

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

Roger E. Henderson, Presiding Judge

Appellate Case No.: 2018-002127
Lower Court Case No.: 2017-CP-46-2196

RECEIVED
MAR 19 2019
S.C. SUPREME COURT

KYLER BRAKEFIELD, #370366,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

MOTION TO BE RELIEVED AS COUNSEL

NOW COMES undersigned counsel for the Petitioner in the above-captioned action hereby requesting that this Court relieve him as counsel. In support of this motion, undersigned counsel would show this Honorable Court the following:

This matter is an appeal from the denial of an Application for Post-Conviction Relief. In July 2017, undersigned counsel was retained by the Petitioner's family to represent the Petitioner in his PCR action, which proceeded to a hearing on April 16, 2018. Undersigned counsel was not hired at that time to represent the Petitioner on any appeal taken from the PCR, and undersigned counsel's fee agreement explicitly provided:

SAID REPRESENTATION SPECIFICALLY EXCLUDES REPRESENTATION ON ANY SUBSEQUENT APPEAL OR COURT ACTION, INCLUDING AN APPEAL TO THE SOUTH CAROLINA COURT OF APPEALS OR THE SUPREME COURT OF SOUTH CAROLINA.

Following notification of Judge Henderson's intended ruling on the PCR application, undersigned counsel met with the Petitioner at his institution on May 25, 2018. At that time, the Petitioner indicated that he intended to proceed forward with an appeal and that he wanted undersigned counsel to represent him on that action. After undersigned counsel filed the notice of appeal on the Petitioner's behalf, undersigned counsel met with the Petitioner again at his institution on December 21, 2018. During that meeting, the Petitioner again informed counsel of his intent to continue forward with his appeal. Undersigned counsel, however, was never paid the retainer fee to proceed forward with the appeal.

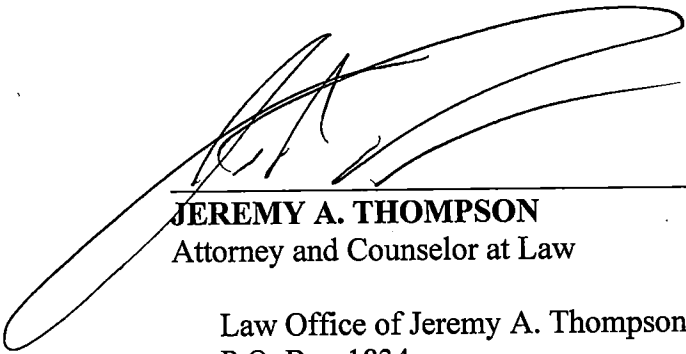
Several weeks later, undersigned counsel was informed by the Petitioner's father that the Petitioner did not intend to proceed forward with his appeal. Undersigned counsel attempted to meet with the Petitioner at his institution on February 21, 2019, to discuss the matter; however, counsel was informed by the prison staff that the Petitioner had refused the visit.

On February 25, 2019, undersigned counsel sent a letter to the Petitioner requesting that he inform counsel as to his preferred approach to this appeal. Undersigned counsel provided the Petitioner with an affidavit to withdraw the appeal as well as an affidavit of indigency in the event the Petitioner wanted to proceed forward with the appeal with appointed instead of retained counsel. Undersigned counsel further notified the Petitioner that if he did not make a decision by today's date, that counsel would move to be relieved as counsel in this appeal. As of the date of this motion, undersigned counsel has received no further communication from the Petitioner.

Undersigned counsel's fee remains unpaid, undersigned counsel was not retained to handle this appeal, and the Petitioner has continuously failed to take action with regard to representation on this appeal. Given these facts, undersigned counsel respectfully requests that this Court relieve him as counsel for the Petitioner in this appeal. Inasmuch as this motion is also being filed on the date that the petition for writ of certiorari and appendix were due to be filed, undersigned counsel also respectfully requests that this Court hold the time limits for filing these documents in abeyance while this Court considers this motion.

WHEREFORE, having set forth his grounds, undersigned counsel respectfully requests that this Court relieve him as counsel for the Petitioner in this action. Undersigned counsel also respectfully requests that this Court hold the time limits for filing the petition for writ of certiorari and appendix in abeyance while this Court considers this motion.

