

The Supreme Court of South Carolina

Bryan Keith Byrd, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2016-002425

Lower Court Case No. 2014CP2304924

ORDER

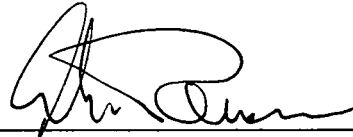
In this post-conviction relief (PCR) case, the Division of Appellate Defense of the South Carolina Office of Indigent Defense has assumed responsibility for this appellate case. As a result, petitioner's counsel below, Brian P. Johnson, Esquire, has been automatically relieved as counsel for petitioner. Rule 71.1(g) of the South Carolina Rules of Civil Procedure; Rule 602(e) of the South Carolina Appellate Court Rules. Further, Appellate Defense has ordered the transcript of the PCR hearing.

Petitioner has now filed a *pro se* motion seeking various forms of relief from this Court.

As to petitioner's request to relieve Mr. Johnson as his counsel, no action will be taken on this request since Mr. Johnson has already been relieved as counsel for the petitioner. Further, the request to proceed *pro se* is denied since petitioner is apparently unaware that he is currently represented by Appellate Defense and there is no indication that petitioner is aware of the dangers and disadvantages of representing himself in this case.¹

¹ Whether to allow petitioner to proceed *pro se* in this case rests in the discretion of this Court. *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). This Court will not allow petitioner to represent himself unless it appears

To the extent that this *pro se* motion may be seeking any other relief from this Court, no action will be taken on it since he is represented by Appellate Defense. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).



C.J.

FOR THE COURT

Columbia, South Carolina
December 20, 2016

cc: Division of Appellate Defense
Patrick Lowell Schmeckpeper
Mr. Bryan Keith Bryd



that petitioner is fully aware of the dangers and disadvantages of self-representation, and is making a knowing and intelligent waiver of his right to be represented by counsel in this case.

If petitioner were ultimately allowed to represent himself in this case, petitioner would have 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 in this case. This Court would strongly encourage petitioner not to seek permission to represent himself in this case.