

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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APPEAL FROM EDGEFIELD COUNTY
COURT OF GENERAL SESSIONS

S.C. Supreme Court

William P. Keesley, Chief Administrative Judge

Appellate case no #: 2014-001283;
lower case no # 2005-GS-19-00273-457

STATE OF SOUTH CAROLINA, RESPONDENT

VS

STEVEN LOUIS BARNES, PETITIONER

COMPLAINT IN SUPPORT OF THE PETITIONER PETITION
FOR THIS COURT TO USE ITS ORIGINAL JURISDICTION
IN THIS CASE

STEVEN LOUIS BARNES #124743
Aiken County Detention Center
435 Wire Rd.
Aiken SC.

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JURISDICTION

1). The petitioner base this court jurisdiction under South Carolina Appellate Court Rule 245(a) to hear the factual matter in this complaint for it to invoke its original jurisdiction.

RESPONDENTS INVOLVED IN THIS CASE

2). Respondent General session judge, William P. Kessley (hereafter General session judge).

3). Respondent 11th circuit solicitor, Donnie v Myers (hereafter the solicitor).

4). Respondent South Carolina Commission of Indigent Defense General Counsel, Hugh Ryan (hereafter General Counsel Ryan).

PETITIONER

5). Steven Lewis Barnes, petitioner, is the person who's seeking relief under this court original jurisdiction. The factual matters of this complaint are set forth below.

COMPLAINT FACTS 1) FAILURE OF THE GENERAL SESSION JUDGE TO USE IT JURISDICTION IN THE PETITIONER 42 USC § 1983 SUIT AGAINST GENERAL COUNSEL RYAN

b). The two attorneys, Chief attorney of the Capital Trial Division, Mr. William Mcquire (hereafter state-wide public defender and/or Mr Mcquire) and private attorney, Ms. Elizabeth Franklin-Best (hereafter Ms. Elizabeth) sought the General Session Judge to issue an appointment of counsel hearing for April 23, 14.

2). One hour before the hearing, state-wide public defender had informed the petitioner that his boss, General Counsel Ryan, was going to stand-up during the hearing to object to private counsel being appointed to the petitioner capital case because of financial reasons.

b). During the hearing, General Counsel Ryan addressed the court about private counsel, Ms. Elizabeth (or any other private counsel), should not be appointed to this case because of costs dealing with capital cases in appointing private counsels in capital cases, and that the sole purpose of the General Assembly making their office is because SL Code 16-3-26 authorizes two attorneys from the Capital Trial Division to be appointed to the petitioner case instead of private counsel.

3).

9). Before and during the appointment of counsel hearing, the petitioner specifically told his state-wide public defender to object to his boss, General Counsel Ryan, standing up in the petitioner capital case taking an adverse interest in private counsel being appointed to this case.

10). Despite the petitioner unsuccessful efforts in getting his state-wide public defender to object to his boss standing up in the petitioner case, the state-wide public defender failed to do so.

11). In the meantime of this, the petitioner argued, among other arguments, to the General session judge that the General Counsel standing up in the petitioner appointment of counsel hearing was not only contrary to SC code § 16-3-26 but also General Counsel is the boss of the state-wide public defender in which will constitute state action in his capital case.

12). The General session judge ordered at the hearing the parties interested to whether or not private counsel should be appointed to this case to file a brief within 14 days of the hearing date.

13). Petitioner timely filed his brief.

14). In it, the petitioner requested the general session judge to convert his state action argument in his brief into a 42 USC § 1983 suit.

15). In it, the petitioner requested the following reliefs:

- A). Appointment of counsel;
- B). To be able to amend or file a complaint;
- C). Prospective relief in the form of declaratory and injunctive relief in enjoining the general counsel Ryan from interfering erroneously in the petitioner capital case under SL Code § 16-3-26;
- D). and other reliefs.

16). The general session judge, on June 3, 14, issued an order adopting the solicitor grounds in it brief, in which the petitioner did not get a copy of it, for lack of jurisdiction to hear the petitioner appointment of counsel issues.

RELIEF REQUESTED IN THIS SECTION

17). The petitioner is requesting this court to order the general session judge to vacate or suspend it June 3, 14 order in order to give petitioner a chance to respond to it;

18). This court to order the General session Judge to allow petitioner to proceed with his 42 USC 1983 suit against General Counsel Ryan; and

19). Appointment of counsel and/or such other and further Reliefs this court seem just and proper.

