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S.C. SUPREME COURT

State of South Carolina  
The Circuit Court of the Ninth Judicial Circuit

Kristi Lea Harrington  
Judge

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April 25, 2012

To: The Honorable Daniel E. Shearouse  
The Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, SC 29211

Re: Kenneth Harry Justus v. State of South Carolina (2011-CP-18-1933)  
Capital Post-Conviction Relief Status

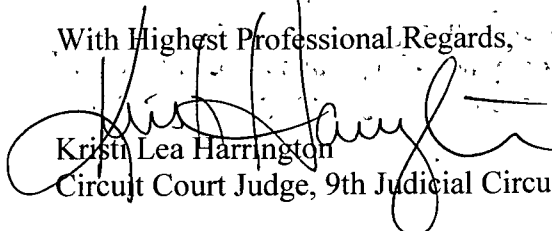
Dear Mr. Shearouse:

Pursuant to an Order of the Supreme Court dated February 24, 2012, I have been assigned to preside over the capital Post-Conviction Relief action filed by Kenneth Harry Justice. Consistent with the deadlines in the Order, Jeffery Bloom and L. Lesesne Hendricks, Jr. were appointed as counsel for Mr. Justus by order dated March 26, 2012. Furthermore, a Scheduling Order was issued on April 24, 2012, setting the date for the hearing on the merits to begin March 18, 2013. My office has contacted Motte Talley to request that the hearing be set for the aforementioned date in Dorchester County.

Based on the procedural history of this case, I believe good cause has been shown by Applicant's counsel to justify a continuance, as set forth in S.C. Code Ann. § 17-27-160. Although Mr. Justus filed his Application for Post-Conviction Relief while his direct appeal was pending on October 4, 2011, and the State filed its Return on November 16, 2011, Applicant's counsel has informed the Court that they have just begun to review transcripts, have only met with Mr. Justus on one occasion, and are in the process of determining what issues are relevant and meritorious. Thus, they have requested additional time to ensure they are able to completely investigate and prepare an Amended Application and for the hearing on the merits.

Enclosed please find a copy of the Order Appointing Counsel and the Scheduling Order for the Court's records. Please do not hesitate to contact me with any questions or concerns.

With Highest Professional Regards,

  
Kristi Lea Harrington  
Circuit Court Judge, 9th Judicial Circuit

cc: South Carolina Court Administration  
[Enclosures]

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )  
 )  
KENNETH HARRY JUSTUS )  
 )  
SCDC #6029 )  
 )  
APPLICANT )  
 )  
VS. )  
 )  
WILLIAM R. BYARS, JR. )  
 )  
COMMISSIONER, S.C. DEPT. OF )  
 )  
CORRECTIONS, and THE STATE )  
 )  
OF SOUTH CAROLINA, )  
 )  
RESPONDENTS )

IN THE COURT OF COMMON PLEAS  
FOR THE FIRST JUDICIAL CIRCUIT  
Case No. 2011-CP-18-1933

ORDER OF APPOINTMENT  
OF COUNSEL IN A  
CAPITAL-PCR CASE

This matter came before the Court on March 20, 2012, for a hearing to appoint counsel for Kenneth Justus, the Applicant (hereinafter, "Applicant"), in this capital post-conviction relief (hereinafter, "PCR") matter. The undersigned Circuit Court Judge is assigned to this case by the S.C. Supreme Court and has statewide jurisdiction of this matter. This hearing was scheduled by this Court, at the Charleston County Courthouse, for the purpose of appointing counsel for the Applicant in this capital-PCR. The State was present and represented by Assistant Attorney General Anthony Mabry. The Applicant was present, as was attorney Jeffrey P. Bloom.

The Court had an opportunity to question the Applicant, and he stated that he does request the Court to appoint counsel, and he desires to proceed with his PCR case. The Court made inquiry into the Applicant's indigence, and determined that the Applicant is in fact indigent and as such qualifies for the appointment of counsel.

