



Although applicant was provided with counsel, the record also reflects that he engaged in vigorous advocacy on his own behalf, such that the trial justice was confronted with “overlap and duplicity” among the various filings by the applicant. This Court accepts the state’s concession of error with respect to the manner in which this case was decided in the Superior Court, and we vacate the judgment denying postconviction relief issued in the Superior Court. We remand this case for a new hearing with present counsel as his attorney. We note, however, that applicant may not have it two ways—he is entitled to the able assistance of a court-appointed lawyer or he can elect to represent himself as a pro se litigant, but not both.

Accordingly, the judgment denying postconviction relief entered in the Superior Court is vacated and the case is remanded to the Superior Court for further proceedings consistent with this order.

Chief Justice Suttell did not participate.

Entered as an Order of this Court, this **24<sup>th</sup>** day of **April, 2014**.

By Order,

\_\_\_\_\_  
/s/

Clerk



**RHODE ISLAND SUPREME COURT CLERK'S OFFICE**

*Clerk's Office Order/Opinion Cover Sheet*

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**TITLE OF CASE:** Jeremy M. Motyka v. State of Rhode Island.

**CASE NO:** No. 2013-74-Appeal.

**COURT:** Supreme Court

**DATE ORDER FILED:** April 24, 2014

**JUSTICES:** Goldberg, Flaherty, Robinson, and Indeglia, JJ.

**WRITTEN BY:** N/A – Court Order

**SOURCE OF APPEAL:** Newport County Superior Court

**JUDGE FROM LOWER COURT:**

Associate Justice Melanie Wilk Thunberg

**ATTORNEYS ON APPEAL:**

For Applicant: Christopher S. Gontarz, Esq.

For State: Jeanine P. McConaghy  
Department of Attorney General