

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

Honorable George C. James, Jr., Circuit Court Judge

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MAR -2 2018

SC SUPREME COURT

LIONEL BRADLEY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

2015-002425

MOTION FOR APPOINTMENT
OF OUTSIDE COUNSEL

Undersigned counsel respectfully moves this Court to appoint outside counsel to represent Petitioner in the appeal of his post-conviction relief matter. Representation of Petitioner presents a conflict of interest, or a potential conflict of interest, for the appellate defenders within the Office of Appellate Defense since Appellate Defender Tiffany Butler represented petitioner at his trial, testified at the post-conviction relief hearing, and the lower court made specific findings on Petitioner's claim of ineffective assistance of trial counsel. The lower court concluded Appellate Defender Tiffany Butler was not ineffective as alleged by Petitioner.

Relevant Facts

Petitioner pled guilty on February 20, 2013, before the Honorable W. Jeffrey Young in Sumter County to possession with intent to distribute cocaine and possession with intent to distribute cocaine within proximity of a school. He was sentenced to respective terms of fifteen years and ten years. He was represented by Tiffany Butler, Esquire at the trial/plea stage.

Ms. Butler is now employed by the South Carolina Commission on Indigent Defense, Division of Appellate Defense as an appellate defender along with the undersigned.

Petitioner raised eight allegations of ineffective assistance of counsel against Ms. Butler. The lower court ruled against Petitioner in these counts.

Law and Analysis

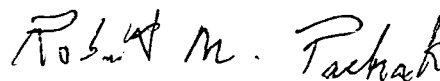
Undersigned counsel respectfully requests the appointment of outside counsel for Petitioner in light of the conflict of interest, or potential conflict of interest, presented by the representation of Petitioner and this office's employment of Appellate Defender Tiffany Butler and undersigned counsel. Rule 1.7(a)(2) of the Rules of Professional Conduct explains that a lawyer has a concurrent conflict of interest "if...there is significant risk that the representation of one or more clients will be materially limited by a personal interest of the lawyer." Rule 1.7(a)(2), RPC, Rule 407, SCACR. Due to the employment of Appellate Defender Butler and undersigned counsel also an appellate defender, a concurrent conflict of interest, or the appearance of a concurrent conflict of interest, exists among the attorneys in the Office of Appellate Defense. Additionally, undersigned counsel is concerned that representation of Petitioner by this office may result in a Sixth Amendment conflict of interest in light of the claims of ineffective assistance presented to the lower court. The Sixth Amendment to the United States Constitution guarantees criminal defendants the right to conflict-

free counsel. Mickens v. Taylor, 535 U.S. 162, 168 (2002); Cuyler v. Sullivan, 446 U.S. 335, 348 (1980).

Conclusion

Undersigned counsel respectfully requests the appointment of outside counsel to represent Petitioner in his appeal of the PCR court's order denying his relief given the highly unusual facts of this case. Undersigned counsel respectfully requests this Court hold the timelines for filing in abeyance pending a decision on this motion.

Respectfully submitted,



Robert M. Pachak
Appellate Defender

Attorney for Petitioner

This 2nd day of March, 2016

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

Honorable George C. James, Jr., Circuit Court Judge

LIONEL BRADLEY,

PETITIONER,

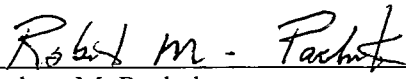
V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

CERTIFICATE OF SERVICE

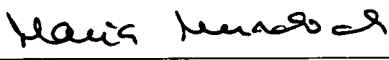
The undersigned attorney hereby certifies that a true copy of the Motion for Appointment of Outside Counsel in the above referenced case has been served upon opposing counsel, Daniel Gourley, Esquire and Lionel Bradley, #266225 at Broad River Correctional Institution this 2nd day of March, 2016.



Robert M. Pachak
Appellate Defender

Attorney for Petitioner

SUBSCRIBED AND SWORN TO before me
this 2nd day of March, 2016.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

March 2, 2016

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MAR - 2 2016

SC SUPREME COURT

The Honorable Daniel E. Shearouse
Clerk, S.C. Supreme Court
PO Box 11330
Columbia, SC 29211

Re: Lionel Bradley v. State of South Carolina

Dear Mr. Shearouse:

Enclosed are an original and six copies of the Motion for Appointment of Outside Counsel in the above-captioned case. Thank you for your assistance in this matter.

Sincerely,

Robert M. Pachak
Appellate Defender

RMP/ccf

Enclosure

cc: Daniel Gourley, Esquire
Mr. Lionel Bradley