The Court finds that attorney Bloom is competent and qualified to serve as lead counsel in this capital-PCR. Attorney Bloom has previously been counsel in a number of capital-PCR cases, as well as being certified by the S.C. Supreme Court to be lead

*Handwritten signature and date:*  
2/20/12

counsel in the trial of a capital case. Additionally, attorney Bloom – although he maintains his main office in Columbia, S.C. – is a resident of and member of the Calhoun County Bar and regularly practices in the First Circuit so he qualifies as local counsel in this matter.

Based upon good faith representations by attorney Bloom that a substantial portion of any mitigation investigation may likely occur in and around Oconee County because the Applicant is from that area, the Court accepts attorney Bloom's suggestion to appoint an attorney from the upstate area to serve as co-counsel. Thus, the Court appoints as co-counsel, attorney L. Lesesne Hendricks, Jr., who has an active civil and criminal litigation practice in Pickens and Oconee Counties.

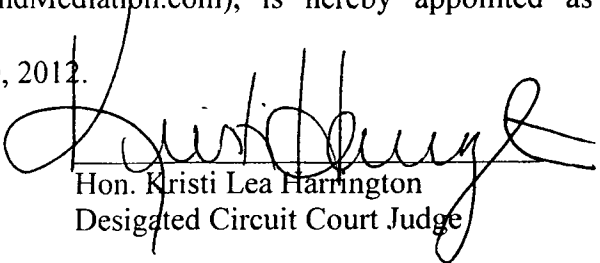
This Order is issued pursuant to S.C. Code Ann. §17-27-160; *See also* S.C. Code Ann. §16-3-26(B).

IT IS THEREFORE ORDERED:

1. That attorney Jeffrey Bloom, of 1911 Pickens Street, Columbia, S.C., 29201 (Tel. 803-256-7001; Fax 803-256-7002; E-mail: JPBloom803@aol.com), is hereby appointed as lead counsel, effective March 20, 2012.
2. That attorney L. Lesesne Hendricks, Jr., of 101-A North East Main Street, Easley, S.C. 29640 (Tele. 864-859-7160; Fax 864-859-5399; E-mail: llhendricks@CarolinaLawandMediation.com), is hereby appointed as co-counsel, effective March 20, 2012.

AND IT IS SO ORDERED.

Dated, March 26, 2012  
Charleston, S.C.

  
Hon. Kristi Lea Harrington  
Designated Circuit Court Judge

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )  
 )  
KENNETH JUSTUS )  
SCDC #6029 )  
APPLICANT )  
 )  
VS. )  
 )  
WILLIAM R. BYARS, JR. )  
COMMISSIONER, S.C. DEPT. OF )  
CORRECTIONS, and THE STATE )  
OF SOUTH CAROLINA, )  
RESPONDENTS )

IN THE COURT OF COMMON PLEAS  
FOR THE FIRST JUDICIAL CIRCUIT  
Case No. 11-CP-18-1933

SCHEDULING ORDER

This matter comes before me for the purpose of issuing a Scheduling Order in this capital-PCR case. The State is represented by Assistant Attorney General J. Anthony Mabry. The Applicant, Kenneth Justus (hereinafter, "Applicant"), is represented by attorneys Jeffrey P. Bloom and L. Lesesne Hendricks.

The incident arose on July 26, 2005. On December 11, 2008, the Applicant entered a guilty plea in the Dorchester County General Sessions Court. On December 15 through 16, 2008, the trial court held a sentencing hearing. On December 23, 2008, the trial court sentenced the Applicant to death. Applicant's guilty plea and sentence were affirmed on direct appeal. *State v Justus*, 392 S.C. 416, 709 S.E.2d 668 (May 9, 2011), *cert. den.*, *Justus v. South Carolina*, 132 S.Ct. 1095 (Jan. 17, 2012). On October 4, 2011, Applicant filed an Application for Post-Conviction Relief (hereinafter, "Application"). On or about November 16, 2011, the State filed its Return to the Application (with an extension to file such Return as agreed to by Applicant's counsel at that time). On February 24, 2012, the S.C. Supreme Court assigned the undersigned Circuit Court Judge



jurisdiction of this case. On March 20, 2012, this Court held an appointment hearing at the Charleston County Courthouse, and appointed attorneys Bloom and Hendricks.

