

1 some organization that they have to represent
2 somebody. He's in a position of having an
3 appointed attorney by the Court, which I'm happy to
4 do, or doing this himself.

5 And I would just like to hear from him
6 what he wants to do. I've talked to him a bit
7 about what it means for me to represent him, that I
8 am an officer of the court. I have talked to him
9 candidly that I will do all that I can to help him.

10 I told him, however, that doesn't mean
11 that I can necessarily say, do, or write and file a
12 motion on anything he wants just because he wants
13 it. I have to exercise independent legal judgment,
14 but I would try with him -- try to work with him
15 through those things with him.

16 I don't know what his position is. I
17 don't know what he thinks. So if he wants me to
18 represent him, I would just like to see what he
19 says, because I don't know yet.

20 And if we could, let's go from there.
21 If he does, I would have some other things, a few,
22 that I would like the Court to address in terms of
23 exactly what my role is with him at this point in
24 time. I have some idea about what that is, but I
25 want to put it on the record; so maybe he should

1 address the Court if he would like to do that.

2 THE COURT: All right.

3 Mr. Barnes, where are we? You can sit
4 or stand.

5 THE APPLICANT: In the order, you
6 stated that I had to put in for a motion --

7 THE COURT REPORTER: You're going to
8 have to speak up. I need to hear you.

9 THE DEFENDANT: Oh, I'm sorry.

10 In the motion -- excuse me, in the
11 order, you stated that I could put in the motion to
12 relieve counsel, and I would like to do so today to
13 the extent of an evidentiary hearing so I can show
14 the systematic breakdown of appointment of counsel
15 system in the state of South Carolina regarding
16 depriving me of substantial issues in the court and
17 interfering in my case. And I would like to put
18 that on the record.

19 And I also would like, if possible, to
20 appoint standby counsel, such as Elizabeth
21 Franklin-Best and their law firm to assist me,
22 because I am incarcerated in McCormick State
23 Prison, in putting up witnesses and whatever the
24 investigative services that I might need in order
25 to have a fair hearing in showing you on the record

1 factually that the State of South Carolina has a
2 systematic breakdown in the appointment of counsel
3 system.

4 To the extent that I'm going to need
5 counsel for a hearing, a due process hearing, we
6 have factual matters in front of you that talks
7 about witnesses and evidence to show and prove my
8 theory, my facts, that there's a systematic
9 breakdown in the appointment of counsel system in
10 the state of South Carolina.

11 And, as a result of the systematic
12 breakdown in appointment of counsel in South
13 Carolina, there is no possible way that my issues
14 will be raised in the court properly regarding my
15 interstate agreement to retain myself. And that's
16 my grounds.

17 Did you get that all, clerk?

18 THE COURT REPORTER: I did.

19 THE COURT: Did you need to put
20 anything on the record, Ms. Brown?

21 MS. BROWN: No, sir, Your Honor. Thank
22 you.

23 THE COURT: All right. Mr. Barnes, as
24 I indicated to you the last time we talked and in
25 the order, you seem to have a rather unique issue

1 in your case. And I tried to find a person that I
2 thought would be best suited to help you maintain
3 and preserve and pursue that issue.

4 Mr. Shealy is not on contract with the
5 State of South Carolina; he's a law professor for a
6 private law school. He has agreed to do this out
7 of the goodness of his heart, basically. And we
8 made arrangements to transport you -- you mentioned
9 that you were in McCormick. We've transported you
10 down here to Charleston now twice.

11 And what I'm hearing from you -- and
12 correct me if I'm wrong. What I'm hearing from you
13 is that you want to be able to present evidence in
14 a hearing about what you claim is a systematic
15 breakdown related to the appointment of counsel in
16 South Carolina that deprives you of the ability to
17 effectively present your IAD issues.

18 So I'm interpreting what you're saying
19 is -- you mentioned standby counsel. Obviously,
20 standby counsel would only be in existence if you
21 represent yourself. What I'm hearing you say is
22 that you don't want Professor Shealy's services.
23 Am I correct in that?

24 THE APPLICANT: Incorrect, Your Honor.
25 When I speak about, like I said, the motion -- this

1 is my motion: Motion to relieve counsel to the
2 extent of an evidentiary hearing.

3 THE COURT: I can't do it halfway. You
4 need to represent yourself or you have appointed
5 counsel. I can't do it halfway.

6 If what you're saying is you want to
7 have this hearing first, then you would be
8 representing yourself if we scheduled such a
9 hearing. I don't know what extent you intend to go
10 into or what you claim to be facts in presenting
11 evidence, but I don't -- I don't know of any
12 process anywhere by which I can appoint somebody to
13 represent you but then tell them they don't
14 represent you.

15 If you want to represent yourself and
16 have a standby attorney, then I understand what --
17 how that might fit into the scheme, but I don't
18 know how I can do it halfway. And that's where we
19 are.

20 THE APPLICANT: May I clear the record?
21 May I clear the record, sir?

22 THE COURT: Say whatever you like.

23 THE APPLICANT: To the extent from
24 constitutional grounds that I'm stating to the
25 Court is a defense, the right to put up a defense

1 at the hearing --

2 THE COURT: You're the applicant.

3 THE APPLICANT: Okay. Exactly. So
4 what I was trying to say, due to being locked up in
5 McCormick State Prison, I don't have the resources.
6 So that's why I was using Elizabeth Franklin-Best
7 over there, utilizing their resources and their
8 investigative services to assist me in putting up a
9 fair evidentiary hearing according to due process
10 law, such as right to cross-examine witnesses, the
11 right to put up evidence.

12 So I need investigative services; and,
13 therefore, when I was speaking in those terms, I
14 was speaking of a right to put up a defense.
15 That's the legal perspective that I'm addressing to
16 the Court.

17 THE COURT: We're not in criminal
18 court; you're not the defendant. So you're the
19 applicant. You have the burden of proof, and
20 you're the moving part.

21 THE APPLICANT: Okay. So what I'm
22 saying, under the due process principle, it still
23 stands. In fact, I have to have -- whether we --
24 fundamental fairness. Let's term it in that, if
25 you don't want to use the right to put up a

1 defense. What I'm saying --

2 THE COURT: It's not what I want.

3 THE APPLICANT: I'm saying I have to
4 reflect for the record the objections. Okay? So
5 what I'm saying to you, that to have -- I'm locked
6 up. I cannot, you know, talk to these witnesses
7 that you need to hear at the motion to relieve
8 counsel in order for me to show the systematic
9 breakdown.

10 THE COURT: That's why I was appointing
11 an attorney to represent you. And what I'm hearing
12 you say -- and, again, you correct me if I'm wrong.
13 What I'm hearing you say is you want to be the one
14 who is presenting the case; you want a standby
15 attorney to assist you in that regard; and you want
16 to have the resources available to be able to
17 develop whatever information it is that you wish to
18 present to the Court. Is that right or wrong?