CONSTITUTIONAL VIOLATIONS

20). Through the South Carolina state-wide procedures used, the General session Judge violated the petitioner property interest Right to a cause of action under both the state and Federal Constitutions of the procedural due process clause.

21). Through the state-wide procedures used, the General session Judge violated both the petitioner's fundamental Rights to petition the government and access to the court per not letting petitioner utilize the state procedures, 42 USC 1983 suit, to address his cause of action or state action in his capital case.

(Complaint Fact 2) FAIR AND IMPARTIAL TRIBUNAL
UNDER THE DUE PROCESS CLAUSE

22). Paragraphs 1-16 of Complaint Facts one are hereby repeated

b).

in Complaint Facts two.

23). On May 23, 14, the solicitor filed in the Edgefield Court Clerk Office his brief regarding the April 23, 14, appointment of counsel hearing.

24). The solicitor failed to serve petitioner, and upon information and belief other parties involved in this case, his brief.

25). As stated above, the General session judge issued an order on June 3, 14 adopting the solicitor brief that it lacked jurisdiction to hear the petitioner's appointment of counsel issue.

26). Timely within 10-days, the petitioner filed a letter with the Edgefield Clerk Office to the General session judge to vacate and suspend the June 3, 14, order for lack of jurisdiction in order to give the petitioner the right to respond to the solicitor brief because due process and South Carolina laws require this.

27). On June 13, 14, the General session judge sent the petitioner a letter that it was not going to vacate the June 3, 14 order for lack of jurisdiction.

RELIEF REQUESTED

28). Petitioner craves reference to paragraph 17-19 above regarding

the Relief Requested.

CONSTITUTIONAL VIOLATIONS

29). Through the South Carolina state-wide procedures used, the General Session Judge violated the petitioner due process rights to a fair and impartial tribunal under both state and Federal Constitutions & the procedural due process clause.

COMPLAINT FACTS 3 (GENERAL COUNSEL VIOLATION OF THE PETITIONER LIBERTY INTEREST RIGHT UNDER SC CODE § 16-3-26 CONCERNING THE APPOINTMENT OF TWO DEATH QUALIFIED ATTORNEYS

30). Paragraphs 1-17 and paragraphs 23-27 of Complaint Facts 1-2 are hereby repeated in Complaint Facts three.

31). As stated above, at the April 23, 14, appointment of counsel hearing, General Counsel had stated that in other capital cases he have been allowed by circuit court judges to stand up at capital defendant initial appointment of counsel hearing concerning findings in capital cases.

32). This too was emphasized in the general counsel brief that was ordered by the General Session Judge after the April 23, 14

appointment of counsel hearing.

33). Because of finding in capital case, the general counsel main position in capital cases are to get circuit court judges to interpret SL Code § 16-3-26 as allowing the appointment of two counsels from the capital trial Division in order to save costs.

34). SL Code 16-3-26 reads in pertinent parts:

"(B)(2) notwithstanding any other provision of law, the court shall order payment of all fees and cost from funds available to the office of Indigent Defense for the defense of indigent. Any attorney appointed shall be compensated at a rate not to exceed fifty dollars per hour for time expended in court. Compensation shall not exceed twenty-five thousand dollars and shall be paid from funds available to the office of Indigent Defense for the defense of indigent represented by the court appointed, private counsel.

"(C)(2) court-appointed counsel seeking payment for fees and expenses shall request these payments from the office of Indigent Defense within thirty days after the completion of the case. . .

"(D) payment in excess of the hourly rates and limit in subsection (B)(1) is authorized only if the court certifies, in a written order with specific finding of fact, that payment

In excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services provided were reasonably and necessarily incurred. Upon a finding that timely procurement of such services can not await prior authorization, the court may authorize the provision of the payment for such services *nunc pro tunc* -

"(1) After completion of the trial, the court shall conduct a hearing to review and validate the fees, costs, and other expenditures on behalf of the defendant?"

35) SL Code 16-3-26 mandatory language such as shall doesn't allow the General Counsel to either stand up in initial Capital Defendant appointment of counsel hearing or allow the General session, with or without the assistance of General Counsel, to appoint two Capital attorneys from the office of Indigent Defense for financial reasons.