Based on representations from Applicant's counsel on their need to conduct a thorough, adequate, and effective investigation of Applicant's case, and preparation for an evidentiary hearing, this Court finds it reasonable and necessary for the effective representation of counsel for the Applicant to schedule the PCR evidentiary hearing date as set forth below and herein. *See generally. Sears v. Upton*, \_\_\_ U.S. \_\_\_, 130 S. Ct. 3259, 177 L. Ed. 2d 1025 (2010); *Rompilla v Beard*, 545 U.S. 374 (2005); *Wiggins v. Smith*, 539 U.S. 510 (2003); *Ard v. Catoe*, 372 S.C. 318; 642 S.E.2d 590 (2007), *Rehearing denied by Ard v. Catoe*, 2007 S.C. LEXIS 157 (S.C., Apr. 4, 2007), U.S. Sup. Ct. *cert. den.* by, Motion granted by *Ozmint v. Ard*, 2007 U.S. LEXIS 10840 (U.S., Oct. 1, 2007); *Nance v. Ozmint*, 367 S.C. 547, 626 S.E.2d 878 (2006), *rehearing denied*, 2006 S.C. LEXIS 85 (S.C., Mar. 8, 2006), *cert. denied, Ozmint v. Nance*, 549 U.S. 943, 127 S. Ct. 131, 166 L. Ed. 2d 253 (Oct. 2, 2006) (citing *Wiggins*); *Von Dohlen v. State*, 360 S.C. 598, 602 S.E.2d 738 (2004) (same).

Therefore, this Court finds it reasonable, necessary and appropriate to set this case for a PCR evidentiary hearing (hereinafter, "PCR hearing") on March 18, 2013, at the Dorchester County Courthouse. If Applicant's counsel determines it necessary to request a continuance, or any other matters which might delay this case as scheduled, then Applicant's counsel shall inform this Court, with notice to the State, no less than 45 (forty-five) days – by February 1, 2013 – prior to the scheduled PCR hearing so that the Court can timely consider such a motion, as well as any response from the State. Furthermore, an initial Amended Application shall be filed by Applicant's counsel not



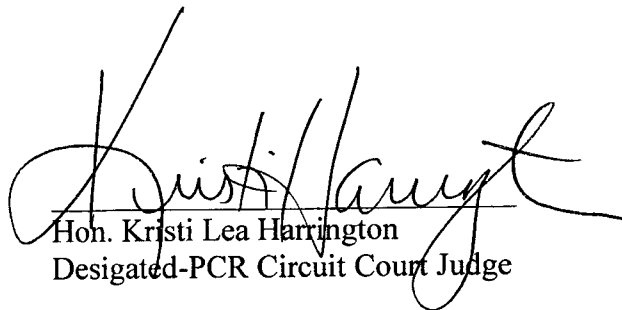
less than 60 (sixty) days – by January 17, 2013 – prior to the PCR hearing; and, any Final Amended Application shall be filed by Applicant’s counsel not less than 30 (thirty) days – by February 15, 2013 – before the PCR hearing. Any amendments to the Application after February 15, 2013, must be made with a motion to this Court under the appropriate rules and applicable law.

This Order is issued pursuant to *In Re Stays of Execution in Capital Cases*, 321 S.C. 544, 471 S.E.2d 140 (1996); S.C. Code §17-27-160 (S.C. Code Ann.); *See also* §16-3-26(B) (S.C. Code Ann.); and other law as set forth herein.

IT IS THEREFORE ORDERED:

1. That the PCR evidentiary hearing in this matter is set for March 18, 2013.
2. Any request or motion for a continuance shall be made by Applicant’s counsel no later than February 1, 2013.
3. An initial Amended Application shall be filed by Applicant’s counsel by January 17, 2013; and, any Final Amended Application shall be filed by Applicant’s counsel by February 15, 2013. Any amendments made to the Application after February 15, 2013, must be made with a motion to this Court under the appropriate rules and applicable law.
4. Any discovery issues shall be addressed by this Court as the need arises, and upon notice by the parties.
5. AND IT IS SO ORDERED.

Dated April 24, 2012  
Charleston, S.C.

  
Hon. Kristi Lea Harrington  
Designated-PCR Circuit Court Judge