19 THE APPLICANT: Well, Judge, once
20 again, basically, what I'm trying to narrow it all
21 down to is to having a competent process. A
22 competent process, what I'm trying to say is
23 conflict-free, that it is not tainted by the system
24 in general.

25 Two grounds that I'm stating to the

1 Court that I'm going to show the Court at the
2 hearing, that particular attorneys appointed by the
3 State will suppress the issues necessary for me to
4 have an adequate appellate review, whether it's the
5 state supreme court or the appellate court.

6 On the other hand, the systematic
7 breakdown in the system regarding the funding, or
8 whatever evidence that I proffer to you at the
9 hearing, that I would never be able to have the
10 fair counsel that is necessary.

11 In this context here, there is no such
12 thing as ineffective assistance of counsel at PCR.
13 My grounds is that I'm entitled to a fair process.
14 Whether -- if the State gives me a state-created
15 right to a counsel, that means that counsel has to
16 be working according to due process of law, meaning
17 that it would not deprive me of none of my
18 constitutional rights.

19 So if the State gives me a
20 state-created liberty interest to counsel, that
21 counsel should assist me in one of my liberty
22 interests of freedom. And if a ground is necessary
23 for my freedom, it should be raised. In the
24 deprivation of that, then counsel becomes a State
25 actor.

1 So I'm not trying to -- basically, what
2 I'm trying to say is, I'm trying to have a fair
3 process in the PCR hearing. And in order for you
4 to determine whether there is a systematic
5 breakdown in the system in the state of South
6 Carolina, you have to have the evidence in front of
7 you to make that determination.

8 And if you decide that whether I'm
9 wrong or I'm incorrect -- or, excuse me, whether
10 I'm wrong or I'm correct, you know, that's a matter
11 for -- you know what I'm saying? If you say that
12 I'm correct, then Melody Brown has the option to
13 appeal. If you say that I'm incorrect, then I have
14 the option to appeal.

15 How many times that I came in front of
16 the Court and been correct? How many times has
17 I -- all praises to God, that I won in front of the
18 Court raising issues? Whether on due process
19 grounds or whatever the case may be.

20 You can look chronologically at all the
21 case law that I won in court when I raised and
22 proved that the State of South Carolina was wrong.
23 When they said I was -- when they said -- when they
24 said I was wrong, I proved that the State of South
25 Carolina was wrong.

1 Do you want to go back to the time --
2 you all remember when they said I didn't have a
3 right to counsel, and they tried to reinstate my --
4 reinstate the death penalty because I revoked my
5 right to counsel, and I fought it all the way
6 through? I went nine months in a death penalty
7 case without counsel. Nine months. And I fought
8 and won.

9 And not only that, the state supreme
10 court rebuked the State of South Carolina for
11 punishing me for revoking my right to counsel.

12 What about my death penalty case when I
13 was forced to represent myself because of
14 ineffective assistance of counsel? And then the
15 state supreme court not only rebuked the State of
16 South Carolina three times and stated that I was
17 right in the Court's opinion.

18 So, basically, what I'm trying to say
19 to you right now is that I would like to show the
20 Court, in evidentiary form, a systematic breakdown
21 in appointment of counsel system here in the state
22 of South Carolina. And I will be able to prove
23 that without no problem.

24 Now, the question regarding the
25 counsel, when I asked you about Elizabeth

1 Franklin-Best and using the resources of their
2 office. Now, whether I incorrectly termed it as a
3 standby counsel, basically what I'm saying is I
4 need services that would be able to assist me in --
5 so you would be able to have all of the evidence in
6 front of you; because due to I'm in McCormick State
7 Prison, there is absolutely no way that I can talk
8 to witnesses, gather evidence in an investigative
9 manner.

10 There is no -- I'm just shackled right
11 now and nothing I can do. I can't tell the SCDC
12 officers to talk to John Doe here. I mean, it just
13 don't work like that. They are state officers. I
14 mean, that's already messed up.

15 So I need some type of investigative
16 services that can assist me in a motion to relieve
17 counsel so you can have all the evidence that you
18 need and have all the witnesses that you need --
19 and witnesses is the evidence of the court -- so
20 you can make a factual determination of whether I'm
21 wrong or right. That's what I'm trying to say.

22 Like I said, I apologize if I termed it
23 incorrectly by saying Elizabeth Franklin-Best as
24 standby counsel; because I see you saying that,
25 okay, Professor Shealy, he could be your standby

1 counsel. What I'm trying to tell you is that the
2 -- from a defensive perspective, I need a
3 conflict-free area where I could be able to present
4 my issues without no state interference.

5 Okay. Let me give you an example of
6 what I'm talking to the Court. For example --

7 MS. BROWN: Your Honor, if I may impose
8 an objection just real quick. The hearing today
9 was supposed to be simply on the appointment of
10 counsel. I believe Mr. Shealy had asked for
11 clarification on the terms of appointment and what
12 is expected of him.

13 We, of course, do not weigh in on that,
14 as you asked me earlier if I had any comments.

15 I do object, however, to these
16 continuing arguments and representation of facts
17 that I'm not able to respond to, again, because of
18 the limited scope of this particular hearing.

19 We do maintain our position that this
20 entire action should be dismissed as being outside
21 the jurisdiction and limitations of the
22 Post-Conviction Relief Statute 17-2-10 SC.

23 Thank you, Your Honor.

24 THE COURT: Yes, ma'am.

25 THE APPLICANT: May I speak, Your

1 Honor?

2 THE COURT: Yes, sir. I think I
3 understand what you're saying.

4 THE DEFENDANT: I also want to object
5 to it as well. She had ten days to object on
6 record to the state supreme court. That's res
7 judicata. She's collaterally estopped. She can't
8 just raise that in court right now. She had all
9 the opportunity in the world to raise those issues.
10 She's res judicata.

11 She can't just defy the Court ruling.
12 She had ten days to -- ten days to appeal to the
13 state supreme court your order. So now she wants
14 to come back and state on the record that -- about
15 issues that I raised in court.

16 And another thing, you stated in your
17 order that I could file a motion to relieve
18 counsel. And this is what the motion is about, the
19 motion to relieve counsel. You have the order. So
20 as a result of that, I state that she's res
21 judicata for raising that issue in the court today
22 because it's already been decided.

23 She had ten days to appeal to the state
24 supreme court, and she didn't do it. So as a
25 result, she can't sit here and raise the issue in

1 court today.

2 MS. BROWN: Your Honor, respectfully, I
3 maintain my objection.

4 THE COURT: I understand.

5 THE APPLICANT: And I maintain my
6 objection.

7 MR. SHEALY: I don't want to -- may I
8 remain seated?

9 THE COURT: Yes, sir. I wish you would
10 stay seated.

11 MR. SHEALY: I understand, Judge. It's
12 easier for me.

13 As I said, I'm willing to help the
14 Court in every way that I can. I am familiar with
15 the post-conviction relief statute procedures. I
16 have been provided -- Ms. Brown and others have
17 provided me documentation about this case in terms
18 of what's gone on in the past. It's not everything
19 that I would need to represent him, but it's a lot.

