

Appendix
(n)

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

The State, Respondent,

v.

Steven Louis Barnes, Petitioner.

Appellate Case No. 2020-001230

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal from Edgefield County
Diane Schafer Goodstein, Circuit Court Judge

Opinion No. 28081
Submitted December 10, 2021 – Filed February 2, 2022

AFFIRMED AS MODIFIED

Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Petitioner.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Mark Reynolds Farthing, both of
Columbia; and Solicitor Samuel R. Hubbard III, of
Lexington, all for Respondent.

PER CURIAM: Steven Barnes killed Samuel Sturrup on September 3, 2001. In 2010, a jury convicted Barnes of murder and sentenced him to death. In 2014, this Court reversed his convictions. *State v. Barnes*, 407 S.C. 27, 753 S.E.2d 545 (2014). On remand, the State continued to seek the death penalty. *See State v. Barnes*, 413 S.C. 1, 3, 774 S.E.2d 454, 455 (2015) (*Barnes II*) (considering an interlocutory petition as to Barnes' right to counsel). Eventually, however, the State dismissed the death notice and set his case for trial. Barnes filed a pre-trial motion to dismiss, alleging his right to a speedy trial was violated. The trial court denied the motion. A jury convicted Barnes of murder again in 2017, and the trial court sentenced him to life in prison.

In a thorough opinion, the court of appeals affirmed the trial court's denial of Barnes' speedy trial motion. *State v. Barnes*, 431 S.C. 66, 91, 846 S.E.2d 389, 402 (Ct. App. 2020) (*Barnes III*). The court of appeals conducted a lengthy analysis of the factors the Supreme Court of the United States identified for consideration of a speedy trial claim in *Barker v. Wingo*, 407 U.S. 514, 530-32, 92 S. Ct. 2182, 2192-93, 33 L. Ed. 2d 101, 117-18 (1972), and which this Court repeatedly uses to analyze claims of a speedy trial violation, *see, e.g.*, *State v. Hunsberger*, 418 S.C. 335, 343, 794 S.E.2d 368, 372 (2016) (discussing the four *Barker* factors); *State v. Foster*, 260 S.C. 511, 513-14, 197 S.E.2d 280, 281 (1973) (same). *Barnes III*, 431 S.C. at 80-91, 846 S.E.2d at 396-402. While we agree with the court of appeals' analysis and ultimate decision to affirm, we grant certiorari to address one narrow point in the court of appeals' discussion of the second factor—the reason for the delay. We dispense with briefing and affirm as modified.

Analyzing the second factor, courts evaluate the reason for each specific period of delay and determine whether the reason weighs against the State, should be considered as "neutral" or "valid," or weighs against the defendant. *See Hunsberger*, 418 S.C. at 346, 794 S.E.2d at 374 (explaining "justifications for delay in trying a defendant are weighted differently: (1) a deliberate attempt to delay trial as a means to hamper the defense weighs heavily against the State; (2) negligence or overcrowded dockets weigh less heavily against the State, but are ultimately its responsibility; (3) a valid reason, such as a missing witness, justifies an appropriate delay; and (4) delays occasioned by the accused weigh against him" (citation omitted)); *see also Barker*, 407 U.S. at 531, 92 S. Ct. at 2192, 33 L. Ed. 2d at 117 (explaining "different weights should be assigned to different reasons. A deliberate attempt to delay . . . should be weighted heavily against the government. A more neutral reason . . . should be weighted less heavily but nevertheless should be

considered Finally, a valid reason . . . should serve to justify appropriate delay" (footnote omitted)).

In this case, we focus solely on one specific period of delay the court of appeals weighed against Barnes. One of Barnes' two attorneys—William McGuire—was given an order of protection by this Court from December 2015 until December 2016 due to his ongoing participation in another high-profile criminal trial.¹ Evaluating the reason for this specific period of delay, the court of appeals stated,

Therefore, despite being prepared for trial, the State could not proceed with Barnes's trial because Barnes chose to continue retention of counsel who he knew was subject to an order of protection. While we acknowledge that Barnes was entitled to retain counsel of his choice, this decision and the resulting delay cannot be properly attributed to the State. Consequently, the delay cannot be characterized as neutral and must be attributed to Barnes.

Barnes III, 431 S.C. at 86, 846 S.E.2d at 399.

While we agree with the court of appeals that this period of delay should not be attributed to the State, we do not agree it "must be attributed to Barnes." McGuire did not fail to act on Barnes' behalf;² rather, he was under an order of protection that

¹ The "high-profile" case was *United States v. Dylann Storm Roof*, 2:15-CR-472-RMG (D.S.C. July 22, 2015), in which the United States tried the defendant under the Federal Death Penalty Act in December 2016 for the June 2015 murders of nine members of the historic Emanuel African Methodist Episcopal Church in Charleston, commonly referred to as "Mother Emanuel." See *United States v. Roof*, 10 F.4th 314 (4th Cir. 2021). The dates of the order of protection extended from the remand date in *Barnes II* to the day after the *Roof* trial ended in United States District Court.

² The Supreme Court has weighed delays caused by a defendant's counsel against the defendant based on the reasoning "the attorney is the [defendant's] agent when acting, or failing to act, in furtherance of the litigation." *Vermont v. Brillon*, 556 U.S. 81, 91-92, 129 S. Ct. 1283, 1290-91, 173 L. Ed. 2d 231, 1240 (2009) (alteration

authorized him to focus on his representation of another client, presumably so the other client's case could be brought to trial in a timely manner. Additionally, during this period the State was still seeking the death penalty against Barnes. The State did not withdraw its notice of intent to seek the death penalty until July 2017. Barnes was entitled to keep his lawyer, even though doing so delayed his trial. This specific period of delay should be weighed as neutral or valid.

This does not change the outcome of the speedy trial analysis. We affirm the court of appeals' decision as modified.

AFFIRMED AS MODIFIED.

BEATTY, C.J., KITTREDGE, HEARN, FEW and JAMES, JJ., concur.

in original) (quoting *Coleman v. Thompson*, 501 U.S. 722, 753, 111 S. Ct. 2546, 2566-67, 115 L. Ed. 2d 640, 671 (1991)).

