

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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MAR 31 2015

S.C. Supreme Court

Certiorari to Pickens County
Robin B. Stilwell, Circuit Court Judge
2012-CP-39-00177

Appellate No.: 2014-001608

JOHN FORREST HAM, JR., #240615,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

**MOTION TO STRIKE,
MOTION TO SUPPLEMENT APPENDIX AND
MOTION TO RECLASSIFY DOCUMENT
IN TABLE OF CONTENTS**

The undersigned hereby respectfully moves this Court for the Following:

Motion to Strike Appendix

The Respondent hereby moves that this Court strike from the Appendix with the following materials:

- 1) Appendix pages:
 - a. 17-28 – Transcript related to guilty plea from 2009-GS-23-9547 (Greenville County);
 - b. 47-64 – PCR Application for 2011-CP-23-06136 (Greenville County);
 - c. 83-88 – Return to PCR Application 2001-CP-23-06136 (Greenville County); and

- d. 175-185 – Clerk of Court’s Records related to 2009-GS-23-9547 (Greenville County).

These pages are not a part of the lower court record for this case. This Court requires that a Petition for a Writ of Certiorari include the lower court record. See Rule 243(f)(1), SCACR. The pages listed do not in any way relate to the conviction that is underlying this Petition. In this case, the Petitioner is challenging 2008-GS-47-11, a State Grand Jury conviction from Pickens County. The above documents relate to a Greenville County conviction and PCR matter, specifically Appellate Case 2014-001834 that is being handled by Assistant Attorney General Karen C Ratigan and Appellate Defender Benjamin J. Tripp.¹

The Respondent submits that the above was never put before the lower court, either as an exhibit entered during a hearing or filed as a pleading or attachment to a pleading, during this post-conviction relief matter and therefore should not be included in the Appendix as a part of **this** record. (But rather should be included as part of the record for Appellate Case 2014-001834.)

Motion to Supplement

The Respondent hereby moves that this Court supplement the Appendix with the following materials:

- 1) Attachments to Respondent’s Return:
 - a. Consent Order Vacating Probation
 - b. Clocked Plea Agreement
 - c. Federal Indictment
 - d. Federal Bench Warrant
 - e. Federal Bond Order
 - f. Federal Plea Transcript, May 21, 2010
 - g. Federal Sentencing Transcript, August 31, 2010
 - h. Federal Notice of Appeal

¹The only time these two matters intersected was at the PCR hearing for efficiency since the same attorney represented the Petitioner on both his PCR applications. In fact, only Ms. McMahan crossed Mr. Ariail, the Petitioner’s trial counsel for this case, and only Ms. Ratigan crossed Mr. Stalvey, Petitioner’s trial counsel from his Greenville case. The cases were never merged into one single, sole matter. App. p. 125, 126.

- i. Fourth Circuit Opinion
 - j. Motion Pursuant to 28 USC 2255
 - k. Response to 2255
 - l. Opinion and Order on 2255
- 2) SCDC Records

These are a part of the lower court record. This Court requires that a Petition for a Writ of Certiorari include the entire lower court record. Again, *see* Rule 243(f)(1), SCACR. The Respondent submits that the above is relevant to the instant proceeding and was included before the lower court as the attachments to the Respondent's Return and Motion to Dismiss. These documents are material to this Court's review as to whether the lower court's decision is supported by probative evidence. Accordingly, the movant requests that the Appendix be supplemented to include the entire lower court record.

Motion to Reclassify Document in Table of Contents

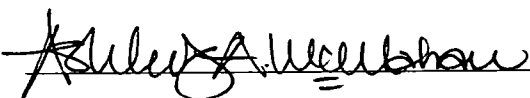
Pages 99-124 in the Appendix are not the plea agreement. While pages 99-105 is a copy of the plea agreement, it includes Petitioner's handwritten notations. Pages 99-124 are in fact attachments to the PCR application and Respondent requests they be reclassified as such.

Respectfully submitted,

ALAN WILSON
Attorney General

ASHLEY A. McMAHAN
Assistant Attorney General
SC Bar No.: 71676

P.O. Box 11549
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(803) 734-3693

By: 

March 31, 2015

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S.C. Supreme Court

John Forrest Ham, Jr., #240615,

PETITIONER,

v.

State of South Carolina,

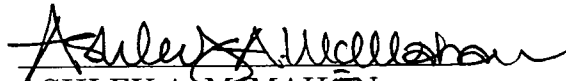
RESPONDENT.

CERTIFICATE OF SERVICE

I, Ashley A. McMahan, certify that I have served the within Return to Petition for Writ of Certiorari and Motion to Strike, Motion to Supplement, and Motion to Reclassify on Petitioner by delivering copies of the same addressed to:

Tiffany L. Butler
Appellate Defender
SC Commission on Indigent Defense
PO Box 11589
Columbia, SC 29211-1589

I further certify that all parties required by Rule to be served have been served.
This 31st day of March, 2015.


ASHLEY A. McMAHAN
Assistant Attorney General
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