Respectfully submitted,



JEREMY A. THOMPSON
Attorney and Counselor at Law

Law Office of Jeremy A. Thompson, LLC
P.O. Box 1834
Irmo, SC 29063
803-779-2555
803-753-9732 FAX
jeremyatlaw@yahoo.com

ATTORNEY FOR PETITIONER.

This 15th day of March, 2019.



LAW OFFICE OF
JEREMY A. THOMPSON
LLC

March 15, 2019

RECEIVED

MAR 19 2019

S.C. SUPREME COURT

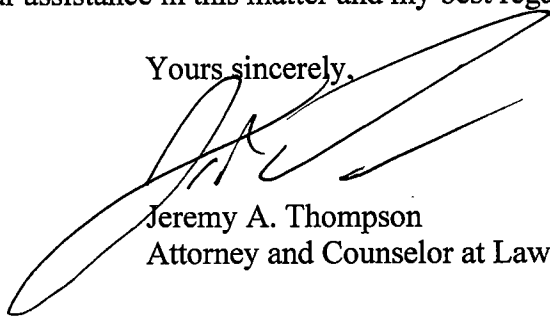
The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211-1330

RE: Kyler Brakefield, #370366 v. State of South Carolina, 2018-002127

Dear Mr. Shearouse:

Enclosed for filing please find the original and seven copies of my Motion to Be Relieved as Counsel. I would appreciate your filing the original and six copies of the motion, clocking the seventh copy, and returning the remaining copy to me in the enclosed self-addressed, stamped envelope. With my thanks for your assistance in this matter and my best regards, I am,

Yours sincerely,



Jeremy A. Thompson
Attorney and Counselor at Law

JAT/

Enclosures

cc: Kelly Oppenheimer, Assistant Attorney General (w/ enclosure)
Kyler Brakefield, #370366 (w/ enclosure)
Bobby Brakefield (w/ enclosure)

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

Roger E. Henderson, Presiding Judge

Appellate Case No.: 2018-002127
Lower Court Case No.: 2017-CP-46-2196

KYLER BRAKEFIELD, #370366,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

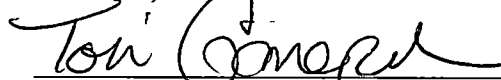
CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the Motion to Be Relieved as Counsel in the above-entitled case has been served upon opposing counsel, Kelly Oppenheimer, Assistant Attorney General, Office of the Attorney General, P.O. Box 11549, Columbia, SC 29211, by depositing in the U.S. mail with proper postage, this 15th day of March, 2019.



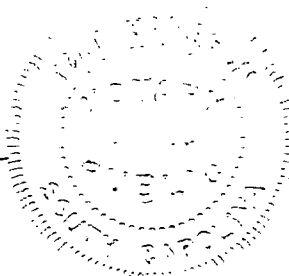
JEREMY A. THOMPSON
ATTORNEY FOR THE PETITIONER

SWORN TO BEFORE me this 15th day
of March, 2019.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: May 13, 2025



STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

MAR 19 2019

APPEAL FROM YORK COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Roger E. Henderson, Presiding Judge

Appellate Case No.: 2018-002127
Lower Court Case No.: 2017-CP-46-2196

KYLER BRAKEFIELD, #370366,

PETITIONER,

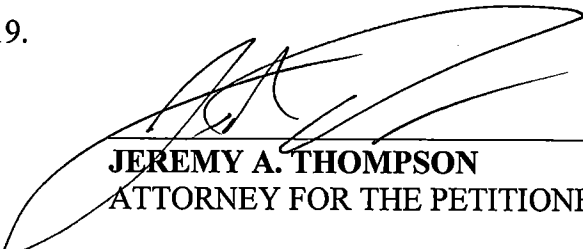
v.

STATE OF SOUTH CAROLINA,

RESPONDENT.


CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the Motion to Be Relieved as Counsel in the above-entitled case has been served upon the Petitioner, Kyler Brakefield, Lee Correctional Institution, 990 Wisacky Highway, Bishopville, SC 29010, by depositing in the U.S. mail with proper postage, this 15th day of March, 2019.



JEREMY A. THOMPSON
ATTORNEY FOR THE PETITIONER

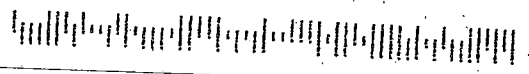
SWORN TO BEFORE me this 15th day
of March, 2019.



(L.S.)
Notary Public for South Carolina

My Commission Expires: May 13, 2025





The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211-1330