka, Esquire
John W. McIntosh, Esquire
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, SC 29211



Erin Bridges

March 1, 2016