The Supreme Court of South Carolina

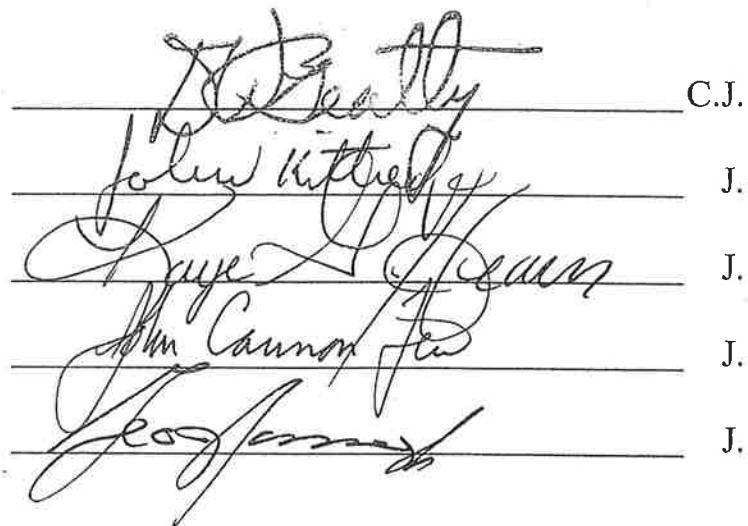
ORDER

The following matters are dismissed pursuant to *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991), because no extraordinary reason exists to entertain them in this Court's jurisdiction:

1. Eddie Dean Dogan, Jr. Letter to the Chief Justice dated January 2, 2018. Appellate Case No. 2018-000051.
2. Steven Louis Barnes v. Judge William P. Keesley. Petition for Writ of Mandamus dated January 2, 2018. Appellate Case No. 2018-000039.
3. State of South Carolina v. Carnell Davis. Summons and Affidavit of Facts Giving Judicial Notice; Filing Writ of Mandamus; Motion for Declaratory Judgment and Motion to Allow Therefor dated December 1, 2017; and Letter to the Court dated December 28, 2017. Appellate Case No. 2017-002482.
4. State of South Carolina v. William Leon Burnett. Petition for Writ of Mandamus dated November 30, 2017. Appellate Case No. 2017-002512.
5. Theodore Bolick v. Horry County. Petition for Writ of Mandamus dated December 4, 2017. Appellate Case No. 2017-002498.
6. Daniel McClain v. State of South Carolina. Motion for Relief with After-Discovered Evidence received November 13, 2017. Appellate Case No. 2017-002341.
7. Kenneth Whitmore v. State of South Carolina. Rule 205 Effect of Appeal dated October 12, 2017 and Rule 60(b)(4) Relief From Judgment or Order dated November 1, 2017. Appellate Case No. 2017-002312.



8. State v. Eugene King. Motion to Reconsider or Motion to Redress New Discovery Evidences Fraud[ulent] Indictment received November 27, 2017. Appellate Case No. 2017-002453.
9. William Dwayne Rankin. Letter to the Court received December 11, 2017. Appellate Case No. 2017-002543.


J. Beatty C.J.
J. Kithner J.
J. Guye J.
J. Cannon J.
J. Geissman J.

Columbia, South Carolina

February 1, 2018

APPENDIX (O)

After Conviction PCR documents in order
to show South Carolina PCR statute
as applied to the petitioner is inadequate.





State of South Carolina
The Circuit Court of the Eleventh Judicial Circuit

WILLIAM P. KEESELEY
JUDGE

127 COURTHOUSE SQUARE
POST OFFICE BOX 10
EDGEFIELD, SOUTH CAROLINA 29824-0010
TELEPHONE: (803) 637-4095
FAX: (803) 637-2035
E-MAIL: wkeesleyj@sccourts.org

MEMORANDUM

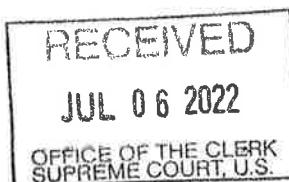
Date: February 15, 2018

To: Mr. Steven Louis Barnes, 327117
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

Re: Steven Louis Barnes v. State
Case Number: 2015CP1900035

Today, I received notice that the South Carolina Supreme Court had denied a petition for writ of mandamus that you filed. To my knowledge, the circuit judges typically do not receive notice of filing of a petition seeking mandamus. I notified the Clerk of the Supreme Court that, unless I am assigned specifically to handle this PCR case, my assumption is and has been that the administration of the case was to have been taken over by someone assigned as Chief Judge in the 11th Circuit beginning January 2018. If Judge McMahon is conflicted on this case, it would go to Judge Griffith while he is assigned as Chief Judge for General Sessions in the 11th Circuit. I was reassigned as Chief Judge for the 2nd Circuit beginning January 1, 2018. I offered to continue on the case, if the Chief Justice believes that to be the best course. If he does, he will issue an order to that effect and I will follow up. Otherwise, I do not believe that anything is pending before me on this PCR. The Attorney General is being provided a copy of this email, as are the attorneys that assisted you on the most-recent criminal trial and Professor Shealy, who was being consulted in October and November to determine if he was willing to take an appointment on the IAD issue or recommend someone to do so, should a judge decide to allow the PCR to proceed. Thank you.

cc: Jeff Bloom, Esquire (via email)
Bill McGuire, Esquire (via email)
Melody Brown, Office of the Attorney General (via email)
Professor Miller Shealy (via email)
Supreme Court of South Carolina
Edgefield County Clerk of Court's file



The Supreme Court of South Carolina

Steven Louis Barnes, Petitioner,

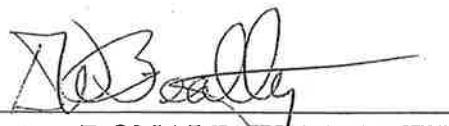
v.

State of South Carolina, Respondent.

Case Number: 2015-CP-19-00035

ORDER

On September 28, 2017, the Honorable William P. Keesley, as Acting Chief Judge for Administrative Purposes for the Eleventh Judicial Circuit, issued a conditional order of dismissal in this post-conviction relief action.¹ Since that time, no further action has been taken in the case. Judge Keesley is no longer the Acting Chief Judge for Administrative Purposes; however, I find it appropriate that he continue to preside over the action given his prior involvement in the matter. Accordingly, Judge Keesley is hereby assigned to this action. Judge Keesley shall retain jurisdiction over this case regardless of where he may be assigned to hold court and may schedule any hearings he finds necessary at any time without regard to whether there is a term of court scheduled.



