

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Renee S. Beach, as Personal Representative
of the Estate of Mallory Beach,

Civil Action No.: 2019-CP-25-00111

Plaintiff,

**DEFENDANT RICHARD ALEXANDER
MURDAUGH'S MOTION FOR PAYMENT
OF ATTORNEYS' FEES AND COST
FROM UNTAINTED FUNDS**

v.

Gregory M. Parker, Inc. a/k/a Parker's
Corporation d/b/a Parkers 55, Richard
Alexander Murdaugh, Richard Alexander
Murdaugh, Jr.; John Marvin Murdaugh, as
PR of the Estate of Margaret Kennedy
Branstetter Murdaugh, and Randolph
Murdaugh, IV, as PR of the Estate of Paul
Terry Murdaugh,

Defendants.

INTRODUCTION

Defendant Richard Alexander Murdaugh (Murdaugh), by and through his undersigned counsel, hereby requests an order directing the Receivers to transfer \$160,000 from the Receiver's escrow account to pay for attorneys' fees and costs to appeal his recent convictions and sentence imposed in State v. Murdaugh, 2022-GS-15-592, 593, -594,-595. This court previously entered an order permitting Murdaugh to liquidate his 401(k) retirement account with \$600,000 of the funds to be used for the cost of defending the murders and related charges. The balance of funds from the liquidation of the retirement account, \$424,941.24, was deposited with the Receivers on or about December 22, 2022.

On March 3, 2023, Murdaugh was sentenced to two consecutive life sentences without parole following a six week trial that began on January 23, 2023, in Colleton County. Murdaugh through undersigned counsel filed a notice of appeal on March 9, 2023 (**Exhibit A**).

The funds received from Murdaugh's retirement account in defense of the murders and related charges at trial have been exhausted. Specifically, the undersigned paid \$518,722.50 in out-of-pocket defense costs and trial counsel received attorneys' fees in the amount of \$81,277.50. The undersigned will submit a full accounting of these expenses under seal if requested. The attorneys' fees received by counsel is grossly insufficient to cover the actual attorney's fees incurred preparing for and defending Murdaugh during the six week trial. The defense trial team consisted of four attorneys and two paralegals. In addition, there were attorneys and office support staff working off-site supporting the defense trial team. A conservative estimate of the total attorneys' fees incurred during the trial alone is \$700,000.¹ This does not include any compensation for legal services preparing the case for trial.

The undersigned requests \$160,000 to pay for fees and expenses to represent Murdaugh on appeal. Below is a breakdown of the request:

Description	Amount	Total
Court reporter trial transcript fee	\$26,392.50	\$26,392.50
Estimated cost of printing copies ² of the record on appeal and briefs	\$15,000.00	\$41,392.50

¹ A conservative estimate of 60 hours per week for four attorneys total 240 hours a week. Two hundred forty hours per week for six weeks amounts to 14,400 hours. Using an average hourly rate of \$500, the total fees for just the trial attorneys comes to \$700,000.

² By order dated August 25, 2021, the South Carolina Supreme Court suspended the requirement appellants file 15 copies of the record on appeal and final briefs. *See* Order 2021-08-25-03(b) (altering the number of copies required by Rules 210(b) and 211(a), SCACR). While the order does not require Murdaugh to provide any copies of a document at the time of filing, he is obligated to provide copies of the same upon order or request of the appellate court. Accordingly, the undersigned has included the expense that will be incurred should additional copies contemplated by Rules 210(b) and 211(a) be requested by the appellate court.

Legal analysis of trial transcript (80 hours @ \$500)	\$40,000	\$81,392.50
Legal research (40 hours @ \$500)	\$20,000	\$101,392.50
Preparation of briefs (80 hours @ \$500)	\$40,000	\$141,392.50
Prepare for oral argument (35 hours @ \$500)	\$17,500	\$158,892.50

MURDAUGH HAS A SIXTH AMENDMENT RIGHT TO HIRE THE COUNSEL OF HIS CHOICE FROM UNTAINTED FUNDS

The Sixth Amendment grants a defendant “a fair opportunity to secure counsel of his own choice.” Luis v. United States, 578 U.S. 5, 11 (2016); Powell v. Alabama, 287 U.S. 45, 53 (1932) (“It is hardly necessary to say that, the right to counsel being conceded, a defendant should be afforded a fair opportunity to secure counsel of his own choice.”). The restraint of legitimate, untainted assets needed by a defendant to retain counsel of choice violates the Sixth Amendment to the United States Constitution. Luis, 578 U.S. at 10. A defendant’s right to counsel of his choice, whom the defendant can afford to hire with “innocent” property, is a fundamental constitutional right. Id. at 12, 23. (“For the reasons stated, we conclude that the defendant in this case has a Sixth Amendment right to use her own ‘innocent’ property to pay a reasonable fee for the assistance of counsel.”).

Here Murdaugh has sufficient “innocent” property to pay the undersigned, his counsel of choice, to represent him in the appeal of his convictions and sentences. As noted above, \$424,941.24 from Murdaugh’s 401(k) retirement account was deposited into the Receivers’ escrow account. These funds are legitimate, untainted funds. Furthermore, the undersigned is informed and believes that there are additional funds that have been deposited into the Receivers’ escrow account that do not represent the proceeds from illegal activities.

In Luis, the Supreme Court observed that the effect of denying a defendant the right to use non-tainted funds to retain counsel of his choice would render the defendant indigent and place additional burdens on overworked public defenders. The Court explained,

These defendants, rendered indigent, would fall back upon publicly paid counsel, including overworked and underpaid public defenders. As the Department of Justice explains, only 27 percent of county-based public defender offices have sufficient attorneys to meet nationally recommended caseload standards. [citations omitted] And as one *amicus* points out, “[m]any federal public defender organizations and lawyers appointed under the Criminal Justice Act serve numerous clients and have only limited resources.” [citation omitted] The upshot is a substantial risk that accepting the Government’s views would—by increasing the government-paid-defender workload—render less effective the basic right the Sixth Amendment seeks to protect.

Id. at 21–22.

In South Carolina, the Division of Appellate Defense of the South Carolina Commission on Indigent Defense handles approximately 1,000 indigent appeals annually. <https://sccid.sc.gov/about-us/attorneys-appellate-defense>. Currently, there are ten appellate attorneys employed by the Appellate Defense Division. Id. This translates to an appellate workload of 100 appeals per attorney. If this court denies Murdaugh’s request, his appeal will fall upon the overworked attorneys and staff at the Division of Appellate Defense, costing taxpayer money, and diluting the limited resources away from defendants who are truly indigent.

CONCLUSION

Murdaugh has a fundamental constitutional right to hire counsel of his choice, whom he can afford to pay from untainted funds, to represent him in the appeal from the convictions and sentences of life imprisonment without parole. This court has under its control, through the court-appointed Receivers, Murdaugh’s untainted funds sufficient to pay the fees and costs of his appeal. The requested fees and costs are reasonable and necessary for the appeal. If the court does not grant this motion, the burden of representing Murdaugh will shift to the already overworked appellate public

defenders. This will erode the Sixth Amendment right to counsel for Murdaugh and the other clients of the Division of Appellate Defense, whose attorneys will be burdened with the appeal of Murdaugh's six week trial.

Respectfully submitted,

s/ Richard A. Harpootlian

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March 21, 2023
Columbia, South Carolina.