20 And I suppose my concern going in, if
21 I'm left on the case -- and I want to do whatever I
22 can for the Court. I have represented people in
23 Mr. Barnes' situation before, and I do now in other
24 matters.

25 Since the problem I would have, that we

1 need to think about in some way, is that Mr. Barnes
2 will ask me to do things that as an officer of the
3 court I think are clearly outside of the
4 jurisdictional range of the post-conviction relief
5 statute just based on listening to him.

6 I can try to do that. Ms. Brown may or
7 may not object to it. I think she will object to
8 it. And maybe we just need to have a ruling on it.

9 As an officer of the court, I do think
10 there are -- while I can represent him to the best
11 of my ability, I think I'm correct in saying that
12 that does not mean that I do and say and represent
13 to the Court whatever he wants, because I don't
14 think technically that I can do that.

15 THE COURT: I understand. Every
16 attorney, whoever is appointed, is going to be
17 bound by the ethical rules. I understand.

18 THE APPLICANT: Your Honor, for the
19 record, if you don't mind, can you state
20 specifically what did I say in the courthouse that
21 was unethical or against the rules of court, for
22 the record?

23 THE COURT: I'm not going to divulge
24 any kind of --

25 THE APPLICANT: Anything I said in this

1 court was factual basis in the law. I had legal
2 basis in law. And the factual basis of it I would
3 like to present by a motion to relieve -- in a
4 motion -- in an evidentiary hearing by utilizing a
5 motion to relieve counsel.

6 I don't see nothing that I said in this
7 courthouse that it's unethical for him to proceed
8 in this matter. See, that right there is showing
9 proof that he's not competent to assist me in the
10 area of me showing you the systematic breakdown.

11 If anything, he just encouraged my
12 theory. He just stated on record my whole point of
13 what I was just trying to say to the Court.

14 THE COURT: All right. What I
15 understood him to say was he anticipates that there
16 may be problems in the future, and that you may
17 want to be advancing things that he doesn't feel
18 that he'll be able to advance as an officer of the
19 court.

20 THE APPLICANT: How can he speculate
21 something? I didn't even say nothing to him in
22 regards to anything. He's showing a prejudicial
23 nature of me already. I have not said absolutely
24 nothing in regards -- I have not spoken to this man
25 at all about anything, and he's predicting things

1 that aren't even true.

2 I did not say nothing to this man. I
3 haven't even told him anything. How can he predict
4 something? Apparently, something I'm saying today
5 from a legal perspective that has affected this
6 man's representation of me.

7 THE COURT: Here's what I'm going to
8 do: I'm going to consider that you are requesting
9 the Court to relieve counsel. You want a
10 full-blown evidentiary hearing. The question
11 whether I release Professor Shealy and appoint
12 somebody else is something that I can do in stages,
13 as I see it.

14 And so I think I have burdened
15 Professor Shealy enough, and I'm going to relieve
16 him of this account. And I'll do an order that
17 addresses what I understand the process to be, and
18 I will consider the issues that have been raised by
19 Mr. Barnes, as far as procedurally, how we go. And
20 we will plan to have another type of status hearing
21 in another month if things aren't ironed out by
22 then.

23 I have burdened you enough, Professor
24 Shealy. I appreciate your service to the court.

25 And, Mr. Barnes, I have taken down

1 notes on what you told me. I think I understand
2 it, what you've written before and said before and
3 what you've told me today. And we'll just -- I'll
4 do an order so everybody sees exactly what it is.
5 And I don't know what the order is going to say
6 myself right now.

7 I can tell you I went back and forth,
8 back and forth on the order I did because, as I
9 said in that order, when you filed your
10 post-conviction release, there was no conviction.

11 So I'm confident that what I did -- and
12 I may be wrong, a higher court may tell me I'm
13 wrong, but I'm confident what I did initially with
14 the conditional order was the proper thing at the
15 time.

16 What has thrown a wrench into the works
17 is you have since been convicted and you have this
18 issue out there. And South Carolina Supreme Court,
19 for some reason, decided to address the IAD issue
20 and didn't give us much language in doing so. And
21 all the other issues that were out there to
22 contest, they said we're are not going to consider
23 those because it refers to your conviction and
24 sentencing, and sent it back. So that's what I'm
25 having to wrestle with.

1 I appreciate everybody coming. I will
2 do a written order. If there is any communication,
3 I will make sure that everybody is copied on it.
4 Thank you all very much.

5 Court is in recess.

6 (These proceedings were concluded at
7 1:46 p.m.)

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1 CERTIFICATE OF REPORTER
23 I, Carol Denise Lauder, Registered
4 Professional Reporter and Notary Public for the
5 State of South Carolina at Large, do hereby certify
6 that the foregoing transcript is a true, accurate,
7 and complete record.8 I further certify that I am neither related
9 to nor counsel for any party to the cause pending
10 or interested in the events thereof.11 Witness my hand, I have hereunto affixed my
12 official seal this 2nd day of September, 2018 at
13 Charleston, Charleston County, South Carolina.

14

15

16

17

18 _____
19 Carol Denise Lauder
20 Registered Professional
21 Reporter, CP
22 My Commission expires
23 February 27, 2028

24

25

10 February 12, 2019

11 McCormick, South Carolina

12

14 | The Honorable William P. Keesley, Judge

15

16 | A P P E A R A N C E S :

17 Kristy G. Goldberg, Esquire
On behalf of the Applicant

19 Melody J. Brown, Esquire
On behalf of the State of South Carolina

22 Stacy S. Johnson
Circuit Court Reporter

25

I N D E X

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(The following proceedings were held February 12, 2019, beginning at 10:02 PM.)

3 | **BAILIFF:** All rise.

4 THE COURT: Be seated, please.

5 I've asked you to appear today in yet another status
6 conference to try to determine where we are and how we
7 want to proceed from here in this case of State versus
8 Steven L. Barnes.

9 Ms. Goldberg, can you give me an update of where you
10 think we are on the case?

11 **MS. GOLDBERG:** I can, Your Honor. Just kind of an
12 outline of, I think, what needs to be addressed today, and
13 I'm gonna go in reverse order, there were some funding
14 requests filed. I think those need to be addressed last
15 just to get that out of the way. Then, of course, there is
16 matter of the conditional order of dismissal, which has
17 been signed by the Court. When I was appointed, I filed a
18 response to that, so I believe at this time the overall
19 status of the case is essentially a determination needs to
20 be made by the Court at some point as to whether the case
21 should be dismissed procedurally or whether an evidentiary
22 hearing needs to be scheduled.

