

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JUN 09 2017

S.C. SUPREME COURT

APPEAL FROM HORRY COUNTY
COURT OF GENERAL SESSIONS
Edward Cottingham, Circuit Court Judge

Circuit Court Case No. 2012-GS-26-00859
Appellate Case No. 2012-213631

State of South Carolina, Respondent,
v.
Rickey Mazique, Appellant.

MOTION

Counsel hereby moves to be relieved as counsel in the above captioned case.

The Appellant's issues on appeal include the Appellant's claim that at trial he was denied the right to have counsel relieved for cause and/or the denial of his right to represent himself in the alternative. Subsequent to several critical stages of the prosecution, the trial court conducted a *Farretta* hearing and determined that the Appellant was capable and entitled to self-representation.

Counsel represented Appellant on appeal in the Court of Appeals and on the motion for rehearing. Although the agreement for representation between the undersigned and Appellant did not extend to the filing of a petition for writ of certiorari in this Court, after discussions with the Appellant, counsel was under the impression and belief that he had the consent of the Appellant to file the Petition for Writ of Certiorari, and therefore intended to do so, and indicated to the Appellant that he

would do so. However, prior to the filing of a Petition by counsel, the Appellant filed a *pro se* Petition for Certiorari in this case.

Anticipating the State's potential for raising a hybrid representation issue, and in an attempt to protect the Appellant's right to self-representation, Counsel has not filed a petition, and does not intend to do so without the express consent of the Appellant or instruction from this Court. Counsel has not received a clear directive to file a petition from the Appellant that would risk rejection of his *pro se* petition, and the Appellant has not communicated with counsel in response to counsel's letters or motions.

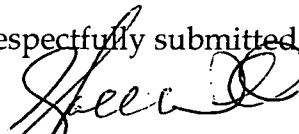
Appellant is entitled to represent himself in these proceedings, and the filing of the *pro se* petition appears to be a clear indication of the Appellant's intent to do so. This is especially so in light of the history of this case, the issues involved, and the Appellant's lack of response to counsel's inquiries. Appellant is not communicating with counsel sufficiently for counsel to make an informed decision and override what appears to be the Appellant's clear desire to self-represent on the appeal of the case. Counsel is also informed and believes, that based on the Appellant's prior legal research and filings of the Appellant, that the Appellant is capable of self-representation, such that an informed decision on his part should be honored by counsel and the Court. Further, the trial court conducted an inquiry during the trial of the case and found the Appellant capable of representing himself applying the *Farretta* standard.

A copy of the State's motion to strike the Appellant's petition has been served on

the Appellant. A copy of the undersigned's prior Return and Motion has been served on the Appellant. A copy of this Return and the undersigned's Motion to be relieved has been served on the Appellant. Counsel has not received any response or communication from Appellant.

The Appellant is entitled have his case presented to this Court and to present it himself if he desires. Appellant appears to have elected to proceed *pro se* under the Sixth Amendment right under Farretta v. California, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975) and Article I, Section 14 of the South Carolina Constitution. To avoid a potential denial of important rights by application of the hybrid representation rule, the undersigned moves to be relieved as counsel in this case.

Respectfully submitted,



J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 (facsimile)
For the Appellant

June 7, 2017.

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM HORRY COUNTY
COURT OF GENERAL SESSIONS
Edward Cottingham, Circuit Court Judge

Case No. 2012-GS-26-00859

State of South Carolina, Respondent,
v.
Rickie Mazique, Appellant.

CERTIFICATE

I certify that on June 7, 2017, I served the Return in this case on the Respondent by placing a copy of same in the United States Mail, first class postage prepaid, addressed to counsel of record and others as indicated below:

David Spencer, Senior Assistant Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Rickey Mazique, #353218
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Respectfully submitted,


J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
Counsel for Appellant