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AUG 15 2016

**BC SUPREME COURT**

STATE OF SOUTH CAROLINA  
In The Supreme Court

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CERTIORARI TO CHEROKEE COUNTY  
Court Of Common Pleas

The Honorable Roger L. Couch, Circuit Court Judge

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Appellate Case No. 2015-002140

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KENNETH HILTON,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

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**RETURN TO PETITIONER'S MOTION TO RELIEVE APPELLATE COUNSEL AND  
APPOINT OUTSIDE COUNSEL**

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In making its return to Petitioner's motion to relieve existing counsel and appoint new appellate counsel, Respondent would show:

1. Petitioner is incarcerated with the South Carolina Department of Corrections pursuant to the Cherokee County Clerk of Court's orders of commitment. Petitioner was indicted at the March 2012 term of the Cherokee County Grand Jury for kidnapping (2012-GS-11-0226) and waived presentment on the charge of assault with intent to commit second-degree criminal sexual conduct ("CSC") (2013-GS-11-0017). Mr. Don Thompson, Esquire, represented Petitioner on these charges. On January 23, 2013, Petitioner pleaded guilty as indicted before the Honorable J. Derham Cole. Judge Cole sentenced him to consecutive terms of twenty-five years

for kidnapping and twenty years for assault with intent to commit second-degree CSC. Petitioner did not appeal.

Petitioner filed an application for post-conviction relief ("PCR") on May 1, 2013. Respondent made its return and motion for more definite statement on March 17, 2014. A hearing was convened on April 10, 2014. At that time, Petitioner moved to relieve counsel. (Supp. App. p. 26). The Honorable J. Derham Cole issued a written order filed July 22, 2014, granting the motion. (Supp. App. p. 33).

A subsequent evidentiary hearing into the matter was convened on March 27, 2015, at the Spartanburg County Courthouse. Petitioner was present and proceeded pro se. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office represented Respondent. In a written order filed September 28, 2015, the Honorable Roger L. Couch denied and dismissed the matter with prejudice. (App. pp. 136-143).

2. Regarding Petitioner's request to relieve his appellate counsel and have new counsel appointed, Respondent wishes to leave this matter in the sound discretion of this Court. However, Respondent notes Petitioner is currently represented by Appellate Defender Robert M. Pachak, who is highly skilled and experienced. The fact that Petitioner disagrees with the issue counsel argued on his behalf in his Petition does not establish cause to relieve counsel in this matter. Furthermore, Respondent notes that Petitioner's counsel has already filed a Petition for Writ of Certiorari in this matter, and Respondent has already filed its Return. Therefore, should this Court grant Petitioner's motion for new counsel, Respondent would oppose the filing of a new or supplemental Petition for Writ of Certiorari.

WHEREFORE, having made its Return, the State takes no position on Petitioner's motion to appoint new counsel.

Respectfully submitted,

ALAN WILSON  
Attorney General

ALICIA A. OLIVE  
Assistant Attorney General  
S.C. Bar # 102089

Post Office Box 11549  
Columbia, S.C. 29211  
(803) 734-3737

By:   
ATTORNEYS FOR RESPONDENT

August 15<sup>th</sup>, 2016

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**SC SUPREME COURT**

STATE OF SOUTH CAROLINA  
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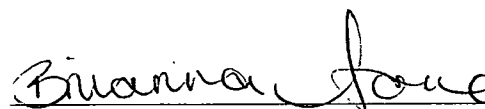
**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies that a true copy of the Return to Petitioner's Motion to Relieve Appellate Counsel and Appoint Outside Counsel, has been served upon opposing counsel by mailing one (1) copy in the United States mail, postage prepaid:

**Robert M. Pachak, Esquire**  
**SC Commission of Indigent Defense**  
**Post Office Box 11589**  
**Columbia, SC 29201**

This 15<sup>th</sup> day of August, 2016



BRIANNA ARNONE  
LEGAL ASSISTANT

STATE OF SOUTH CAROLINA  
In The Supreme Court

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CERTIORARI TO CHEROKEE COUNTY  
Court of Common Pleas

The Honorable Roger E. Henderson, Circuit Court Judge

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KENNETH HILTON,

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THE STATE OF SOUTH CAROLINA,

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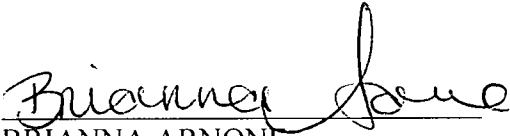
**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies that a true copy of the **Return to Petitioner's Motion to Relieve Appellate Counsel and Appoint Outside Counsel**, has been served upon opposing counsel by mailing one (1) copy in the United States mail, postage prepaid:

**Kenneth Lee Hilton, #354034  
Broad River Correctional Institution  
4460 Broad River Road  
Columbia, South Carolina 29210**

This 15<sup>th</sup> day of August, 2016

  
BRIANNA ARNONE  
LEGAL ASSISTANT



ALAN WILSON  
ATTORNEY GENERAL

August 15, 2016

The Honorable Daniel E. Shearouse  
Clerk, South Carolina Supreme Court  
Post Office Box 11330  
Columbia, South Carolina 29211

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AUG 15 2016

**SC SUPREME COURT**

**Re: Kenneth Hilton v. State of South Carolina**  
**Appellate Case No. 2015-002140**  
**Lower Court Case No. 2013-CP-11-0302**

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Return to ~~Petition for Writ of~~  
~~Certiorari~~. By copy of this letter we are serving opposing counsel today.

*Motion to Appoint  
Outside Counsel*

Sincerely,

Alicia A. Olive  
Assistant Attorney General  
SC Bar No. 102089

AAO/bea  
Enclosures

cc: Robert M. Pachak, Esquire  
Kenneth Hilton, #354034