

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to Sumter County

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NOV 21 2013

R. Ferrell Cothran, Jr., Circuit Court Judge  
\_\_\_\_\_  
S.C. Supreme Court

STEPHEN COREY BRYANT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2013-000518  
\_\_\_\_\_

MOTION TO HOLD THE TIMELINES IN ABEYANCE

Pursuant to Rules 240 and 263(b) of the South Carolina Appellate Court Rules, the undersigned counsel petitions this Court to hold the timelines in abeyance pending receipt of the exhibits from the PCR hearing.

The Honorable R. Ferrell Cothran presided over an evidentiary hearing concerning Petitioner's PCR application beginning on October 1, 2012 and ending on October 3, 2012. Petitioner was represented by Melissa Armstrong and Heath Taylor. The state was represented by Donald Zelenka and Melody Brown. According to the transcript, Petitioner submitted twenty-one exhibits, and Respondent submitted six exhibits.

Petitioner filed a notice of appeal. Undersigned counsel and Respondent contacted the Sumter County Clerk of Court numerous times requesting copies of the exhibits entered at the PCR hearing.<sup>1</sup> Both sent representatives to the Clerk of Court's office to obtain the documents. As of November 15, 2013, it appeared the Sumter County Clerk of Court's Office no longer had the original exhibits (or copies) that were introduced at Petitioner's PCR hearing.<sup>2</sup>

Respondent contacted Judge Cothran to inquire if he had the exhibits in his chambers, which he may have used in making his decision on the application for relief. Judge Cothran's law clerk responded by email on November 12, 2013 that he did not have the exhibits. When Respondent and undersigned counsel began preparing to ask this Court to re-open the record to submit substitute exhibits, Respondent contacted Judge Cothran again on November 14, 2013. On November 20, 2013, Judge Cothran's law clerk responded that the judge found some exhibits in a file. The judge's "assistant took the exhibits to Sherri in the Sumter Clerk's office."

Also on November 20, 2013, the Sumter County Clerk of Court advised Respondent that exhibits relating to Petitioner's PCR were located in Manning. Respondent sent a

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<sup>1</sup> Undersigned counsel's records indicate an initial written request was sent on April 2, 2013. This request asked for the exhibits as well as many additional documents. Realizing no exhibits had been received, undersigned counsel's office contacted the Clerk again on October 11, 2013. Thereafter, numerous emails were exchanged concerning the exhibits. The final email received by undersigned counsel from the Clerk on November 5, 2013 indicated the Clerk had looked everywhere and did not know where the exhibits were.


<sup>2</sup> The Attorney General's Office obtained a receipt for the exhibits from the Sumter County Clerk of Court. It appears from this document that the Clerk of Court received the exhibits from the court reporter. Nevertheless, on November 15, 2013, undersigned counsel wrote to the court reporter to ensure she no longer had possession of the exhibits. On November 17, 2013, the court reporter responded to undersigned counsel that she filed the exhibits with the Clerk of Court.

representative to obtain the exhibits. However, neither undersigned counsel nor Respondent has had an opportunity to review those exhibits to determine if they are in fact the exhibits from the PCR hearing and if all of the exhibits are available.

The petition for writ of certiorari and accompanying appendix are due to be filed today having been extended by one order of this court.<sup>3</sup> The exhibits are necessary in order to allow review of Petitioner's PCR hearing as the exhibits contain evidence presented to support Petitioner's claims that he is entitled to relief. Additionally, Rule 243(f) requires Petitioner submit an appendix containing the entire lower court record, which necessarily includes the exhibits submitted during the PCR hearing. This matter is of particular importance because it involves the death penalty. As a result, Petitioner requests this Court hold the timelines in abeyance while undersigned counsel and Respondent obtain and review the exhibits now available.

WHEREFORE, the undersigned counsel requests the timelines be held in abeyance to give undersigned counsel and Respondent an opportunity to review the exhibits now available. When the exhibits are received and reviewed for completeness, undersigned counsel will notify this Court immediately so that the timelines may begin running or additional action taken.

Respectfully submitted,



Susan B. Hackett  
Appellate Defender

November 21, 2013

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<sup>3</sup> Undersigned counsel's previous request for an extension dated October 22, 2013 advised that we were waiting for the Sumter County Clerk of Court's office to forward copies of the PCR exhibits.

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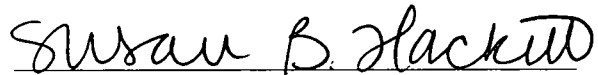
Appellate Case No. 2013-000518

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CERTIFICATE OF SERVICE

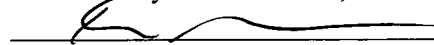
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The undersigned attorney hereby certifies the motion to hold the timelines in abeyance in the referenced case has been served upon Melody J. Brown, Esquire, Assistant General, Office of the Attorney General, at Rembert Dennis Building, 1000 Assembly Street, Rm. 519, Columbia, SC 29201, and Stephen Corey Bryant, # 5252, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 21st day of November, 2013.

  
Susan B. Hackett

ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me  
this 21st day of November, 2013.

 (L.S.)  
Notary Public for South Carolina

My Commission Expires: ~~August 21, 2023~~