

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal from Horry County

Honorable Robert E. Hood, Circuit Court Judge

JEROME JENKINS, JR.,

PETITIONER,

V.

THE STATE,

RESPONDENT.

Appellate Case No. 2019-001280

MOTION FOR A STAY OF EXECUTION AND
FOR THE APPOINTMENT OF A
POST-CONVICTION RELIEF JUDGE

Counsel for Jerome Jenkins, Jr., moves this Court for a stay of execution and to appoint a post-conviction relief judge so that post-conviction counsel can be appointed by that judge.

I.

This Court affirmed petitioner's convictions and death sentence in State v. Jerome Jenkins, Jr., 436 S.C. 362, 872 S.E.2d 620 (April 6, 2022).

II.

A petition for writ of certiorari to the United States Supreme Court, Jerome Jenkins, Jr., v. South Carolina, No. 22-5513, was filed on August 31, 2022. The Attorney General filed its brief in opposition on October 5, 2022. The reply brief of Petitioner Jenkins was then filed on October 17, 2022. The Supreme Court denied certiorari in its order dated November 7, 2022. A copy of the Supreme Court docket entry showing that certiorari was denied on November 7, 2022 is attached to this motion as Exhibit A.

III.

Petitioner will raise numerous grounds of ineffective assistance of counsel in an application for post-conviction relief. See In re Stays of Execution in Capital Cases, 321 S.C. 544, 471 S.E.2d 140 (1996). In his application for post-conviction relief, while reserving the right to amend once counsel is appointed, petitioner intends to assert, at a minimum, the following grounds:

1.

Was defense counsel ineffective, in derogation of petitioner's right to effective representation under the Sixth Amendment to the United States Constitution, for failing to object to the trial judge's assertions that he would sentence petitioner to death if petitioner pled guilty, and by failing to move to recuse the judge so that petitioner could plead guilty before an impartial judge since the failure to take these reasonable legal actions denied petitioner his opportunity to plead guilty, accept responsibility for crimes, and avoid a death sentence, and it also resulted in this legal issue of an arbitrary biased sentencer not being preserved for direct appeal?

2.

Was defense counsel ineffective, in derogation of petitioner's right to effective representation under the Sixth Amendment to the United States Constitution, for not calling McKinley Daniels as a witness to testify that he told petitioner to shoot Teresa Stull since this was relevant evidence that was probative of the critical mitigating circumstance contained in S.C. §16-3-20 (C)(b)(5) that petitioner was acting "under the dominion" of another at the time of this crime spree?

3.

Was defense counsel ineffective, in derogation of petitioner's right to effective representation under the Sixth Amendment to the United States Constitution, by failing to have petitioner address the jury and inform it, as the trial judge promised petitioner could, pursuant to S.C. Code §16-3-28, that McKinley Daniels told him to shoot Teresa Stull since this was crucial to the jury understanding the mitigating circumstance contained in S.C. Code §16-3-20(C)(b)(5) that petitioner was acting "under the dominion" of his older co-defendant or co-defendants during the crime spree?

This list of post-conviction relief issues is not exhaustive, and will likely expand, once appointed post-conviction counsel has had the opportunity to investigate. The above grounds are merely offered to show that issues of ineffective assistance of counsel exist that petitioner intends to raise in post-conviction relief in this case.

IV.

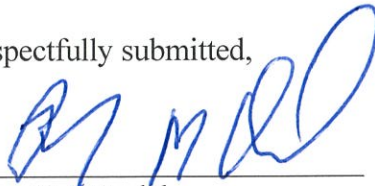
Present counsel cannot take a position on possible issues of ineffective assistance of appellate counsel. That is a matter for post-conviction counsel and the post-conviction court to determine.

V.

Based on the above, petitioner requests that this Court issue a stay of execution and appoint a post-conviction relief judge so that the appointed post-conviction relief judge can hold a hearing to appoint post-conviction counsel. This will allow petitioner to pursue his state court post-conviction relief action in the Horry County Court of Common Pleas.

WHEREFORE, counsel for Jerome Jenkins, Jr., requests that this Court issue a stay of execution and appoint a post-conviction relief judge so that the appointed post-conviction relief judge who can hold a hearing to appoint post-conviction counsel so that petitioner can pursue post-conviction relief with the assistance of counsel in the Horry County Court of Common Pleas upon the grounds of ineffective assistance of counsel, and any other grounds that may arise from post-conviction counsel's investigation of this case.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender



Kathrine Haggard Hudgins
Appellate Defender
ATTORNEYS FOR PETITIONER

This 10th day of November, 2022.