

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from Beaufort County

Honorable Maite Murphy, Circuit Court Judge  
\_\_\_\_\_

Lower Court Case No. 2014-CP-07-02994  
Appellate Case No. 2019-000529  
\_\_\_\_\_

RECEIVED  
APR 15 2019  
S.C. SUPREME COURT

Abdiyyah ben Alkebulanyahh, #6012  
a/k/a Tyree Roberts,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

\_\_\_\_\_  
MOTION FOR APPOINTMENT OF OUTSIDE COUNSEL  
\_\_\_\_\_

The undersigned respectfully moves this Court for the appointment of outside counsel for Petitioner, Abdiyyah ben Alkebulanyahh, in order to promote efficiency and conservation of resources. In support of this motion, the undersigned would show this Court:

- (1) Petitioner was convicted of murder and sentenced to death by a Beaufort County jury on October 22, 2003. This Court affirmed the conviction and sentence on direct appeal on July 24, 2006. *State v. Roberts*, 369 S.C. 580, 632 S.E.2d 871 (2006).
- (2) Petitioner timely sought post-conviction relief (“PCR”). Carl B. Grant and Glenn Waters were appointed as PCR counsel and PCR was denied on September 17, 2009. Petitioner timely filed a notice of appeal and this Court appointed John H. Blume to represent

Petitioner on appeal. During the course of the appellate representation, Mr. Blume discovered that initial PCR counsel (Grant and Waters) were not qualified pursuant to the statutory qualification requirements for capital PCR counsel set forth in S.C. Code § 17-27-160(B) and filed multiple pleadings<sup>1</sup> requesting a remedy for initial PCR counsel's lack of qualifications. Each of those request were denied by this Court.

- (3) Petitioner then raised his claims in federal habeas proceedings, represented by undersigned counsel along with Mr. Blume and Emily C. Paavola. During the course of the federal habeas proceedings, the court indicated it would find Petitioner's claims procedurally defaulted because they were not raised in his initial PCR application. Petitioner then filed a successive PCR application on November 24, 2014, seeking merits review of his claims in state court. Petitioner argued that under *Martinez v. Ryan*, 566 U.S. 1 (2012), and *Robertson*, which was then-pending before this Court, he should be entitled to litigate a successive application for post-conviction relief. The federal court stayed the habeas proceedings pending the resolution of Petitioner's 2014 PCR application.
- (4) The state circuit court appointed undersigned counsel and Ms. Paavola to represent Petitioner in his second PCR proceedings. Thus, undersigned counsel and Ms. Paavola have consistently represented Petitioner since 2013.
- (5) The above-discussed procedural history of this case results in an expansive and complex record. Undersigned counsel is intimately familiar with the entirety of the record and the procedural and substantive issues presented in Petitioner's 2014 PCR application. Additionally, undersigned counsel was responsible for preparing briefing in the court

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<sup>1</sup> Blume filed a Motion to Remand for Additional Post-Conviction Proceedings on July 21, 2010, a Petition for Writ of Certiorari on February 17, 2011, and a Petition for Writ of Habeas Corpus on February 18, 2011.

below. Appointment of undersigned counsel, therefore, would create judicial efficiencies because undersigned counsel would not require additional time to become familiar with the record and legal issues.

(6) Ms. Paavola, who is similarly familiar with the record in Petitioner's case, has agreed, if undersigned counsel is appointed as outside counsel, to assist with this case in a *pro bono* capacity.

(7) Finally, though he understands he does not have a right to counsel of his choice, Petitioner has indicated that he desires undersigned counsel to continue to represent him in this appeal.

Respectfully, for the above reasons, undersigned counsel requests that this Court appoint her to represent Petitioner on appeal. Furthermore, counsel request that time limits governing assembling the appendix and filing of a petition for writ of certiorari be tolled during the pendency of this motion.

Respectfully submitted,



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Columbia, SC 29201  
(803) 765-1044

April 11, 2019.

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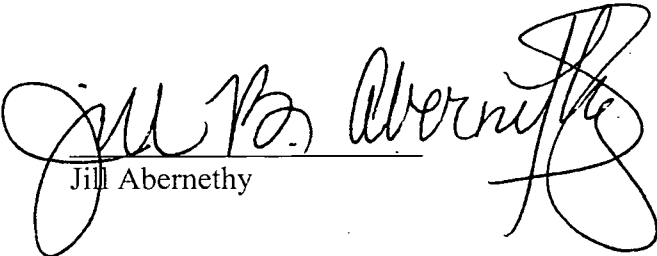
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CERTIFICATE OF SERVICE

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The undersigned hereby certifies that a copy of the Motion for Appointment of Outside Counsel was served by first class United States mail, postage prepaid, this 11 day of April, 2019, upon the following:

Melody Brown  
Joe Maye  
Assistant Attorney General  
P.O. Box 11549  
Columbia, SC 29211

  
Jill Abernethy