

The Supreme Court of South Carolina

Terrell McCoy, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2017-000755

ORDER

This matter is before the Court by way of a notice of appeal from an order of the circuit court denying petitioner's application for post-conviction relief (PCR). Petitioner was represented by Melissa Gay; however, on March 21, 2018, Ms. Gay was suspended from the practice of law in this State until further order of this Court. Petitioner moves to relieve Ms. Gay as counsel and to proceed *pro se*.

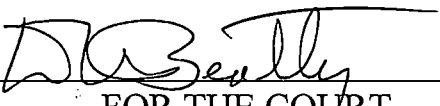
Petitioner may proceed *pro se* as long as he knowingly and intelligently waives his right to counsel. *See Faretta v. California*, 422 U.S. 806 (1975); *State v. Brewer*, 328 S.C. 117, 492 S.E.2d 97 (1997). While we are aware petitioner has experience proceeding *pro se*, we wish to ensure he is fully aware of the dangers and disadvantages of that course of action. We therefore take this opportunity to warn petitioner that if he chooses to proceed *pro se*, this Court will require full compliance with all applicable rules and procedures, and failure to comply with such rules and procedures could result in the dismissal of the matter and forfeiture of the right to discretionary review. Petitioner is certain to be unlearned in other aspects of the law as well. Representation by an attorney trained in the law would be highly beneficial, and we strongly encourage petitioner to continue with representation by counsel, which can be appointed if petitioner is indigent. If petitioner is indigent and seeks representation by appointed counsel, counsel outside the Commission on Indigent Defense, Division of Appellate Defense would be appointed based on the conflict of interest the Division of Appellate Defense would have in representing petitioner in this case.

After considering this information, petitioner shall, within twenty (20) days of the

date of this order, notify this Court whether he wishes to proceed *pro se*, whether he has retained substitute counsel, as he indicates he is seeking to do, or whether he wishes for this Court to appoint counsel contingent upon a determination of indigency. We direct Peyre Lumpkin, the Receiver appointed by this Court to protect the interests of Ms. Gay's clients, to forward petitioner's file to him and to notify this Court upon the file being forwarded.

If petitioner confirms that he wishes to proceed *pro se*, this Court will proceed with the petition for a writ of certiorari and appendix filed by Ms. Gay. Petitioner has now been served with a copy of the State's return to the petition. Petitioner shall have ten days from the date of notification of his desire to proceed *pro se* or the date his client file is forwarded by the Receiver, whichever is later, to file any reply to the return to the petition for a writ of certiorari. Rule 243(h), SCACR ("The petitioner shall have ten (10) days from the date of service of the return to file with the Clerk of the Supreme Court an original and six (6) copies of a reply and proof of service showing that the reply has been served. The total length of the reply shall not exceed fifteen (15) pages.").

If petitioner retains counsel or requests counsel be appointed, counsel shall have ten days from the date this Court is notified that counsel has been retained, or in the case of appointed counsel, ten days from the date of appointment, to file a reply to the return to the petition for a writ of certiorari.



FOR THE COURT C.J.

Columbia, South Carolina

April 16, 2018

cc:
Peyre Lumpkin, Esquire
Rasheeda Cleveland, Esquire
Terrell McCoy, #256070