

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DARLINGTON COUNTY

Roger E. Henderson, Circuit Judge

Case No. 2015CP1600788

Appellate Case No. 2018-001442

RECEIVED

Oct 04 2021

SC Court of Appeals

In the Matter of the Care and Treatment of
Larry James Tyler,

Appellant.

MOTION FOR ORAL ARGUMENT

On October 1, 2021, the appellant received notice from the clerk of court that “this case will be submitted on the record on appeal and briefs during the October 21 term without oral argument.”

In response to the Court’s letter of June 10, 2021, regarding preliminary cases for the September and October 2021 terms, the appellant responded, “I have no conflicts.... I request the Court schedule this case for oral argument.”

At the request of Chief Judge James E. Lockemy on November 30, 2017,¹ I volunteered to accept an appointment on a criminal appeal. The Court appointed me to represent Larry James Tyler in this appeal.²

Tyler moved to remove me as his attorney.³ In response to his motion, I asserted, “Oral argument before a panel of the Court of Appeals is limited to the

¹ South Carolina Bar Continuing Legal Education Division, *2017-18 Appellate Practice Project: Presenting Cases to the Appellate Court*, Thursday, November 17, 2017.

² Order dated March 16, 2019.

³ Motion to Proceed Pro Se dated September 16, 2020.

issues briefed. ... The Court will most probably have questions that the authors of the Briefs can best answer.”⁴ I also argued,

In 52 years⁵ and probably 167⁶ appellate cases, this is the most difficult appeal on which I worked. I recorded over 152 hours of work⁷ and have spent countless other hours discussing it with other lawyers and thinking about the issues and injustice “off the clock.” While I am convinced of the injustice of the trial court’s ruling and the justice of Larry Tyler’s position, I am less confident the Court of Appeals will reverse the denial of due process under South Carolina and United States Constitutions. Cases such as this are the reason I went to law school.

The appellant moves to be permitted oral argument.

Appellant recognizes, “The appellate court may decide any case without oral argument if it determines that oral argument would not aid the court in resolving the issues.”⁸ The appellant believes the Court will benefit from oral argument.⁹ Either the appellant or the Court has misjudged the need for oral argument. What are the consequences of an error by the appellant of the Court? An error by the appellant is nearly inconsequential; an error by the Court would be devastating for the appellant.

If the appellant is wrong, three panel members will hear 25 minutes of unnecessary oral argument. Presumably, oral argument does not increase the time the panel must spend reviewing the record or writing the opinion. Conceivably, oral argument might reduce the time necessary for the Court to review the record and write its opinion and give the Court more confidence in its decision.

If the Court is wrong, Larry Tyler may spend the rest of his life in the Darlington County Detention Center after being denied due process of law by the trial court.

⁴ Return to Motion to Proceed Pro Se, dated October 6, 2020, page 5.

⁵ Admitted October 2, 1968. Celebrating fifty-third anniversary by writing this Motion on a beautiful Sunday afternoon.

⁶ This must be a typo. It is most probably 100-125 appellate cases.

⁷ Thomas F. McDow hours nor surpass 180 hours.

⁸ Rule 215, SCACR.

⁹ *Stasi v. Sweigart*, No. 2020-000677, 2021 WL 4302740, at *9 (S.C. Sept. 22, 2021)

I am frustrated. My client does not want me to represent him. The Court does not want to hear me. I worry about my inadequacy that may cause a miscarriage of justice. I am afraid to go home for fear my dog may bite me.¹⁰

Thomas F. McDow
McDow & Urquhart, LLC

/s/ Thomas F. McDow
Thomas F. McDow
Attorney for Appellant
514 Oakland Avenue, Second Floor
Post Office Box 891
Rock Hill SC 29731-6891
Telephone 803-327-4151

October 3, 2021

Other counsel of record are:

Alan McCrory Wilson
Office of the S. C. Attorney General
Post Office Box 11549
Columbia SC 29211-1549

Deborah R. J. Shupe
Office of the S. C. Attorney General
Post Office Box 11549
Columbia SC 29211-1549

¹⁰ I do not normally write motions in the first person but this one is personal.

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CERTIFICATE OF SERVICE

I certify that I have served the Motion for Oral Argument on the respondent by on
October 3, 2021, by emailing a copy to Deborah R. J. Shupe at dshupe@scag.gov.

/s/ Thomas F. McDow
Thomas F. McDow
Attorney for Appellant
514 Oakland Avenue, Second Floor
Post Office Box 891
Rock Hill SC 29731-6891
Telephone 803-327-4151