DONALD W. BEATTY
CHIEF JUSTICE

Columbia, South Carolina
February 16, 2018

cc: The Honorable William P. Keesley
Melody J. Brown, Esquire
Mr. Steven Louis Barnes, #327117
Office of Court Administration
The Honorable Charles L. Reel

¹ An amended conditional order of dismissal was issued on October 11, 2017.

The Supreme Court of South Carolina

Steven Louis Barnes, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-001750

ORDER

Petitioner currently has a post-conviction relief case pending in Edgefield County. *Steven Louis Barnes v. State*, 2015CP1900035. No final decision has been issued by the circuit court in this case.

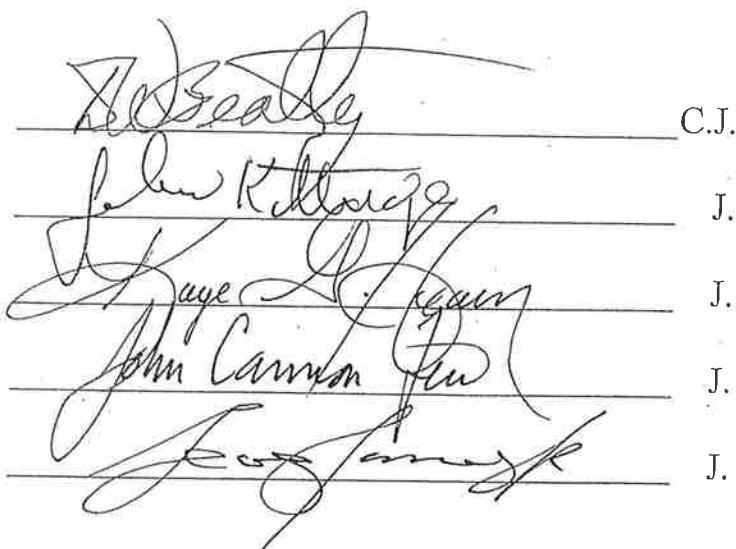
Petitioner has filed a *pro se* petition for a writ of certiorari seeking review in this post-conviction relief case. The petition is denied without prejudice to petitioner's ability to seek review under Rule 243 of the South Carolina Appellate Court Rules once a final decision is filed in this case.

Petitioner has also filed a document that has been construed as a petition for a writ of mandamus to compel the circuit court to rule on certain motions in the post-conviction relief case. The petition is denied.

Regarding *Barnes v. South Carolina Department of Corrections*, Appellate Court Case Number 2017-000967, petitioner has filed a petition of a writ of prohibition asking this Court to "dismiss" the decision of the South Carolina Court of Appeals in that case. The petition is denied.

Finally, to the extent petitioner may be seeking any other relief from this Court in

the document dated January 27, 2019, that request is denied.


C.J.
J.
J.
J.
J.

Columbia, South Carolina
March 5, 2019

cc: Melody Jane Brown, Esquire
Lake Eric Summers, Esquire
Stephen Hollis Lunsford, Esquire
Jenny Abbott Kitchings, Esquire
William P. Keesley, Esquire
Mr. Steven Louis Barnes, #327117

STATE of SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Edgefield County
William P. Keestley, Circuit Court Judge

STEVEN LOUIS BARNES

PETITIONER

v

STATE of SOUTH CAROLINA

RESPONDENT

Appellate Case No. 2015-001713

PETITION for WRIT of CERTIORARI

STEVEN LOUIS BARNES #327117

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ISSUE PRESENTED

1. Did the post conviction relief Judge ERRED in not ordering an evidentiary hearing regarding the state of South Carolina interference with Counsel - And if so, whether the Judge had violated the petitioner Due process Rights to be heard
2. Was the per Judge decision not to order an evidentiary hearing was arbitrary and violates the petitioner due process Rights

STATEMENT of THE CASE

ON 11/28/16, the petitioner had filed a Writ of Mandamus in the South Carolina supreme court regarding the delay in the petitioner post conviction relief (PCR), and among other court proceedings. See Appendix (App) (A) on 12/16/16, the South Carolina supreme court had denied the petitioner Writ of Mandamus. See App (B) on March 16, 2017 the petitioner had filed a Writ of Certiorari in the United States Supreme Court. In the petitioner Writ of Certiorari the petitioner had raised, among other grounds, that the state of South Carolina was denying the petitioner access to the courts by not hearing the petitioner Interstate Agreement of Detainer (IAD) Act issue on PCR before the the petitioner then Capital Case, and as a result of that the state of South Carolina was denying both the petitioner a remedy and actual injury because of no remedy to hear the IAD Act issue where the petitioner could be released before the Capital trial. On May 23, 2017, the United States Supreme Court had ordered the petitioner Respondents to the Writ of Cert to file a brief to the petitioner issues in the Writ. See App. (C) on and about June of 2017, Judge William P. Keesley had ordered a hearing regarding the PCR issues. On September 28, 2017 Judge Keesley had issued a conditional order of Dismissal regarding the PCR. See App (D) on October 9-13 the state of South Carolina had took the petitioner to trial on his fraudulent murder case in Edgefield County without hearing the petitioner

PCR. As of result of that, the petitioner was denied access to the courts and a remedy because the state of South Carolina would not hear his IAP Act issue before the October 9-13 fraudulent murder trial.

Because the petitioner had filed another Writ of Mandamus against Judge Keesley, see App (e) on and about May 2018 the Judge had ordered a hearing regarding the appointment of Counsel at the PCR. On June 8, 2018, the Judge had issued an order regarding Appointment of Counsel And Not finalizing Conditional order of Dismissal. See App (f). The Judge order states in pertinent parts regarding the petitioner position of state interferences with Counsel:

(pg 1 fn 2) " Mr Barnes insists that he has a right to a full evidentiary hearing on why certain attorneys should or should not be appointed based on their purported affiliation with the state of South Carolina . . . If a motion seeks to relieve Counsel, a hearing will be set . "

See App (f)

On August 29, 2018, Judge Keesley had issued an order regarding a PCR scheduling hearing regarding the appointment of Counsel on July 6, 2018 in Charleston County, South Carolina. See App (g)

THE PETITIONER LEGAL THEORY ON WRIT OF CERT

The petitioner have Reference to and incorporate the facts and Exhibits in his petition for Writ of Mandamus, Brief in support of Writ of Mandamus in this Court original Court Jurisdiction, and Writ of prohibition in this writ of cert regarding multiple state interferences with Counsel and Civil and Criminal Cases.

