

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Berkeley County

The Honorable J.C. Nicholson Jr., Circuit Court Judge

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Appellate Case No.: 2015-001118

**RECEIVED**

OCT 27 2015

S.C. Supreme Court

GREGG TAYLOR,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

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**MOTION TO STRIKE APPENDIX**

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Respondent hereby moves to strike Petitioner's appendix as improperly filed for failing to comply with Rule 210, SCACR.

Petitioner was indicted at the March 2012 term of the Berkeley County Grand Jury for possession with intent to distribute marijuana (2012-GS-08-0363). Petitioner was represented by Steve C. Davis, Esquire. On December 17, 2012, Petitioner pled guilty to the lesser offense of possession of marijuana less than one ounce – first offense. Petitioner was sentenced by the Honorable R. Markley Dennis to confinement for a period of six (6) months, provided upon the payment of a \$750 fine, the balance suspended to one (1) year probation. Petitioner did not appeal his conviction or sentence.

On February 13, 2013, Petitioner filed an application for post-conviction relief. Respondent made its Return on or about February 7, 2014, requesting that an evidentiary hearing be held. An evidentiary hearing convened on December 11, 2014 in Charleston County before the Honorable J.C. Nicholson, Jr. Mark Devine, Esquire, represented Petitioner at the hearing. Ashleigh R. Wilson, Esquire, of the South Carolina Office of the Attorney General represented Respondent. Petitioner's plea counsel testified at the hearing. In lieu of Petitioner's live testimony, counsel for Petitioner submitted a "Sworn Affidavit of Gregg Taylor" as an exhibit. By an Order of Dismissal signed April 20, 2015 and filed April 24, 2015, the PCR Court denied and dismissed Petitioner's application with prejudice.

Following his Notice of Appeal, Petitioner filed a Petition for Writ of Certiorari and an accompanying Appendix. Respondent moves to strike the Appendix as incorrectly filed under Rule 210(c) SCACR. The Appendix consists of Appendices A through F and includes an index that appears to be incorrect.<sup>1</sup> Specifically, Respondent would ask that every page of the Appendix be numbered so that it may properly cite to the Appendix in its Return.

Accordingly, Respondent requests that Petitioner's Appendix be stricken and that a subsequent appendix be filed in compliance with the South Carolina Appellate Court Rules. Respondent would additionally request that this matter be held in abeyance until the compliant Appendix is provided.

[signature on following page]

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<sup>1</sup> For example, the index shows that Appendix A consists of the PCR Order of Dismissal on pages 1-5 and that Appendix B starts on page 6, however no pages are paginated and the Order of Dismissal is 8 pages in length.


Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
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By:   
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October 27, 2015

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GREGG TAYLOR,

PETITIONER,

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THE STATE OF SOUTH CAROLINA,

RESPONDENT.

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**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies that a true copy of the Motion to Strike Appendix has been served upon opposing counsel by mailing two (2) copies in the United States mail, postage prepaid:

**Mark J. Devine, Esquire**  
**The Law Office of Mark J. Devine**  
**507 Savannah Hwy.**  
**Charleston, SC 29407**

This 27<sup>th</sup> day of October, 2015.

  
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ELIZABETH MCLELLAN  
LEGAL ASSISTANT