

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

The Honorable Ralph King Anderson, JR., Chief Administrative Judge

STEVEN LOUIS BARNES,

Appellant

v

SC Department of Corrections,

Respondent

CASE NO. 15-ALJ-30-0318-AP

RECEIVED
DEC 06 2017
SC Court of Appeals

MOTION TO RELIEVE AND SUBSTITUTE COUNSEL ON THE
GROUNDS OF INEFFECTIVENESS OF COUNSEL

The Appellant moves this Court under the appropriate Appellate Court Rules and procedure and *State v. Sturkey* 508 S.E.2d 564 (1998) in order to remove the Appellant Appeal Counsel, Shane Epperson, and Bill McGuire of the Office of Indigent Defense (Airtel's Counsel) on the following grounds:

FACTS - THE RECORD ON APPEAL

The Appellant had filed on September 29, 17, in both this Court and the South Carolina Supreme Court, an one hundred page brief (one hundred page brief). In issues 10-13 of the Appellant one hundred page brief the Appellant had raised ineffective Assistance of Appellant Counsel, and Administrative Law Court former Counsel. On November 21, 17 the Appellant had filed a writ of Mandamus against this Court, the Office of Indigent Defense, the South Carolina Department of Correction, and the above Appellant Counsel that the Appellant is requesting this Court to relieve. Furthermore, on November 4, 17 the Appellant had filed a Motion for rehearing / for reconsideration of the petitioner writ of Mandamus and the writ grounds for relief. The Appellant leave reference to and incorporate those facts in this record for this Court to have a full and complete picture of the continuous state interference of depriving the Appellant of his protected rights such as to a cause of action and access to the courts. See *Logan v Zimmerman Gaus*

(O. 455 U.S. 432 (1987)) (Having made access to the courts an entitlement or a necessity, state may not deprive someone of that access unless balance of state and private interest favor the government) Below, the Appellant had first listed the arguments and its governing case laws of why this Court must grant this motion and then same, but not all, of the facts of ineffectiveness of Counsel because of the limitation of legal paper, and legal photocopying of legal paperwork by hand is prohibited by the South Carolina Department of Correction (SCDC).

ARGUMENTS IN SUPPORT OF WHY THIS MOTION TO RELEVE AND SUBSTITUTE COUNSEL SHOULD BE GRANTED

The Appellant bears the burden of showing why this Court should grant this motion. *State v. Graddick* 548 S.E.2d 210 (2001) (The defendant bears the burden to show satisfactory cause for the removal of his counsel) This Court must first look into several factors in considering on whether or not to grant this motion such as the timeliness of motion, adequacy of trial judge's inquiry into defendant's complaint, and whether attorney-client conflict was so great that it

Resulted in total loss of communication, thereby preventing adequate defense); State v Sims 405 S.E. 2d 377 (1991) This too includes as factors of granting this motion under Starckland v Washington 104 S.Ct 2052 (1984) where three categories of cases in which the United States Supreme Court presumes prejudice when the Appellant demonstrates the following: (1) denial of counsel; (2) cases involving various kinds of state interferences with counsel assistance; and (3) cases where counsel is burdened by a actual conflict of interest. See Smith v Robbins 528 US 259 (2000) This Court has absolute discretion to grant this motion. State v Marique 797 S.E.2d 730 (2016) (The question of whether an appellate court appointed counsel should be discharged is a matter addressed to the discretion of the trial judge)

The Appellate Record facts shows that the Appellant Counsel did not afford the Appellant a full and fair hearing process in both the Administrative law court and this Court concerning the Cause of action in existence in this case concerning, for Example, those Courts lacking subject matter Jurisdiction because, SL Code § 44-22-20, Writ of Habeas Corpus Court of

South Carolina, has subject matter jurisdiction of the Department of Correction placement of the Appellant within SCDC as a safekeeper inmate who is a severe mental health inmate. Again, the state of South Carolina is res judicata according to state v Barnes 753 S.E.2d 545 (2014) This Court can take judicial notice of this fact. Furthermore, the Department placement of the Appellant in the Department of Correction because he'd invoked his six Amendment right to counsel so SCDC, and its co-conspirators, could punish the Appellant; therefore, it exist a live case and controversy because the retaliation from the flagrant act of SCDC is still ongoing in which makes the issues inside of special-management unit (smu), for example, not moot; for example, if the SCDC doesn't change the amount of food portions here, there is a nine (9) times out of ten (10) chance of the Appellant going back into smu in which is the same as safekeepers. Now, if the SCDC, and its co-conspirators, did not illegally place the Appellant, who is a severe mental health inmate, on safekeeper status then there will on appeal be no mootness doctrine. The SCDC, and its co-conspirators, had dugged itself / themselves in a big hole and it's now asking this Court through state action with counsels to dig them in a bigger hole by judicial usurpation of power. That's like SCDC

Running a hundred miles per hour with the state of South Carolina shoes-laces tied together real-tight. It just can't happen! Furthermore, SCDC Access to the Court policies concerning legal paper, and legal photocopying of handwritten legal works by him for indigent inmates on smu, on general population, and on safeskeeper status are the same as described above. This falls under the three exceptions of the mootness doctrine.

plus, dismissing this action as moot will effect the Appellant in Georgia in order to prove that SCDC deprivation of access to courts in issues 19-21 in the one hundred page brief had caused the Appellant an actual injury in the Georgia Court of Appeals. Furthermore, the Solicitor would or could not use under the two strike law the Appellant conviction in Georgia if the Appellant was successful there.

