

RECEIVED

MAR 9 0 2016

SO SUPREME COURT

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

The Honorable Thomas A. Russo, Circuit Court Judge

Appellate Case No. 2015-000521

Ronnie W. Wilson,Petitioner,

v.

State of South Carolina,Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

ALAN WILSON
Attorney General

JESSICA E. KINARD
Assistant Attorney General
S.C. Bar No. 77889

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

QUESTION PRESENTED1

STATEMENT OF THE CASE.....2

ARGUMENT3

 I. Probative evidence supports the post-conviction relief judge’s finding
 Petitioner did not knowingly and voluntarily waive his right to an appeal
 of his first post-conviction relief action.3

CONCLUSION.....4

QUESTION PRESENTED

Did the post-conviction relief judge properly find Petitioner did not knowingly and voluntarily waive his right to appellate review of the denial of his first post-conviction relief action?

STATEMENT OF THE CASE

For the limited purposes of determining whether Petitioner is entitled to a review of his first post-conviction relief action pursuant to Austin v. State, 288 S.C. 290, 342 S.E.2d 60 (1986), Respondent adopts Petitioner's statement of the case.

ARGUMENT

I. Probative evidence supports the post-conviction relief judge's finding Petitioner did not knowingly and voluntarily waive his right to an appeal of his first post-conviction relief action.

The proper standard for reviewing a PCR evidentiary hearing is whether “any evidence of probative value” exists to sustain the post-conviction relief judge's findings. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). Here, Respondent conceded prior collateral counsel failed to file a notice of appeal from Petitioner's initial action. (App. p. 583, lines 21-23; p, 585, lines 18-21). Based upon this evidence, the record supports the post-conviction relief judge's finding Petitioner did not knowingly and voluntarily waive his right to appellate review of his first post-conviction relief action.

CONCLUSION

For the foregoing reasons, Respondent respectfully submits the post-conviction relief judge properly granted Petitioner a review of his first post-conviction relief action pursuant to Austin v. State.

Respectfully submitted,

ALAN WILSON
Attorney General

JESSICA E. KINARD
Assistant Attorney General
S.C. Bar No. 77889

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

By: 
ATTORNEYS FOR RESPONDENT

March 30, 2016