

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Richland County  
M. Rita Metts, Circuit Court Judge  
Appellate Case No. 2022-000679  
\_\_\_\_\_

RECEIVED

Jun 23 2023

S.C. SUPREME COURT

ROOSEVELT DOCTOR, #186661,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

\_\_\_\_\_  
**AMENDED**  
**PETITION FOR REHEARING/RECONSIDERATION.**  
**OF ORDER OF DISMISSAL**  
**AND REQUEST FOR POST-CONVICTION RELIEF APPEAL**  
**TO BE REINSTATED**  
\_\_\_\_\_

The time limits for preparing the Petition for Writ of Certiorari and Appendix in the above captioned PCR Appeal were continued multiple times prior to today's date. Counsel for Petitioner acknowledges that those documents were due for service and filing on May 1, 2023.

I came in to my office on May 1st with every intention of finishing the Certiorari Petition and Appendix due in this matter on that date. There were relatively few issues in this case and I could have finished everything that day. Unfortunately, in putting the Appendix together Counsel discovered there were some real problems with the transcript of the PCR sent to me digitally by the Court Reporter. That transcript included the following formatting errors and omissions.

- The entire transcript in single spaced;
- The pages of the transcript are not numbered and *neither are the lines on each page. Petitioner asserts that these formatting errors would make it virtually impossible to properly cite to this record as provided.* ;
- Some lines are indented beyond normal indentation at the beginning of a paragraph;

- The PCR Hearing transcript has NO headers at all;
- ***The entire transcript is typed in 10 pt font;*** new courier to be exact and the required font size is, as I understand it, must be at least 12 pt.;
- ***It appears that the pages of this transcript have more than fifty single spaced lines on each page; Between there being no page numbers, the font being too small and the single spacing of the content of each page, it would be impossible to correctly cite to the text found on each page.***
- Throughout the PCR Hearing Transcript, the left margin is 0.92, and the right margin is also 0.92. I believe for bound documents, the left margin is actually supposed to be slightly larger than the 1" margins required on all four sides on unbound documents;
- The entire transcript is left hand justified, ***but it is not justified on the right side;***
- The ***Index*** begins on the ***COVER*** page below the information called for on a transcript cover under the rules.

On May 1, 2023, Counsel filed a Motion to Stay the deadlines for filing the Petition for Writ of Certiorari and Appendix in this matter until she was able to obtain a properly formatted transcript of the PCR hearing record. Before emailing that request, Counsel checked her file and determined that the copy found in her file was identical to the one downloaded from the email sent to counsel. Counsel sent that Petition to stay in to the Court the evening of May 1, 2023. Some time later, while looking for an Applicant's Exhibit in this file, she discovered another copy of the transcript that had apparently been mailed to Counsel's Office and put in the file. Counsel had originally only ordered a digital copy of this record since the original had been ordered and paid for before she was substituted as Counsel. She was told by the Court Reporter that she had to pay for a copy and the digital copy. That hardcopy obviously came in and was filed in a separate folder. As I have previously noted, I do not recall when it first became possible to get a digital copy of records from Court Reporters, but in my forty-four years as an appellate lawyer, I have ***never*** received a digital copy of any record that was not identical to the hard copy sent to me by the Court reporter. The

Court Reporter in this matter has actually sent me a refund check for the \$40.00 Counsel paid for that transcript. A copy of that refund check, and the Court Reporter's transmittal letter, is attached as **Attachment A**.

Unfortunately, when I tried to complete the Appendix I discovered yet another problem with the PCR Hearing Transcript. The Court Reporter had properly indexed Applicant's Exhibits 1-3, however, she referenced Applicant's Exhibit No. 4 only as "**Documents**" (plural) and did not reference the location in the transcript where that exhibit was discussed and ultimately introduced. When I read the transcript again, and located the discussion concerning this exhibit, it was not at all clear what comprised Applicant's Exhibit No. 4. I subsequently sent my part-time paralegal, who worked for this Honorable Court for approximately fourteen years before retiring, to the Richland County Clerk of Court's Office to obtain certified copies of all the exhibits including Applicant's Ex. No. 4. There was no problem with Applicant's Exhibit 1-3, however, that paralegal was handed **a single document** marked Applicant's No. 4, along with a stack of other documents which the employee from the Clerk of Court's office referenced by saying words to the effect, "**then there is this stuff.**" That stack of documents was not marked in any fashion identifying them as part of Applicant's Ex. No. 4. Those documents do not appear to line up with the vague description of Applicant's Ex. No. 4 found in the PCR transcript. **See, Attachment C, pages 66 – 71; Attachment D: consists of 13 pages of documents provided unmarked to Counsel's paralegal and referenced only as "then there is this stuff" which were handed to Counsel's paralegal with a single document actually marked as Applicant's Ex. No. 4.**

Counsel's May 1, 2023, Motion to Stay was not ruled upon until June 8, 2023. I spent June 8<sup>th</sup> in Jasper, South Carolina, visiting with my client in a murder case scheduled for trial on a date certain in that County. I had been checking the Appellate Case Management System regularly to

watch for a decision on my Motion filed May 1, 2023. When I exited the Jasper County Detention Center late that afternoon I checked my email before I even left the parking lot of that facility at approximately 4:30 P.M. When I saw that the motion had been denied, and this appeal dismissed at the same time, I sat in that parking lot and began a response. When it took longer than I expected, I went back to my hotel and *checked back into my hotel room*, unpacked my car and filed a response by email at 9:30 P.M. **See, Attachment E.** Unfortunately, that was after the Court's Order dismissing this appeal had already been entered earlier in the day while I was in the Jasper County Detention Center.

Since May 1, 2023, I have tried diligently to resolve the question of what documents comprised Applicant's Exhibit No. 4. I contacted opposing counsel, Julianna E. Battenfield, Esquire, to see if she by any chance had a copy of that exhibit, or, if she recalled what it contained. It was obviously *not* her responsibility to insure the Applicant's Exhibits were properly described in the record or that they were properly indexed in the PCR hearing record. I simply hoped she would recall something that might help solve the mystery. She did say that she thought to documents provided to my office by the Clerk or Court all appeared to be from the records of the Clerk of Court. That unfortunately did not resolve the issue of what documents PCR Counsel believe supported what allegations in this PCR action. Tommy A. Thomas, who was Applicant's PCR lawyer, and I have been in frequent contact since I began trying to ascertain what documents should have been marked by the Court Reporter as those submitted as Applicant's Exhibit No. 4. He advises that he does not have a copy of this exhibit in his file. He is still trying to assist Counsel in figuring out what documents were submitted by him as Applicant's Exhibit No. 4.

In the mean time, I had oral surgery *again* two days ago and am currently recovering from that. I came into my office today for the purpose of filing this petition. I most respectfully ask that

the Dismissal of this PCR Appeal be reconsidered and that this PCR Appeal be reinstated with PCR Counsel given a brief opportunity to complete this Certiorari Petition and Appendix.

Respectfully submitted,

s/ *Tara D. Shurling*

Tara Dawn Shurling

Attorney at Law

SC Bar No. 5099

ATTORNEY FOR PETITIONER

Date: June 23, 2023

Cc: Julianna E. Battenfield, Esquire