

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

ORIGINAL

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Appeal from Horry County  
Steven H. John, Circuit Court Judge  
\_\_\_\_\_

RECEIVED  
JUN 05 2018  
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TOMMY LEE BENTON,

APPELLANT

APPELLATE CASE NO. 2017-002553  
\_\_\_\_\_

MOTION TO APPOINT COUNSEL  
\_\_\_\_\_

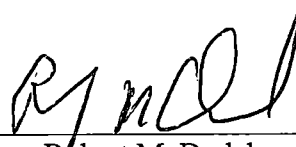
The South Carolina Commission on Indigent Defense, Division of Appellate Defense, represents Appellant in this appeal. Pursuant to the 2018 Appellate Practice Project, conducted with the South Carolina Bar, the Division of Appellate Defense moves to have Robert Walker Humphrey, II, appointed as lead 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, Hervery 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.
- Appellant respectfully requests the timelines be held in abeyance pending a ruling on this motion.

Respondent consents to this motion.



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Robert M. Dudek

This 5th day of June, 2018

cc: Robert Walker Humphrey, II, Esquire  
Tommy Lee Benton  
Melody J. Brown, Esquire