

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Pickens County
Robin B. Stilwell, Circuit Court Judge

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APR 8 2015

S.C. Supreme Court

JOHN FOREST HAM, JR., #240615

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT,

Appellate Case No. 2014-001608

RETURN TO
RESPONDENT'S MOTION TO STRIKE

Respondent has filed a motion to strike from the Appendix the following pages:

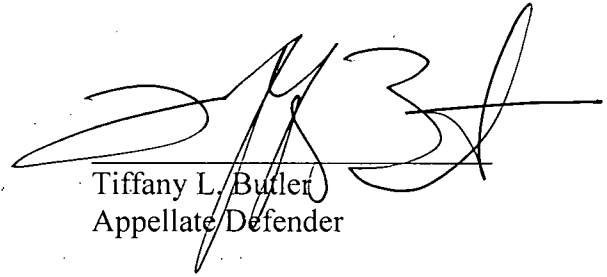
- a. 17 – 28 (Transcript of guilty plea for indictment 2009-GS-23-9547, Greenville County)
- b. 47 – 64 (PCR Application for case 2011-CP-23-06136, Greenville County)
- c. 83 – 88 (Return to PCR Application for case 2011-CP-23-06136, Greenville County)
- d. 175 – 185 (Clerk of Court's Records related to indictment 2009-GS-23-9547, Greenville County)

Respondent argues that the above pages are not a part of the lower court record for this case. Petitioner disagrees, therefore, opposes this motion and respectfully shows the Court:

1. On June 18, 2014, a PCR hearing was held in Greenville County before the Honorable Robin B. Stilwell. Cases 2011-CP-23-06136, Greenville County, and 2012-CP-39-0177, State Grand Jury from Pickens County, were both scheduled to be heard by Judge Stilwell. Assistant Attorney General Karen C. Ratigan represented the State on the Greenville County case. Assistant Attorney General Ashley A. McMahan represented the State on the Pickens County State Grand Jury case. See App. 125 – 127.
2. After an off-the-record bench conference, the parties “determined that for purposes of this hearing it would be easiest to consolidate the Pickens case and the Greenville” case. See App. 127 – 128.
3. Respondent then moved to dismiss Petitioner’s PCR application. After hearing Respondent’s argument in support of the motion to dismiss, Judge Stilwell allowed Petitioner to present evidence from **both** cases in furtherance of his PCR application. See App. 133.
4. Judge Stilwell heard testimony regarding Petitioner’s Greenville County **and** Pickens County Grand Jury cases during the PCR hearing.
5. Petitioner opposes Respondent’s motion to strike and asserts that the above pages should remain a part of the Appendix. Although the cases are from two different counties, the PCR judge considered the facts and circumstances from **each** case during the PCR hearing. See Rule 243(f)(1), SCACR.
6. The guilty plea transcript of Petitioner’s Greenville case, at a minimum, is necessary to provide context of the disposition of the Pickens Grand Jury case.

7. Petitioner has no objection to Respondent's motion to supplement and motion to reclassify the documents in the table of contents.
8. For the grounds argued above, Petitioner respectfully requests that this Court deny Respondent's motion to strike.

Respectfully submitted,



Tiffany L. Butler
Appellate Defender

April 8th, 2015

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Pickens County
Robin B. Stilwell, Circuit Court Judge

JOHN FOREST HAM, JR. 240615

PETITIONER,

V.

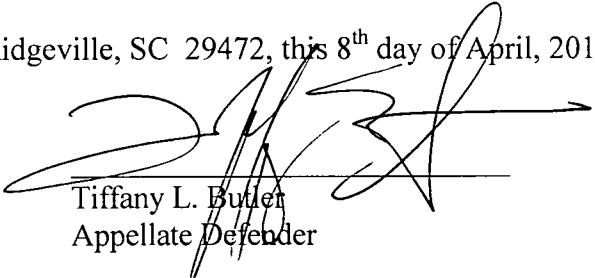
STATE OF SOUTH CAROLINA,

RESPONDENT,

APPELLATE CASE NO. 2014-001608

CERTIFICATE OF SERVICE

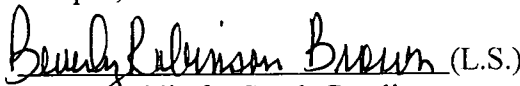
I certify that a true copy of the Return to Respondent's Motion to Strike in the above referenced case has been served on Ashley A. McMahan, Esquire at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and John Forest Ham, Jr. #240615, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 8th day of April, 2015.



Tiffany L. Butler
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 8th
of April, 2015.

 Beverly Robinson Brown (L.S.)
Notary Public for South Carolina

My Commission Expires: December 9, 2024.