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STATE OF SOUTH CAROLINA
In The Supreme Court

S.C. Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Edward W. Miller, Circuit Court Judge

Appellate Case No. 2015-001010

James Spurgeon, Petitioner,

v.

State of South Carolina, Respondent.

MOTION TO SUPPLEMENT APPENDIX

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

1. The Greenville County Grand Jury indicted Petitioner at the September 1987 term of General Sessions for murder. On September 24, 1987, Petitioner pled guilty and the Honorable C. Victor Pyle, Jr. sentenced him to life imprisonment. Petitioner did not appeal.
2. Petitioner filed an application for post-conviction relief on October 30, 2014 (2014-CP-23-5942). An evidentiary hearing was held on April 20, 2015. In an order filed May 5, 2015, the Honorable Edward W. Miller granted Respondent's motion to dismiss and

denied the PCR application.

3. The Petition for Writ of Certiorari and Appendix in this case were filed on August 31, 2015. The Appendix, however, does not contain the amended return and motion to dismiss that was filed on April 20, 2015.

4. The amended return and motion to dismiss was before Judge Miller when he granted Respondent's motion to dismiss. Without the amended return and motion to dismiss, the appellate record is incomplete. As such, it should be included in the Appendix.

5. Inasmuch as the amended return and motion to dismiss is relevant and pertinent material under Rule 243(f), SCACR that should be included in the Appendix, counsel moves this Court to require Petitioner to include it 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

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By: 
ATTORNEYS FOR RESPONDENT

September 29, 2015

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
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The Honorable Edward W. Miller, Circuit Court Judge

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James Spurgeon, Petitioner,

v.


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 inter-agency mail, addressed to:

Robert M. Pachak, Esquire
South Carolina Commission 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 29th day of September, 2015.


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ATTORNEY FOR RESPONDENT