At both the June 8, 2018 and July 6, 2018 pre appointment of Counsel hearings the petitioner had argued the following regarding an evidentiary Hearing regarding showing state interferences with Counsel:

The petitioner had contended at those hearings that Judge Keesley as a matter of Due process of law order an evidentiary Hearing regarding the petitioner showing state interferences with Counsel before the pre hearing in order for the petitioner can have a full and fair process on Collateral Review in South Carolina. Before the pre hearing, the petitioner had humbly requested the Judge to appoint lawyers from either the NAACP and/or a lawyer who is not affiliated with the South Carolina so the petitioner will not be hindered / obstructed in developing / marshing a factual record for appellate Review, whether in state and federal courts. The petitioner then informed the Court of the unconstitutionality of the South Carolina Office of Indigent Defense, and its co-

Conspirators, has contaminated the appointment of Counsel system in South Carolina as applied to the petitioner.

On 9/14/18, the petitioner had filed a Rule 52(a) and Rule 52(b) and Rule 59(e) of the SCREP Regarding Judge Reesley August 29th 2018 per appointment of Counsel order? The petitioner contended in those motions that the Judge misconstrued the facts and law, and to Rule on his Evidentiary Hearing motion, Regarding an Evidentiary Hearing before the per hearing because of state of South Carolina interferences with Counsel. see App (H). Furthermore, at said hearings the petitioner believe Counsel to the extent an Evidentiary Hearing is had first before per hearing is heard, and then had requested Court to appoint Counsel from NAAUP for the Evidentiary Hearing.

On September 24, 2018, Judge Reesley had issued a Memorandum regarding the petitioner Rule 52(a), Rule 52(b) and Rule 59(e) motions pursuant to SCREP. See App. (I) Within the Court Rules, the petitioner is filing this writ of cert in this Court.

ARGUMENT

ISSUE 1: Did the post conviction relief Judge Err in not ordering an evidentiary hearing regarding the state of South Carolina interference with Counsel - And if so, whether the Judge had violated the petitioner Due process Rights to be heard

In Mathews v Elledge, 424 US 319 (1976) the United States Supreme Court had made up a three part test, (1) the private interest that is at stake; (2) the effect on governmental interests of incorporating a particular procedural safeguard into the decision-making process; and (3) the safeguard value and the risk of an erroneous deprivation of the private interest at stake if the safeguard were not put in place, in order to determine whether or not a hearing or counsel should be appointed or had. In a particular case such as the petitioner where the private interest that's or are at stake is serious and numerous such as non interferences by state officials of federal causes of actions or direct review or collateral review or the office of Indigent Defense not contaminating the professional opion of court appointed attorney directly or indirectly by wanton acts whether by utilizing fundings or a word of wisdom to court appointed attorneys to not pursue a particular state or federal cause of actions for the petitioner.

Because of these contaminations by various state officials in South Carolina regarding state interferences with counsel, Judge Keesley in allowing the petitioner the appointment of NAACP lawyers for an evidentiary hearing before the petitioner PCR hearing will not affect the decisionmaking process of the PCR hearing but rather enhance the PCR hearing by purging out outrageous Government's misconduct before the hearing so the petitioner can have either a full and fair hearing or direct review or collateral review.

The petitioner is only requesting an evidentiary hearing before the PCR hearing and the appointment of counsel at the evidentiary hearing. These safeguards in order to show state interferences with counsel before the PCR hearing will allow the petitioner later on at the PCR hearing to have his federal causes of actions heard in state and federal appellate review.

Furthermore, the petitioner (have reference to and incorporate the facts and grants in his supplemental amendment of the petitioner PCR complaint in this writ of cert in order to show how deep the state interferences with his right to counsel).

The petitioner prays for such other and further relief this court seems just and proper as to this grant and issue on writ of cert.

ARGUMENT II

ISSUE 2. Was the pre-judge decision not to order an evidentiary hearing was arbitrary and violates the petitioner due process rights

Any time the government deprives a person of life, liberty or property the government must provide a sufficient justification. See e.g. Davidson v Cannon, 474 US 344, 353 (1986); Sacramento v Lewis 118 S.Ct 1208, 1716 (1996) (quoting Wolf v McDonnell, 418 US 539, 558 (1974) (noting "the touchstone of due process is protection of the individual against the arbitrary action of government)) without an evidentiary hearing on state interferences, the petitioner will be deprived of liberty interests on Collateral Review, and property interest to federal cause of action, and among other interests as well. Upon a complaint of state interferences with counsel, a evidentiary hearing into the merits of the petitioner claims must occur suddenly as a matter of due process so the judge can determine by a factual whatever record in front of him whether the petitioner claims of state interferences are true or not. To make a long story short the judge must hear the facts before making a decision to deny the petitioner claims of state interferences. See e.g. Silvester v Spring Valley Country Club 543 S.E.2d 563 (Ct. App 2001); Patel v Patel 599 S.E.2d 114 (2004) (Ct. judge's impartiality might reasonably be questioned when his factual findings

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF EDGEFIELD) Court of Common Pleas
3 _____) Case No. 2015-CP-1900035
4 STEVEN LOUIS BARNES,)
5 Plaintiff,)
6 vs.) Transcript of Record
7 THE STATE OF SOUTH CAROLINA,)
8 Defendant.) DATE: May 2, 2018
9 _____
10

11 B E F O R E:

12 THE HONORABLE WILLIAM KEESELEY
13

14 A P P E A R A N C E:

15 STEVEN LOUIS BARNES, PRO SE
16

17 ALSO PRESENT:
18

MELODY J. BROWN
19

MILLER W. SHEALY, JR.
20

Karen V. Andersen, RMR, CRR
21 Circuit Court Reporter
22
23
24
25

1 THE COURT: I appreciate everybody coming today. I
2 scheduled this matter in Charleston on an Edgefield County
3 case in an effort to try to move things forward. So the
4 purpose of this today was to check on the status of the
5 case. And Mr. Barnes had filed his application for
6 post-conviction relief. The chief justice has now assigned
7 me to the matter exclusively to handle it.

