

In The United States District Court  
for The Anderson District of South Carolina

Enter the full name of the plaintiff-petitioner

Petition for WRIT OF MANDAMUS

AUGUST B. KREIS, III, # 365998  
ProSe - 504/ADA  
-V5

1. Robert M. Dudek & office, et al.
2. S.C. Sup. Court, et al.
3. S.C. Ct. of Appeals, et al.
4. Alan M. Wilson, Atty. Gen. - State,

Civil Action No. \_\_\_\_\_  
(will be assigned by Clerk's Office)

**RECEIVED**

Enter above the full names of defendant(s)-respondent(s)

JAN 18 2018

**I. PARTIES**

**S.C. SUPREME COURT**

In Item A below, place your name, inmate number (if applicable) and address in the space provided. Do the same for additional plaintiffs or petitioners, if any.

A. Name of Plaintiff/Petitioner: AUGUST B. KREIS, III Inmate No.: 365998  
Address: Perry Corr. Inst. AU-193A 430 Oaklawn Rd. Pelzer, So. Car. 29669-9363

In Item B below, place the full name of the defendant-respondent, his or her official position, and place of employment in the space provided. Use Item C for additional defendants, if any.

B. Name of Defendant/Respondent: Robert M. Dudek & office Position or Title Appellate Defenders  
Place of Employment: S.C. Comm. on Indigent Def. / Div. of Appl. Def. P.O. Box 11549 Columbia, SC 29211

C. Additional Defendants-Respondents (provide the same information for each defendant as listed in Item B above):

1. S.C. Court of Appeals, et al - P.O. Box 11629 Columbia, SC 29211
2. S.C. Sup. Court, et al. - P.O. Box 11230 Columbia, SC 29211
3. Alan Wilson; Atty. Gen. - State - P.O. Box 11549 Columbia, SC 29201

(Facts of Case)

1.) Prose seeks Mandamus Remedial Injunctions to remove defendant Conspirator - Aider - Robert H. Suder - Appellate Refender & his office, off his appeals 2015-002340 in So. Car. Court of Appeals, which they refuse to remove Suder & his office & appoint a street lawyer by saying Prose is trying to proceed Prose, (when he isn't) & see below Exhibit page (27) as proof, nor will the S.C. Sup. Court remove them, see page (506) as proof; & all listed are defendants in Prose's Appeals Arguments 21 & his lawsuits 17-CP-40-1181, & 17-CP-28-131, & 3:17-344-TLW-PJG, & 3:11-646, & 3:16-3731-JFA. &

2.) Defs. Suder & both S.C. Sup & Ct. of Appeals, Judges, know if a street lawyer is appointed them that lawyer will automatically type up his Prose's Memorandum Brief, filed (11/25/16 of 32) pages & then will attach it to it & raise those Constal. issues to free Prose from illegal detention without a doubt, by illegal acts were committed to false imprison Prose, he now seeks injunctions removal of Suder & his office coworkers, & for street lawyer to be ordered appointed by S.C. Court of Appeals on his appeals 2015-002340.

See; Cuyler, 446 U.S. 335, 350 (1980) We hold Prose can demonstrate a 6th Amend. viol. by showing that his counsel was actively representing conflicting interests or the appearance of it; Prose incorporates below pages (507) to support reliefs, because he can't get it anywhere else;

See; Kerr, 426 U.S. 394, 407 (1976) Mandamus relief is available to stop Constal. harms from continuing.) &

3.) It would be too late to wait till S.C. Ct. of Appeals would issue an order on def's. Suder, poorly raised issues, to cause appeals to be dismissed & stop his removal & arrests of himself & def's involved & not allow Prose's Memorandum Brief mover to be heard nor raised; which Miller, 697 S.E. 2d 527 (2010) & Roberts, 314 S.E. 2d 626, 629 (S.C. 2005) Unconstal. & circumventing the Supremacy Clause & 6th Amend. Right to conflict interests free counsel to handle Prose appeals & not a def's.

See; Knop, 507 U.S. 973 (1993) the Supremacy Clause over rides & void State law);

See; Quick, 257 F. Supp. 252 (D.S.C. 1966) declaratory reliefs granted by S.C. Code 15-53-130 & 57-F.R.C.P. & doesn't matter if there are other remedies available.) &

4.) If Prose chose to proceed Prose he has a Constal. right to do so, but he doesn't. He seeks appoint counsel when he isn't a def. in the Appeals nor law suits. &

5.) Lists, 880 F. 2d 1040, 1047 (9th Cir. 1989) 6th Amend. Right to proceed Prose in Appeals - & by Jail House lawyer help & to file Prose Briefs.)

