

Bernard McFadden, 199135
Kershaw Ct / OBA
4968 Goldmine Hwy.
Kershaw, S.C. 29067

12/16/2016

RECEIVED

DEC 28 2016

S.C. SUPREME COURT

Daniel E. Shearouse, Clerk
S.C. Supreme Court, P.O.
Box 11330, Columbia, S.C. 29811

RE: McFadden vs. State, Case # 2016-002319

Dear Mr. Shearouse:

Enclosed, please find McFadden's Affidavit of Indigency and Application For Counsel For Limited Purpose of Obtaining (PCR) Hearing Transcript for filing in your office.

Thanking you in advance,

Sincerely,
s/ [Signature]
Bernard McFadden

* Deposit for mailing also documented on SCOC form 10-14 dated 12/16/2016.

STATE OF SOUTH CAROLINA)
)
COUNTY OF Richland)
)

IN THE SUPREME COURT

AFFIDAVIT OF INDIGENCY
AND
APPLICATION FOR COUNSEL

Bernard McFadden, Petitioner,)
)
v.)
)
State of South Carolina, Respondent.)
)
Appellate Case No. 2016-002319)
_____)

RECEIVED

DEC 28 2016

S.C. SUPREME COURT

NAME OF APPLICANT	Bernard McFadden, SCOC # 199135
ADDRESS	Kershaw Correctional Institution, 4848 Goldmine Hwy., Kershaw, S.C. 29067
TELEPHONE NUMBER(S)	
DATE OF BIRTH	
SOCIAL SECURITY NO.	
NAMES OF CO-DEFENDANTS	None

1. Are you presently employed? Yes No
- a. If "yes", state the amount of your salary or wages per month, and give the name and address of your employer.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER

If "no", state the name and address of last employment, date of termination of employment, and amount of your salary or wages per month.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	TERMINATION DATE
Approx. \$750.00	SC Vocational Rehabilitation Center	3/2009

2. Include employment information for the spouse, if applicable.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER
	Single

P. 1 of 6

If the spouse is not currently employed, state the name and address of last employment, date of termination of employment, and amount of salary or wages per month.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	TERMINATION DATE
	Single	

3. List by name, age and relationship to you, any persons who are dependent upon you for support. Indicate beside each how much you contribute toward their support.

NAME	AGE	RELATIONSHIP	AMOUNT OF SUPPORT
None			-0-
			-0-
			-0-
			-0-
			-0-

4. Have you received within the past twelve months any money from any of the following sources?

- a. Business, profession or form of self-employment? Yes No
- b. Rent payments, interest or dividends? Yes No
- c. Pensions, annuities or life insurance payments? Yes No
- d. Gifts or inheritances? Yes No
- e. Any other sources? Yes No

If the answer to any of the above is "yes", describe each source of money and state the amount received from each during the past twelve months.

SOURCE OF MONEY	AMOUNT
None	-0-
	-0-
	-0-
	-0-

5. Do you own cash, or do you have any money in a checking or savings account?

Yes

No

If the answer is "yes", state the total amount of the cash owned. _____

6. Do you own any real estate, stocks, bonds, notes, or other valuable property (excluding ordinary household furnishings and clothing)?

Yes

No

If the answer is "yes", describe the property and state the appropriate value of the items owned.

7. What kind of motor vehicle do you own? None

Is it paid for?

Yes

No

P. 2 of 6

If not, what are the payments? -0-

8. How much do you owe (on liens, mortgages, other encumbrances or debts)?

I do solemnly swear that the account by me delivered into this court with my application for counsel does contain a true and full account of all my real and personal estate, debts, credits and effects whatsoever without exception, which I or any person in trust for me have or at the time of my possession had, or am, or was, in any respect, entitled to, in possession, remainder or reversion and that I have not at any time since charges were made against me or before, directly or indirectly sold, leased, assigned or otherwise disposed of or made over, in trust for myself or otherwise, other than is mentioned herein.

I understand the appointment of counsel creates a claim against the assets and estate of the person who is provided counsel or the parents or legal guardians of a juvenile in an amount equal to the cost of representation less the amount paid to appointed counsel, the public defender office and/or the Commission on Indigent Defense. I understand that such claim shall be filed in the office of the Clerk of Court in the county where I, my child, or ward are assigned counsel, but that the filing of a claim shall not constitute a lien against my real or personal property unless, in the discretion of the court, part of all of such claim is reduced to judgment by appropriate order of the court after serving me with at least thirty (30) days notice that judgment will be entered.

I am financially unable to employ counsel and request that counsel be assigned to represent me. I understand that I am entitled to at least thirty days' notice before a claim against me may be reduced to judgment, and I do hereby waive the right to such notice.

