

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

RECEIVED

MAY 30 2017

The Honorable Brooks P. Goldsmith, Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2016-001435

James D. Tinsley, Petitioner,

v.

State of South Carolina, Respondent.

MOTION TO SUPPLEMENT APPENDIX

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, counsel for Respondent moves for this Court to compel Petitioner to supplement the Appendix in this case. In support of this motion, Respondent would present the following facts:

1. Petitioner was indicted at the May 2008 term of the Oconee County Grand Jury for Receiving, Possessing, Concealing, Selling, or Disposing of a Stolen Vehicle over \$5,000 pursuant to S.C. Code §16-21-80(3) (2008-GS39-881), and four counts of Receiving Stolen Goods over \$5,000 (2008-GS-39-882 through -885). Judge Nicholson ultimately consolidated indictments -882 through -884 into a single charge. Petitioner was tried before

a jury, representing himself *pro se*, and found guilty as charged. Judge Nicholson sentenced Petitioner to ten years' imprisonment suspended on service of seven years and five years' probation on both the consolidated indictment (-882 through -884) and the stolen vehicle indictment (-881), to be served consecutively. Judge Nicholson also sentenced Petitioner to five years' imprisonment suspended to five years' probation on the remaining stolen goods indictment (-885). Judge Nicholson also made restitution to various victims a condition of probation.

2. Petitioner filed a timely notice of appeal. The South Carolina Court of Appeals affirmed Applicant's convictions and sentences in an unpublished opinion. State v. James Douglas Tinsley, (2012-UP-321, filed May 30, 2012).

3. Petitioner then filed a timely application for PCR on December 3, 2014. An evidentiary hearing into the matter was convened on February 9, 2016, at the Anderson County Courthouse in front of the Honorable Brooks P. Goldsmith. Judge Goldsmith denied relief in an order filed May 17, 2016.

4. The Petition for Writ of Certiorari and Appendix in this case were filed on January 11, 2017. The Appendix, however, does not contain either the Record on Appeal, Petitioner's Motion for Summary Judgment and Appendix filed on March 30, 2015, and submitted to Judge Goldsmith at the evidentiary hearing, or the exhibits introduced by Respondent at the PCR hearing.

5. Without the Record on Appeal, Petitioner's Motion for Summary Judgment and Appendix, and the exhibits introduced by Respondent at the PCR hearing, the appellate

record is incomplete. As such, the Record on Appeal, Petitioner's Motion for Summary Judgment and Appendix, and the exhibits introduced by Respondent at the PCR hearing should be included in the Appendix to the Petition for Writ of Certiorari.

6. Inasmuch as the Record on Appeal, Petitioner's Motion for Summary Judgment and Appendix, and the exhibits introduced by Respondent at the PCR hearing are relevant and pertinent material under Rule 243(f), SCACR that should be included in the Appendix, counsel moves this Court to compel Petitioner to include the same in a Supplemental Appendix.

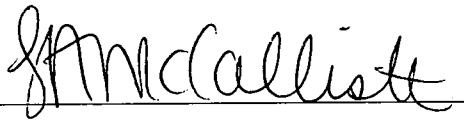
WHEREFORE, as the Appendix is incomplete, counsel for Respondent requests this Court: (1) grant the motion to compel Petitioner to supplement the Appendix and (2) hold time limits for the filing of the Return to Petition for Writ of Certiorari in abeyance until thirty days after the Appendix is supplemented.

Respectfully submitted,

ALAN WILSON
Attorney General

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By: 

ATTORNEYS FOR RESPONDENT

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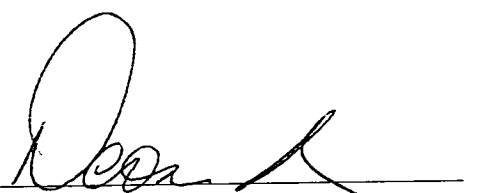
RESPONDENT,

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Motion to Supplement Appendix, has been served upon opposing counsel by mailing two (1) copies in the United States mail, postage prepaid:

**Taylor Davis Gilliam, Esquire
S.C. Commission on Indigent Defense
P.O Box 11589
Columbia, SC 29201**

This 30th day of May, 2017



DEONNA ROGERS
LEGAL ASSISTANT