

December 28, 2012

The Supreme Court of South Carolina
ATTN: Honorable Clerk of Court
P.O. Box 11330
Columbia, S.C. 29211

Re: WRIT OF CERTIORARI

Richard B. Moore #6003 v. State of S.C.

RECEIVED

Honorable Clerk of Court,

JAN 07 2013

S.C. SUPREME COURT

Enclosed please find:

1. Original and one (1) copy of:

MOTION FOR LEAVE TO FILE SUPPLEMENTAL PETITION ON
WRIT OF CERTIORARI

2. Original:

CERTIFICATE OF SERVICE BY MAIL

3. Copy of:

DECEMBER 28, 2012 letter to Robert Dudek

4. Self-Addressed Stamped Envelope

Please file the Original MOTION FOR LEAVE and return
the copy of same to me in the envelope provided
"clock-stamped" for my records.

Pg. 2 (cont.)

by copy of the CERTIFICATE OF SERVICE, I have forwarded documents (as stated) to All parties.

Rule 212(b), SCACR, specifically states:

"With the written consent of all attorneys of record, a party may supplement the Record on Appeal [at any time before argument commences]." (emphasis added)

The issues I would like to raise have already been discussed with counsel. His choice to raise only those with "the most merit," by his opinion, will prejudice me now and in the future. I ask that this MOTION be considered.

Thank You, in advance, for your considerations and efforts.

Respectfully... I am,

X Richard B. Moore

Richard B. Moore #6003
Liber C-1. (RB #220)
P.O. Box 205
Ridgeville, SC 29472

RECEIVED

JAN 07 2013

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Spartanburg County
The Honorable Roger L. Couch, Circuit Court Judge
Appellate Case No. 2011-19-8472

RECEIVED

JAN 7 - 2013

RICHARD BERNARD MOORE, #6003,

Petitioner,

S.C. Supreme Court

v.

STATE OF SOUTH CAROLINA,

Respondent.

MOTION FOR LEAVE TO FILE SUPPLEMENTAL
PETITION ON WRIT OF CERTIORARI

Pursuant to Rule 212(a)-(b), SCACR, the undersigned Petitioner respectfully asks this Court to permit the filing of a SUPPLEMENTAL PETITION ON WRIT OF CERTIORARI in the above-captioned and referenced case.

This is a capital case on certiorari following the denial of a Post-Conviction Relief (PCR). The PCR Hearing convened for almost one week and resulted in a 3,000+ page Appendix / Matter of Record.

On July 12, 2012, the South Carolina Comm. on Indigent Defense filed a Petition to Exceed the Twenty-Five (25) page limit for a Petition for Writ of Certiorari. Said Petition cited the massive Appendix and "... numerous

[meritorious issues]...raised during the post-conviction hearings," and further specified his request with the "...justice to the [highly unusual facts] of this death penalty case," (see MOTION TO EXCEED). This Court granted the MOTION in an Order on July 17, 2012.

The Petitioner's 59 page Writ of Certiorari was subsequently filed.

On November 16, 2012, the Respondents subsequently filed a MOTION TO ALLOW THE FILING OF A RETURN TO PETITION FOR WRIT OF CERTIORARI EXCEEDING THE TWENTY-FIVE PAGE LIMIT and included a 68 page Response to Petition for Writ of Certiorari.

The undersigned Petitioner, Richard B. Moore, #6003, now herein respectfully makes this MOTION FOR LEAVE TO FILE SUPPLEMENTAL PETITION ON WRIT OF CERTIORARI.

In support of said MOTION, the Petitioner provides the following as Affidavit in Support:

1. Immediately after receiving a copy of the Petition filed on his behalf by the S.C. Comm. on Indigent Defense, the Petitioner telephoned, and spoke with, Chief Appellate Defender Robert Dudek. During said conversation, the Petitioner asked Dudek of issues including, but not limited to, the Batson argument related to the jury and issues of ineffective assistance surrounding the crime scene and evidentiary claims.

The Petitioner specifically cited that the failure to present these issues in the lower / state courts and allow for exhaustion at same would negate the ability to present them and argue their merits in latter-stage appellate venues including, but not limited to, State and Federal

Habeas Corpus.

The only way to obtain a true "one-bite-at-the-apple" on ALL possibly meritorious claims is to insure ^{their} presentment, argument and exhaustion. By only presenting a "pick-3" scenario of the "best" arguments is not justice at any level.

2. After the conversation, Chief App. Def. Dudek still did NOT file any of the issues asked of by the Petitioner. If these issues are NOT raised NOW, they will be procedurally barred at all stages following this venue.

3. The Respondents have herein filed their Response to the Petition arguing ONLY those issues presented in the Petitioner's Writ.

4. The Petitioner, Richard B. Moore, #6003, has forwarded a letter to Chief App. Defender Dudek with copies to all parties in this case making formal request for consent to file a SUPPLEMENTAL PETITION. A copy of said letter accompanies this MOTION.

5. As the State's Response has numerous citations in the Appendix/Pet. which incorrectly state facts in evidence, inaccurately cite and interpret testimony at trial and PCR, and attempt to misguide this Court, it would further be an egregious error to not cite said instances ^{seen} by the Petitioner).

