

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

The Honorable J. Cordell Maddox, Jr., Circuit Court Judge

Appellate Case No. 2012-207126

James Randolph Frady, Petitioner,

v.

State of South Carolina, Respondent.

MOTION TO SUPPLEMENT APPENDIX

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, counsel for Respondent moves for this Court to compel Petitioner to supplement the Appendix in this case. In support of this motion, Respondent would present the following facts:

1. The Oconee Grand Jury indicted Petitioner for two counts of murder (2004-GS-37-2072; -2073), one count of arson, second-degree (2004-GS-37-2070), one count of grand larceny (2004-GS-37-2071), one count of possession of a weapon during a violent crime (2004-GS-37-2074), one count of burglary, first-degree (2004-GS-37-2078). After the State called the case to trial, Petitioner was found guilty. On August 31, 2006, the Honorable Perry M. Buckner sentenced Petitioner to an aggregate term of life imprisonment.

2. A notice of appeal was filed on Petitioner's behalf at the South Carolina Court of Appeals. The Court of Appeals affirmed Petitioner's convictions and sentences. State v. James Randolph Frady, Op. No. 2008-UP-634 (S.C. Ct. App. filed November 12, 2008).

3. Petitioner filed an application for post-conviction relief on April 13, 2009 (2009-CP-37-0451). An evidentiary hearing was convened on October 31, 2011. The Honorable J. Cordell Maddox Jr., denied relief in an order dated January 4, 2012.

4. A notice of appeal was filed on Petitioner's behalf. A motion to remand for record reconstruction was filed on July 12, 2012.

5. A return to the motion to remand for record reconstruction was filed by Respondent on July 16, 2012.

6. A reply to Respondent's return motion was filed on behalf of Petitioner on July 20, 2012.

7. By order dated August 10, 2012, this Court granted Petitioner's motion to remand for record reconstruction.

8. A hearing on the matter was convened on February 25, 2013. The Honorable J. Cordell Maddox Jr., determined the record could not be sufficiently reconstructed at the hearing in a letter to this Court dated February 25, 2013.

9. This Court determined Petitioner proceed and file Petition in a letter dated March 18, 2013.

4. The Petition for Writ of Certiorari and Appendix in this case were filed on May 16, 2013. The Appendix, however, does not contain the transcript from the February

25, 2013, remand hearing for record reconstruction and the exhibits offered by Respondent.

5. The remand hearing for record reconstruction was before Judge Maddox. Without the hearing transcript and the exhibits, the appellate record is incomplete. As such, the transcript of the hearing and the exhibits should be included in the Appendix.

6. Inasmuch as the hearing transcript and the exhibits are relevant and pertinent material under Rule 243(f), SCACR that should be included in the Appendix, counsel moves this Court to compel Petitioner to include the same in a Supplemental Appendix.

WHEREFORE, as the Appendix is incomplete, counsel for Respondent requests this Court: (1) grant the motion to compel Petitioner to supplement the Appendix and (2) hold time limits for the filing of the Return to Petition for Writ of Certiorari in abeyance until the motion is ruled upon.

Respectfully submitted,

ALAN WILSON
Attorney General

WALT WHITMIRE
Assistant Attorney General
S.C. Bar # 100793

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By: 

ATTORNEYS FOR RESPONDENT

October, 7th, 2013

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Oconee County

The Honorable J. Cordell Maddox, Circuit Court Judge

JAMES R. FRADY,

PETITIONER,

v.

THE STATE OF SOUTH CAROLINA,

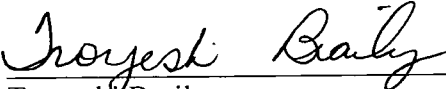
RESPONDENT.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the **Motion to Supplement Appendix**, has been served upon opposing counsel by mailing two (2) copies in the United States mail, postage prepaid:

Benjamin Tripp., Esq.
Post Office Box 11589
Columbia, SC 29211

This 7th day of October, 2013



Troyesh Brailey
LEGAL ASSISTANT for the Respondent



ALAN WILSON
ATTORNEY GENERAL

October 7, 2013

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S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: James R. Frady v. State of South Carolina
Appellate case No.: 2012-207126

Dear Mr. Shearouse:

Enclosed for filing are the original and six (6) copies of the **Motion to Supplement Appendix** in the above-referenced case. By copy of this letter we are serving the opposing counsel today.

Sincerely,

J. Walt Whitmire
Assistant Attorney General

JWW/tb
Enclosures

cc: Benjamin Tripp, Esq. (2 copies with all the attachments)