This 16th day of Dec., 2016

For limited purpose of obtaining PCR hearing transcript
Bernard McFadden

Subscribed and sworn to before me this
19th day of December, 2014
Cathie A. Amers (L.S.)
Notary Public for South Carolina
My Commission Expires September 2, 2018

The Supreme Court of South Carolina

Bernard McFadden, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2016-002319

Lower Court Case No. 2011CP4301952

ORDER

Petitioner has filed a *pro se* notice of appeal in this post-conviction relief (PCR) case. He alleges that he is indigent and has attempted to order the PCR hearing transcript without agreeing to pay the required fees.

If petitioner believes that he is indigent, he must complete the enclosed affidavit of indigency and submit the completed affidavit to the Division of Appellate Defense (Appellate Defense) of the Office of Indigent Defense by December 20, 2016. The address of Appellate Defense is P.O. Box 11589, Columbia, SC 29211.

If Appellate Defense determines that petitioner is indigent, it will order any necessary transcripts and pay any necessary fees for the transcript(s). If it determines that petitioner is not indigent, petitioner shall order any necessary transcripts in the manner specified by Rules 243(b) and 207 of the South Carolina Appellate Court Rules within fifteen (15) days of that decision by Appellate Defense.

While petitioner was apparently allowed to proceed *pro se* before the circuit court, he is advised that he will not be allowed to continue to proceed *pro se* before this Court without the permission of this Court.¹ Further, this Court will not consider

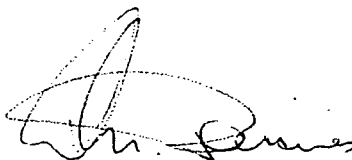
¹ *Cf. State v. Roberts*, 364 S.C. 583, 614 S.E.2d 626 (2005) (no federal or state constitutional right to appear *pro se* in a criminal appeal; instead, proceeding *pro se* in appellate proceeding rests in the discretion of the appellate court).

such a request until after any necessary transcript(s) has been delivered by the court reporter(s).

Once the transcript(s) has been delivered, petitioner may file a motion seeking the permission of this Court to represent himself in this case. This Court strongly encourages petitioner to proceed with counsel provided by Appellate Defense if he is indigent, or to hire counsel, if he is not indigent.

If petitioner is allowed to represent himself in this matter, he will be expected to fully comply with all of the applicable provisions of the South Carolina Appellate Court Rules. Further, as a non-lawyer, petitioner may not have the skill, knowledge or training necessary to adequately represent himself, and having a lawyer trained in the law would be extremely beneficial.

If after the transcript(s) is delivered, petitioner decides to make a motion seeking permission of this Court to proceed without counsel in this matter, the motion seeking that relief will need to indicate that petitioner understands the dangers and disadvantages of proceeding *pro se* which have been outlined in this order and, that despite being warned of these dangers and disadvantages, petitioner desires to proceed without counsel in this matter.



C.J.

FOR THE COURT

Columbia, South Carolina
December 9, 2016

cc: Julie Amanda Coleman, Esquire
Mr. Bernard McFadden, #199135 (with affidavit of indigency)

P. 5 of 6

RECEIVED

DEC 28 2016

S.C. SUPREME COURT

Proof of Mailing

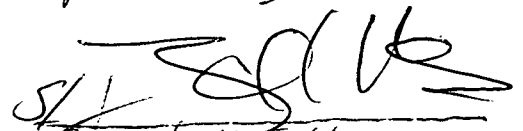
Case #: 2016-002319

The undersigned hereby certifies that a true copy of the attached matter has been mailed to the persons listed below by depositing a properly - addressed - stamped envelope in the U.S. Mail this 16th day of December 2016; such matter being: Affidavit of Indigency And Application For Counsel For Limited Purpose of Obtaining PCR Hearing Transcript With 10 Photos And Relevant Sections of Trial Transcript to Attorney Paavola:

- 1) Julie Amanda Coleman, Assist. S.C. Attorney General, P.O. Box 11549, Columbia, South Carolina 29211; (10 Photos And Transcripts Excluded.)
- 2) Emily C. Paavola, Attorney Death Penalty Resource + Defense Center, P.O. Box 11311 Columbia, S.C. 29211; (10 Photos And Transcript Enclosed.)

And 3) Daniel E. Shearouse, Clerk S.C. Supreme Court, P.O. Box 11330, Columbia, S.C. 29211 (10 Photos And Transcript Excluded.)

Sworn And Subscribed Before Me This 19th day of December 2016
Christine A. Corrocer
Notary Public for South Carolina


Bernard McFadden 199135
Petitioner, pro se

My Commission Expires: _____

My Commission Expires December 28, 2016

P 6 of 6

Bernard McFadden, 199135
Kershaw Ct / 0032
4848 Goldmine Hwy.
Kershaw, S.C. 29067

RECEIVED

DEC 28 2016

S.C. SUPREME COURT

Daniel Shearouse, Clerk
S.C. Supreme Court, P.O. Box
11330, Columbia, S.C. 29244

McFadden 199135
LEGAL

RECEIVED
U.S. DEPARTMENT OF JUSTICE
MAIL ROOM

DEC 20 2016

RECEIVED

THE JUDGE
CENTRAL
THE DEPARTMENT OF
FOR THE