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SC SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson, Circuit Court Judge

Case No. 2011-CP-01-110
Appellate Case No. 2014-000904

CAPITAL CASE

Louis Michael Winkler Jr., Respondent

v.

State of South Carolina, Petitioner

**RESPONDENT'S MOTION
TO FILE A SUPPLEMENTAL APPENDIX**

Respondent, Louis Michael Winkler Jr., through undersigned counsel, for the reasons stated below, respectfully requests that this Court accept the attached third supplemental appendix.

The reasons for this motion are as follows:

1. Petitioner, the State of South Carolina, sought review of the lower court's decision to grant sentencing-phase relief to Winkler and prepared and submitted an Appendix along with its Petition for Writ of Certiorari. Respondent raised an additional sustaining ground related to the PCR Court's refusal to grant a pre-hearing continuance to allow Winkler sufficient time to complete necessary neuroimaging and analysis. In his Return to the Petition for Writ of Certiorari,

Winkler cited several pre-hearing pleadings that were not previously included in the Appendix for this Court's review. Because there was no Appendix page number to cite for those documents, Winkler simply listed them by name and filing date.

2. After this Court granted certiorari on Winkler's additional sustaining ground, Petitioner filed a Supplemental Appendix containing some of those pre-trial filings, but not all of them. Specifically, the following five documents are missing from the current Appendix: (1) the PCR Court's September 9, 2011 order authorizing funds for a neuropsychologist; (2) the November 3, 2011 request for funding for brain imaging and analysis; (3) the PCR Court's November 21, 2011 Order authorizing funding for the brain imaging and analysis; (4) Winkler's first motion to continue the PCR hearing, filed on November 30, 2011; and, (5) the PCR Court's December 8, 2011 order denying that motion.

3. These documents span thirty-nine pages, are bound as the Third Supplemental Appendix, and are filed simultaneously with this Motion. They are critical to understanding the issues before the Court.

4. Undersigned counsel contacted counsel for Petitioner, Alphonso Simon, Jr., who indicated that the State consents to this motion.

THEREFORE, for the reasons stated above, Respondent respectfully requests that this Court accept the attached Third Supplemental Appendix.

Respectfully submitted,

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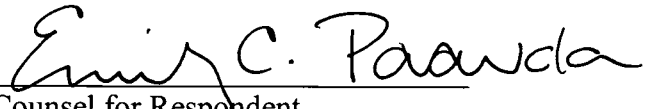
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By: 
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February 8, 2016

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Respondent's Motion to File a Supplemental Appendix was served by first class United States mail, postage prepaid, this 8th day of February 2016, upon the following:

Alphonso Simon
Assistant Attorney General
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Jill Abernethy