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LLC
Working on your behalf

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October 18, 2016

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S.C. SUPREME COURT

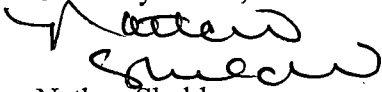
Daniel E. Shearouse, Clerk
The Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

Re.: Porter v. State
2016-002053

Dear Clerk:

This letter is in response to the letter that was mailed on October 13, 2016 regarding the issue of an interlocutory appeal. It is true that the Order granting *Austin* review did have an outstanding after discovered evidence claim remaining in the lower Court. Petitioner asked for a belated appeal in his PCR application with the after discovered evidence claim. The AG and I agreed to consent to that relief at the last hearing. Petitioner could not (or was not) transported to the hearing. The *Austin* relief was granted and the issue of after discovered evidence was held in abeyance. It was my understanding that because the *Austin* review was based off of a 2011 case number and a 2014 Order that this was a separate and distinct issue than the after discovered evidence claim. Essentially, there was a 2014 Order that was generated and never appealed, but that Order was a stand-alone final order and that it was ripe for appellate review. The AG and I agreed that these were two separate issues that could be resolved at two separate times. The after discovered evidence claim was raised after the 2014 Order was issued. To do otherwise would have left the Court ruling on two separate appeals, with two separate orders (2014 PCR and 2016 after discovered evidence) as part of the same appeal. Procedurally, this did not make sense to me. I did put on the record that the after discovered evidence claim would be addressed at a subsequent hearing and that the issues were essentially being bifurcated. This was specifically done to protect the petitioner's right to a hearing on the merits regarding the after discovered evidence motion while allowing the original order to be appealed pursuant to petitioner's request for that specific relief. I do believe that the Order that is subject to *Austin* review is a final order that is dispositive of petitioner's PCR claims for ineffective assistance and that the after discovered evidence motion will create a separate and distinct order that is appealable on its own. However, if this is incorrect, then we will vacate the previous Order, set the case to be heard on the merits of the after discovered evidence motion and generate an Order that rules on that issue and grants the *Austin* relief as well. I apologize for the confusion and will wait further instruction from the Court. Thank you.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Nathan Sheldon". The signature is written in a cursive style with a large initial "N".

Nathan Sheldon

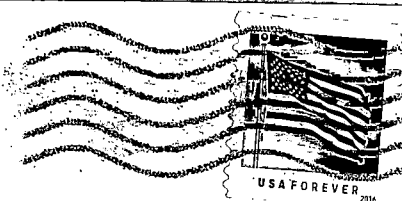
The Law Office of Nathan J. Sheldon

cc.: Justin J. Hunter, Esq
Johnell Porter #240208

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