

11/27/13

Dear Honorable Shroaouse

Re: 2012-213313

Warren Russell

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S.C. SUPREME COURT

Respectfully on 11/26/13, I received a phone call from SCCID Ms. L Durant. In which she informed me that she could not understand what I was requesting her to include in the appendix. The reason this is of such concern to me is because I supplied her with all the documentation to be included in said appendix, which was the proposed order granting PCR relief, cover sheets for summary judgment, and default judgment which clearly shows that these motions were properly filed by PCR Counsel in compliance with SCRAP Rule 11, and properly before the PCR Courts. Furthermore, I supplied Ms. Durant with a template of what was to be included, and the proper name of each document. For example she had mistakenly listed as pro-se, or Hearing, so I requested that it be listed as not pro-se and a default hearing, or 59(E) hearing, and be correctly listed as so not to mislead said pleading and or hearing.

Nevertheless, said court order instructed me to compile the appendix and complete my petition for writ of certiorari, and pro-se briefs and forward them to SCCID. However, SCCID has informed me that they will not correct the misrepresented and misleading listing in the appendix, therefore these misrepresentation will be submitted to this court.

My reason for sending the information to the Supreme Court to forward to SCCID Near as follows:

- 1) To confirm that I have in fact complied with the order
- 2) To confirm what I am requesting SCCID to correct
- 3) To confirm what I am requesting to be included into the appendix
- 4) To confirm that I have sent all information to SCCID months before Jan 07 2014 Deadline.
- 5) Because of SCCID incompetence

Therefore, I am Respectfully Requesting that if SCCID is not gonna comply with the order, and correct the misrepresented pleadings and/or filings, or respect my wishes on what and how it is to be listed in the appendix that they be sanctioned for not complying with said court order. Further, SCCID failure to comply with said order respecting my right to go pro-se is an deliberate attempt to impede, prevent, me from correctly presenting my brief, documents and evidence to the South Carolina Supreme Court, and is the "cause" and "prejudice" to my procedural default. Further, this is an attempt to impede me from exhausting my state remedies pursuant to 28 U.S.C. § 2254(B)(1)(A). See *Matthews v. Evans*, 105 F.3d 907, 911

This documentation is to show my diligences in my attempt to develop the factual basis of my claims for habeas relief, and to show how and when I have been denied the opportunity to do so by officers of the state, § 2254(e)(2) will not prohibit an evidentiary hearing in Federal court, see *McDonald*, 139 F.3d. at 1059. Holding that a petitioner cannot be said to have failed to develop a factual basis for his claim unless the undeveloped record is a result of his own decision or omission. *Burreis v. Paele*, 116 F.3d 256, 258-59 (To be attributable to a failure under federal law the deficiency in the record must reflect something the petitioner did or omitted).

Let the record reflect that I have requested, and supplied SCCID with all the necessary exhibits, factual basis, evidence, issues, and briefs thru the South Carolina Supreme Court. However, SCCID is attempting to not correct, present, and/or file this information and § 2254(e)(2) is inapplicable where factors other than the defendant's action prevented a factual record from being developed.

So with all due respect can you please ensure that SCCID will not impede the presentation of my factual basis to this court. Thank you.

Sincerely
Warren Russell pro-se.

Please Stamp file and send copy back for my Record

MR. WARREN RUSSELL # 318807

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{ Urgent
Time Sensitive }

The Supreme Court of South Carolina

Attn: Daniel E. Shearouse, Clerk of Court

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SC DEPARTMENT OF CORRECTIONS

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THIS ITEM. THEREFORE, THE DEPARTMENT DOES NOT
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