

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Greenville County
G. Edward Welmaker, Circuit Court Judge
Case No. 2015-000595

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APR 29 2015

SC Court of Appeals

THE STATE,

vs.

ERICK HEWINS,

Respondent.

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MAY 19 2015

Petitioner. S.C. Supreme Court

**MOTION TO STRIKE MATTER IN THE APPENDIX PURSUANT TO RULE
242, SCACR; REQUEST FOR CLARIFICATION DUE TO MULTIPLE
PETITIONS FOR CERTIORARI FILED; AND MOTION TO HOLD APPEAL IN
ABEYANCE.**

Respondent now moves for this Court to strike matter in the Record on Appeal that was not designated by Petitioner (or Respondent) pursuant to Rule 242, SCACR. The Appendix should contain only the Record on Appeal and those items designated in Rule 242(e), SCACR.¹ Further, Petitioner has filed two Petitions for Writ of Certiorari, one filed before the April 15, 2015, deadline and one filed after the deadline. Respondent requests clarification as to which, if either, Petition will be considered by the Court. Finally, Respondent moves to hold all time limits in abeyance until resolution of these motions. The

¹ Appellant failed to serve the Appendix on Respondent as required by Rule 242, SCACR. The Appendix referenced in this motion was found by referencing the C-Track system.

basis for each these motions follows:

I. The Appendix contains the Record on Appeal, numbered pages 1-259. The Appendix then contains appropriate documents from the Court of Appeals (Initial Brief of Appellant, Initial Brief of Respondent, Reply Brief of Appellant, Opinion, Petition for Rehearing, and Order Denying Petition for Rehearing). These pages are not numbered. All pages after the Order Denying the Petition for Rehearing should be struck from the Appendix pursuant to Rule 242(e), SCACR.

II. Further, Petitioner submitted two versions of his Petition for Writ of Certiorari. The first was dated March 20, 2015. The second Petition for Writ of Certiorari was dated April 20, 2015. This Court provided Petitioner deadline of April 15, 2015, to submit his Petition. Respondent seeks clarification as to which documents the Court is considering as properly filed.

III. Finally, Respondent moves to hold all time limits in abeyance until this Court rules on Respondent's motions.

CONCLUSION

Pursuant to Rule 242, SCACR, Respondent requests this Court to strike matter from the Appendix. Respondent also requests this Court clarify which documents the Court construes as the Petition for Writ of Certiorari. Respondent also requests that Respondent's time limits be held in abeyance pending this Court's ruling on the motion.

Respectfully submitted,

ALAN WILSON
Attorney General

MARY W. LEDDON
Assistant Attorney General

WILLIAM W. WILKINS, III
Solicitor, Thirteenth Judicial Circuit

BY: Mary W. Leddon
MARY W. LEDDON
SC Bar #76192

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

April 28, 2015

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal From Greenville County
G. Edward Welmaker, Circuit Court Judge

Appellate Case No: 2015-000595

RECEIVED

APR 29 2015

SC Court of Appeals

THE STATE.

Respondent,

vs.

ERICK E. HEWINS,


Appellant.

PROOF OF SERVICE

I, Anne Mueller, certify that I have served the Motion To Strike Matter In The Appendix Pursuant To Rule 242, SCACR; Request For Clarification Due To Multiple Petitions For Certiorari Filed; And Motion To Hold In Abeyance on Appellant by depositing one copy of the same in the United States mail, postage prepaid, addressed to Mr. Erick E. Hewins, SCDC No. 297728, McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899.

I further certify that all parties required by Rule to be served have been served.

This 29th day of April, 2015.



Anne A. Mueller
Legal Assistant
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

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APR 29 2015
SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

April 29, 2015

Mr. Erick E. Hewins, SCDC No. 297728
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

RE: State v. Erick E. Hewins
Appellate Case No: 2015-000595

Dear Mr. Hewins:

Enclosed please find one copy of the Motion To Strike Matter In The Appendix Pursuant To Rule 242, SCACR; Request For Clarification Due To Multiple Petitions For Certiorari Filed; And Motion To Hold In Abeyance in the above case.

Sincerely,

Mary Williams Leddon
Assistant Attorney General
S.C. Bar No: 76192

MWL/aam
Enclosure

cc: The Honorable Jenny A. Kitchings (w/original and six (6) copies enclosed)
Victim Service



ALAN WILSON
ATTORNEY GENERAL

May 19, 2015

The Honorable Daniel E. Shearouse
Clerk of Court, South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211

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MAY 19 2015

S.C. Supreme Court

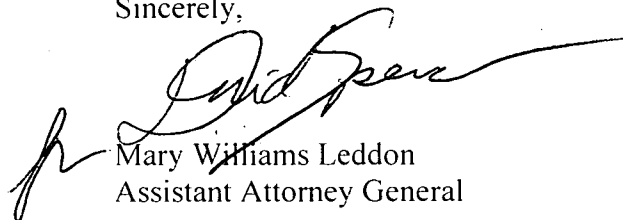
RE: State v. Erick E. Hewins
2015-00595

Dear Mr. Shearouse:

While in the process of preparing the Return to the Petition for Writ of Certiorari in the above matter, our office determined that it would be necessary to file a motion to strike and for clarification and request that this matter be held in abeyance until the Court rules upon the motion. The motion was filed on April 29, 2015. Unfortunately, today it was discovered that the motion was mistakenly filed at the Court of Appeals. The Clerk's office for the Court of Appeals stamped the motion with the date of April 29, 2015 and placed the original in its file. After speaking to a member of the staff in the Clerk's office, they have returned the original motion to our office. If further explanation or additional information is needed please let me know.

Enclosed are my original Motion to Strike Matter in the Appendix Pursuant to Rule 242, SCACR; Request for Clarification due to Multiple Petitions for Certiorari Filed; and Motion to Hold in Abeyance, along with six copies.

Sincerely,



Mary Williams Leddon
Assistant Attorney General

MWL/aam
Enclosures

cc: Erick E. Hewins, SCDC No. 313102 (w/enclosure)