8 In going through this issue and various meetings
9 before, it appears that the driving question concerns an
10 in-state agreement on detainers decision that was made in
11 the first trial and affirmed by the South Carolina Supreme
12 Court on appeal, even though the Supreme Court reversed the
13 conviction and sentence in the original trial.

14 In going through this, I had issued a conditional
15 discharge eventually, late in the fall of last year. And
16 then my assignment was to transfer it to the 2nd circuit.
17 So I was out of the circuit. I was no longer the chief
18 judge in the 11th circuit. I was made chief judge in the
19 2nd circuit.

20 There, apparently, was some confusion about who had
21 the case. My assumption was, since I was no longer the
22 chief judge in the 11th circuit, in fact, only had a couple
23 of weeks of court in the 11th circuit the entire six-month
24 period, that the chief judge who was taking over would pick
25 up the case. That's all been resolved now.

1 So I issued the conditional order discharge --
2 dismissal, excuse me. And in talking with Mr. Barnes before
3 and in the communications he's had in writing with me, I
4 wanted to make sure, as best anyone could, that he had
5 access to what I considered to be the best information
6 regarding how he might pursue his claim.

7 This is a very interesting legal issue. And so I
8 asked if Professor Miller Shealy would consider reviewing
9 the case, because my understanding is that he is considered
10 to be a foremost expert in South Carolina on risks and
11 matters of that nature. He had extensive involvement in the
12 Stinney case, in which somehow the attorneys were able to
13 get the case in a posture where there could be a challenge
14 made to a conviction which led to the death sentence of a
15 young man eight days ago.

16 At this point, Mr. Barnes is pro se. In previous
17 hearings that we had, status conferences we've had, the
18 attorneys who were representing him on this criminal case
19 have appeared. Both of them had notified the Court that
20 they did not consider themselves to be on this case anymore
21 since the retrial. And my understanding is that his
22 conviction on retrial is now on appeal.

23 So, again, I thank you all for coming this distance
24 so that we can try to move this case forward. I had
25 arranged for Mr. Barnes to be brought over earlier so that

1 he would have an opportunity to talk to Mr. Shealy. And
2 Professor Shealy had indicated that he would be willing to
3 entertain being appointed as counsel on the case.

4 I also had discussed, in at least one
5 communication, that if he were not appointed counsel, there
6 may be some resource to an attorney who might be appointed
7 counsel. Because my understanding was that Mr. Barnes had
8 requested counsel on this PCR case.

9 So, Mr. Barnes, at this point, do you want an
10 attorney appointed to you?

11 MR. BARNES: Yes, Sir. Also, I would like to crave
12 reference to the motions that I filed regarding evidentiary
13 hearing regarding counsel, because of multiple State
14 interference in my case. And I would like to put up the
15 evidence as necessary due process, such as witnesses, a
16 hearing, evidence of why outside -- like, the NAACP, outside
17 counsel should be appointed instead of counsels in the state
18 of South Carolina.

19 And I also want you to note that I have a lawsuit
20 against the Office of Indigent Defense, the South Carolina
21 Commission of Indigent Defense and the payment issue in
22 general. I believe that any funds that come from that
23 office or anything dealing with the Commission of the Office
24 of Indigent Defense by itself would conflict any and all
25 South Carolina attorneys in this state. It would be a

1 conflict of interest.

2 And, now, my concern is that I need a hearing.

3 THE COURT: A hearing on what?

4 MR. BARNES: On appointment of counsel. I would
5 like to put up evidence regarding -- because under due
6 process, you have to hear the evidence of why I am
7 requesting counsel, why I do not need any of the South
8 Carolina attorneys, and why the NAACP attorneys will be
9 substantial for this PCR.

10 THE COURT: What NAACP attorneys?

11 MR. BARNES: I believe they have attorneys in
12 Edgefield. They have a chapter in -- Edgefield chapter, I
13 believe, if I'm not mistaken. But they have the -- I think
14 it's called NAACP defense fund, if I'm not mistaken. But
15 they have attorneys.

16 THE COURT: Have you contacted them?

17 MR. BARNES: Well, I haven't contacted them, but I
18 believe that they would take the case. See, you have to
19 remember, after my death penalty case got overturned and I
20 sought counsel -- do you remember the hearing we had April
21 23rd, 2014, that you was present?

22 THE COURT: Yes.

23 MR. BARNES: And the Office of Indigent Defense
24 stand up, and my concerns then was, you know what I mean,
25 that it was State action due to the State -- you know, Hugh

1 Ryan, the general counsel, Hugh Ryan standing up at the
2 hearing regarding counsel. And Hugh Ryan has continuously
3 interfered when my trial was pending, when my capital trial
4 was pending, in financial matters and other issues regarding
5 my criminal case. And --

6 THE COURT: Where is the lawsuit filed against
7 Indigent Defense?

8 MR. BARNES: Richland.

9 THE COURT: In state court?

10 MR. BARNES: Yes.

11 THE COURT: Right. We had the hearing.

12 Ultimately, the hearing didn't result in anything. That was
13 a hearing after your death penalty had been reversed. And
14 then we had to consider appointing you attorneys who were
15 death-penalty qualified for the retrial. And Mr. Ryan --
16 you wanted to pick the attorneys. And Elizabeth
17 Franklin-Best was there, right?

18 MR. BARNES: And Bill McGuire from capital trial
19 division, correct.

20 THE COURT: And the discussion was about whether
21 the Court would appoint someone, Elizabeth Franklin-Best in
22 this instance, when there were attorneys available through
23 the Capital Defense Office.

24 Now, ultimately, what happened, if I recall, is
25 that the chief justice assigned that case, the death penalty

1 retrial, to Judge Goodstein. And then she had a hearing and
2 she issued an order. And she allowed you to have Elizabeth
3 Franklin-Best. But at the hearing before me, you were
4 objecting, as was Ms. Best, to me even hearing anything from
5 Hugh Ryan, who was the director of Indigent Defense, or at
6 that time, I don't know, deputy director of Indigent
7 Defense.

8 MR. BARNES: If you recall the brief from Elizabeth
9 Franklin-Best and Bill McGuire, they also stated that they
10 felt, in so many words, I am not paraphrasing -- well, I'm
11 paraphrasing what they are saying, but in so many words,
12 that they felt that the Office of Indigent Defense was
13 overreaching.

