

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**RECEIVED**

JAN 14 2021

APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas  
Hon. J. Derham Cole, Circuit Court Judge

S.C. SUPREME COURT

Case No. 2020-001418

John Garvin ..... Petitioner-Appellant,

v.

The State of South Carolina..... Respondent-Appellee.

AFFIDAVIT IN SUPPORT OF  
MOTION TO RELIEVE COUNSEL, PURSUANT  
TO RULE – 1.16(a)(3), RPC OF RULE – 407, SCACR

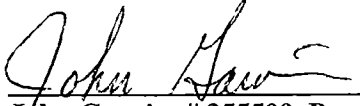
I, John Garvin, being first duly sworn, state:

1. I am the Appellant in the above-entitled action, proceeding as Pro-se, and moves this Court to terminate the representation of my appointed counsel, Robert M. Dudek, Chief Appellant Defender, and he is to be relieved of any further obligations in perfecting my Petition for Writ of Certiorari.
2. This affidavit is made in support of Appellant's motion to relieve counsel, made pursuant to Rule – 1.16(a)(3), RPC of Rule – 407, SCACR, for an Order granting Appellant's Motion to Relieve Counsel.
3. Appellant's appointed counsel, Robert M. Dudek, was appointed as counsel in this matter on December 17, 2020.
4. Appellant's appointed counsel has failed to make reasonable efforts to obtain Appellant's July 19, and July 31, 2019, PCR transcript to appeal Presiding Judge, J. Derham Cole's July 10, 2020, Order of Dismissal. Whereas, Appellant believes that Robert M. Dudek, is trying sabotage Appellant's Petition for Writ of Certiorari, like he did Appellant's direct Appeal.

5. Appellant does not want to be represented by appointed counsel, Robert M. Dudek, due to his prior involvement in Appellant's direct appeal in State v. John Garvin, Appellant Case No.: 2013-001209, as co-counsel on that case.
6. During Appellant's direct appeal, Miles E. Coleman, Esquire, was appointed as counsel for Appellant Garvin, by a motion that of the Division of Appellant Defense that was filed on September 20, 2013, for the purpose of preparing the briefs and record and arguing the case before the South Carolina Court of Appeals in accordance with the conditions set forth in Appellate Defense's motion. Whereas, Robert M. Dudek, Chief Appellant Defender, would remain on as co-counsel on Appellant Garvin's case for the Office of Appellate Defense. (See Exhibit – A and B).
7. On November 4, 2013, wrote Miles E. Coleman, Esq., to inquire about the issues that he planed to raise on Appellant's direct appeal. (See Exhibit – C). On November 7, 2013, Miles E. Coleman, Esq., responded by stating that he would raise three issues and went gave a summary to me about what was to be raised. (See Exhibit – D).
8. On November 20, 2013, Miles E. Coleman, Esquire, would file a motion to relieve himself as Counsel for Appellant's unwillingness and refusal to waive a potential conflict of interest arising from the fact that other attorneys at Miles E. Coleman's law firm of Nelson, Mullins, Riley and Scarborough, LLP., aids the South Carolina States Attorney General's Office by prosecuting criminal domestic violence matters. (See Exhibit – E).
9. LaNelle C. DuRant, Esq., would replace Miles E. Coleman, Esq., as Appellant's counsel for Appellant's direct appeal and Robert M. Dudek, would still remain on as co-counsel. (See Exhibit – F). LaNelle C. DuRant would file a brief that only raise two out of the three meritorious issues on Appellate's direct appeal that was objected to at trial, instead of raising all three arguably meritorious issues that Miles E. Coleman, Esq., stated that he was going to raise on Appellant's direct appeal. (See Exhibit – D).
10. LaNelle C. DuRant, Esq., was aware of the three meritorious issues that Miles E. Coleman, Esq., was going to raise on Appellant's direct appeal. Her failure to raise the court's error in not granting Appellant's Motion to Relieve Counsel and his objection to Counsel Robinson's representation of him at trial, was done deliberately under the directive of her supervisor, Robert M. Dudek, Chief Appellate Defender, for Appellant's unwillingness and refusal to waive a potential conflict of interest as stated above.
11. In the brief that LeNelle C. DuRant, presented to the Court of Appeals on Appellant's behalf, she would failed to fully set forth an arguments in the brief that she submitted to the Court of Appeals. (See Exhibit – G).
12. LeNelle C. DuRant, would fail to effectively raise in brief, the inadequacies of Appellant Garvin's Jackson-Denno hearing. In addition, to the admission of an involuntary confession that was redacted and was never mentioned in her brief. She would only devote three and half short paragraphs to each issue in the brief and did not give any useful analysis, insomuch as, she would only cite seven case laws for the two issues that she presented to the courts. Her argument was conclusory at best, the issues were argued in a conclusory fashion in her final brief. The issues were not stated with particularity. (See Exhibit – G).

13. LeNelle C. DuRant, would also failed to include in the record on appeal the redacted involuntary confession that was improperly and erroneously admitted at trial. Her brief merely cites a legal principle without analyzing the relationship between the facts of the case and the law cited. (See Exhibit – G, Final Brief of Appellant).
14. LeNelle C. DuRant, made no attempt, to analyze how Counsel Robinson’s Jackson-Denno objection were deficient in omitting the grounds for his objection. She does not identify any subject matter that Counsel Robinson could have explored and failed to explore. (See Exhibit – G).
15. And now Robert M. Dudek, is representing me on my Petition for Writ of Certiorari and has failed to request Appellant’s July 19, and July 31, 2019, PCR hearing transcript. Whereas, that hearing presents the issues raised in his PCR application and an Order that was entered denying Appellant’s PCR application and his Rule – 59(e) Motion for Reconsideration to Alter/Amend Judgment.
16. Appellant wants to exercise his right to terminate his appointed attorney is pursuant to the clear language of Rule – 1.16(a)(3), RPC of Rule – 407, SCACR, and waives his right to counsel, and wants to proceed as Pro-se, is pursuant to S.C. Code Ann. § 17-23-60 and his Sixth Amendment right to self-representation.
17. Appellant wants to represent himself and proceed as Pro-se on his Petition for Writ of Certiorari.
18. This motion is not made for delay and is being made in good faith.
19. As set forth for the above reasons, it is imperative that Appellant’s appointed counsel, Robert M. Dudek, be relieved as Appellant’s counsel and that Appellant be allowed to represent himself as Pro-se for his Petition for Writ of Certiorari, pursuant to *State v. Brewer*, 328 S.C. 117, 492 S.E.2d 97 (S.C., 1997)(citing *Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525 (1975).

**WHEREFORE**, Appellant’s Motion to Relieve Counsel is to be granted pursuant to Rule – 1.16(a)(3), RPC of Rule – 407, SCACR. Executed on this 8<sup>th</sup> day of January, 2021.

  
**John Garvin, # 355509, Pro-se.**  
**Lieber Correctional Institution**  
**136 Wilborn Avenue**  
**Ridgeville, S.C. 29472**

**RECEIVED**

**JAN 14 2021**

**S.C. SUPREME COURT**

