

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ABBEVILLE COUNTY

RECEIVED

R. Scott Sprouse, Circuit Court Judge

AUG 03 2016

SC Court of Appeals

Appellate Case Number 2016-000526

State of South Carolina

Respondent

vs.

Trey Brown

Appellant.

Petition for Court to Review Status of Appellant's Counsel

Counsel for the appellant, Trey Brown, respectfully petitions this Court to review his status as counsel for Mr. Brown. The following is submitted in support of this request.

1) Mr. Brown pleaded guilty to murder and possession of a firearm during the commission of a violent crime. The Honorable R. Scott Sprouse sentenced Mr. Brown to thirty years for murder and five years for possession of a firearm during the commission of a violent crime. The sentences are consecutive.

2) Mr. Brown suffers from Schizophrenia. For significant periods of time during his pre-trial detention, Mr. Brown was committed to the Department of Mental Health. For a period of this time, the State dismissed Mr. Brown's charges, as required by statute, because he was not competent to stand trial. During sentencing, Mr. Brown requested the trial give him full credit for time served since his arrest on September 9,

2006. The Solicitor opposed the trial court ordering credit for the period of time during Mr. Brown's civil commitment when no indictments were pending, and the trial court agreed. Whether Mr. Brown is entitled to this credit as a matter of law is the sole issue in this appeal.

3) Mr. Brown's initial brief is due today. Counsel has completed a draft of the initial brief. Mr. Brown, however, has written the Office of Disciplinary counsel. A copy of Mr. Brown's letter is being provided to this Court and opposing counsel in a separate appendix with the request that it be filed under seal.¹

4) Counsel agreed to represent Mr. Brown *pro bono*, along with the Circuit Public Defender. Counsel agreed to continue his representation, *pro bono*, during this appeal. Counsel remains willing to represent Mr. Brown, and, as stated, a draft of his initial brief is complete.

5) In making this request of the Court, counsel is aware of *Richardson v. State*, 377 S.C. 103, 107, 659 S.E.2d 493, 495 (2008) ("We caution the bench that the filing of a disciplinary complaint should not result in automatic removal of appointed counsel). Counsel does not believe that a change in counsel is necessary in this situation.

6) Because of Mr. Brown's mental illness, however, counsel believes the Court should review the matter and decide whether it is appropriate to assign the Office of Appellate Defense. The Court should note that the information contained in the appendix suggests that possibility that Mr. Brown's mental illness is active. According to the Department of Corrections website, Mr. Brown was transferred from Lieber

¹ Pursuant to Rule 12(a) of the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR, counsel could request this Court to decide the matter *ex parte*. Counsel prefers to provide full notice to opposing counsel.

Correction Institution to Kirkland Correctional Institution on July 12, 2016 for medical reasons. Counsel does not have any specific information about the reason for this transfer.

Respectfully Submitted,

By 

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August 1, 2016
Greenwood, South Carolina

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Certificate of Service

I certify that I have served this pleading and appendix on the appellant and the State of South Carolina by placing a copy in the United States Mail, postage prepaid, on the date reflected below, addressed to:

Mr. Trey Brown, SCDC# 367262
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4344 Broad River Road
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August 1, 2016