

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

Honorable Eugene C. Griffith, Circuit Court Judge

RECEIVED

Mar 05 2024

S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

TIMOTHY RAY JONES, JR.,

PETITIONER.

Appellate Case No. 2019-001008

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

Counsel for Timothy Ray Jones, 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. Timothy Ray Jones, Jr., 440 S.C. 214, 891 S.E.2d 347 (Re-filed 2023).

II.

A petition for writ of certiorari to the United States Supreme Court, Timothy Ray Jones, Jr.

v. South Carolina, No. 23-6078, was then filed on November 16, 2023. The Court denied certiorari in its order dated February 26, 2024. A copy of that order 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.

Whether trial counsel provided ineffective representation, in derogation of petitioner's rights guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution, where counsel failed to object to the trial judge viewing the Facebook Live stream of the trial and viewer comments during the trial proceedings since this introduced an improper outside influence into the trial proceeding?

2.

Whether trial counsel provided ineffective representation, in derogation of petitioner's rights guaranteed by the Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, where counsel failed to call petitioner's mother to testify regarding petitioner's life history and family mental health history where a video of her testimony was excluded by the trial judge since this was important admissible evidence in mitigation?

This list 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 this case.

IV.

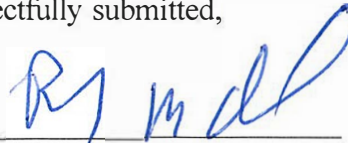
Present appellate counsel cannot take a position on possible issues of ineffective assistance of appellate counsel. That is a matter for post-conviction counsel and the post-conviction court to determine.

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 qualified post-conviction counsel. This will allow petitioner to pursue his state court post-conviction relief action in the Lexington County Court of Common Pleas.

WHEREFORE, counsel for Timothy Ray Jones, 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 can hold a hearing to appoint qualified post-conviction counsel so that petitioner can pursue post-conviction relief with the assistance of qualified counsel in the Lexington 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

ATTORNEY FOR PETITIONER

This 5th day of March, 2024.