6. This stated, the Petitioner herein respectfully asks this Most Honorable Court to allow him to FILE SUPPLEMENTAL

PETITION ON WRIT OF CERTIORARI, not to Exceed Twenty-Five (25) pages, for the purpose of raising two (2) meritorious issues NOT raised by appellate counsel and to properly cite grossly incorrect and deceptive matters filed by the State.

7. If the Petitioner's herein MOTION were to be denied, the result would be multiple issues being procedurally barred from review in latter appellate stages.

Pursuant to Rule 212(a)-(b), the Petitioner MOTIONS this Most Honorable Court FOR LEAVE TO FILE SUPPLEMENTAL PETITION ON WRIT OF CERTIORARI, and Forty-Five (45) days to properly complete Petition, based on the facts presented in the above-MOTION with Affidavit in Support and the interest of justice/law in this capital case.

IT IS SO MOTIONED AND REQUESTED.

Richard B. Moore
Richard B. Moore #6003
Lieber C.I. (RB #220)
P.O. Box 205
Ridgerville, S.C. 29472

December 28, 2012
Ridgerville, S.C.

CERTIFICATE OF SERVICE

S.C. Supreme Court

JAN 7 - 2013

RECEIVED

The undersigned Petitioner, Richard B. Moore, #6003, herein states that I have forwarded the following documents to the individuals stated by placing same in the U.S. Mail, postage paid, in the Death Row housing unit at Liber Correctional Institution:

1. THE SUPREME COURT OF SOUTH CAROLINA
ATTN: HONORABLE CLERK OF COURT
P.O. BOX 11330
COLUMBIA, S.C. 29211

- Original plus one (1) copy of:
MOTION FOR LEAVE TO FILE
SUPPLEMENTAL PETITION ON
WRIT OF CERTIORARI
- Copy of letter:
DECEMBER 28, 2012 to
ROBERT DUDAK
- Original &
CERTIFICATE OF SERVICE
- SAS envelope

2. SC1117
ATTN: ROBERT W. DUDAK, CHIEF APP. DEF
P.O. BOX 11589
COLUMBIA, SC 29211-1589

- Original letter:
DECEMBER 28, 2012 to
Robert Dudak
- Copy of:
MOTION FOR LEAVE TO FILE
SUPPLEMENTAL PETITION ON
WRIT OF CERTIORARI

3. OFFICE OF ATTORNEY GENERAL
ATTN: EDGAR SALTER, III, SEN. ASST. ATTY GEN
P.O. BOX 11549
COLUMBIA, SC 29211-1549

- Copy of:
December 28, 2012 letter to
Robert Dudak
- Copy of:
MOTION FOR LEAVE TO FILE
SUPPLEMENTAL PETITION ON
WRIT OF CERTIORARI

SO STATED BY MY SIGNATURE.

Richard B. Moore

Richard B. Moore, #6003
Petitioner

12/28/2012

SCCID

Attn: Robert M. Dudek, Chief Appellate Defender

P.O. Box 11589

Columbia, S.C. 29211-1589

Re: Writ of Certiorari - Richard B. Moore # 6003

Mr. Dudek,

I am in receipt of the State's Return in my case along with your cover letter. There are just a couple of matters that I need to ask.

Having read both my Petition and the State's Return, there are no issues at all with regard to the jury (and the Batson issue) even though that argument was clearly raised in the PCR (PCR App. Pg. 13, Section "e") and discussed at PCR. As we have discussed in previous phone conversations, if we do not raise it in the lower/state courts and allow exhaustion of the issue, I will not be allowed to raise it in the Habeas Corpus venues. It will be procedurally barred.

Next, the State's Response is quite deceptive. In reviewing it, I have found numerous misquotes and equal numbers of misinterpretations. If the Court were to simply accept their brief/petition at face value - without reviewing their cites from the Matter of Record - it would quite possibly result in an

unfavorable ruling based on non-factual and incorrect/inaccurate information.

Next, since your letter states that, "all documents have now been filed..." am I correct in saying that you have no intent on filing any further arguments and/or any response to their petition?

If not, Mr. Dudek, Rule 212 allows me to supplement the Record on Appeal. Section (b) requires me to make "... Written consent." By copy of this letter, if you are NOT going to make any further arguments, I am formally requesting consent to supplement My Petition. I am ALSO forwarding a copy of this to the office of the Attorney General as I will be making the necessary formal MOTION to the Court that is required by Rule, SLACR.

Surely you understand that in the event of an unsuccessful opinion in this Writ, I must prepare for the latter appellate procedures. I cannot allow any avenue to go without opportunity. In our conversation, your explanation that raising this argument might have negative affects on the Court's attitude was clear. I believe the Supreme Court will rule on law - not by emotion. No matter what, at the Federal Court level, the only thing that matters is the constitutionality of the issues raised and the parties (including the Court's) application of them.

Again, to not make every attempt at every level to raise every meritable issues is not sound. I must raise them.

As always, I do appreciate all of your efforts in my case.
Also, Thank You, for your explanations. However, you know that
if I do NOT raise these issues NOW, I will NOT be ABLE to
raise them later.

Respectfully... I am,

Richard B. Moore
Richard B. Moore #6003
Hieber Corr. Inst. (RB-220)
P.O. Box 205
Ridgeville, S.C. 29472

cc:- William Edgar Salter, III, Senior Asst. Atty. Gen.) (Office of the
Attorney General, Post Office Box 11549, Columbia, S.C. 29211)
- South Carolina Supreme Court, Clerk of Court, Columbia, S.C.
- file