14 And Bill McGuire specifically stated that he felt
15 like, you know, that his job was on the line and so on
16 regarding the Office of Indigent Defense standing up in that
17 particular case.

18 THE COURT: That part I don't recall.

19 MR. BARNES: If I'm not mistaken, I have -- I might
20 have the brief here.

21 THE COURT: I don't need to see that.

22 MR. BARNES: Yeah. But, see, the point I'm trying
23 to make is that due to the multiple instances of state
24 interference with my right to counsel, that I should be
25 allowed to have attorneys from the outside. When I speak

1 about outside attorneys, I'm speaking about attorneys that's
2 not connected to the Office of Indigent Defense, period.

3 THE COURT: Well, how is Professor Shealy connected
4 to the Office of Indigent Defense?

5 MR. BARNES: Well, that's a good question. Now,
6 for one, if you recall, when we sought counsel -- let me be
7 more specific.

8 Elizabeth Franklin-Best and Bill McGuire and me,
9 when we went in front of you to seek counsel, that was April
10 the 23rd, 2014. You ordered us to file briefs. We did
11 that.

12 June the 3rd, 2014, you denied my right to appoint
13 my counsel. And as a result of that, I did not have
14 counsel.

15 THE COURT: On which case?

16 MR. BARNES: The murder case, the capital -- you
17 remember I got it overturned and I was seeking death
18 penalty?

19 THE COURT: My recollection is different. This is
20 the only case you deal with, primarily. And I deal with
21 hundreds, obviously. So I stand to be corrected, but my
22 recollection was that Judge Goodstein had a hearing and
23 allowed you to have Elizabeth Franklin-Best and Bill McGuire
24 as your attorneys.

25 MR. BARNES: You asked me why Professor Miller

1 (sic), what's the connection he had with the State. So I'm
2 making a connection right now. You know, if you allow me to
3 finish.

4 THE COURT: I will allow you to finish, but I don't
5 recall -- you are saying that I did something that I don't
6 recall. So go ahead.

7 MR. BARNES: I have a transcript from the April
8 23rd --

9 THE COURT: We've had that hearing. I just went
10 through that.

11 MR. BARNES: So what I'm saying, on June 3rd, 2014,
12 you made an order denying me counsel due to the fact Judge
13 McMahon had jurisdiction, exclusive jurisdiction.

14 THE COURT: Okay. That's a different issue. I
15 didn't deny you counsel. I said that I couldn't make the
16 call.

17 MR. BARNES: Yeah. But, see, once the issue was
18 found, then it's a dead issue. So meaning, when it's a dead
19 issue, meaning that the judge did not have the -- the prior
20 judge did not have jurisdiction over the matter once the
21 position becomes final. So, therefore, you had
22 jurisdiction.

23 THE COURT: I did not have jurisdiction. Judge
24 McMahon had been assigned to that case by an order of chief
25 justice that had never been withdrawn.

1 MR. BARNES: You have to also keep in mind, I
2 appealed that issue to the State Supreme Court. They denied
3 it. He reinstated that appeal.

4 And then in September of -- what it was? September
5 of 2014, the State Supreme Court stated that Judge Goldstein
6 (sic) had 30 days to grant me counsel; had 30 days to grant
7 me counsel. And that's when Judge Goldstein or Goodstein,
8 whatever her name --

9 THE COURT: Goodstein.

10 MR. BARNES: -- Goodstein got involved with the
11 case. The point I'm trying to make, when I speak about the
12 State, I mean, Judge, I mean Office of Indigent Defense.
13 Because you also got to keep in mind, I also filed in United
14 States Supreme Court, not only legalistic issue, but also
15 against other officials in the state of South Carolina
16 regarding multiple issues.

17 With speaking specifically about you, I filed about
18 the PCR. So as a result, really, just like Melody Brown was
19 trying to argue at my trial, and I told her, October 9th,
20 2015, that Judge Goodstein was conflicted from the case due
21 to I filed writ of certiorari in the United States Supreme
22 Court. So if she's going to make that argument or was going
23 to make that argument in October 9th of 2017, then why not
24 she make the argument now about you on this case right now?

25 So when I speak about State interference, I'm

1 speaking in general. So when I speak now specifically
2 saying, okay, now you are going to mention Professor Shealy,
3 okay, so Professor Shealy have connection to you.

4 THE COURT: How does he have a connection to me? I
5 met the man one time --

6 MR. BARNES: What I'm saying, you recommended him
7 to --

8 THE COURT: I recommended him because he's the
9 foremost authority on the issue in this state, that I know
10 of, related to these writs and matters of procedure. And we
11 discussed that --

12 MR. BARNES: See, this --

13 THE COURT: Wait a second. Let's put this on the
14 record. One of our prior status conferences, when you had
15 attorneys present who were representing you on a criminal
16 case, I brought that matter up. And everybody was in
17 agreement. And I said, there would be no private
18 conversations between me and Professor Shealy, that I would
19 do it by e-mail, I would do it in writing, and I would send
20 copies so everybody would know what was being discussed when
21 I was contacting him about whether he would even entertain
22 doing this. So, but go ahead.

23 I guess what you are saying is that anybody who
24 works for the State of South Carolina, you are suspect of?

25 MR. BARNES: No, incorrect. What I'm saying, the

1 position of Melody Brown on October 9th, 2017, they was
2 going to argue in front of Judge Goldstein (sic) that she
3 was conflicted out due to the writ of certiorari that I
4 filed in the United States Supreme Court --

5 MS. BROWN: Your Honor, if I may, that is
6 incorrect. I did not have any motion pending before the
7 judge for retrial. In fact, I was requested to help at the
8 retrial and I was conflicted out because I was then
9 representing Judge Goodstein in a motion in the United
10 States Supreme Court. So that's slightly incorrect. We had
11 made no motions.

12 MR. BARNES: May I speak?

13 THE COURT: Sure.

14 MR. BARNES: Bill McGuire and Jeff Blume had
15 informed me that they was going to try to get Judge
16 Goodstein off the case due to I had filed in United States
17 Supreme Court a writ of certiorari. They were going to
18 conflict her out. What was my concern about it? I told
19 them to go ahead and keep her. That's what I told them.
20 And then they withdraw the issue. They were going to raise
21 it. I never said she filed any motions. I'm saying what my
22 attorney told me.

