

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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May 05 2021

S.C. SUPREME COURT

Appeal from Greenville County Court of Common Pleas
The Honorable R. Lawton McIntosh, Circuit Court Judge

App. Case No. 2021-000296

State of South Carolina,.....Respondent,

v.

Jaquese Kavon Hyatt, # 00363113,.....Petitioner.

COUNSEL’S RETURN TO PETITIONER’S *PRO SE* FILING

Undersigned Counsel submits the following Return to Petitioner’s *pro se* filing entitled “Affidavit of Facts Giving Judicial Notice; Filing of a Termination Letter; Motion to Act *Pro Se*; Motion for an Extension of Time to Submit any Required Pleading and Motion to Motion Therefor [*sic*]”, dated April 4, 2021 and filed with this Court on April 28, 2021.

Petitioner expresses dismay in his filing with the decision to seek appellate review of the dismissal of his PCR application without first filing a Rule 59 motion with the Greenville County Court of Common Pleas. Petitioner has sought to terminate the representation with Undersigned Counsel’s office and proceed *pro se* in order to effectuate a specific litigation strategy made

apparent in his filings with this Court and in his subsequent filings with the Greenville County Court of Commons Pleas (2021CP2301199).

At all times during the representation of Petitioner, Counsel kept him informed of the developments with his case, as well as the options available to him, including: Counsel's receipt of the Order of Dismissal, the filing of the Notice of Appeal with this Court, his option to have an attorney with SCCID appointed to perfect his appeal, the ordering and receipt of the PCR hearing transcript, as well as the preparation stages of his petition for writ of certiorari. Petitioner was promptly sent copies of each filing as well. After receiving the Order of Dismissal in his case, Counsel discussed the filing of the Notice of Appeal with this Court in lieu of first filing a Rule 59 motion with both Petitioner and his mother on his behalf. Throughout our communications on this topic, I advised that a Rule 59 motion in this context is used for the preservation of issues for appeal and would only have been appropriate in his case had the PCR Court's Order of Dismissal failed to set forth factual findings or conclusions of law on one or more of the allegations raised in his PCR application. Accordingly, I also advised that the Order of Dismissal in his case thoroughly addressed his PCR allegations, thereby rendering a Rule 59 motion unnecessary. I have reiterated this advisement in a letter to Petitioner informing him of the Petition to Withdraw as Counsel, which has been filed as an attachment to this Return.

Throughout our discussions and correspondence, I felt that Petitioner understood the proceedings thus far, as well as the advisement and other information provided to him about the process. In the end, the denial of his PCR application and the consequent need to appeal was not what we had hoped for, and Petitioner now appears to disagree with the decision to appeal and wishes to terminate our representation. Counsel takes no issue with Petitioner's wish and intention to terminate the representation and has sent him a Petition to Withdraw as Counsel with Consent,

which shall be filed with Court upon his consent and signature. A copy bearing the signatures of Counsel has also been attached to this Return.

In regard to other claims Petitioner raises in his filing, Counsel has informed Petitioner that the five (5) year span of time that his PCR remained pending was not part of any plan designed by Counsel, Respondent, or the PCR Court; but rather was the result of a culmination of circumstances that are either commonplace in the course of such litigation or outside of their control, including: amendment to pleadings; changes in representation for both parties; scheduling conflicts; the delay caused by a prior dismissal and consequent reinstatement of his PCR due to his absence from the hearing, in which he was alleged to have refused transport by SCDC; and of course, the COVID-19 pandemic. In regard to Petitioner's other related assertions, the dismissal of his PCR was also not the product of any design averse to his interests created by Counsel, Respondent, or the PCR Court. The undersigned attorneys, as officers of the Court, maintain that all decisions and actions taken throughout the course of litigation in this case were in his best interests and towards providing Petitioner with a full and fair opportunity to obtain post-conviction relief.

Lastly, Counsel shall promptly file the Petition for Withdrawal of Counsel with Consent with this Court upon receiving it back from Petitioner after having made his signature demonstrating his consent.

Respectfully submitted,





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