

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Orangeburg County

Honorable Maite Murphy, Circuit Court Judge

RECEIVED

MAY 07 2018

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DERRICK LAMOUNT FURTICK,

APPELLANT

APPELLATE CASE NO 2017-001236

RETURN TO APPELLANT'S MOTION FOR SUBSTITUTION OF COUNSEL

Following a letter sent from this Court on April 25, 2018, counsel offers the below in response to the Motion for Substitution of Counsel:

1. Appellant was indicted for kidnapping and burglary in the first degree. He proceeded to trial on May 23, 2017 before the Honorable Maite Murphy and a jury in Orangeburg County. Breen Stevens and Peggy Hinds represented Appellant, and Ashley Cornwell appeared on behalf of the State. The jury found Appellant not guilty of the first-degree burglary charge and guilty of the kidnapping charge. Judge Murphy sentenced Appellant to the maximum sentence of thirty years.

2. A notice of appeal was filed with the South Carolina Court of Appeals. The undersigned filed an Initial Brief of Appellant on April 4, 2018. Respondent filed its Initial Brief on April 30, 2018.

3. On or about April 20, 2018, Appellant filed a Motion for Substitution of Counsel with this Court. Specifically, Appellant appears to request substitute counsel to brief a directed verdict issue arising from Appellant's trial: "It is Appellant's right to have requested appellate counsel to raise 'whether the trial court erred in denying the motion for the directed verdict.'" Mtn. 1-2.

4. In his motion, Appellant requested that the undersigned be removed from his case and that this Court "appoint new counsel." Mtn. 4.

5. The undersigned is unsure who this Court would appoint in his stead.

6. Counsel does not interpret Appellant's motion as one requesting approval to proceed pro se.

7. However, based on past experience, as a general rule this Office takes the position that the Court should not allow self-representation on direct appeal. Although the matter is certainly one within the Court's discretion, there exists no right to proceed pro se on appeal.¹

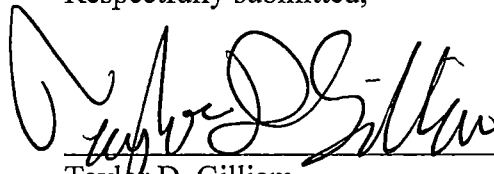
8. A pro se defendant who mishandles a trial only harms himself. A pro se defendant who mishandles a direct appeal, on the other hand, can damage the criminal justice system as a whole.

9. Counsel does not oppose the Motion to Substitute Counsel on this direct appeal, but leaves the matter to the sound discretion of this Court for the reasons above.

¹ State v. Roberts, 364 S.C. 583, 614 S.E.2d 626 (2005).

10. The undersigned appreciates this Court holding the time limits for perfecting the appeal in abeyance until the motion is decided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Taylor D. Gilliam", written over a horizontal line.

Taylor D. Gilliam
Appellate Defender

Attorney for Appellant

May 7, 2018

STATE OF SOUTH CAROLINA

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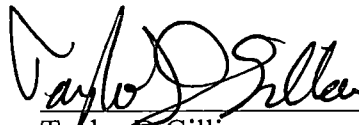
V.

DERRICK LAMOUNT FURTICK,

APPELLANT

CERTIFICATE OF SERVICE

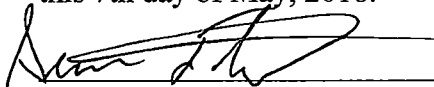
The undersigned hereby certifies that a true copy of the Return to Motion for Substitution of Counsel in the above referenced case has been served upon Mark Farthing, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and Derrick L. Furtick, # 340355, at Lieber Correctional Institution, P.O. Box 205, Ridgeville, SC 29472, this 7th day of May, 2018.



Taylor D Gilliam

ATTORNEY FOR RESPONDENT

SUBSCRIBED AND SWORN TO before me
this 7th day of May, 2018.

 (L.S)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.