

STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM HORRY COUNTY
Court of General Sessions

Larry B. Hyman, Circuit Court Judge

Appellate Case No. 2015-000731

STATE OF SOUTH CAROLINA *Respondent*

v.

LUZENSKI ALLEN COTTRELL *Appellant*

PETITION FOR STAY OF EXECUTION

Appellant, Luzenski Allen Cottrell, by and through undersigned counsel, petitions this Court for a stay of execution to allow him to file a petition for writ of certiorari with the Supreme Court of the United States.

This Court affirmed Cottrell’s conviction and death sentence on December 20, 2017, and denied rehearing on February 16, 2018. Having been denied relief in a final order by this Court, Cottrell’s next available forum for review is the Supreme Court of the United States. Pursuant to *In re Stays of Execution in Capital Cases*, 321 S.C. 544, 471 S.E.2d 140 (1996), he is entitled to a stay of execution sufficient to facilitate the preparation, filing, and disposition of a petition for writ of certiorari so long as he identifies “the federal question(s) [he] intends to raise in the petition,” and at least “one of the federal questions asserted has been adequately preserved under state law

so that it can be reviewed by the United States Supreme Court” *In re Stays*, 321 S.C. at 545, 471 S.E.2d at 141.

Several properly preserved and colorable claims of federal constitutional error are available to Cottrell, and he expects to present one or more of them to the Supreme Court of the United States via a petition for certiorari:¹

- I. Whether the removal of the lawyers appointed to represent Cottrell, over objection and in the absence of any findings justifying this interference with an established attorney-client relationship, violated his rights to counsel and due process under the Sixth and Fourteenth Amendments to the United States Constitution.
- II. Whether Cottrell’s right to a fair and reliable sentencing determination, as guaranteed by the Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article I, §§ 3, 14 and 15 of the South Carolina Constitution, was violated as a result of the qualification and seating of two jurors whose expressed views prevented or substantially impaired their ability to consider constitutionally relevant mitigating evidence.
- III. Whether Cottrell’s due process, compulsory process, confrontation, and jury trial rights under the Fifth, Sixth, and Fourteenth Amendments, and his Fourth Amendment right against unreasonable seizure, were violated by the exclusion of competent and probative testimony rebutting the prosecution’s evidence in support of reasonable suspicion justifying his detention prior to the shooting.


¹ Cottrell reserves the right to modify the formulations of the questions presenting these issues as his counsel’s research and drafting of the petition for writ of certiorari progresses. Regardless of the final wording, however, at least one of the federal issues set forth above will appear in his petition to the Supreme Court.

WHEREFORE, because each of the foregoing federal questions is properly preserved for further review, Cottrell respectfully requests that this Court enter an order staying his execution pending the timely filing and disposition of a petition for writ of certiorari with the Supreme Court of the United States.

Respectfully submitted,

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By: 

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February 20, 2018.

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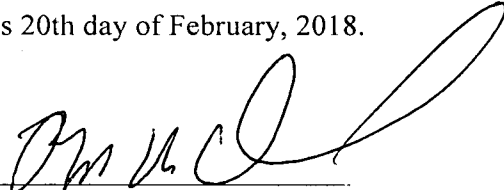
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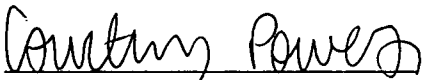
LUZENSKI ALLEN COTTRELL *Appellant*

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Stay of Execution in the above referenced case has been served upon opposing counsel, Donald J. Zelenka, Esquire and J. Anthony Mabry, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 20th day of February, 2018.


Robert M. Dudek
Chief Appellate Defender

SUBSCRIBED AND SWORN TO before me
this 20th day of February, 2018.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: May 2, 2027.