

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

The Honorable J. Derham Cole, Circuit Court Judge

Appellate Case No. 2014-002763

RECEIVED

JUL 31 2015

S.C. Supreme Court

Eddie Dean Dogan, Jr., Petitioner,

v.

State of South Carolina, Respondent.

MOTION TO SUPPLEMENT APPENDIX

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, counsel for Respondent moves for this Court to compel Petitioner to supplement the Appendix. In support of this motion, Respondent would present the following:

1. The Spartanburg Grand Jury indicted Petitioner for kidnapping, first-degree criminal sexual conduct with a minor, and contributing to the delinquency of a minor. After the State called the case to trial, Petitioner was found guilty. On March 2, 1999, the Honorable Henry F. Floyd sentenced Petitioner to 45 years imprisonment.

2. The South Carolina Court of Appeals dismissed the subsequent Anders¹

¹ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

appeal. State v. Dogan, Op. No. 2000-UP-436 (S.C. Ct. App. filed June 7, 2000).

3. Petitioner filed an application for post-conviction relief (PCR) on October 17, 2000 (2000-CP-42-2799). A hearing was held on the merits and Petitioner was represented by counsel. On June 5, 2003, the Honorable J. Derham Cole denied and dismissed the application by written order. This Court denied the subsequent petition for writ of certiorari on May 18, 2005.

4. Petitioner filed subsequent PCR applications on August 7, 2007 (2007-CP-42-2758), January 8, 2009 (2009-CP-42-0078), and November 9, 2009 (2009-CP-42-6157). These applications were dismissed.

5. Petitioner filed a fifth PCR application on January 25, 2011 (2011-CP-42-0343). The Honorable J. Mark Hayes, II filed an Order Restricting Future Filings on April 3, 2012. Judge Hayes filed a final order of dismissal on November 29, 2012.

6. Petitioner filed the PCR applications at issue in this case on June 4, 2013 (2013-CP-42-2403) and June 20, 2013 (2013-CP-42-2608). Respondent filed a return and motion to dismiss, noting that a copy of the April 3, 2012 Order Restricting Future Filings was attached. Judge Cole dismissed the applications by order filed November 20, 2014.

7. The Petition for Writ of Certiorari and Appendix in this case were filed on June 16, 2015. The Appendix, however, does not contain the April 3, 2012 Order Restricting Future Filings. This Order was attached to Respondent's return and motion to dismiss and was referenced by Judge Cole in his order of dismissal. Without this Order, the appellate record is incomplete and, as such, it must be included in the Appendix. Further, Respondent

cannot address the merits of Petitioner's allegations without being able to reference this Order.

8. Inasmuch as the April 3, 2012 Order Restricting Future Filings is relevant and pertinent material under Rule 243(f), SCACR that should be included in the Appendix, counsel moves this Court to compel Petitioner to include the same in a Supplemental Appendix.

WHEREFORE, as the Appendix is incomplete, counsel for Respondent requests this Court: (1) grant the motion to compel Petitioner to supplement the Appendix and (2) hold time limits for the filing of the Return to Petition for Writ of Certiorari in abeyance until the motion is ruled upon.

Respectfully submitted,

ALAN WILSON
Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General
S.C. Bar # 68331

Post Office Box 11549
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(803) 734-3737

By: 
ATTORNEYS FOR RESPONDENT

July 31, 2015

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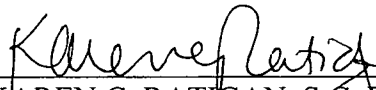
State of South Carolina, Respondent.

CERTIFICATE OF SERVICE

I, Karen C. Ratigan, certify that I have today served the within Motion to Supplement Appendix upon Petitioner by depositing a copy of the same in the interagency mail, addressed to:

Benjamin John Tripp, Esquire
S.C. Comm'n on Indigent Defense, Division of Appellate Defense
Post Office Box 11589
Columbia, South Carolina 29211-1589

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


KAREN C. RATIGAN, S.C. Bar # 68331
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737
ATTORNEY FOR RESPONDENT



ALAN WILSON
ATTORNEY GENERAL

July 31, 2015

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

S.C. Supreme Court

RE: Eddie Dean Dogan, Jr. v. State of South Carolina
Appellate Case No.: 2014-002763

Dear Ms. Shearouse:

Enclosed for filing are the original and six (6) copies of the **Motion to Supplement Appendix** in the above-referenced case. By copy of this letter we are serving opposing counsel today.

Sincerely,

Karen C. Ratigan
Senior Assistant Deputy Attorney General
SC Bar No. 68331

KCR/ah
Enclosures

cc: Benjamin J. Tripp, Esquire