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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE 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.

REPLY

Counsel hereby responds to the State’s Motion to Strike and requests this Court to deny the motion.

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. Counsel represented Appellant on appeal in the Court of Appeals and on the motion for rehearing. After discussions with the Appellant counsel was under the impression that he had consent of the Appellant to file the Petition for Writ of Certiorari and therefore intended to do so. However, prior to the filing of a Petition by counsel, the Appellant filed a *pro se* Petition for Certiorari in this case. Aware of the rules on hybrid representation that caused the trial court to refuse Appellant’s attempts at self-representation during critical stages of the case, the undersigned did not want to create the exact same situation by filing a second Petition

as this could invalidate the Appellant's petition and cause the rejection of the Appellant's *pro se* Petition under the hybrid representation rules. In light of the rules on hybrid representation, to protect the Appellant's right to self-representation Counsel has not filed a petition and does not intend to without the express consent of the Appellant. Counsel has not received a clear directive from the Appellant and the Appellant has not communicated with counsel in response to counsel's letters.

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, based on the legal research and writing 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 a proper investigation during the trial of the case and found the Appellant capable of representing himself applying the *Farretta* standard.

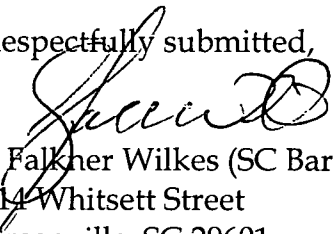
A copy of the State's motion to strike the Appellant's petition has been served on the Appellant. A copy of the undersigned's prior Return and Motion has been served on the Appellant. A copy of this Return and the undersigned's Motion to be relieved has been served on the Appellant.

Counsel has filed simultaneous with this Return a Motion to be relieved as counsel to avoid having the Court reject the Appellant's *pro se* Petition under the hybrid representation rule. In the event that the Appellant serves and files a timely response to this reply and motion, and clearly indicates a desire to have counsel file a petition, and risk having his *pro se* petition struck under the hybrid representation rule, then Counsel moves the Court to reset the deadline for filing a petition and notify counsel, or in the alternative, to allow counsel time to file an amended petition.

The Appellant is entitled have his case presented to this Court. He 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, the Appellant's *pro se* petition should be accepted as timely filed to protect the Appellant's procedural rights. That the Court should further require the Appellant to state his intention as to *pro se* representation and make a ruling under Farretta as to whether the Appellant should be allowed the right to self-representation before this Court. In the event that the Court rules that the Appellant is not allowed the right to self-representation, then the Court should allow counsel to proceed and grant time to file an amended petition, allowing counsel to protect the Appellant's rights, and at the same time to act in the Appellant's best interests by exercising counsel's independent judgment as to the issues, arguments, briefing and presentation of issues in the petition.

Wherefore, Appellant moves the Court to deny the State's motion to strike the Appellant's *pro se* petition and to accept the Appellant's *pro se* petition as timely filed, or in the alternative, if the Appellant is denied the right to self-representation, then to consider Appellant's filing timely and allow counsel time to file an amended petition.

Respectfully submitted,



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For the Appellant

June 7, 2017.

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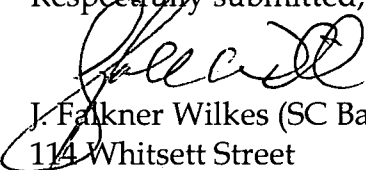
CERTIFICATE

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
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Respectfully submitted,


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