



Division of Appellate Defense
 1330 Lady Street, Suite 401
 Columbia, South Carolina 29201-3332
 Post Office Box 11589
 Columbia, South Carolina 29211-1589
 Telephone: (803) 734-1330
 Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
 Wanda H. Carter, Deputy Chief Appellate Defender

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JUN 05 2013

June 5, 2013

S.C. Supreme Court

Honorable Daniel E. Shearouse
 Clerk, South Carolina Supreme Court
 Post Office Box 11330
 Columbia, South Carolina 29211

Re: *James Robertson v. South Carolina*, 2011-CP-46-00072
Appellate Case No. 2012-205909
Notice of Supplemental Authority

Dear Mr. Shearouse:

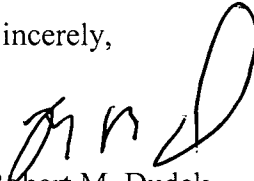
The Court's attention is called to the United States Supreme Court's recent decision in Trevino v. Thaler, ___ S.Ct. ___, 2013 WL 2300805 (May 28, 2013), as relevant authority in the above captioned case. In Martinez v. Ryan, 132 S.Ct. 1309, 182 L.Ed. 272 (2012), the Court held that "a procedural default will not bar a federal habeas court from hearing a substantial claim of ineffective assistance at trial if, in the [State's] initial-review collateral proceeding, there was no counsel or counsel in that proceeding was ineffective." Trevino reaffirms Martinez's application in jurisdictions like our state where claims of ineffective assistance of trial counsel *must* be reserved for post-conviction proceedings, and expands its scope to other jurisdictions, such as Texas, where ineffective assistance of trial counsel claims *may* theoretically be raised on direct review, but where the state procedural system does not, as a practical matter, "offer most defendants a meaningful opportunity to present a claim of ineffective assistance of trial counsel on direct appeal." Trevino, 2013 WL 2300805 at *11. These issues are discussed at pages 4 and 12 of the Petition for Writ of Certiorari and pages 5 through 7 of Petitioner's Reply.

Finally, the Court in Trevino acknowledged the State of Texas' request that its own courts be given the first opportunity to resolve ineffective assistance of counsel claims, and left that possibility to be addressed on remand. Id. It therefore remains for this Court to decide whether our state will "elect between appointing [effective] counsel in initial-review collateral proceedings or not asserting a procedural default and raising a defense on the merits in federal habeas proceedings." Martinez, 132 S.Ct. at 1320; *see also*, Trevino, 2013 WL 2300805 at *11.
 Mr. Shearouse

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Petitioner's case presents an ideal vehicle for this Court to answer this important question, and, accordingly, this Court should grant certiorari.

Sincerely,

A handwritten signature in black ink, appearing to be 'RMD', written in a cursive style.

Robert M. Dudek
Chief Appellate Defender

RMD/kam

cc: William Edgar Salter, III