

STATE OF SOUTH CAROLINA
In The Supreme Court

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MAY 25 2016

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

SC SUPREME COURT

The Honorable Daniel D. Hall, Circuit Court Judge

Appellate Case No. 2015-002251

George Cleveland, III,..... Petitioner,

v.

State of South Carolina,.....Respondent.

MOTION TO STRIKE

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, counsel for Respondent moves for this Court to strike the second Petition for Writ of Certiorari and Appendix filed by Petitioner. In support of this motion, Respondent would present the following facts:

1. On November 5, 2013, Petitioner pled guilty to two counts of removing a vehicle identification number, two counts of possession of a stolen vehicle, and one count of obtaining goods under false pretenses. The Honorable Edward W. Miller sentenced Petitioner to an aggregate sentence of 10 years suspended upon the service of 6 years and 5 years probation. Petitioner did not appeal.

2. Petitioner filed an application for post-conviction relief on April 3, 2014. Petitioner proceeded pro se and a hearing was held on February 18, 2015. In an order filed April 7, 2015, the Honorable Daniel D. Hall denied and dismissed the application. Judge Hall denied Petitioner's Rule 52(b), SCRCF motion in an order filed September 25, 2015 and Rule 59(e), SCRCF motion in an order filed January 27, 2016.

3. Petitioner filed the Petition for Writ of Certiorari and Appendix in March 2016 (the Petition was dated March 21, 2016). Petitioner filed a second Petition for Writ of Certiorari and Appendix – raising different issues – in April 2016 (the Petition was dated April 15, 2016).

4. Though this Court issued an order on May 17, 2016 in which it allowed “the table of contents and authorities and the supplemental record [to] be considered with the petition for writ of certiorari and appendix already on file with this Court,” this Court has not granted Petitioner the right to file a second Petition for Writ of Certiorari (or an Appendix associated with that Petition). Accordingly, Respondent submits this second Petition and Appendix must be stricken and the appeal be allowed to proceed upon the Petition for Writ of Certiorari filed in March 2016.

WHEREFORE, counsel for Respondent requests this Court (1) strike the second Petition for Writ of Certiorari and Appendix filed by Petitioner in April 2016 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 Attorney General
S.C. Bar # 68331

Post Office Box 11549
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(803) 734-3737

By: 
ATTORNEYS FOR RESPONDENT

May 25, 2016

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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 Strike upon Petitioner by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

George Cleveland, III, #357770
Turbeville Correctional Institution
1578 Clarence Coker Highway
Turbeville, South Carolina 29162

I further certify that all parties required by Rule to be served have been served. This 25th day of May, 2016.



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

ATTORNEY FOR RESPONDENT



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SC SUPREME COURT

ALAN WILSON
ATTORNEY GENERAL

May 25, 2016

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: George Cleveland, III v. State of South Carolina
Appellate Case No: 2015-002251
Lower Case No: 2014-CP-23-1895

Dear Mr. Shearouse:

Attached is the original and six (6) copies of the **Motion to Strike** in the above referenced case for filing in your office.

Sincerely,

Karen C. Ratigan
Senior Assistant Attorney General
SC Bar #68331

KCR/jacc

cc: George Cleveland, III, 357770.