

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Charleston County
The Honorable William P. Keesley, Circuit Court Judge

Appellate Case No. 2013-001776

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S.C. Supreme Court

ERNEST BATTLE,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

ALAN WILSON
Attorney General

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ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

QUESTION PRESENTED.....1

STATEMENT OF THE CASE.....2

ARGUMENT.....3

CONCLUSION.....3

TABLE OF AUTHORITIES

Cases:

Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

QUESTION PRESENTED

Whether the PCR court was correct in ruling that Petitioner was entitled to a cross-appeal pursuant to Austin v. State of the issues denied and dismissed during his first PCR which was granted on another issue?

STATEMENT OF THE CASE

The Respondent adopts the statement of the case put forth by the Petitioner.

ARGUMENT

The PCR court was correct in ruling that Petitioner was entitled to a cross-appeal of the issues denied and dismissed in his first PCR application pursuant to Austin v. State.

The record reflects the Petitioner did not freely and voluntarily waive his to cross-appeal the denial of allegations denied and dismissed in his first post-conviction relief application. The parties consented to the granted of an appeal of these issues pursuant to Austin v. State. (App. 882). The State agrees that Petitioner should be allowed to petition this Court for review pursuant to Austin v. State of the allegations denied and dismissed in his first PCR application, since he did not knowingly and voluntarily waive his right to a cross-appeal.


CONCLUSION

For all the foregoing reasons, it is respectfully submitted that this Court grant the Petition for Writ of Certiorari to allow belated review pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

Respectfully submitted,

ALAN WILSON
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BY: 

Ashleigh R. Wilson

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ATTORNEYS FOR RESPONDENT

November 5, 2014

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Charleston County
The Honorable William P. Keesley, Circuit Court Judge

ERNEST BATTLE

Petitioner,

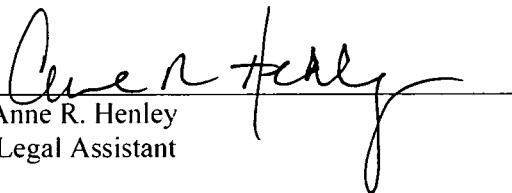
v.

STATE OF SOUTH CAROLINA,

Respondent.


CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Return to Petition for Writ of Certiorari To The SC Supreme Court has been served upon the respondent's attorney, Robert Dudek, this 5th day of November 2014.



Anne R. Henley
Legal Assistant

SWORN to before me this
5th day of November, 2014.

 (L.S.)
Notary Public for South Carolina.
My Commission Expires: 3-18-23



ALAN WILSON
ATTORNEY GENERAL

November 5, 2014

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S.C. Supreme Court

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

RE: Ernest Battle v. State of South Carolina
Appellate Case No. 2013-001776

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Return to Petition for Writ of Certiorari to the South Carolina Supreme Court in the above matter for filing in your office. By copy of this letter we are serving opposing counsel with this Return to Petition for Writ of Certiorari.

With highest regards,

Ashleigh R. Wilson
Assistant Attorney General

ARW/arh
Enclosures

cc: Robert Pachak, Esquire