23 Aside from that, which we could proceed on today and
24 discuss or not at the Court's discretion, Mr. Barnes has
25 some motion to relief counsel issues, and I think I need

1 to clarify that this is kind of twofold. One, I believe
2 that he wrote Your Honor asking for a motion to relieve
3 counsel and I think that specifically addresses his desire
4 to have me personally relieved off his counsel, and I
5 won't address that any farther. Mr. Barnes can say
6 whatever he wants to in that regard; however, independent
7 and separate from that Mr. Barnes does want to address
8 his counsel situation through a full hearing, and that
9 is where I filed -- I think I -- I titled it a motion to
10 alter or amend the Court's previous decision appointing
11 counsel.

12 What Mr. Barnes would essentially want to argue is
13 that he believes the State of South Carolina has been
14 interfering with his ability to be represented by
15 competent counsel in various ways. As a part of that,
16 he believes that the Department of Corrections has been
17 denying his medical care and that is directly related to
18 his relationship with counsel and appointment of counsel.

19 So he has -- I know he's written to Your Honor
20 previously about how he asked me to subpoena about
21 thirteen individuals to be here today. I did not do
22 that knowing that this Court was not preparing for a
23 multi-witness, potentially multi-day, hearing on that
24 issue at this time, but that is what Mr. Barnes desires,
25 so if the Court wants to schedule that, we may need to

1 schedule that another time and subpoena those witnesses.
2 It may benefit -- well, I guess I'll leave it at that.

3 So there's two different branches, two types of
4 arguments, he wants to argue regarding counsel, and I think
5 that's kind of the overall blueprint for where we are in
6 the status of this case.

7 **THE COURT:** Do you know of any other lawsuits that
8 are filed in state or Federal court to deal with his
9 claims against the Department of Corrections about his
10 medical care?

11 **MS. GOLDBERG:** What I'm aware of is, of course,
12 there's a direct appeal from his -- and this is unrelated,
13 but related to your question. Of course, there's a
14 direct appeal from the criminal conviction and I will
15 inform the Court that apparently Mr. Barnes has filed a
16 motion to stay that appeal pending the outcome of this
17 post-conviction relief matter. That was recently filed
18 at the beginning of February and I haven't even seen it.
19 I didn't receive a copy. Ms. Brown alerted me to that on
20 the central index, so that is related to all of this.

21 I also am aware that Mr. Barnes has at least
22 attempted to file a mandamus action with the Supreme
23 Court. Ms. Brown received a copy of that, she gave me a
24 copy of that, this was probably back in October, but I am
25 not aware of if that was actually filed with the Supreme

1 Court or not. I'm not -- I don't know if there's been --
2 if it was properly filed or if that action is proceeding or
3 who counsel -- I don't know anything about that.

4 If there are any other cases pending, which there may
5 be in Federal court or otherwise, I'm not aware of them at
6 this time. Mr. Barnes may be able to let you know because
7 I don't -- he does not send me a copy of things that he
8 sends out.

9 **THE COURT:** Is he represented on his direct appeal?

10 **MS. GOLDBERG:** Yes. At this time he is represented
11 by Catherine Huggins with Appellate Defense, but his motion
12 to stay I believe includes a motion to have her relieved on
13 that matter and that, like I said, was just filed
14 February 1st, so there's no disposition as to that motion.

15 **THE COURT:** Before I hear from Mr. Barnes, Ms. Brown,
16 do you want to say anything about the posture of the case?

17 **MS. BROWN:** Your Honor, we would agree that the
18 conditional order was filed and the response was filed, so
19 it's ripe for consideration of whether a final order needs
20 to be issued in this case. I agree that the direct appeal
21 is pending. I agree that I have received the original
22 writ action in the mail, but I have never received any
23 confirmation from the Supreme Court. I did offer this
24 morning as we were discussing that prior to you taking the
25 bench that I would go to the Supreme Court this afternoon

1 to see whether that is actually pending or if it was
2 dismissed under Key versus Curry. I have no information
3 on that part.

4 **THE COURT:** All right. The -- the statement that
5 was made during the recitation by Ms. Goldberg as far as
6 the scheduling of the matter is correct. It's -- there's
7 been repeated requests to issue subpoenas for a full
8 evidentiary hearing at the request of Mr. Barnes. In
9 order to schedule a full evidentiary hearing, the Court
10 needs to have an idea as to how long we're talking about
11 because I have to set aside a sufficient amount of time at
12 a particular location, I have to make sure it clears other
13 people's schedules, and so the idea that we'll just make
14 everybody come on a particular day is just not workable,
15 it's not feasible. It's not the way things are typically
16 done.

17 I had asked -- well, I received a request from
18 Mr. Barnes that I order people to appear by way of
19 subpoena. I responded in a letter, which should be in
20 the file, that the Court doesn't issue subpoenas itself,
21 that he has an attorney appointed at this time and if he
22 wanted to subpoena people, that he should discuss that with
23 his attorney, but as far as the Court getting involved in
24 anything about whether or not subpoenas should be issued,
25 which is really not before the Court, what has generally

1 happened in the past when I've had this come up is that I
2 need some indication of what it is that these people are
3 being expected to testify about.

4 There have been these general accusations about the
5 State of South Carolina depriving Mr. Barnes of his right
6 to competent counsel or the counsel of his choice. He's
7 demanded several times that I appoint someone affiliated
8 with the NAACP to represent him. I've tried to respond
9 each time consistently that I don't have the power to
10 compel somebody with the NAACP to represent him. If he
11 wants to contact that organization or any other
12 organization and that organization wishes to provide
13 legal services to him, that's fine with me. I don't
14 have any problem with that. I have tried to go the
15 extraordinary step of appointing to him someone who I
16 thought to be recognized in the State as an expert in
17 writs and procedure and he doesn't really work for the
18 State of South Carolina, he has in the past, but he worked
19 for them, he works as a professor at a law school now and
20 was at all times relevant to this inquiry, but -- and we
21 had hearings in Charleston on that to try to move things
22 along and we didn't really get anywhere, so I wasted enough
23 of the professor's time and I issued an order relieving
24 him. I said he would -- counsel would be appointed in the
25 normal course and just try to figure out just what it is

1 that these claims are.

2 If this is a challenge to the funding, that the
3 funding is inadequate in the state, and there's been
4 lawsuits about that, he can go on-line and look up briefs
5 that have been filed in the U.S. Supreme Court about that
6 issue as to whether a particular state has provided
7 sufficient funding for -- for the defense of indigents.

8 But this, of course, is a PCR action, this is a civil case,
9 but admittedly it's a hybrid between civil and criminal
10 court.

11 But my understanding is that Mr. Barnes has developed
12 this opinion that anybody affiliated with the State of
13 South Carolina is not going to represent his best interest
14 and anyone paid by funds provided by the State of South
15 Carolina is not going to represent his best interest, and
16 I -- I don't know what he expects me to do. If I order
17 funding, it's gonna come from the State. I don't have any
18 other place to order funding from. In the old days, we
19 ordered it from the counties and if anybody thinks it was
20 easier to get money from the counties than from the State,
21 they didn't go through that experience.

