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Sep 29 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM UNION COUNTY

Court of Common Pleas

Honorable J Mark Hayes, Circuit Judge

Appellate Case No. 2020-00333

James A Giles.....PETITIONER

V.

State of South Carolina.....RESPONDENT

COUNSEL’S RESPONSE TO RESPONDENT’S PRO SE MOTION
TO RELIEVE JAMES FALK AS COUNSEL

Undersigned counsel, James Falk, hereby responds to Petitioner’s pro se motion to relieve counsel. I have provided the following procedural history of this action.

1. December 13, 2018- Beth Ramsey Faulkner, Esquire filed a consent order in Supreme Court Case Case No: 2018-00080 substituting undersigned counsel to represent James A Giles in his appeal from the dismissal of his Union County PCR action. By order dated December 14, 2018 James Falk was substituted as counsel for Respondent.
2. April 7, 2019- undersigned counsel filed a MOTION TO HOLD APPEAL IN ABEYANCE PENDING RESOLUTION OF PCR COUNSEL’S MOTION TO RECONSIDER, ALTER, and AMEND AND/OR SET ASIDE ORDER.
3. May 30, 2019- The Supreme Court dismissed Petitioner’s appeal in Case No 2018-000880 without prejudice and instructed the Union Circuit Court to rule on Petitioner’s 59(e) motion.

4. January 30, 2020- the Honorable J Mark Hayes dismissed Petitioner's Rule 59(e) motion and thereafter PCR counsel filed a Notice of Appeal from Judge Hayes' Order of Dismissal.
5. May 28, 2020- The Supreme Court in Case No. 2020-00333 filed an order re-appointing undersigned counsel to represent Petitioner in his appeal from the dismissal of Union County PCR action.
6. September 25, 2020- Undersigned counsel filed the Petition for Writ of Certiorari and Appendix.
7. December 29, 2020 the state filed its return to the petition.
8. January 15, 2021- The Supreme Court transferred this case to the Court of Appeals.

Although undersigned counsel believes that it is unnecessary to relieve him at this stage of the proceedings, counsel takes no position on Petitioner's *pro se* motion to relieve him as counsel in this action. Counsel recognizes that the appeal of his PCR case will most likely be Petitioner's last opportunity for collateral review of his Union County criminal conviction. Therefore counsel has no quarrel with Petitioner's efforts. However because of the procedural posture of the case, the only remaining representation that new counsel could provide would be to appear for oral arguments if necessary. If the court reaches its decision on the merits of this case without oral argument, then counsel would need to advise respondent of his options, if any for additional appellate review.

Counsel disputes Petitioner's allegation that he has failed to remain in reasonable communication with Petitioner. Counsel has provided Petitioner with copies of the Petition and the Return. Counsel was in contact with Petitioner during the preparation of the Petition for Certiorari.



James K Falk
Falk Law Firm
PO Box 1058
Charleston, SC 29402
(843) 606 6007
jfalklaw@gmail.com

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CERTIFICATE OF SERVICE

I, James Falk, certify that I have today served the within RESPONSE TO RESPONDENT'S PRO SE MOTION TO RELIEVE JAMES FALK AS Counsel upon the Respondent by depositing a copy of it in the U.S. Mail, postage prepaid, addressed to its attorney of record, Michael Jacob Neubauer, Esquire Office of the S.C. Attorney General, PO Box 11549, Columbia, SC 29211-1549. I further certify that additional copies were served upon James A Giles SCDC# 264478 at Turbeville Correctional Institution 1578 Clarence Coker Hwy, Turbeville, SC 29162. I certify that all parties required by Rule to be served have been served this September 29, 2021.



James K Falk
Falk Law Firm
PO Box 1058
Charleston, SC 29402

September 29, 2021

FALK LAW FIRM, LLC.

James K. Falk

PH (843) 606-6007
FAX (843) 972 9005

www.FALKLAW.ORG

JAMES@FALKLAW.ORG

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SC Court of Appeals

Clerk of Court.

South Carolina Court of Appeals

PO Box 11629

Columbia, SC 29211-

Re: James A Giles v State, Case No.: 2020-00333

Dear Madam Clerk:

Please find the enclosed response to Petitioner's pro se motion for removal of counsel and Certificate of Service in the above case.

Regards



James Falk

Cc: Michael Jacob Neubauer, Esquire
James A Giles 264478