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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Petition for Writ of Certiorari to Edgefield County
Court of Common Pleas
Honorable Debra R. McCaslin, Circuit Court Judge

Appellate Case No. 2021-0001426

K.C. LANGFORD,

Petitioner,

vs.

THE STATE,

Respondent.

MOTION TO FILE A SUPPLEMENTAL APPENDIX

Pursuant to Rule 240, SCACR, undersigned counsel for Respondent moves for this Court to allow Respondent to supplement the appendix in this case. In support of this motion, Respondent would present the following facts:

1. K.C. Langford (Petitioner) is presently confined in the South Carolina Department of Corrections pursuant orders of commitment of the Edgefield County Clerk of Court. During its December 2008 term, the Edgefield County Grand Jury indicted Langford for criminal conspiracy (2008-GS-19-0673). Langford was subsequently indicted for first-degree burglary (2010-GS-19-0272); armed robbery (2010-GS-19-0273); and kidnapping (2010-GS-19-0278) in May 2010.
2. On September 7, 2010, Langford proceeded to a jury trial before the

Honorable William P. Keesley. Mark R. Calhoun, Sr., represented Langford and Assistant Solicitor Ervin J. Maye of the Eleventh Circuit Solicitor's Office prosecuted the case. At the conclusion of the multi-day trial, the jury convicted Langford as indicted. Judge Keesley sentenced him to concurrent terms of twenty years' imprisonment for kidnapping, twenty years for first-degree burglary, twenty years for armed robbery, and five years for criminal conspiracy.

3. filed a timely notice of appeal, which was perfected on his behalf by Appellate Defender Elizabeth A. Franklin-Best (Counsel Franklin-Best) of the South Carolina Commission on Indigent Defense, Division of Appellate Defense (OAD). Following initial briefing, the case was certified to this Court pursuant to Rule 204(b), SCACR, and Langford's case was consolidated with that of his co-defendant, Bryan Phillips. Following final briefing and oral argument, this Court issued a published opinion affirming Langford's convictions and sentences on November 21, 2012. *State v. Langford*, 400 S.C. 421, 735 S.E.2d 471 (2012). His subsequent petition for rehearing was denied. The remittitur was issued on December 20, 2012.
4. Langford then petitioned to the United States Supreme Court for a writ of certiorari. By written order dated October 7, 2013, the Court denied the petition.
5. On January 3, 2014, Langford filed his initial post-conviction relief application, raising multiple allegations of ineffective assistance of trial

and appellate counsel. The State made its return on April 28, 2015. On February 1, 2017, the PCR court convened an evidentiary hearing before the Honorable Eugene C. Griffith, Jr. Langford was present at the hearing and represented by Charles T. Brooks, III, Esquire. Senior Assistant Deputy Attorney General Johanna C. Valenzuela appeared on behalf of the State. On June 15, 2017, Judge Griffith issued an order denying the application on all grounds and dismissing the action with prejudice

6. Langford filed a timely notice of appeal. Appellate Defender LaNelle Cantey DuRant of OAD perfected his appeal by filing a petition for writ of certiorari in this Court on his behalf. The State made its return to the petition on July 9, 2018. Thereafter, the case was transferred to the Court of Appeals pursuant to Rule 243(1), SCACR. On October 8, 2019, the Court of Appeals issued an order denying certiorari. The case was remitted back to the circuit court on October 23, 2019.
7. Langford filed a second application for post-conviction relief on April 14, 2020, raising two allegations of ineffective assistance of trial counsel and an allegation regarding a conflict of interest in his previous post-conviction relief appeal. He subsequently filed an amended application on April 23, 2020. The State made its return on July 16, 2020, requesting the application be summarily dismissed as procedurally barred because it was filed after the statute of limitations expired; it is successive to Langford's prior PCR action; it is barred by the doctrine of *res judicata*; and for failing to state a cognizable claim under the Uniform Post-Conviction

Procedure Act. Pursuant to this request, the Honorable Walton J. McLeod, IV, acting in his capacity as Chief Administrative Judge, issued a conditional order of dismissal signed July 28, 2020, and filed September 4, 2020, provisionally denying and dismissing the application while giving Langford twenty days to show why the dismissal should not become final. On September 18, 2020, Langford timely filed objections to the conditional order and requested a hearing on the State's motion to dismiss. The State filed a response to Langford's objections on October 2, 2020. By order dated December 8, 2020, Judge McLeod assigned the Honorable Debra R. McCaslin jurisdiction "to hear and rule upon all pending motions and preside over future hearings until a final order is recorded in this case."

8. A hearing on the State's motion to dismiss convened on November 13, 2020, before Judge McCaslin via Cisco WebEx Meetings in accordance with the Chief Justice's administrative memorandum, *Court Operations*, dated September 14, 2020. E. Charles Grose, Jr., represented Langford and Assistant Attorney General Lillian L. Meadows represented the State. At the conclusion of the hearing, Judge McCaslin took the matter under advisement and allowed both parties to submit post-hearing briefs. On December 11, 2020, Judge McCaslin issued an order granting an evidentiary hearing solely on the conflict of interest issue. The remaining issues were dismissed for the reasons set forth in the conditional order of dismissal. On January 11, 2021, the State filed a timely motion to alter or

amend pursuant to Rule 59(e), SCRCP, to which Langford filed a response. Judge McCaslin denied the State's Rule 59(e) motion by order dated January 29, 2021.

9. An evidentiary hearing then convened on April 27, 2021, before Judge McCaslin via WebEx. Langford was present and again represented by Mr. Grose. Assistant Attorney General Meadows again represented the State. Both Langford and his previous post-conviction relief appellate counsel, LaNelle DuRant, testified at the hearing. The record was left open at the State's request, and the evidentiary hearing reconvened via WebEx on July 22, 2021. Langford and Ms. DuRant both presented additional testimony. On August 27, 2021, Judge McCaslin issued an order denying Langford's post-conviction relief application and dismissing the action with prejudice.
10. Langford subsequently filed a timely motion to alter or amend pursuant to Rule 59(e), SCRCP, on September 20, 2021. The State made its return to Langford's 59(e) motion on October 1, 2021. On November 8, 2021, Judge McCaslin issued an amended order of dismissal. Langford then timely filed a notice of appeal.
11. The petition for a writ of certiorari was filed on June 13, 2022, after the Appendix was filed on June 10, 2022. The appendix, however, does not contain the 2014 memorandum of law Langford filed with his initial post-conviction relief action; the November 13, 2020, transcript from the hearing on the State's motion to dismiss; Langford's January 29, 2021, post-hearing letter; and Langford's January 29, 2021, response to the

State's Rule 59(e) motion.

12. Without these documents, the appellate record in this post-conviction relief matter is incomplete. Inasmuch as the above documents are relevant and pertinent material under Rule 243(f), SCACR, that should be included in the appendix, undersigned counsel moves this Court to allow Respondent to include the same in a supplemental appendix, provisionally filed along with this motion.
13. The undersigned has conferred with Petitioner's counsel, who consents to the filing of the supplemental appendix.

WHEREFORE, as the appendix is incomplete, counsel for Respondent requests this Court: (1) grant the motion to allow Respondent to supplement the appendix, and (2) accept Respondent's supplemental appendix for filing today.

Respectfully submitted,

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