22 So in order -- there was a request for an ex parte
23 hearing if there are attorney/client issues, issues that
24 need to be addressed in a matter that the State's counsel
25 is not present, then that's fine, but I haven't been

1 alerted to anything like that.

2 **MS. GOLDBERG:** Your Honor, if I can briefly. I think
3 the ex parte, it may have applied to funding as well, but I
4 can't remember if I put that on a clarification of counsel
5 motion.

6 **THE COURT:** He's filed several things together.

7 **MS. GOLDBERG:** Right. You know, when I first met
8 with Mr. Barnes, at that point in time it was our first
9 meeting and my understanding was at that moment, of course,
10 he didn't have necessarily issues with me yet because we
11 were just meeting, but he still very much wanted to pursue
12 this action of arguing that -- the denial of medical
13 treatment and indigent defense actions have prevented him
14 from receiving counsel. Of course, I told him that it
15 would be somewhat different for -- difficult for me to
16 present that for him and argue that for him because I am
17 appointed counsel, and so that's why I filed that
18 originally to kind of bring this to the Court's attention
19 and to determine if he needs to present that himself, if
20 I need to present that for him. I'm not quite sure how
21 to go about that. But since that time then he did inform
22 Your Honor that he wanted to relieve me altogether, so
23 that's just kind of the history.

24 **THE COURT:** All right. Well, I'm gonna hear from
25 Mr. Barnes in just a moment. Before I forget it though,

1 I do want to make sure everybody understands he has been
2 mailing things to my post office box that have on the
3 envelope "Clerk of Court" on the outside, and I don't
4 know if the attorneys are aware of that. Sometimes when
5 those things are received, I may be halfway across the
6 State. The post office box of the Clerk of Clerk, I
7 believe it's Post Office Box 34, mine is 10, and if
8 anything else is to be filed with the clerk's office, and
9 I'm not getting in right now into the issue about hybrid
10 representation, but if there's anything that needs to be
11 filed with the clerk's office, it needs to be sent to
12 the clerk and not rely upon me to get it, go through it
13 whenever I actually see it and then take it down to the
14 clerk's office to be filed.

15 All right, Mr. Barnes. Do you want to tell me where
16 you think we are with this?

17 **MR. BARNES:** Yes, sir. I know your -- your version
18 of the record is not concise, not accurate, so let me help
19 you out so you can understand the full record concerning
20 this case from the beginning from 2014 when I came off
21 death row. I have repeatedly shown on the record where
22 the State of South Carolina has interfered with my right
23 to counsel. Not only that, I done had attorneys even
24 admit on record that the State of South Carolina had
25 interfered with my right to counsel. Not only that, in

1 my trial, counsel Jeff Bloom, had placed on record the
2 administrative law court findings -- or the administrative
3 law court brief, the one hundred page brief that I filed
4 with the Court, and it goes into details -- in minute
5 details of the State of South Carolina's interfering with
6 my right to counsel and punishing me for me invoking my
7 right to counsel. So since you say you don't have the
8 information and the facts, I would like to submit this
9 for the record.

10 May I hand this to the Department of Corrections so
11 he can hand this to you? I don't know how you'd like,
12 but I'd like to submit this for the record so you can
13 have it for the file so you can read it whenever you --
14 whenever it's appropriate and you have time so you can --
15 so you understand that there's information in the record
16 that specifically states in minute details not only that
17 I put on -- put on the record, but also trial counsel
18 had placed on the record dealing with the State of South
19 Carolina interfering with my right to counsel or punishing
20 me for invoking my right.

21 Not only that, in 2015, July the 1st, 2015, the State
22 Supreme Court stated on record that the State of South
23 Carolina was punishing me for invoking my right to counsel
24 when they was trying to reinstate my death penalty. So if
25 you want a true and accurate record, the record is already

1 existing. Now --

2 **THE COURT:** Is that opinion where they reversed?

3 **MR. BARNES:** Exactly. When they -- when they tried
4 -- when Melody Brown was trying to reinstate the death
5 penalty and it states -- it's got a little footnote, we
6 note -- we note -- this is what the State Supreme Court
7 say. We note that the State of South Carolina is trying
8 to punish me for invoking right to counsel. I went a
9 period of nine months on my own without counsel in a
10 capital case. And not only that, the State appealed that
11 decision and I went an additional -- another -- a total
12 of sixteen months without counsel.

13 **THE COURT:** Yes, sir. I'm -- I'm aware of all that.

14 **MR. BARNES:** Okay. So you -- you saying for the
15 record that there's no factual basis to support my claim
16 stating inference of counsel, I'm telling you now and you
17 just admitted for the record that --

18 **THE COURT:** I never said that.

19 **MR. BARNES:** Okay. So the evidentiary hearing is
20 based off of that. You have to have facts in front of you
21 to understand the reason why in this unique circumstance
22 that I am requesting particular counsel and it's my
23 position is not a normal indigent -- indigent defense-type
24 situation where you have a client come up in here, you see
25 what I'm saying, with no type of factual situation like

1 mine because I done fought South Carolina from the rule
2 -- from the beginning to the end and all praises due to
3 God, if it weren't for God I wouldn't be able to be --
4 I'd be on death row right now, so all praises due to God
5 for that.

6 Let's go back to the beginning. I'm not trying to --

7 **THE COURT:** Who is it you want me to appoint? I
8 don't --

9 **MR. BARNES:** No, it's not the appointment part, but
10 you just stated on record in the courtroom that there's
11 -- that I have not stated anything -- or that there's
12 nothing on record dealing with me stating that the State
13 of South Carolina had interfered with my right to counsel.
14 Now if quoted you wrong, I apologize, but I know for a
15 fact --

16 **THE COURT:** I'm sure you quoted me wrong because I
17 never said any such thing.

18 **MR. BARNES:** Okay. Well, I apologize.

19 **THE COURT:** You'll have the transcript, so the
20 words --

21 **MR. BARNES:** I apologize.

22 **THE COURT:** If you'll hand that to the bailiff --

23 **MR. BARNES:** I apologize. I'll hand that to the
24 bailiff. This is the -- as a matter of fact, if you --
25 as a matter of fact, I'm gonna help you out even greater

1 than that.

2 **THE COURT:** Wait a second. Mark this as a Court's
3 exhibit.

4 **MS. GOLDBERG:** Your Honor, just so you're aware, I
5 believe Mr. Barnes told me that is his formal motion to
6 relieve counsel.

7 **MR. BARNES:** Wrong. Let me file this copy.

8 **MS. GOLDBERG:** Okay. Well, whatever it is, he --
9 he brought a copy for Ms. Brown this morning, so she
10 received it this morning, hasn't reviewed it. He did
11 not bring a copy for me.

