

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Appeal from Charleston County  
Honorable Deadra L. Jefferson, Circuit Court Judge

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Appellate Case No. 2012-212846

LORD BYRON SLATER ,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

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**RETURN TO PETITION FOR WRIT OF CERTIORARI  
PURSUANT TO AUSTIN V. STATE**

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## TABLE OF AUTHORITIES

### Cases:

Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

## **QUESTION PRESENTED**

Whether the PCR court was correct in ruling that Petitioner was entitled to a belated appeal from the denial of his first PCR as his first PCR attorney failed to file an appeal of the denial of his application for post-conviction relief after the Petitioner requested one?

**STATEMENT OF THE CASE**

For purposes of this Return, the State adopts the Petitioner's Statement.

## ARGUMENT

**The PCR court was correct in ruling that Petitioner was entitled to a belated appeal of his first PCR application pursuant to Austin v. State.**

Petitioner's first post-conviction relief attorney counsel admitted that he failed to file an appeal from the denial of the first post-conviction relief application, even though Petitioner timely requested that he file an appeal. (App.841:6-14). Since the Applicant did not knowingly and voluntarily waive his right to an appeal of his first PCR application, the State consented to the granting of an appeal of the Applicant's first application and concludes the Petitioner should be allowed to petition this Court for belated review of his first application for post-conviction relief.

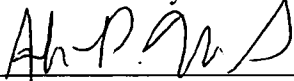
## CONCLUSION

For all the foregoing reasons, it is respectfully submitted that this Court grant the Petition for Writ of Certiorari to allow belated review pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

Respectfully submitted,

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October 21, 2013

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