

The Supreme Court of South Carolina

Bernard McFadden, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2016-002319

Lower Court Case No. 2011CP4301952

ORDER

Petitioner has filed a *pro se* notice of appeal in this post-conviction relief (PCR) case. He alleges that he is indigent and has attempted to order the PCR hearing transcript without agreeing to pay the required fees.

If petitioner believes that he is indigent, he must complete the enclosed affidavit of indigency and submit the completed affidavit to the Division of Appellate Defense (Appellate Defense) of the Office of Indigent Defense by December 20, 2016. The address of Appellate Defense is P.O. Box 11589, Columbia, SC 29211.

If Appellate Defense determines that petitioner is indigent, it will order any necessary transcripts and pay any necessary fees for the transcript(s). If it determines that petitioner is not indigent, petitioner shall order any necessary transcripts in the manner specified by Rules 243(b) and 207 of the South Carolina Appellate Court Rules within fifteen (15) days of that decision by Appellate Defense.

While petitioner was apparently allowed to proceed *pro se* before the circuit court, he is advised that he will not be allowed to continue to proceed *pro se* before this Court without the permission of this Court.¹ Further, this Court will not consider

¹ *Cf. State v. Roberts*, 364 S.C. 583, 614 S.E.2d 626 (2005) (no federal or state constitutional right to appear *pro se* in a criminal appeal; instead, proceeding *pro se* in appellate proceeding rests in the discretion of the appellate court).

such a request until after any necessary transcript(s) has been delivered by the court reporter(s).

Once the transcript(s) has been delivered, petitioner may file a motion seeking the permission of this Court to represent himself in this case. This Court strongly encourages petitioner to proceed with counsel provided by Appellate Defense if he is indigent, or to hire counsel, if he is not indigent.

If petitioner is allowed to represent himself in this matter, he will be expected to fully comply with all of the applicable provisions of the South Carolina Appellate Court Rules. Further, as a non-lawyer, petitioner may not have the skill, knowledge or training necessary to adequately represent himself, and having a lawyer trained in the law would be extremely beneficial.

If after the transcript(s) is delivered, petitioner decides to make a motion seeking permission of this Court to proceed without counsel in this matter, the motion seeking that relief will need to indicate that petitioner understands the dangers and disadvantages of proceeding *pro se* which have been outlined in this order and, that despite being warned of these dangers and disadvantages, petitioner desires to proceed without counsel in this matter.



C.J.

FOR THE COURT

Columbia, South Carolina
December 9, 2016

cc: Julie Amanda Coleman, Esquire
Mr. Bernard McFadden, #199135 (with affidavit of indigency)