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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certorari to Lexington County

Honorable Daviel McLeod Coble, Circuit Court Judge

DAVID RAY BROWN

PETITIONER,

v.

STATE OF SOUTH CAROLINA

RESPONDENT.

APPELLATE CASE NO. 2024-000058

OBJECTION TO RECORD ON APPEAL, SC R A CT RULE 207
MOTION FOR LEAVE TO SUPPLEMENT RECORD ON APPEAL
MOTION FOR STAY OR TO EXTEND, SC R A CT RULE 208

David Ray Brown, #166900
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Pro Se Johnson Petitioner

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IN SUPPORT OF HIS OBJECTION TO THE RECORD ON APPEAL, MOTION FOR LEAVE TO SUPPLEMENT RECORD ON APPEAL, AND MOTION FOR STAY OR TO EXTEND, PETITIONER WOULD RESPECTFULLY SHOW THIS COURT:

On September 30, 2024, this Court instructed Petitioner to file his pro se response to counsel's Johnson Brief within forty-five (45) days.

Petitioner acknowledges receipt of the Appendix in this case; however, the transcript of the April 11, 2022 hearing before The Honorable George M. McFadden, Jr., of his Motion to Authorize Discovery (for PCR purposes) is not included.

Exception to the October 14th, 2022 Order denying any and all discovery was preserved for appeal by PCR counsel Johnson. (App., pg. 633, lns. 16-24). The Motion to Authorize Discovery is found on page 608 of the Appendix and the Order is found on page 608 of same. The transcript of hearing is absent.

Judge McFadden's denial of discovery prejudiced Petitioner/Applicant by depriving him of any evidence in support of his PCR claims, and Petitioner plans to challenge this in his Johnson Brief. PCR Counsel, unlike trial counsel, saw the relevance and need of such discovery to have the evidence analyzed by expert witnesses and, thereby, support claims of ineffectiveness of trial counsel. (Appendix, pg. 633, lns. 19-21, pgs. 642, 643, lns. 24-10).

SC R A CT Rule 207 states, in part, "Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below". The transcript of the April 11,

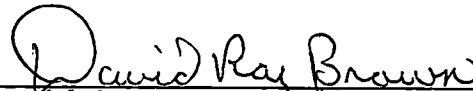
2022 motions hearing is part of the "entire" proceedings below and counsel for Petitioner was obligated to include this transcript in the Appendix, not only the Motion and Order.

Appellant requires this transcript to perfect his Initial Johnson Brief. SC R A CT Rule 208(a)(1) allows thirty (30) days after receipt of the transcript to file the Initial Brief. Despite any potential adverse ruling to this motion, Petitioner addresses a complicated case and needs more than the original forty-five (45) days to perfect and file his Brief.

CONCLUSION

WHEREFORE, Petitioner requests this Court to (A) Order Appellate Counsel Gary H. Johnson (Appellant Defense) to order the April 11, 2022 Motion hearing transcript and supplement the Appendix with same; (B) Grant Petitioner thirty (30) days after receipt of the transcript to file his Initial Johnson Brief, or in the alternative; (C) Grant Petitioner an additional forty-five (45) days to perfect and file his Initial Brief; and, that this Court grant any such and further relief as may be deemed appropriate and just.

RESPECTFULLY SUBMITTED:

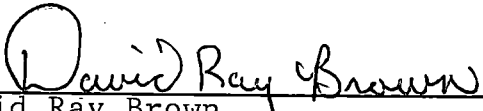


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Dated: 11-7-2024

VERIFICATION

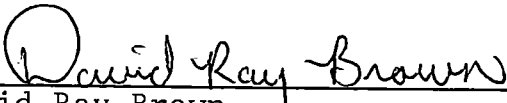
I, David Ray Brown, hereby under penalty of perjury that I have read and understand the foregoing three (3) pages and that the contents thereof are true and correct to the best of my knowledge and understanding, excepting as to matters stated upon information and belief, and as to those I believe them to be true also.



David Ray Brown

CERTIFICATE OF SERVICE

I, David Ray Brown, hereby certify that I placed originals of the foregoing three (3) pages in a sealed, postage prepaid envelope addressed to Gary H. Johnson, Appellate Defender, South Carolina Commission on Indigent Defense, Division of Appellate Defense, P.O. Box 11589, Coolumbia, SC 29211-1589, and deposited same in the United States Mail at Perry CIIMail Room on this 8th day of NOVEMBER, 2024.

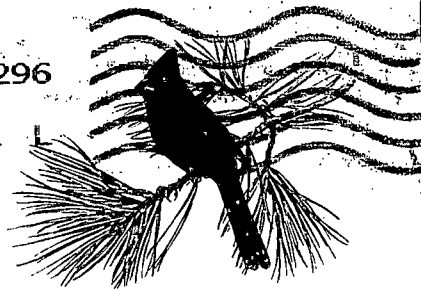


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