23 That's the whole point about the evidentiary, so I
24 could even put up evidence to present to you, the Court, of
25 why I am requesting the NAACP lawyers to be appointed to my

1 case.

2 Now, evidentiary hearing means, I am required under
3 due process to put up witnesses, to put up evidence. I'm
4 required by the Constitution due process, procedure due
5 process to put up evidence. And I would like to show you by
6 evidence that what she just told you on record is recorded.

7 Now, I am not trying to call her a liar. I am not
8 trying to disrespect the Government, but it's false. She
9 not telling the truth.

10 Now, do I have evidence to prove that? That is the
11 question. Do I have something written down that she stated
12 that? That's the question. Now, that's the question that
13 you would like to look at at the evidentiary hearing.

14 You just heard her say that she didn't say that,
15 that she didn't say that she going to conflict Judge
16 Goldstein (sic) due to the fact I filed a writ of certiorari
17 in United States Supreme Court.

18 Now, if she want to try to conflict Judge Goldstein
19 (sic) on the case because I filed a writ of certiorari in
20 United States Supreme Court, why not you conflict out?

21 So question is, what I'm trying to get at is
22 this --

23 THE COURT: I found out about writ of certiorari
24 being requested on Saturday when I happened to check my
25 e-mail on the week that I had vacation started. They said

1 that a brief was due on Thursday. That was the first that I
2 recall anything about it. So that's when we set up that
3 hearing that we had with you, so that we could talk about
4 whatever issues were out there that you were complaining
5 about in U.S. Supreme Court.

6 I believe I got a notification at some point later
7 that U.S. Supreme Court had denied cert on that case. But
8 if I interrupted you, sorry. Go ahead.

9 MR. BARNES: Also, I would like for you to note,
10 you have to keep in mind that case first started out March
11 16th, 2017. And May 29th, 2017, the State Supreme Court
12 ordered Melody Brown to file briefs. The case got denied on
13 October 2nd, 2017, after the State of South Carolina had
14 made significant changes, such as dropping the death penalty
15 in June. What it was, Melody Brown? June 20th, 2017, they
16 dropped the death penalty, if I'm not mistaken.

17 But, anyway, the whole point about the writ of
18 certiorari -- let me say this first before I go into that.
19 Just because the United States Supreme Court denies writ of
20 certiorari is not denying on the merit, is not denying on
21 the merit.

22 Let me get back to what I was saying. Now, the
23 whole point of me filing the writ of certiorari was on
24 multiple grounds that I continuously stated. South Carolina
25 keep getting me brushed aside, thrown in the garbage can,

1 getting kicked around like a little ball.

2 So, now, the whole point about me filing the writ
3 of certiorari, did it with a PCR, was that I did not have a
4 remedy in the state of South Carolina. Therefore, they
5 would deny me access to the court. And as a result of the
6 state of South Carolina denying me access to the court, that
7 I would suffer actual injury by not being raised ineffective
8 assistance of counsel on my first trial. And as a result,
9 it was prejudicing me in my second trial. That was one of
10 the legal grounds.

11 And it's well documented in the writ of certiorari,
12 well documented, every application that I filed. For some
13 reason, it keeps flipping from one issue to another.

14 So what I did, today, when you asked me a question,
15 you asked me, you said, how do Professor Shealy come into
16 play regarding the State interference? And how he come into
17 play with that is due to the fact that you are conflicted
18 off this case due to I filed a writ of certiorari in the
19 United States Supreme Court.

20 Melody Brown was going to try to do the same thing
21 with Judge Goodstein. She stated on the record she did not
22 try to do that. I have evidence that she tried to do that.

23 Now, I am not going to say do I have documentation,
24 but I would like to show you the evidence in an evidentiary
25 hearing, meaning putting up witnesses. That means having a

1 hearing about the appointment of counsel issue, so you can
2 fairly adjudicate the matter, rather than being one-sided
3 and ruling for the State. And if you deny my right to put
4 up evidentiary hearing, I would have to object on due
5 process grounds, first amendment ground, right to petition
6 the government, freedom of speak, so on and so forth.

7 But, mainly, my argument would be on 14th Amendment
8 procedure, due process grounds, because I have a right to
9 put up evidentiary hearing regarding multiple State
10 inference in my case. And I would like to do that.

11 THE COURT: So you do not want Mr. Shealy's
12 assistance?

13 MR. BARNES: I would like to have the assistance of
14 an attorney who is not State -- by the State of South
15 Carolina.

16 THE COURT: What do you mean? He works for the
17 Charleston Law School.

18 MR. BARNES: Your Honor, let me repeat this again
19 for the record.

20 THE COURT: No, I don't need you to repeat
21 anything. I understood you the first time.

22 MR. BARNES: Okay. I just wanted to make sure.

23 THE COURT: You don't want Professor Shealy to
24 represent you and you don't want his assistance in any way,
25 is that what you are telling me?

1 MR. BARNES: I would like to have appointment of
2 NAACP attorneys.

3 THE COURT: He doesn't work for NAACP.

4 MR. BARNES: I'm requesting to you to have
5 appointment --

6 THE COURT: I'm trying to get a straight answer.

7 He doesn't work for the NAACP. So my assumption is that the
8 answer to my question is, you do not want Professor Shealy
9 to assist you in this matter, and you don't want him
10 appointed on your case; is that correct?

11 MR. BARNES: That's correct.

12 THE COURT: Okay.

13 MR. BARNES: But I am requesting counsel.

14 THE COURT: And you want to put up a full -- you
15 want me to schedule a full evidentiary hearing so you can
16 address the issue of why somebody else should be appointed?

17 MR. BARNES: Exactly.

18 THE COURT: When you are saying "outside counsel",
19 are you saying that I need to get somebody to represent you
20 who is not a licensed attorney in South Carolina?

21 MR. BARNES: I'm not going to say licensed attorney
22 in South Carolina, but attorney who will put up the issues
23 without trying the hearing because the State interference --
24 see, state interference is what I mean. State interference
25 means when an agent of the State under cover of state law

1 interferes in a subject matter that is essential to the
2 client's case.

3 THE COURT: All right. Let me ask you this. If I
4 appoint somebody to represent you, and they don't do it pro
5 bono or they don't do it as part of their job aside from the
6 State of South Carolina, where are the funds going to come
7 from to pay for that person? See? You want me to appoint
8 you an attorney. If I appoint somebody, that means that
9 they are going to be compensated by the State. And that's
10 the Office of Indigent Defense, which gets right back around
11 to what you are complaining about.

