

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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JUL 24 2019

Appeal from Lexington County

S.C. SUPREME COURT

Honorable William P. Keesley, Circuit Court Judge

Lower Court Case No. 2010-CP-32-05076
Appellate Case No. 2019-001104

RON O'NEAL FINKLEA, 6025,

RESPONDENT,

V.

STATE OF SOUTH CAROLINA

PETITIONER.

MOTION FOR APPOINTMENT OF COUNSEL

The undersigned respectfully moves this Court for the re-appointment of PCR counsel in this action for Respondent, an indigent death sentenced inmate who was recently granted post-conviction relief. The motion is made in order to promote efficiency, conserve resources and, most of all, to secure continuity of counsel for Respondent. In support of this motion, the undersigned would show this Court:

- (1) Respondent was convicted of murder and sentenced to death by a Lexington County jury on September 6, 2007, 2003. This Court affirmed the conviction and sentence on direct appeal on July 26, 2010. *State v. Finklea*, 388 S.C. 379, 697 S.E.2d 543 (2010).
- (2) Respondent timely sought post-conviction relief ("PCR"). In 2010, the PCR Court appointed Diana L. Holt and Teresa L. Norris as PCR counsel. After the conclusion of the evidentiary hearing, Ms. Norris, who had secured employment with the Office of the

9th Circuit Public Defender's office prior to the evidentiary hearing, was relieved as counsel. Ms Holt has served as Mr. Finklea's counsel continuously since the PCR court appointed her. Thereafter, the PCR court appointed John H. Blume to replace Ms. Norris. The PCR Court ultimately granted relief in part, finding that Mr. Finklea had been deprived of his Sixth Amendment right to counsel at the penalty phase of his capital trial. The Petitioner/State filed a SCRCivP 59(e) motion, which was denied by written order dated June 10, 2019. The State filed a notice of appeal on July 8, 2019.

(3) Believing that it is more important for Mr. Finklea to be represented on appeal by counsel who are familiar with the case and with the client (Mr. Finklea is a person with long-standing mental health issues and who is terrified at the prospect of losing his long-time legal representatives, especially Ms. Holt¹), Mr. Blume and Ms. Holt, have agreed to continue as counsel for Mr. Finklea on a *pro bono* basis, in part because they view it as their ethical duty to continue in service to Mr. Finklea. Although the Office of Appellate Defense has said it would cover the associated printing and copying costs, that is completely unnecessary. Mr. Blume and Ms. Holt will serve Mr. Finklea in a pro bono capacity, and they will also bear the expenses related to coping and filing, etc., in this action.

(4) "South Carolina recognizes the right to appointed counsel in PCR cases. Rule 71. 1(d), SCRCvP; see also S.C. Code Ann. § 17-27-90; Odom v. State, 337 S.C. 256, 523 S.E.2d 753 (1999). Although an indigent litigant does not have the right to the initial appointment of counsel of his choice, he has a right to continuity of counsel once he has formed an attorney-client relationship. As one court noted:

A superficial response is that the defendant does not pay his [lawyer's] fee, and hence has no ground to complain as long as

1. If the Court would like an affidavit from Mr. Finklea averring this information, undersigned will provide one.

the attorney currently handling his case is competent. But the attorney-client relationship is not that elementary: it involves not just the causal assistance of a member of the bar, but an intimate process of consultation and planning which culminates in a state of trust and confidence between the client and his attorney. This is particularly essential, of course, when the attorney is defending the client's life or liberty. Furthermore, the relationship is independent of the source of compensation, for an attorneys responsibility is to the person he has undertaken to represent rather than to the individual or agency which pays for the service.

Smith v. Superior Court of Los Angeles County, 68 Cal. 2d 547, 561-62, 440 P.2d 65, 74

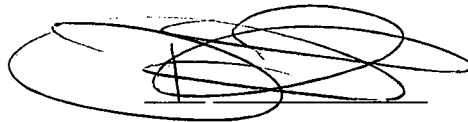
(1968). Motion to Appoint Outside Counsel, *Bryant v. State*, Appellate Case No.

2019-000610

(5) Respectfully, for the above reasons, undersigned counsel requests that this Court appoint

John Blume and Diana Holt to continued representation of Respondent.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Diana L. Holt", written over a horizontal line. The signature is somewhat stylized and overlaps the line.

John H. Blume
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July 22, 2019
Columbia, South Carolina

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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Lexington County

Honorable William P. Keesley

Lower Court Case No. 2010-CP-32-05076
Appellate Case No. 2019-000529

RON O'NEAL FINKLEA, 6025

RESPONDENT,

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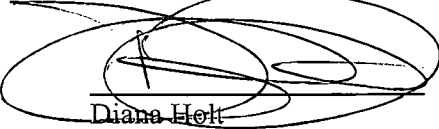
STATE OF SOUTH CAROLINA,

PETITIONER.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Motion for Appointment of Counsel was served by first class United States mail, postage prepaid, this 22nd day of July, 2019, upon the following:

Edgar Salter, III
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