RELIEF REQUESTED

36) Because the petitioner faces real and immediate danger of his liberty interest rights to one court appointed attorney and one private attorney under SL Code 16-3-26 being

in jeopardy, the petitioner request this court to grant the petitioner prospective relief in the form of Declaratory and injunctive relief because the General Counsel's imminent actions are unauthorized under SC Code § 16-3-26 in standing up in Capital defendants initial appointment of Counsel hearings concerning both appointing two Counsel from the Capital Trial Division and regarding funding in their cases; and so the same harm the petitioner faces from Circuit Court Judges, or the one assigned to the petitioner case, imminent actions in appointing, without or with the General Counsel suggestion, two Capital attorneys from the Capital Trial Division contrary to SC Code § 16-3-26. Because of this emergency, this court enjoining the said Government officials from their unauthorized interpretation of SC Code § 16-3-26 is needed in this case, so it can be unanimity in the circuit court judges interpretation of SC Code 16-3-26. Denying the petitioner petition for this court to utilize its original jurisdiction in this case will cause the petitioner irreparable harm because the petitioner life and liberty is at stake by the erroneous interpretation of SC Code § 16-3-26 by either Government officials named above.

CONSTITUTIONAL VIOLATIONS

37). Through the state-wide procedures used, SC Code 16-

11).

3-26 used by either the circuit judges and/or General Counsel violates the petitioner liberty interest procedural due process rights under both state and federal constitutions.

Complaint Facts 4) GOVERNMENT INTERFERENCE WITH PETITIONER SIX AMENDMENT RIGHT TO APPOINTED COUNSEL

38). paragraphs 1-17 and paragraph 23-27 and paragraphs and paragraphs 31-35 of Complaint Facts 1-3 are hereby repeated in Complaint Facts Four.

39). At the April 23, 14 appointment of Counsel hearing, the petitioner before the hearing was told by the state-wide public defender, Mr. McGuire that his boss, General Counsel Ryan was going to stand up and object to private counsel being appointed to the petitioner's case because of financial reasons.

40). When the hearing started, General session judge first asked the solicitor whether or not it was going to reseek the death penalty against the petitioner. The solicitor said yes to this.

41). The General session judge then asked petitioner whether he

was happy with the capital attorneys that he brought to the hearing with him. The petitioner said yes on this.

42). Then the General session Judge proceeded to ask both Capital Counsel whether they were death qualified and so on under sl. Code § 16-3-26

43). Both private counsel, Ms Elizabeth and state-wide public defender said yes to the General session Judge that they meet the qualifications under the statute in question.

44). Next, the General session Judge allowed the General Counsel to stand-up at the hearing concerning both funding in Capital cases and requesting that the Judge to appoint two attorneys from the Office of Capital Trial Division.

45). Both private attorney and petitioner objected to this.

46). Before and during the hearing, the petitioner requested the state-wide public defender to object to his boss, General Counsel Popen, standing up adverse to the petitioner interest in having one private counsel and one state-wide public defender according to sl. Code § 16-3-26

47). The state-wide public defender was missing in action on this

per failing to object when the petitioner to him to.

48). After this, the General session judge allowed the solicitor to speak regarding appointment of counsel to petitioner.

49). At almost the end of the hearing, the solicitor told the General session judge not to appoint counsel at all because petitioner got his case overturned wanting to represent himself.

50). Because of the multiple objections at the hearing, the General session judge ordered the parties to file a brief within 14 days on whether or not private counsel should be appointed to this case.

51). As stated above, on May 22, 14 the solicitor filed a brief to the General session judge without, upon information and belief, serving the other parties a copy of it in this case.

52). On June 3, 14 the General session judge issued an order, going off one of the grounds in the solicitor brief, that it lacked jurisdiction to hear the appointment of counsel issue.

RELIEF

53). For this case to allow the petitioner to pick one

private attorney and one public defender from the death qualified list that are maintained by the office of independent defense.

54). And such other and further relief this court seem just and proper.

CONSTITUTIONAL CLAIM

55). Through following a state-wide procedure, the government interference from the general session judge, the solicitor, and the general counsel had violated the petitioner sixth amendment right to counsel under the united states constitution.

56). Through following a state-wide procedure, the government interference from the general session judge, the solicitor, and the general counsel had violated the petitioner common law privilege of attorney client relationship in which is protected in the substantive due process clause.

Date: 7/2/14

~~STEVEN LAZUS BARNES~~
STEVEN LAZUS BARNES
#124742
Aiken County Detention Center
Aiken SC

VERIFICATION

I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Aiken County, in South Carolina.

[Handwritten Signature]
Signature

Date 7/2/14