

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal From Spartanburg County  
The Honorable Roger L. Couch, Circuit Court Judge  
Appellate case No. 2011-198472

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S.C. Supreme Court

**RICHARD BERNARD MOORE, ,**

**Petitioner,**

**vs.**

**THE STATE,**

**Respondent.**

**MOTION TO ALLOW THE FILING OF A RETURN TO PETITION  
FOR WRIT OF CERTIORARI EXCEEDING THE TWENTY-FIVE PAGE LIMIT**

Pursuant to Rule 243(g), SCACR, the undersigned counsel for Respondent respectfully asks this Court to permit the filing of the Return to Petition for Writ of Certiorari exceeding the fifty page limit for the following reasons.

This is a capital case on certiorari following the denial of Post-Conviction Relief. The PCR hearing lasted almost one week and the Appendix to the Petition for Writ of Certiorari is in roughly 3,000 pages long.

On July 12, 2012, Petitioner Moore filed a Petition to Exceed Twenty-five Page Limit for a Petition for Writ of Certiorari. Collateral appellate counsel based the motion upon the existence of an appendix that "is almost three thousand pages" and that "numerous meritorious issues were raised during the post-conviction hearings." Counsel further represented that "counsel does not think that

justice to the highly unusual facts of this death penalty case can be done in the twenty-five pages authorized by Rule 243(e)(3), SCACR.” Counsel therefore asked for permission to file a certiorari petition not to exceed eighty-five pages.

This Court granted her motion in an Order filed on July 17, 2012. Moore thereafter filed his Petition for Writ of Certiorari. It is 59 pages long and contains three issues, including an important question as to the propriety of the PCR judge’s ruling on his claims that counsel were ineffective for failing to perform a reasonable investigation concerning Moore’s background and family life and present evidence of the investigation during the sentencing proceeding; that counsel rendered ineffective assistance by failing to call James Aiken to testify regarding Moore’s adaptability to life in prison; and that trial counsel was ineffective ... by failing to adequately prepare and rebut evidence Petitioner shot the decedent with premeditation while behind the store counter since how the decedent came to be shot was critical to the extent of Petitioner's culpability.”

Likewise, the first and third issues raised are very fact intensive. In order to fairly and adequately respond to the issues presented, Respondent would likewise ask the Court to grant it permission to file a Return to Petition for Writ of Certiorari exceeding the twenty-five page limit. The Return to Petition for Writ of Certiorari submitted contemporaneously with this motion is 68 pages. Respondent has contacted Petitioner’s counsel to obtain consent to this motion.

Therefore, Respondent would ask the Court to grant it permission to file a Return to Petition for Writ of Certiorari exceeding the twenty-five page limit in Rule 243(g), SCACR.

Respectfully submitted,

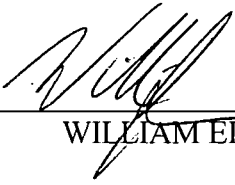
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November 16, 2012.