

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Spartanburg County
Roger L. Couch, Circuit Court Judge

THE STATE,

ORIGINAL
RECEIVED
FEB 27 2018
S.C. SUPREME COURT
RESPONDENT,

V.

RICKY LEE BLACKWELL,

APPELLANT

Appellate Case No. 2014-000610

MOTION FOR A STAY OF EXECUTION AND
FOR THE APPOINTMENT OF A
POST-CONVICTION RELIEF JUDGE

Counsel for Ricky Lee Blackwell moves this Court for a stay of execution and to appoint a post-conviction relief judge so that post-conviction counsel can be appointed by that judge.

I.

This Court affirmed petitioner's convictions and death sentence in State v. Ricky Lee Blackwell, 420 S.C. 127, 801 S.E.2d 713 (2017).

II.

A petition for writ of certiorari to the United States Supreme Court, Ricky Lee Blackwell v.

South Carolina, No. 17-6882, was then filed on October 27, 2017. The Court denied certiorari in its order dated February 20, 2018. A copy of that order is attached to this motion as Exhibit A.

III.

Petitioner will raise numerous grounds of ineffective assistance of counsel in an application for post-conviction relief. See In re Stays of Execution in Capital Cases, 321 S.C. 544, 471 S.E.2d 140 (1996). In his application for post-conviction relief, while reserving the right to amend once counsel is appointed, petitioner intends to assert, at a minimum, the following grounds:

1.

Was defense counsel ineffective, in derogation of petitioner's rights under the Sixth Amendment to the United States Constitution, in failing to investigate and present evidence on the circumstances surrounding petitioner's acquisition of a commercial driver's license, where this fact was used against him by the State to claim petitioner was not intellectually disabled?

2.

Was defense counsel ineffective, in derogation of petitioner's rights under the Sixth Amendment to the United States Constitution, for failing to call the hospital chaplain to testify regarding petitioner's remorse, where such evidence was excluded by the trial judge when trial counsel attempted to introduce the chaplain's notes as a business record?

This list is not exhaustive, and will likely expand, once appointed post-conviction counsel has had the opportunity to investigate. The above grounds are merely offered to show that issues of ineffective assistance of counsel exist that petitioner intends to raise in this case.

IV.

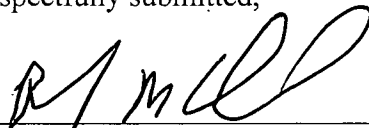
Present counsel cannot take a position on possible issues of ineffective assistance of appellate counsel. That is a matter for post-conviction counsel and the post-conviction court to determine.

VII.

Based on the above, petitioner requests that this Court issue a stay of execution and appoint a post-conviction relief judge so that the appointed post-conviction relief judge can hold a hearing to appoint post-conviction counsel. This will allow petitioner to pursue his state court post-conviction relief action in the Spartanburg County Court of Common Pleas.

WHEREFORE, counsel for Ricky Lee Blackwell requests that this Court issue a stay of execution and appoint a post-conviction relief judge so that the appointed post-conviction relief judge can hold a hearing to appoint post-conviction counsel so that petitioner can pursue post-conviction relief with the assistance of counsel in the Spartanburg County Court of Common Pleas upon the grounds of ineffective assistance of counsel, and any other grounds that may arise from post-conviction counsel's investigation of this case.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender

Attorney for Appellant

February 27, 2018

EXHIBIT A

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

February 20, 2018

Mr. Robert M. Dudek
South Carolina Commission on Indigent Defense
P.O. Box 11589
Columbia, SC 29211-1589

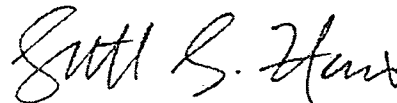
Re: Ricky Lee Blackwell
v. South Carolina
No. 17-6882

Dear Mr. Dudek:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,



Scott S. Harris, Clerk

RECEIVED
FEB 26 2018
APPELLATE DEFENSE

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Spartanburg County
Roger L. Couch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

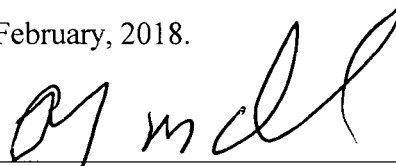
RICKY LEE BLACKWELL,

APPELLANT

Appellate Case No. 2014-000610

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the motion for a stay of execution and to appoint a post-conviction relief judge in the above-referenced case has been served upon opposing counsel, Melody J. Brown, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 27th day of February, 2018.



Robert M. Dudek
Chief Appellate Defender

Attorney for Appellant

SUBSCRIBED AND SWORN TO before me
this 27th day of February, 2018.

Paul Newberry (L.S.)

Notary Public for South Carolina

My Commission Expires: July 3, 2023.