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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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ON WRIT OF CERTIORARI TO RICHLAND COUNTY

Court of Common Pleas

The Honorable George M. McFaddin, Jr., PCR

Judge

The Honorable Robert Hood., Circuit Judge

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Appellate Case No. 2023-001267

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Trenton M. Barnes, SCDC #362454,

Petitioner,

v.

State Of South Carolina,

Respondent.

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**RESPONDENT'S MOTION FOR REMAND TO ALLOW  
THE POST-CONVICTION RELIEF COURT TO ISSUE A  
SUPPLEMENTAL ORDER**

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This matter is before the Court on Petitioner's Petition for Writ of Certiorari challenging the denial of his post-conviction relief application. In his petition, Petitioner contends trial counsel was ineffective for failing to object to the testimony of two prison informants as impermissible testimony under Rule 602, SCRE. Petitioner further contends that a remand for additional findings of fact and conclusions of law under Fishburne v. State, 427 S.C. 505, 832 S.E.2d 584 (2019) might be required if this Court finds the record incomplete on this issue.

While preparing the return to the petition, Respondent discovered that the post-conviction relief application received from the Richland County Clerk's Office was not complete when

compared to the version on the public index<sup>1</sup>. See Respondent's Exhibit 1. Albeit through inadvertence or mistake, the State was not served with the backside of Petitioner's post-conviction relief application wherein Petitioner outlined the allegation he now raises in his petition.

According to the Uniform Post-Conviction Relief Act, "[a]ll grounds for relief available to an applicant under this chapter must be raised in his original, supplemental, or amended application." S.C. Code Ann. § 17-27-90. Also, the court shall make specific findings of fact and conclusions of law relating to each issue in an order, which is a final judgment. S.C. Code Ann. § 17-27-80. In Fishburne v. State, *supra*, this Court found that a remand to the lower court so that an order adequately addresses the post-conviction relief allegations to comply with S.C. Code § 17-27-80 and Rule 52(a), SCRPC, should be reserved for unique and extraordinary circumstances.

Here, based on a mistake or inadvertence, Respondent recently discovered that Petitioner's application for post-conviction relief that was served on the State was missing pages. As a result, the post-conviction relief court, the State, and post-conviction relief counsel did not have the allegations contained on the backside of the post-conviction relief application before them to consider when the order was drafted.<sup>2</sup> Therefore, under these unique circumstances, Respondent respectfully moves this Court to remand this case to the lower court to enable the post-conviction relief court to issue a supplemental order addressing Petitioner's claim of impermissible testimony under Rule 602, SCRE, that was inadvertently not addressed in the order of dismissal so that the lower court's order complies with S.C. Code Ann. § 17-27-80 and Rule 52(a), SCRPC, and so this

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<sup>1</sup> <https://publicindex.sccourts.org/Richland/PublicIndex/PIImageDisplay.aspx?ctagency=40002&doctype=C&docid=1496036&HKey=511138110510611652827511269851007384112478888775410912010555668088895343106110814398122538756884748> (last visited July 1, 2024).

<sup>2</sup> Due to the same mistake, these pages are also not provided in the Appendix before this Court.

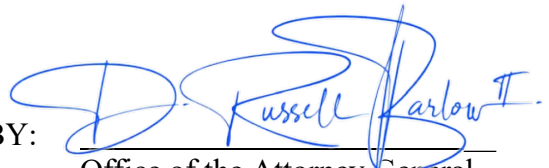
Court has a complete record for its consideration.

Respectfully submitted,

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