12 **MR. BARNES:** Excuse me, Your Honor.

13 **THE COURT:** I assume this to be the ALJ record or
14 something like that. Is that not the administrative
15 law --

16 **MR. BARNES:** I -- I promise you -- if you just give
17 me a moment, I promise you -- I promise you, you will
18 understand clearly about what I'm about to show you and I
19 guarantee you'll understand clearly. I promise you.

20 **THE COURT:** Well --

21 **MR. BARNES:** If you'll give me a few seconds.

22 **THE COURT:** -- what is that that you just marked?

23 **MR. BARNES:** Okay. Oh, okay. Well, I mark that as
24 Applicant -- or PCR Applicant Exhibit 1 for the record.
25 It's a --

1 **THE COURT:** What is it?

2 **MR. BARNES:** -- an administrative law court brief
3 that I filed back in September 28th of 2017.

4 **THE COURT:** All right. Make this a Court's exhibit
5 and we'll make copies of it.

6 (Court's Exhibit Number 1 was marked for
7 identification.)

8 **THE COURT:** What I said was, that in order for the
9 Court to get involved with requiring somebody to be here
10 and, again, this is the cart before the horse, there has
11 to be some indication as to what it is that this person
12 is expected to testify about specifically, not some broad
13 generality. I mean, everybody who's reviewed this record
14 understands that you were in Georgia, you'd already been
15 adjudicated over there, you were brought to South Carolina,
16 you were left there for a very long period of time in
17 jail, you had the issue with the IAD claim, which is what
18 this PCR hinges upon, that -- that you went in front of
19 Judge McMahon, what rulings were made, the reversal, when
20 you came in front of me about the appointment of counsel
21 and then the -- raised the issue that -- that the South
22 Carolina Supreme Court appointment of the judge had never
23 been changed, so Judge -- Judge McMahon still had exclusive
24 jurisdiction, so I did not issue a ruling on that hearing
25 that I had. Everybody understands who's reviewed this

1 record that then Judge McMahon declined -- or got the
2 chief justice to remove him from the case and that Judge
3 Goodstein came onboard and then she had the same hearing
4 I had, I believe, and then she gave you the attorneys you
5 had asked me to give to you and then you went through the
6 process of -- of getting the attorneys to represent you in
7 the second trial, the State fought that because the basis
8 for the reversal in the first instance was that you'd
9 wanted to represent yourself, so the State took the
10 position that you had already waived counsel and that you
11 expressed that you wanted to proceed without counsel, and
12 -- and I never made any determination about that, I never
13 issued a ruling on it. Judge Goodstein ruled the other
14 way, she gave you the attorneys, and you went to trial on
15 not a death penalty case the second time.

16 And you had this IAD claim that was -- was pending
17 and because the Supreme Court -- the South Carolina
18 Supreme Court had ruled that the IAD claim was -- let me
19 think of the proper word. The IAD claim basically was --
20 was not determined in your favor, they declined to rule
21 on the other issues except for Judge McMahon applying the
22 incorrect standard, and so you were put in that situation
23 where you had an IAD issue that had been determined by
24 the Supreme Court, but you had no conviction.

25 **MR. BARNES:** Do you want me --

1 **MS. BROWN:** Your Honor, may I?

2 **THE COURT:** Yes.

3 **MS. BROWN:** Just for clarification, you haven't had
4 the benefit of the appellate court documents, and that
5 also goes over some of the questions, and, in particular,
6 the question of the Interstate Detainer Act, which has
7 been raised in the direct appeal because it was raised in
8 the retrial, that was the noncapital retrial.

9 **THE COURT:** Yeah. Well, I asked about that
10 previously in some of these status conferences, so if
11 there's an appeal -- and you-all were talking about the
12 mandamus thing. I learn after the fact about these
13 mandamus things. They don't ask me why something hasn't
14 been done. I don't really understand that process, but if
15 there's a mandamus action out there, I want to know that
16 because if there's something I need to be doing, I want to
17 try to do it.

18 Okay, Mr. Barnes. We're back to you.

19 **MR. BARNES:** I'm sorry. Thank you. I was just going
20 over the facts and I -- I know you have your version of
21 the facts of the history and now I'm about to give you a
22 true and accurate version of the facts and history again.

23 I guess I anticipated what you was gonna say for the
24 record and I have a -- I'm gonna submit this to the Court.
25 This is Applicant -- PCR Applicant Exhibit -- do you want

1 to -- Exhibit 2. It have in details the judicial branch
2 interference with my right to counsel. It also shows
3 where Melody Brown had lied in the State Supreme Court
4 -- I mean, excuse me, not the State Supreme Court, the
5 United States Supreme Court.

6 If you recall, I filed a writ of mandamus --

7 **MS. BROWN:** Your Honor, I am going to object to that
8 characterization, which is highly inappropriate and
9 inaccurate.

10 **MR. BARNES:** Okay. Well, the record speaks for
11 itself and I'm gonna keep that -- exactly what I just
12 stated. She lied and I'm -- I'm gonna show it.

13 **MS. BROWN:** Objection, Your Honor.

14 **MR. BARNES:** Well --

15 **THE COURT:** I don't get into --

16 **MR. BARNES:** -- let me put up -- let be able -- let
17 me be able to put up the evidence. Now you stated for
18 the record that you objected and you stated you did not
19 lie, and I'm telling you, you lied. Now I'm gonna show
20 the facts and prove in an evidentiary hearing that not
21 only you lied to the Federal court and the State court,
22 that also other co-conspirators of the State had lied to
23 the Federal and the State court.

24 Now the judge is saying that he wants to know for a
25 hearing what is gonna be at this hearing, so I'm telling

1 the judge what's gonna be at this hearing. Everything
2 have to be a point of evidence.

3 **MS. BROWN:** Your Honor --

4 **MR. BARNES:** Listen, the man don't want to hear
5 speculation and hypotheticals. He want to hear facts and
6 I'm gonna give him facts at a hearing.

7 **THE COURT:** Hold on a second. What's --

8 **MS. BROWN:** Your Honor, if I may, I have an objection
9 that this is not relevant because the only relevant issue
10 before the Court is the argument that we've made in the
11 motion to dismiss and that goes to the jurisdictional
12 limitation of the Post-Conviction Relief Act. We have
13 stated in our motion to dismiss that the language of the
14 act requires that underlying conviction and sentence. The
15 conviction and sentence that is being challenged in this
16 2015 application was the sentence and conviction vacated
17 on direct appeal. Anything else at this point cannot go
18 back to the 2015 application. That's why we're asking for
19 dismissal. As we've said, the PC -- the direct appeal is
20 still pending on very intertwined issues. All of this is
21 premature, but the bottom line is the argument that's
22 being presented today, Your Honor, we take the position it
23 is not relevant because the issue is the jurisdictional
24 limitation of the post-conviction relief statute.

