

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

Appeal from Clarendon County  
George C. James, Jr., Circuit Court Judge

RECEIVED

JUN 29 2016

SC SUPREME COURT

CHARLES JUNIOUS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001498

MOTION TO AMEND JOHNSON PETITION FOR WRIT OF  
CERTIORARI AND TO SUBMIT A PETITION FOR WRIT OF CERTIORARI PURSUANT TO  
AUSTIN V. STATE SO AS TO COMPLY WITH RULE 243, SCACR,  
AND AUSTIN V. STATE 305 S.C. 453, 409 S.E.2d 395 (1991).

Pursuant to Rule 240, SCACR, Counsel for Petitioner Charles Junious respectfully requests the Court accept the amended Johnson Petition for Writ of Certiorari and the Petition for Writ of Certiorari Pursuant to Austin v. State enclosed herewith, so that Petitioner may be in compliance with the filing requirements of Austin v. State and the South Carolina Rules of Appellate Court. In support of this request, counsel shows:

(1) Petitioner served and filed a timely Johnson Petition for Writ of Certiorari with this Court on February 29, 2016. Petitioner raised the following two issues:

- (1) Whether the PCR court properly granted Petitioner's request for a belated PCR appeal pursuant to Austin v. State because Petitioner did not knowingly and intelligently waive the right to

appellate review of his previous PCR application and Order of Dismissal; and

- (2) Whether the PCR court erred in finding that plea counsel provided effective assistance of counsel where plea counsel failed to request a second competency evaluation to determine Petitioner's fitness to stand trial when there was a reasonable probability that Petitioner was incompetent at the time of the plea and, at a minimum, a second competency evaluation would have provided the plea court with additional evidence supporting a plea of guilty but mentally ill.

(2) Through inadvertence, Counsel for Petitioner did not file the issues in separate Petitions for Writ of Certiorari. Subsequent to filing the Johnson Petition, this Court made Counsel for Petitioner aware of the error.

(3) This motion is submitted to bring Petitioner's filings into compliance with the requirements of Austin v. State and the South Carolina Appellate Court Rules. The issues raised in the now separate Petitions are unchanged from the two issues raised in the February 29, 2016 Johnson Petition.

(4) Assistant Attorney General Julie Coleman has consented to this motion as indicated below.

WHEREFORE, counsel for Petitioner respectfully requests the Court accept the amended Johnson Petition for Writ of Certiorari and the Petition for Writ of Certiorari (pursuant to Austin v. State).

***[Signature Page Follows]***

Respectfully submitted,

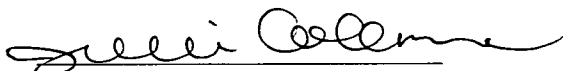


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ATTORNEY FOR PETITIONER

This 29<sup>th</sup> day of June, 2016

I consent to this motion:

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Julie Coleman, Esquire