

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

ORIGINAL

Appeal from Charleston County

Honorable G. Thomas Cooper, Jr., Circuit Court Judge

RECEIVED

APR 22 2019

ALAN L. BURNS,

PETITIONER, S.C. SUPREME COURT

v.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2019-000380

RETURN TO THE MOTION FOR APPOINTMENT
OF OUTSIDE COUNSEL

Undersigned Counsel submits the following Return to the Motion for Appointment of Outside Counsel submitted by Petitioner, Alan L. Burns.

1. Petitioner Burns proceeded to a jury trial *pro se*, on various sex charges, with appointed stand-by counsel Christopher L. Murphy present, before the Honorable R. Markley Dennis Jr., on August 6, 2012. After he was convicted, Judge Dennis sentenced Petitioner to an aggregate sixty-year term of imprisonment.

2. Petitioner filed a timely notice of intent to appeal and was represented by Appellate Defender Susan B. Hackett on direct appeal. Following briefing, the South Carolina Court of Appeals affirmed Petitioner's convictions in State v. Alan L. Burns, 2016-UP-287 (filed June 15, 2016). Petitioner then attempted to file a petition for writ of certiorari on his own. By

order dated July 1, 2016, this Court dismissed Petitioner's case as not in compliance with the SCACR,

3. Petitioner thereafter filed an application for post-conviction relief.

4. On December 4, 2018, an evidentiary hearing was held before the Honorable G. Thomas Cooper, Jr. at the Charleston County Courthouse. Petitioner was present and appeared *pro se* with the assistance of appointed stand-by counsel Christopher L. Murphy. At the hearing, testimony was taken from appellate counsel Susan B. Hackett. Petitioner's post-conviction relief (PCR) application was denied.

5. Petitioner filed a notice of intent to appeal with this Court on March 11, 2019 after the denial of his PCR application by the Judge Cooper.

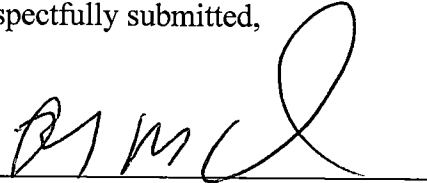
6. Petitioner now asserts there is a conflict of interest with Appellate Defense handling his PCR appeal since he was represented by Appellate Defender Susan B. Hackett on direct appeal.

7. Undersigned counsel does not think a conflict of interest exists with the Appellate Division representing petitioner in this case. The Court shows an allegation of ineffective assistance of counsel was made against Appellate Defender Susan B. Hackett, that she testified at the PCR hearing, and she was found to have provided effective appellate representation. Appellate Defender Hackett not be appointed to handle this PCR appeal if it remains within the Office of Appellate Defense. Further, undersigned counsel respectfully submits that petitioner should be warned of the dangers and disadvantages of self-representation if he desires to represent himself on appeal rather than have an Appellate Defender represent him. Regardless, since petitioner asserts a conflict of interest exists, and does not want the Appellate Division to

represent him on appeal, undersigned counsel leaves the motion to appoint outside counsel to the sound discretion of this Court.

WHEREFORE, undersigned counsel, not believing a conflict of interest exists in this case, leaves the matter of the motion for the appointment of outside counsel to the sound discretion of this Court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R M Dudek', written over a horizontal line.

Robert M. Dudek
Chief Appellate Defender

April 22, 2019

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Charleston County

Honorable G. Thomas Cooper, Jr., Circuit Court Judge

ALAN L. BURNS,

PETITIONER

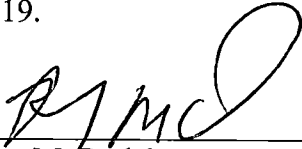
V.

STATE OF SOUTH CAROLINA,

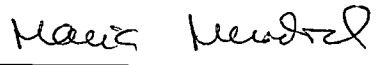
RESPONDENT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Return to the Motion for Appointment of Outside Counsel in the above referenced case has been served upon opposing counsel, Megan Harrigan Jameson, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and upon Christopher L. Murphy, Esquire, at 146 Fairchild Street, Suite 130, Charleston, SC 29492, and upon Alan L. Burns, #143218, at Broad River Correctional Institution, this 22nd day of April, 2019.


Robert M. Dudek
Chief Appellate Defender

SUBSCRIBED AND SWORN TO before me
this 22nd day of April 2019.



Notary Public for South Carolina
My Commission Expires: July 3, 2023. (L.S)



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

April 22, 2019

RECEIVED

APR 22 2019

S.C. SUPREME COURT

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

Re: Alan L. Burns v. State of South Carolina - Appellate Case No. 2019-000380

Dear Mr. Shearouse:

Enclosed please find an original and six copies of the Return to the Motion for Appointment of Outside Counsel, along with a Certificate of Service for the same. Please return a stamp clocked copy to me for our records.

Sincerely,

Robert M. Dudek
Chief Appellate Defender

RMD/ab
Enclosures

cc: Megan Harrigan Jameson, Esquire
Christopher L. Murphy, Esquire
Alan L. Burns, #143218