The Appellant Counsel did not argue that in the prejudice prong of the speedy trial motion or the sentencing hearing in front of Judge Diana Goodstein, as stated below, had Exclusive Jurisdiction of the Safeskeeper issue.

Also, as stated above, there's still a live case and controversy over the safeskeeper issues because appellate counsel had raised counsel version of the safeskeeper issue in front of Judge Diana S Goodstein, who had Exclusive Jurisdiction over his alleged murder case, in the speedy trial motion.

0012
1017
11017

None of the above facts, but not limited to those facts in his one hundred page brief, did the above Appellate Counsel, in Conspiracy with SCPC, and its Co Conspirators, place in Counsel brief to the Court that a live case and controversy still exist in this case. These facts Meets the burden that the Appellant has to prove in state v Graddick 548 S.E.2d 210 (2001) Regarding Appellant ineffectiveness of Appellate Counsel. Furthermore, the Appellate have reference to and incorporate the facts in his motion for Rehearing and for Reconsideration of the petitioner writ of mandamus, in which he'd attached as Exhibit (A) to this motion, that he'd filed, on the same day as this motion, in the South Carolina Supreme Court. The Appellant position in Question 1-3 in his motion for Rehearing and for Reconsideration is the same on appeal to this Court.

Wherefore, the Appellant prays that this Court:

- (1) To grant this motion;
 - (2) To fashion a Remedy as stated in issues 9-14 and 24-25 in the one hundred page brief so the lower court can hear the Appellant issues of ineffectiveness of Counsel on direct Review.
- The hearing should include regarding due process of law the

Right to Cross Examine witnesses, the Right to Call witnesses, the Appointment of Counsel who's not state sponsored, and a full and fair hearing in front of an impartial Judge; and

(3) The Appointment of Counsel from the NAACP Defense funds, and/or any other attorney from a different state who's not connected to funding by the office of Indigent Defense so that the Record for future Appeals can be fully developed in the lower court without state interferences. It's so important that this court, and among others, can have all the record facts in order to determine whether or not the issues on this appeal are moot; and

(4) to such other and further relief that this Court seem Just and proper.

Date: 12/2/17

Steven Louis Barnett
STEVEN LOUIS BARNETT
Kirkland R.E.C.
4344 Broad River Rd
Columbia, SC 29201

CHINA
BUTY
THOAT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

The Honorable Ralph King Anderson, III, Chief Administrative Judge

STEVEN LOUIS BARNES,

Appellant

SC Department of Corrections,
and Et. Al

Respondent

RECEIVED
DEC 06 2017
SC Court of Appeals

Case No. 15-ALT-30-0318-AP

CERTIFICATE OF SERVICE

I, Steven Louis Barnes, on 12/4/17, have served a notice to take
summers, counsel for the South Carolina Department of Correction, regarding
my MOTION TO RELIEVE and SUBSTITUTE counsel ON THE GROUNDS OF
INEFFECTIVENESS of counsel, because I don't have sufficient amount of
legal paper to make handwritte. Copies now does send a letter inmates to
make legal photo copying of hand-writte. legal work, by depositing
the notice in the United States mail with sufficient postage.

Steven Louis Barnes
Signature

LEGAL
MAIL
ONLY

307117

To: Clerk of Court, Court of Appeals
1220 Senate Street
Columbia, SC 2920

From: Steven Louis Barnes, # 32717
Kirkland R & E
4344 Broad River Rd
Columbia, SC 29210

RECEIVED
DEC 06 2017
SC Court of Appeals

RE: BARNES vs SC Dept of Correction Appellate Case # 2017-000967-
15 - ALJ - 30 - 6318 - AP

Dear Clerk:

Please see enclosed to this Court is a copy of both my motion to Relieve and substitute Counsel on the grounds of ineffectiveness of Counsel and my motion for rehearing / for Reconsideration of the petitioner writ of mandamus. to be filed in this Court.

Thank you kindly

Date 12/4/17

Respectfully SUBMITTED
STEVEN LOUIS BARNES

STEVEN Louis BARNES # 327117 A2-23

Mailroom
Kirkland Correctional Institution
4344 Broad River Road
Columbia, S.C. 29210

Inter-Agency

RECEIVED

DEC 06 2017

SC Court of Appeals

RECEIVED

DEC 04 2017

**KIRKLAND R&E CENTER
MAILROOM**

**LEGAL
MAIL
ONLY**

South Carolina Court of Appeals

P.O. Box 11629

Columbia, SC 29211