

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Dorchester County

James E. Lockemy, Circuit Court Judge

RECEIVED

OCT 29 2013

S.C. Supreme Court

MARION BOWMAN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213468

MOTION FOR TRANSPORTATION ORDER AND TO AMEND APPENDIX

The undersigned counsel would respectfully request the following:

1. The petition for writ of certiorari and accompanying appendix in this capital case were filed on October 18, 2013.
2. The appendix in this case contains over ten thousand (10,000) pages, twenty-three volumes and a supplemental volume.
3. On October 24, 2013, the Clerk of Court issued a deficiency letter stating that portions of the appendix are illegible.
4. On information and belief, appellate counsel believes the portions that have caused the Court's concern are contained in volumes 19 and 20, pages 8101-8938. Multiple pages have a dark background. They were redacted page-by-page and not automatically with appellate counsel's

redaction software. These pages are part of a single exhibit entered into evidence at the PCR hearing. The exhibit is the file of the State's lead investigator.

5. The original of the State's lead investigator's file was not entered into evidence. A copy was made and the investigator retained his file. App. 6753; App. 6648-49.

6. Upon receipt of the Court's deficiency letter, appellate counsel contacted the Clerk of Court for Dorchester County who confirmed that the copy of the investigator's file entered into evidence at the PCR hearing contains pages with a dark background. This means the PCR court's exhibit as it currently exists and as it was entered into evidence may be no more legible than the copies currently contained in the appendix filed by petitioner.


7. Petitioner asks this Court to issue a transportation order for the original exhibit, called Court's Exhibit 2 / Plaintiff's Exhibit 42-ID / Plaintiff's Exhibit 47. Petitioner proposes that upon receipt of the original exhibit and with the Court's permission, petitioner will attempt to determine whether more legible copies can be made that will alleviate this Court's concerns. In the event the low quality of the exhibit as it was entered into evidence does not allow more legible copies to be made and petitioner can satisfy the Court to this effect, petitioner asks this Court to accept the appendix as filed.

8. Should the Court have a desired solution different from the one proposed by petitioner, petitioner asks the Court not to dismiss his petition and appendix and allow petitioner the opportunity to correct the appendix to the Court's satisfaction.

9. Petitioner has conferred with the Attorney General's office and they consent to this request.

WHEREFORE, undersigned counsel would respectfully request this Court to issue a transportation order for the original exhibit, called Court's Exhibit 2 / Plaintiff's Exhibit 42-ID / Plaintiff's Exhibit 47. In the alternative, counsel respectfully requests the Court's guidance on an acceptable solution to this unusual situation.

Respectfully submitted,

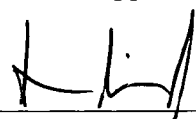
By: 
David Alexander
Appellate Defender

Robert M. Dudek
Chief Appellate Defender

Michael Anzelmo
Nelson Mullins Riley & Scarborough, LLP

Attorneys for Petitioner

I do not oppose this request:



Alphonso Simon, Jr.

October 29, 2013

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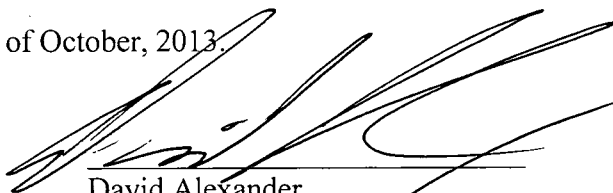
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APPELLATE CASE NO. 2012-213468

CERTIFICATE OF SERVICE


I certify that a true copy of the motion for transportation order and to amend appendix has been served on Alphonso Simon, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 29th day of October, 2013.



David Alexander
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 29th day
of October, 2013.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: August 21, 2023.