25 Thank you, Your Honor.

1 **THE COURT:** All right. I'm gonna -- I'm trying to
2 -- this is a status conference. I'm trying to figure out
3 what needs to be set and try to get it set.

4 (Court's Exhibit Number 2 was marked for
5 identification.)

6 **THE COURT:** Go ahead, Mr. Barnes.

7 **MR. BARNES:** Thank you, sir.

8 So, once again, she's trying to adjudicate the -- the
9 actual motion to dismiss. I'm assuming that's what she's
10 saying for -- for the record, but --

11 **THE COURT:** No, I understood her argument. Her
12 argument is this doesn't have anything to do with the
13 matter before the Court, but --

14 **MR. BARNES:** Okay. Yeah, and I -- I'm understanding
15 her argument as well, but you asked me about the
16 evidentiary hearing and I'm telling you the facts behind
17 that, so that's what -- that's what I'm --

18 **THE COURT:** And I said go ahead.

19 **MR. BARNES:** Okay.

20 Now, like I was saying, for the record there's a
21 persistent, a consistent, a habitual State interference
22 from the judicial level, from the South Carolina
23 Department of Corrections, and the county jails that were
24 holding me, along with the executive branches, meaning
25 the solicitor and the Attorney General's office. Now with

1 that said, the same matters, whether it's on appellate
2 review, in my -- let's -- let's speak about this first.

3 In my October the 9th through the 13th, 2017, trial,
4 I raised in the trial court ineffective assistance of
5 counsel. South Carolina on direct appeal allows
6 ineffective assistance of counsel to be raised on direct
7 review if you rally -- I mean, excuse me, if you raise
8 ineffective assistance of counsel to the trial judge.

9 That's a -- that's the adequate rules that South Carolina
10 has in play on direct review. As long as you raise
11 ineffective assistance counsel in the trial court in
12 front of the judge it's allowed in the South Carolina.
13 However, the rules was applied to me inadequately on
14 direct review because Judge Goodstein would not allow me
15 to raise ineffective assistance of trial counsel on the
16 record and now the State of South Carolina -- excuse me,
17 now the State of South Carolina is trying to make me,
18 trying to force me, to take issues on direct appeal that
19 are not even mine, that don't even belong to me. Judge
20 Goodstein wouldn't even allow me to speak in the October
21 the 9th through the 13th trial when I was trying to
22 explain to her on the record how counsel was ineffective.
23 Not only that, it got to the point to where Jeff Bloom
24 in PCR Applicant Exhibit 1 put that in the record for
25 appellate review dealing with the prejudices of the State

1 of South Carolina interfering with my right to counsel.
2 And not only that, in that same Exhibit 1 it raises
3 ineffective assistance of counsel.

4 So I have went through all the processes and rules
5 of the State of South Carolina and, therefore, whatever
6 decision you make the State cannot vote in no Federal
7 forum, none whatsoever, whether the United States Supreme
8 Court, the independent and adequate State doctrine because
9 they continuously and persistently denied me to raise a
10 Federal cause of action in State court and continuously
11 deprived me of a hearing process in the State court.

12 Now the reason why in the trial court that I raised
13 ineffective assistance of counsel is for the sole reason
14 of subpoenaing Robert Hart and David Tarr to the hearing
15 dealing with the Interstate Agreement on Detainers Act.
16 And not only that, when I came in front of you when I came
17 from Georgia on 5-18-2005 and had a hearing -- scheduled
18 a hearing on IAD 5-24-05, that I went in front of you
19 without counsel, that's a structure error by itself.

20 **THE COURT:** The purpose of the hearing was to appoint
21 counsel or -- I don't understand what you're saying.

22 **MR. BARNES:** Okay. The point what I'm trying to get
23 at is this.

24 **THE COURT:** Everybody that comes into court on an
25 initial charge doesn't have a lawyer and there's a question

1 about appointing them an attorney. In your instance you
2 had -- you had prevailed on appeal and you came in front
3 of me as the chief judge for administrative purposes to
4 appoint an attorney.

5 **MR. BARNES:** Oh, you made a mistake. This is in '05.
6 '05.

7 **THE COURT:** '05?

8 **MR. BARNES:** Year '05.

9 **THE COURT:** Okay.

10 **MR. BARNES:** When I came from the Georgia
11 penitentiary on the IAD to Edgefield on May 18th '05,
12 we had hearing on 5-24 -- 5-24-05.

13 **THE COURT:** Okay. Go ahead.

14 **MR. BARNES:** Do you recall it now or -- it's been so
15 long ago, so I can --

16 **THE COURT:** I don't honestly -- I mean, I remember
17 reading something about that in the record, but I don't --

18 **MR. BARNES:** Yeah, I know it's been awhile, but --

19 **THE COURT:** -- have an independent recollection of it
20 right this moment. Go ahead.

21 **MR. BARNES:** It's been a while. So --

22 **THE COURT:** It's been fourteen years.

23 **MR. BARNES:** Yeah, it's been about that. But anyway,
24 the point of the hearing, Your Honor, is that in this
25 unique circumstances that a particular counsel who will

1 raise properly my issues in the court so I can -- see, in
2 South Carolina, I have a right on a PCR to raise all my
3 issues. That's a right. And, see, any time a state or
4 Federal gives me a right to something, it's considered a
5 property -- a property interest under the due process
6 clause. A cause of action is a property interest under
7 the due process clause and continuously the State of South
8 Carolina has been depriving me of a property interest
9 under the due process clause.

10 Now --

11 **THE COURT:** Are you talking about the sovereign
12 citizen philosophy now or --

13 **MR. BARNES:** No, no. We're not talking about the
14 sovereign citi -- whatever way you say it, the Sovereign
15 Citizen Act or whatever, just under -- under the due
16 process clause.

17 **THE COURT:** Well, how do I know that she's not gonna
18 raise all the issues?

19 **MR. BARNES:** Oh, how you gonna -- how you gonna --
20 how you don't know that she's gonna raise all the issues,
21 huh? Well --

22 **THE COURT:** You see what I'm trying to get to is --
23 the bottom line is you tell me that you don't want to take
24 the lawyer I gave you initially when extraordinary steps
25 were taken to give you that lawyer. My understanding from

1 our status conference was you basically wouldn't talk to
2 him. Then I give you another lawyer and she's filed all
3 kinds of things which appear to support what you're trying
4 to put forth and that's why I go back to my first question
5 a moment ago, who is it you're wanting me to appoint? If
6 you're still saying I need to go out and tell the NAACP to
7 represent you, I can't do that.

8 **MR. BARNES:** Your Honor, I -- I promise you I know
9 the law concerning that area and I will never ask you to
10 do anything as such.

11 **THE COURT:** You've demanded it many times.

