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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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MAY 16 2014

Appeal From Spartanburg County
Honorable Brooks P. Goldsmith, Circuit Court Judge

SC Court of Appeals

Appellate Case No. 2013-001284

NATHANIEL TEAMER, #285309

Respondent - Petitioner,

vs.

STATE OF SOUTH CAROLINA,

Petitioner - Respondent.

**MOTION TO RECAPTION, STRIKE ADDITIONAL SUSTAINING GROUNDS,
REQUIRE RESPONDENT-PETITIONER TO FILE A PETITION FOR WRIT OF
CERTIORARI AND HOLD TIME FOR RETURN TO PETITION IN ABEYANCE**

Petitioner-Respondent herein seeks to have this Court instruct Respondent-Petitioner to:
(1) recaption the recently filed and captioned, "Reply to Petition for Writ of Certiorari," as the
"Return to Petition for Writ of Certiorari," (2) strike the "Additional Sustaining Grounds" from the
Return and (3) file a Petition for Writ of Certiorari pursuant to Rule 243, SCACR, on the following
grounds:

I.

Petitioner-Respondent, in the interest of clarity, requests that the recently filed "Reply to
Petition for Writ of Certiorari," be recaptioned as the "Return to Petition for Writ of Certiorari,"
pursuant to Rule 243(g), SCACR.

II.

Petitioner-Respondent also moves to strike the “Additional Sustaining Grounds,” in the “Reply to Petition for Writ of Certiorari.” Petitioner-Respondent submits that any attempt to submit arguments as “Additional Sustaining Grounds,” in lieu of filing a Petition for Writ of Certiorari, when Respondent-Petitioner filed a cross-appeal on June 14, 2013, is inappropriate. Petitioner-Respondent acknowledges that Rule 243(g), SCACR, allows for the Return to “offer additional sustaining grounds;” however, Petitioner-Respondent submits that the additional sustaining grounds must have been presented to the trial court for its ruling and must lead to the same result that the trial court reached. Self v. Goodrich, 300 S.C. 349, 353, 387 S.E.2d 713, 715 (Ct. App. 1989). Here, the issues presented as “Additional Sustaining Grounds” appear to be the issues Respondent-Petitioner wishes to raise on cross-appeal, which would require a finding that the trial court erred in its decision, and therefore should be presented in a Petition for Writ of Certiorari.

Thus, Petitioner-Respondent requests that Respondent-Petitioner file his Petition for Writ of Certiorari in order for Petitioner-Respondent to have the time to properly respond to his allegations¹.

III.

For the reasons described above, Petitioner-Respondent also moves that the time for filing and serving its Return to the Respondent-Petitioner’s Petition for Writ of Certiorari be held in abeyance until Petitioner-Respondent receives a Petition for Writ of Certiorari.

IV.

WHEREFORE, having made Motion to have this Court instruct Respondent-Petitioner to

¹ Petitioner-Respondent notes that because the time limits to respond are substantially different for a “Return” and a “Reply,” the need for clarity as to the caption and proper filing of the Petition is necessary.

recaption the recently filed and captioned, "Reply to Petition for Writ of Certiorari," as the "Return to Petition for Writ of Certiorari," strike the "Additional Sustaining Grounds" from the Return and file a Petition for Writ of Certiorari pursuant to Rule 243, SCACR, and hold Petitioner-Respondent's time in abeyance pending this Court's ruling, Petitioner-Respondent respectfully requests that this Court grant the Motion and for such other relief as the Court deems proper.

Respectfully submitted,

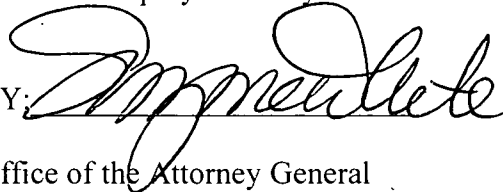
ALAN WILSON
Attorney General

JOHN W. McINTOSH
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KAREN RATIGAN
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SUZANNE H. WHITE
Assistant Deputy Attorney General

BY:



Office of the Attorney General
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Columbia, SC 29211
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May 16, 2014

ATTORNEYS FOR PETITIONER-RESPONDENT

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO SPARTANBURG COUNTY
Court of Common Pleas

The Honorable Brooks P. Goldsmith, Circuit Court Judge

Circuit Case No.: 2010-CP-42-4049
Appellate Case No.: 2013-001284

NATHANIEL TEAMER,

Petitioner,


v.

STATE OF SOUTH CAROLINA,

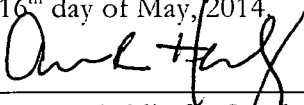
Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Motion to Recaption, Strike Additional Sustaining Grounds, Require Respondent-Petitioner to File A Petition for Writ of Certiorari and Hold Time for Return to Petition in Abeyance was served upon Petitioner by depositing the same in the United States mail, postage prepaid, addressed to his attorney of record, C. Rauch Wise, Esquire, 305 Main Street, Greenwood, South Carolina, 29646, on this the 16th day of May, 2014.


Anne A. Mueller
Legal Assistant for Respondent

SWORN to before me this
16th day of May, 2014.



(L.S.)
Notary Public for South Carolina
My Commission Expires: 7/18/2017

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SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

PCR DIVISION: 803.734.3737
PCR FACSIMILE: 803.734.4113

May 16, 2014

Via Hand Delivery

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

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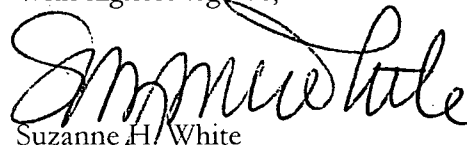
S.C. Supreme Court

RE: Nathaniel Teamer v. State of South Carolina
Circuit Court Case No: 2010-CP-42-4049
Appellate Case No.: 2013-001284

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Motion to Recaption, Strike Additional Sustaining Grounds, Require Respondent-Petitioner to File A Petition for Writ of Certiorari and Hold Time for Return to Petition in Abeyance in the above matter for filing in your office. By copy of this letter I am serving opposing counsel with this return today.

With highest regards,


Suzanne H. White
Assistant Deputy Attorney General

SHW/aam
Enclosures

cc: C. Rauch Wise, Esquire (w/enclosure)

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