See, Myers, 102 F. 3d 74, 76 (3d Cir. 1996) A Writ of Mandamus is outside the orbit of (PLRA) & not covered by it & no fee of \$350.00 applies but only \$5.00 fee unless

indigent then 5.00 fee is waived.)

See; In Re Hagy, 89 F. 3d 115, 116 (2d Cir. 1996) We deny (PLEA) coverage to any writ directed at judges or lawyers conduct in criminal trial or appeals from it;

5.) ProSe notes Rudek & A. M. Wilson & S.C. Sup. & Court of Appeals judges hired W. A. Davidson, Atty. & Firm to defend ProSe suits upon them & served all summons & complaints in above listed cases; & there's conflict existing; &

V. RELIEF (S)

State briefly and exactly what you want the court to do for you.

- 1) For court to issue an Declaratory Remedial Injunction Order, that S.C. Court of Appeals, has to order R.M. Nider & his staff & attys. therein off Prose's appeals, & has to appoint Prose a street lawyer whom isn't a defendant, nor involved in conspiracy to cover-up Prose raised issues used to frame him (Nov. 2-5, 15) &
- 7) And for Court to "hold-rule" that Millar, (2010) & Roberts (2005) S.C. Sup. laws are unconstitutional, & violate the Supremacy Clause & Prose's 6th Amended Rights to proceed Prose or with jail house lawyer's help, if he so chooses & Prose has a right to file Prose's Memorandum Briefs on appeal & to seek for Court to appoint a conflict free Appeal Counsel to handle Appeals; &
- 8) For Court to hold Prose (has not) ask the Court of Appeals to proceed Prose, he asked to remove Nider & his office & appoint a street lawyer to handle his Appeals, only; &
- 9) For Court to waive any fees & grant any reliefs Court sees needed speedily & reserved Refs. listed on Exhibits pages below, which Prose served a copy already & W.H. Davidson Firm also.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 9th day of January, 2018

August B. Kreis, III, #365998  
Signature of Plaintiff

\* Dear Clerk Chandler, Kitching, Shearouse, Wilson, Davidson,  
Prose P. R. M. Nider, & I al

Please file my Mandamus of 7 pgs. & give it a number & place before a Judge, thanks, & 2pg. Indigent form (AO 240) & (knowl. to hearing 1pg.)

Respectfully, A. B. Kreis, III

# The Supreme Court of South Carolina

(*got 1-9-18*  
*1:1 pm*)

The State, Respondent,

v.

August Byron Kreis, III, Petitioner.

Appellate Case No. 2017-002589

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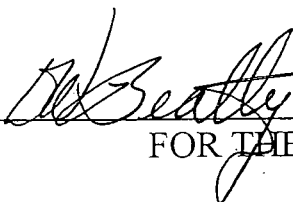
## ORDER

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The appeal in this case is pending before the South Carolina Court of Appeals.<sup>1</sup> By order dated December 12, 2017, the Court of Appeals denied petitioner's request to relieve appointed counsel and appoint new counsel.

Petitioner has now filed a motion asking this Court to review this ruling by the Court of Appeals. The motion is denied. This is without prejudice to petitioner's ability to seek review in the manner specified by Rule 242 of the South Carolina Appellate Court Rules once the Court of Appeals has issued a final decision resolving the appeal.

*he is a def in my lawsuit  
re: a summons*

  
\_\_\_\_\_  
FOR THE COURT C.J.

Columbia, South Carolina  
January 5, 2018

cc: Robert Michael Dudek, Esquire  
Alan McCrory Wilson, Esquire  
Vann Henry Gunter, Jr., Esquire  
Samuel R. Hubbard, III, Esquire  
The Honorable Jenny Abbott Kitchings

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<sup>1</sup> Before the Court of Appeals, the Appellate Court Case Number is 2015-002340.

*Exhibits*  
*5-7*

The Superior Court of South Carolina.

August B. Kreis, III, ProSe

Petitioner,

- VS -

State - Alan M. Wilson

Respondant;

Appellate case No: 2015-002340  
(An Emergency Appeal to remove Nuder)

1. ProSe seek's Appeal of Clerk V.C. Allen's deputy, order of (Dec. 12, 17) denying defendant R. M. Nuder - in law suits 17-CP-40-1181 + 17-CP-28-131 + 3:11-646-7 3:16-3731-JFA + 3:17-344-TLW-PJG, who refuses to remove himself or his office nor will Allen - Clerk allow the full Court to give a ruling on the Mandamus to remove him or his office + appoint new counsel, which is mandatory by conflict exists.