12 **MR. BARNES:** No, I'm asking you to order an
13 evidentiary hearing so you can understand the record of
14 my unique situation of why I am requesting to you to go
15 through the protocols within your area as a judge to try
16 to assist me in that area. I'm asking you to utilize your
17 powers in the area that you're allowed to use it in; no
18 more, no less, so the evidentiary hearing will be able to
19 help you do that.

20 Now as for the professor from Charleston law school,
21 keep in mind I filed a petition for writ of certiori
22 dealing with that motion to relieve him as my counsel
23 that's also pending in the State Supreme Court.

24 **THE COURT:** I don't know that. I don't know anything
25 about that.

1 **MR. BARNES:** Oh, well, I -- I mean -- oh, is that --

2 **THE COURT:** They don't tell me at the South Carolina
3 Supreme Court or the U.S. Supreme Court, they don't send
4 me an e-mail or a telegram or even a letter saying Judge
5 Keesley, this is before you.

6 **MR. BARNES:** This is Applicant's Exhibit 3 and this
7 is Applicant's Exhibit 4.

8 (Court's Exhibit Number 3 and 4 were marked for
9 identification.)

10 (Discussion between the Defendant and counsel.)

11 **THE COURT:** What else?

12 **MR. BARNES:** Oh, okay. Well, another thing, for
13 the record, this is a motion to challenge the
14 constitutionality of the PCR -- oh, excuse me. I have
15 to -- actually I believe it's in the documents that I
16 put up there, but it's a decla -- declaratory judgment
17 complaint that goes with this, and so I want to -- I want
18 to submit this to the Court as well.

19 **THE COURT:** You're filing a declaratory judgment
20 action?

21 **MR. BARNES:** Yeah. Well, it's a declaratory judgment
22 complaint challenging the constitutionality of the PCR
23 statute.

24 **THE COURT:** Where did you file that?

25 **MR. BARNES:** No, it's -- it's in that paperwork right

1 now. It's in that stack, that big stack.

2 **THE COURT:** You're trying to file a DJ action in a
3 PCR action?

4 **MR. BARNES:** Well, if you want to argue that --

5 **THE COURT:** I'm not arguing with you. I'm trying to
6 find out what it is you've done.

7 **MR. BARNES:** No, what I was trying to say is -- you
8 misunderstand what I'm saying. If you -- I mean, if you
9 want me to argue that, the reason why I did it like that,
10 like the legal arguments, I'll -- I will do that. I can
11 do that now if you'd like.

12 **THE COURT:** No, sir. I don't need to hear that. I'm
13 just trying to figure out where we are --

14 **MR. BARNES:** Yeah.

15 **THE COURT:** -- and where we can go from here.

16 **MR. BARNES:** Okay. Okay. So I misunderstand what
17 you're saying. I apologize. What I -- basically it's
18 a declaratory -- I filed a declaratory judgment complaint
19 challenging the constitutionality of -- of the PCR statute,
20 and then I filed a motion to go with it, too, as well.

21 **THE COURT:** When did you file that?

22 **MR. BARNES:** I'm doing it now. Well, actually --

23 **THE COURT:** No, you can't file it here. We're --
24 we're in McCormick and you've got to file stuff in
25 Edgefield. I'm -- I'm marking these as Court's exhibits

1 because the clerk of court will take possession of them
2 and then we'll transport them to Edgefield, but I can't
3 file documents up here.

4 **MR. BARNES:** Okay. So I can't present it like I'm
5 doing now as exhibits or how -- I mean, will Edgefield get
6 it? That's what I'm trying to find out.

7 **THE COURT:** Well, it won't be filed as a separate
8 action or I -- once again, I don't know how you file a
9 declaratory judgment action within another action.

10 **MS. GOLDBERG:** And, Your Honor, just from looking at
11 it, he did put the PCR civil action number on the -- and
12 it looks like it's titled as a motion.

13 **MR. BARNES:** Yeah, because -- and I'm glad you -- you
14 said that because, you know, the Rule 71.1(a) states that
15 the civil rules of procedure -- South Carolina Civil Rules
16 of Procedures applies to PCR and Rule 57 deals with a
17 declaratory judgment complaint.

18 **THE COURT:** I'm not saying that you can't seek a
19 declaratory judgment. I'm not saying that you can't raise
20 the issue of the constitutionality of the PCR statute in
21 the PCR action. I'm just -- I'm just confused procedurally
22 as to what it is you're trying to do, but if you want to
23 file something you need to file it with the clerk.

24 **MR. BARNES:** Okay. What I did, I already had sent it
25 to the -- to the State Supreme Court before this hearing

1 and I also sent it to the court -- South Carolina Court of
2 Appeals.

3 **THE COURT:** Well, I mean, I don't -- I don't know
4 what they're gonna do with it.

5 **MR. BARNES:** No, I -- so, you know, just in case
6 somebody said they didn't receive it or whatever the case
7 may be, you know what I'm saying, to protect myself.

8 So, let's see. I want to make sure that that's filed
9 in the proper place.

10 **THE COURT:** Well, you -- you need to file it. That's
11 what I'm trying to tell you. I don't file it and you have
12 an attorney at this point and you have to file things
13 through her.

14 **MR. BARNES:** But, once again, the motion to relieve
15 counsel is also in that filing as well, so. I mean, so --
16 so basically according to the rules of court that I am
17 allowed to do what I'm doing right now.

18 **THE COURT:** No, you're not. You have to file that
19 with the clerk of court. If you want to file a motion, a
20 written motion, you file it with the clerk of court --

21 **MR. BARNES:** Okay.

22 **THE COURT:** -- if that's what that is.

23 **MR. BARNES:** All right. And -- and let me place for
24 the record as well, according to the rules of court, even
25 though if I file it in the wrong court, it's the -- and

1 I'm gonna object to this because the rule specifically
2 states that --

3 **THE COURT:** This is a status conference. I'm not
4 gonna make any rulings today.

5 **MR. BARNES:** I understand that, but -- but what you're
6 saying is you're saying that because I'm in McCormick
7 courthouse and I'm asking for something to be filed, if I
8 mail something to McCormick clerk of court and it's the
9 wrong court, they can send it to the proper court. That's
10 what I'm trying to say to you for the record.

11 **THE COURT:** Well, for the record I'm telling you,
12 you need to file that in the Edgefield County clerk of
13 court's office if you want to file it. And if it's a
14 hybrid representation issue, that will be dealt with
15 later. If it's an improper filing, it will be dealt with
16 later. I don't know. I'm not saying it's any of those
17 things. I'm just say saying I'm not making the McCormick
18 County clerk of court -- I'm already gonna make them
19 copy all of these things for you. I'm not making them do
20 the clerk work of the Edgefield County clerk of court's
21 office. They -- they don't do that.

22 **MR. BARNES:** So would I be able to have copies of it
23 so I can send it to Edgefield? Because that's the only
24 copy that I have right there, the original copy.

25 **THE COURT:** You're gonna keep that copy, I guess.