

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County
Honorable J. Derham Cole, Circuit Court Judge
Appellate Case Tracking No. 2023-000168

Adonis Williams,

Petitioner,

vs.

State of South Carolina,

Respondent.

**MOTION TO STRIKE PORTIONS OF PETITION FOR WRIT OF CERTIORARI
AND REQUIRE AMENDED PETITION FOR WRIT OF CERTIORARI**

Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

I.

In a written order filed on September 10, 2018, Judge Cole granted a belated appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974), but denied relief on the other allegations and dismissed the application for post-conviction relief. A timely notice of intent to appeal was served on September 19, 2018. Petitioner filed his Petition for Writ of Certiorari, stating the PCR judge correctly granted a belated appeal pursuant to White in question one and challenging the PCR Judge's denial of relief for allegations of ineffective assistance of counsel in questions two through nine. In addition, he raised the cumulative effect of the prejudice of the alleged instances of ineffective assistance of counsel in question ten. On October 12, 2022, the Court of Appeals issued an opinion granting certiorari on Petitioner's question one but denying certiorari on Petitioner's questions two through ten. Adonis Williams v. State, 2022-UP-380

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(S.C. Ct. App. Filed October 12, 2022). Petitioner filed a petition for rehearing requesting the court reconsider its denial of certiorari when Petitioner had made an allegation of cumulative error, and the Court of Appeals withdrew the former opinion and substituted with a refiled opinion. Adonis Williams v. State, 2022-UP-380 (S.C. Ct. App. Filed November 16, 2022). Importantly, the refiled opinion only altered the analysis related to the direct appeal claim. It continued to specifically deny certiorari to Petitioner's questions two through ten, including the claim related to the cumulative effect of the prejudice from questions two through nine. Petitioner filed a petition for rehearing on November 28, 2022, and the Court of Appeals denied rehearing on January 4, 2023. Subsequently, Petitioner served and filed his Petition for Writ of Certiorari to the Court of Appeals on February 3, 2023.

II.

After review of the Petition, it appears to contain inappropriate content. Specifically, Petitioner's Question 2 asks this Court to consider the Court of Appeals denial of certiorari on the allegations of ineffective assistance of counsel. In Haggins v. State, 377 S.C. 135, 659S.E.2d 170 (2008), this Court said, "We hold that, as a matter of policy, we will not entertain Rule 226 petitions where the Court of Appeals has exercised its discretion and denied a Rule 227 petition, and no formal opinion or order has been filed."

This opinion was further extended by this Court in Ellison v. State, 382 S.C. 189, 191, 676 S.E.2d 671, 672 (2009) ("Accordingly, we take this opportunity to extend our decisions in Haggins and Missouri to cases in which the Court of Appeals has issued an order denying a writ of certiorari in a PCR matter and in cases in which the Court of Appeals initially issues an order granting a writ of certiorari in such matters but later issues an opinion dismissing the writ as improvidently granted without further discussion of the case."). Significantly, this Court in Ellison announced: "We have, by our decisions in Haggins, Missouri, and the case at hand,

provided that discretionary review by this Court **is not available** following the issuance of the types of decisions addressed therein.” Id. at 191-192, 676 S.E.2d 671, 672.

Petitioner’s special reason to justify a grant of certiorari to the Court of Appeals is nothing more than a restatement of Petitioner’s question ten regarding the cumulative prejudicial effect of the alleged acts of ineffective assistance of counsel and an attempt to skirt this Court’s prior holdings it would not entertain a petition for writ of certiorari in this instance. As a result, this Court should decline to consider Petitioner’s Question II

III.


The State asks this Court to uphold its pronouncement in Ellison that it would not consider a Petition after the Court of Appeals issued an order declining to take discretionary review of an issue and strike Question 2 from the Petition for Writ of Certiorari. This Court should require an Amended Petition for Writ of Certiorari with no references to arguments that were expressly denied certiorari by the Court of Appeals.

WHEREFORE, Respondent prays that the Court hold this matter in abeyance until ruling on this motion, strike Petitioner’s Question 2 in the Petition for Writ of Certiorari; require Petitioner to serve and file an Amended Petition for Writ of Certiorari eliminating the second argument to allow only proper content to be considered by this Court; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

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March 6, 2023