See; Cuyler, 446 U.S. 335, 350 (1980) We hold ProSe can demonstrate a 6th Amend. Violation, by showing that his counsel was actively representing conflicting interests or the appearance of it.

See; Holloway, 435 U.S. 475, 484-85 (1978) Failure of Court to inquire into conflict of interest, violated right to effective assistance of counsel, because Court has duty to avoid potential conflicts) see Appeal No. #21 Arguments why.

"Conclusion"

2. Court grant Emergency Appeal + Order R. M. Nuder + his whole office to recuse themselves by they are defendants in his appeal, also + his suits. ProSe prays Court will enforce mandatory removal.

Dated: 12-15-17

Respectfully Submitted,  
August B. Kreis, III, #365998

"Certificate of Services"

3. ProSe certifies he served Clerk J. A. Kitchings at S.C. Ct. of Appeals P.O. Box 11629, Colo, SC 29211, + A.M. Wilson for V. H. Gunter, Jr. at P.O. Box 11549, Colo, SC 29211, one copy of Appeal of Clerk Allen (Dec. 12, 17) refusal to remove Nuder off Appeal of pgs. 8- (Dec. 19, 17) by Inter-Agency mail, by Ms. Merchant - mail Dir. + Nuder to under penalty of perjury as true by (18 U.S.C. 1621-1622-1623-1746) from address below

Respectfully Submitted,  
August B. Kreis, III, #365998

Dated: 12-15-17

Perry Corr. Inst. A14-193A / 430 Dallas Rd. | Palyer, South Carolina 29669-9363

# The South Carolina Court of Appeals

The State, Respondent,

(set Dec 15, 17)

v.

August Byron Kreis, III, Appellant.

Appellate Case No. 2015-002340

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## ORDER

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Appellant has filed a motion asking this court to relieve his appointed counsel and the Office of Appellate Defense and appoint new counsel. Upon review by the Court, the appellant's motion is denied. Accordingly, this court declines to act on Appellant's remaining *pro se* requests. See *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, 397 S.E.2d 907 (1989).

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

cc:

August Byron Kreis, III, 00365998

Alan McCrory Wilson, Esquire

Robert Michael Dudek, Esquire

Vann Henry Gunter, Jr., Esquire ?

Samuel R. Hubbard, III, Esquire .

FILED

December 12, 2017

Exhibits  
7-7

# United States District Court

DISTRICT OF South Carolina

AUGUST B. KREIS, III #365998

Pro Se 504/ADA

-VS-

ROBERT M. OudeK et al

MOTION TO PROCEED WITHOUT  
PREPAYMENT OF FEES AND AFFIDAVIT (aka  
Motion to Proceed *In Forma Pauperis*)

CASE NUMBER: C/A No. \_\_\_\_\_

I, \_\_\_\_\_ declare that I am the (check appropriate box)

petitioner/plaintiff/movant  other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC. §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated?  Yes  No (If "No" go to Part 2)

If "Yes" state the place of your incarceration \_\_\_\_\_

Are you employed at the institution? NO Do you receive any payment from the institution? NA

2. Are you currently employed?  Yes  No

a. If the answer is "Yes" state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 (twelve) months have you received any money from any of the following sources?

a. Business, profession or other self-employment  Yes  No

b. Rent payments, interest or dividends  Yes  No

c. Pensions, annuities or life insurance payments  Yes  No

d. Disability or workers compensation payments  Yes  No

e. Gifts or inheritances  Yes  No

f. Any other sources  Yes  No

If the answer to any of the above is "Yes" describe each source of money and state the amount received and what you expect you will continue to receive.

NA.

I OWE SCDL-STATE NET \$ 500.00 ?

(F-318-AR)

AO 240

4. Do you have any cash or checking or savings accounts?  Yes  No

If "Yes" state the total amount. NA

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or other-valuable property?  Yes  No

If "yes," describe the property and state its value.

NA

6. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support.

NA

I declare under penalty of perjury (see 18 U.S.C. § 1623) that the above information is true and correct.

Jan. 9, 2018  
DATE

August B. Kreis, III  
SIGNATURE OF APPLICANT

Perry Corr. Inst. ALU-193A 430 Oaklawn Rd. Pelzer SC 29669-9363