

The Supreme Court of South Carolina

Levern McCrea, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2020-001426

ORDER

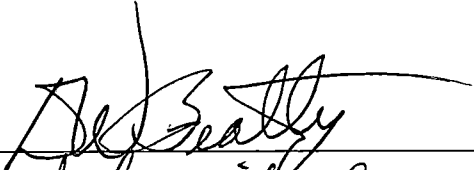

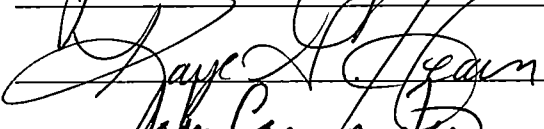
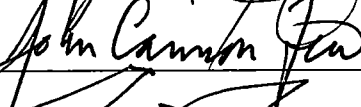
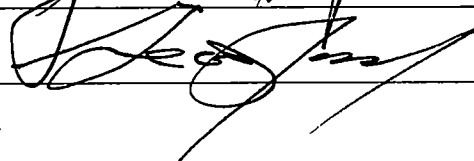
In 2019, Petitioner was granted post-conviction relief (PCR) on one issue raised in his PCR application but denied relief as to the remaining issues. Petitioner was represented at the PCR hearing by retained counsel, but the case was subsequently assigned to the Commission on Indigent Defense, Division of Appellate Defense, which represents Petitioner at present. The State filed a Rule 59(e), SCRCP, motion to alter or amend the PCR court's order, which was granted, thereby denying Petitioner PCR relief. Counsel for Petitioner subsequently filed a notice of appeal, and Appellate Defender Taylor D. Gilliam has filed a petition for a writ of certiorari on Petitioner's behalf raising two issues.

Petitioner has filed a *pro se* "Motion to have Appellate Counsel Relieved" and asks that he be allowed to proceed *pro se*. This Court has held that there is no federal or state constitutional right to proceed *pro se* on direct appeal

from a criminal conviction, but instead the decision is in the discretion of the Court. *State v. Roberts*, 364 S.C. 583, 614 S.E.2d 626 (2005). The Court has applied that holding in appeals from the denial of PCR as well. Gilliam has not filed a return to Petitioner's motion. The State has filed a response to Petitioner's motion arguing Petitioner's disagreement with his counsel over which issues to raise on appeal does not constitute grounds to relieve counsel.

After considering this information, Petitioner's motion to relieve counsel and proceed *pro se* is denied.

IT IS SO ORDERED.

	_____	C.J.
	_____	J.
	_____	J.
	_____	J.
	_____	J.

Columbia, South Carolina
February 23, 2022

cc:
Taylor Davis Gilliam, Esquire
David A. Spencer, Esquire
The Honorable Jenny Abbott Kitchings