

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Pickens County

Perry H. Gravely, Circuit Court Judge

ORIGINAL

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FEB 20 2018

SC Court of Appeals
RESPONDENT,

THE STATE,

V.

DAVID SCOTT BAGWELL,

APPELLANT

APPELLANT CASE NO. 2017-001844

MOTION TO APPOINT COUNSEL

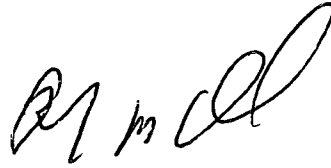
The South Carolina Commission on Indigent Defense, Division of Appellate Defense, represents Appellant in this appeal. Pursuant to the 2018 Appellate Practice Project, conducted with the South Carolina Bar, the Division of Appellate Defense moves to have James Falk appointed as lead counsel for Appellant. Chief Appellate Defender Robert M. Dudek will remain as co-counsel. The terms of participation in the Appellate Practice Project require that the appointment be made under the following conditions:

- The appointed attorney will serve pro-bono. No travel, research, printing or other costs will be reimbursed by the Commission without the prior written approval of Hugh Ryan, III, Herverly Young, or Robert M. Dudek.
- The appointed attorney will be responsible for preparing the briefs and Record on Appeal and delivering them to the Appellate Division for printing and filing no later than one week before the due date. The initial brief, any initial reply brief, the Record on Appeal, and the final briefs must be "file ready" when delivered to the Appellate Division for printing (this includes a complete table of authorities, certificate of service, and designation of matter to be included in the Record on Appeal). The Record on Appeal must also be numbered and redacted. The cover page of each brief and the Record on Appeal must contain the names, addresses and phone numbers of the Appointed Attorney first, and of the Chief Appellate Defender second.
- The attorney assigned will be responsible for issue selection, writing the brief, and arguing the case before the South Carolina Court of Appeals if an oral

argument is scheduled. Appointed counsel also must decide whether to petition for rehearing, and for certiorari to the state Supreme Court if the appeal to the Court of Appeals is unsuccessful. The attorney assigned may consult with the Chief Appellate Defender on each of these matters but is primarily responsible for the ultimate decision on each matter.

- The appointment will remain in effect until any petition for rehearing is ruled upon by the Court of Appeals. Any decision to seek discretionary review from the Supreme Court can be made in conjunction with the Chief Appellate Defender. However, representation will remain on a pro bono basis.
- In the event of a post-conviction relief case alleging ineffective assistance of appellate counsel, at the request of the State or the applicant, the appointed attorney must make their files available as required by the rules of court, and attend any post-conviction hearing scheduled to resolve the claim.

Respondent consents to this motion.

A handwritten signature in black ink, appearing to read 'R M Dudek', written in a cursive style.

Robert M. Dudek

This 20th day of February, 2018

cc: James Falk, Esquire
David Scott Bagwell
J. Benjamin Aplin, Esquire

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ORDER

The motion of the Division of Appellate Defense to appoint James Falk as counsel for the purpose of preparing the briefs and record and arguing the case before this court, if requested, in accordance with the conditions set forth in the motion is granted.

The due date for Appellant's initial brief is March 20, 2018. That deadline will not be extended except under extraordinary circumstances.

JAMES E. LOCKEMY, CHIEF JUDGE

By _____
CLERK

February 20, 2018

cc: James Falk, Esquire
David Bagwell #373733

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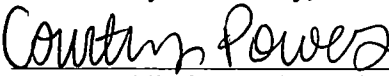
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Motion to Appoint Counsel in the above referenced case has been served on J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, a copy of the Motion to Appoint Counsel has been served on James Falk, Esquire, at Post Office Box 1058, Charleston, SC 29402, and a copy of the Motion to Appoint Counsel has been served on David Scott Bagwell, #373733, at Lee Correctional Institution, 990 Wisacky Highway, Bishopville, SC 29010, this 20th day of February, 2018.



Robert M. Dudek
Chief Appellate Defender

SUBSCRIBED AND SWORN TO before me
this 20th day of February, 2018.

 (L.S)
Notary Public for South Carolina
My Commission Expires: May 2, 2027.