12 MR. BARNES: Yeah.

13 THE COURT: And then you could make petitions to
14 the Court if there were deficiencies in the funding, but I'm
15 kind of at a loss. If you had come in -- I'm going to take
16 everything that you said under advisement. And I'm going to
17 issue a written order.

18 Professor, I don't know, if you want to put
19 anything on the record or not, but as far as I know, you are
20 free to go. He says he doesn't want you and he doesn't want
21 your assistance.

22 MR. SHEALY: Thank you. Just out of abundance of
23 caution, since I'm here, I think I will at least stay until
24 this matter is concluded today. But he has related to me
25 that he does not want me to serve as his counsel. And I

1 just want to be sure we aired that in court properly.

2 THE COURT: Okay. Well, that was the primary
3 purpose of me setting this up. So what Mr. Barnes wants me
4 to do is to schedule a hearing where he can put up evidence
5 and he can make his argument as to why I should appoint an
6 attorney affiliated with the NAACP, or something equivalent
7 to that type of appointment.

8 Are we on the same page?

9 MR. BARNES: Uh-huh, yeah.

10 THE COURT: Ms. Brown, do you need to put anything
11 on the record today?

12 MS. BROWN: Not concerning the appointment of
13 counsel. I do stand by the representations that I made
14 earlier about the allegations.

15 THE COURT: Your position was that you were
16 representing Judge Goodstein before the U.S. Supreme Court
17 on the request for cert in a matter against her; is that
18 correct?

19 MS. BROWN: Mr. Barnes had named her in a suit and
20 I represented her. So I did not feel comfortable in
21 representing the State before her in a matter that concerned
22 Mr. Barnes.

23 THE COURT: So your position was that you were
24 requesting that you be off the case?

25 MS. BROWN: Yes, sir. I did not appear before

1 Judge Goodstein for any pretrial motion for that -- it
2 wasn't a death penalty case at that time, a retrial.

3 Your Honor, I would also put on the record too that
4 when we met before on June 20th of 2017, we did discuss the
5 pending case in the United States Supreme Court at that
6 time. I only reference that because of the comments today
7 suggesting that perhaps you should not be on that case. If
8 that's what Mr. Barnes wished to do, he certainly had the
9 opportunity June 20th, 2017, to explore that. Thank you,
10 Your Honor.

11 MR. BARNES: May I speak, Your Honor?

12 THE COURT: Sure.

13 MR. BARNES: Your Honor, it's funny how June 20th
14 of 2017, that I could present an issue regarding you not
15 being on the case. And I find out in October -- I believe
16 it was the early -- no, it was October the 2nd, 2017, I file
17 by my attorneys that she's going to object to Judge
18 Goodstein being on the case because she represented her in
19 the United States Supreme Court on a writ of certiorari;
20 therefore, she was conflicted off the case.

21 THE COURT: "She" being Judge Goodstein or "she"
22 being Ms. Brown?

23 MR. BARNES: Ms. Brown.

24 THE COURT: All right. Again, I appreciate y'all
25 meeting. The only reason we came to Charleston was so that

1 we can have the matter available, so that Mr. Shealy could
2 meet Mr. Barnes.

3 So any further hearings would be in Edgefield, most
4 likely in Edgefield. Okay? Thank you very much.

5 (Whereupon, proceedings are adjourned.)

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CERTIFICATE OF REPORTER

3 I, Karen V. Andersen, Registered Merit Reporter,
4 Certified Realtime Reporter for the State of South Carolina
5 at Large, do hereby certify that the foregoing transcript is
6 a true, accurate and complete Transcript of Record of the
7 proceedings.

8 I further certify that I am neither related to nor
9 counsel for any party to the cause pending or interested in
10 the events thereof.

~~Karen V. Andersen~~
Registered Merit Reporter
Certified Realtime Reporter

Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF EDGEFIELD) CASE NO. 2015-CP-19-00035
3
4 STEVEN LOUIS BARNES,)
5 Plaintiff,) Transcript of Record
6 vs.)
7 THE STATE OF SOUTH) Date: July 6, 2018
8 CAROLINA,)
9 Defendant.

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12 B E F O R E:

13 The Honorable William P. Keesley

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21 Denise J. Lauder, RPR

22 Ninth Judicial Circuit

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2 A P P E A R A N C E S

3

4 APPEARING FOR THE PLAINTIFF:

5 STEVEN LOUIS BARNES

6

7 REPRESENTING THE DEFENDANT:

8 MELODY BROWN, ESQUIRE

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10 Attorney General

11 Rembert Dennis Building

12 1000 Assembly Street, Room 519

13 Columbia, SC 29201

14

15 ALSO PRESENT: Miller Shealy, Professor of Law

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8 INDEX OF EXHIBITS

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10 (No exhibits were offered or
11 marked for identification.)

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1 (The following proceedings were had
2 July 6, 2018, 1:15 p.m., General Sessions Court.)

19 So Mr. Barnes is present, Mr. Shealy is
20 present, and Ms. Brown is present for the State.

21 Can you tell me where we are,

22 Mr. Shealy? You can stay seated; I understand
23 you've had some medical issues.

24 MR. SHEALY: I have had a chat with
25 Mr. Barnes. I have relayed to him the choices that

1 you mentioned. I have told him that I would be
2 happy to assist him in court and go forward with
3 this -- and I'll come back to that in a minute if
4 that's actually where we end up -- that the Court
5 could appoint him another attorney in the regular
6 course, however that's done, and that he can
7 probably represent himself, but he will have to do
8 that -- the Court would have to approve it from
9 this point forward, or that certainly he could
10 still retain an attorney or get an appointed
11 attorney -- or excuse me, get a volunteer if he can
12 find one.

13 He has indicated that he can retain
14 one, or that there is somebody who is willing to
15 volunteer. I told him these things and I talked to
16 him a while. He had very little to say, and I'm
17 not so sure what he thinks of all this that's going
18 on.

19 And I would -- I would ask the Court on
20 the record so that I will know exactly what I'm
21 supposed to do to see what his position is on this
22 order and to state whether he wants me or not.

23 Because I told him -- I have explained
24 to him that you cannot appoint him an NAACP lawyer;
25 you do not have the authority to go out and tell