

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Lee County
Jocelyn Newman, Circuit Court Judge

2015-CP-31-121
Appellate Case No. 2017-000063

RECEIVED

MAR 22 2018

S.C. SUPREME COURT

ERNEST TONEY,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

**MOTION TO HOLD THE TIME PERIOD FOR FILING
RETURN TO PETITION FOR WRIT OF CERTIORARI
AND BRIEF OF RESPONDENT PURSUANT TO
WHITE V. STATE IN ABEYANCE**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

On November 20, 2017, Petitioner Ernest Toney served and filed the Petition for Writ of Certiorari, Brief of Petitioner Pursuant to White v. State, and Appendix in the above-referenced appeal. This Court granted three extensions for the Return to the Petition for Writ of Certiorari and Brief of Respondent Pursuant to White v. State. Accordingly, these filings are due to be served and filed on March 22, 2018.

II.

While preparing the return, Respondent realized there were pages missing from Petitioner's Appendix and Brief of Petitioner Pursuant to White v. State, including page 11 of the brief, which specifically addresses Petitioner's argument. After requesting a fully copy from the South Carolina Supreme Court Clerk of Court's Office, the office informed Respondent that the Court's copy was missing the same pages, as well. On March 16, 2018, and on March 19, 2018, Respondent a requested the missing pages from counsel for Petitioner. At this time, Respondent has received no response from opposing counsel and has not received a copy of the missing pages.

III.

Because Respondent has not yet obtained a full copy of the Brief to which it is responding, Respondent is unable to complete the Return to Petition for Writ of Certiorari and the Brief of Respondent Pursuant to White v. State by the March 22, 2018, filing deadline. Respondent asks this Court to hold the matter in abeyance pending Petitioner's correction of his filings and to allow Respondent thirty days to prepare the Return and Brief after the requested documents are received.

WHEREFORE, Respondent prays that the Court will hold the time period for the filing and service of the Return to Petition for Writ of Certiorari and Brief of Respondent Pursuant to White v. State in abeyance pending Respondent's receipt of the requested missing pages; grant Respondent thirty days to prepare, file, and serve the Return to Petition for Writ of Certiorari and the Brief of Respondent Pursuant to White v. State from the date Respondent receives the requested missing pages; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

JULIE A. COLEMAN
Assistant Attorney General
S.C. Bar No. 102214

By 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

March 22, 2018

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Jocelyn Newman, Circuit Court Judge

2015-CP-31-121
Appellate Case No. 2017-000063

ERNEST TONEY,

Petitioner,

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STATE OF SOUTH CAROLINA,

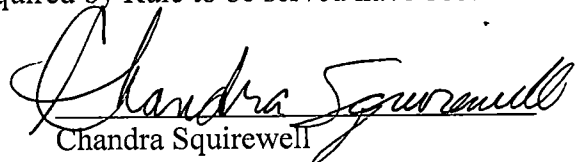
Respondent.

PROOF OF SERVICE

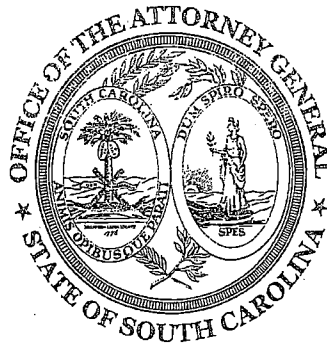
I, Chandra Squirewell, certify that I have served the within Motion to Hold the Time Period for Filing Return to Petition for Writ of Certiorari and Brief of Respondent Pursuant to White v. State in Abeyance by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Tristan M. Shaffer, Esquire
Post Office Box 1161
Irmo, SC 29063

I further certify that all parties required by Rule to be served have been served.
This 22nd day of March, 2018.


Chandra Squirewell
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

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March 22, 2018

S.C. SUPREME COURT

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, SC 29211

RE: Ernest Toney v. State of South Carolina

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Motion to Hold the Time Period for Filing Return to Petition for Writ of Certiorari and Brief of Respondent Pursuant to White v. State in Abeyance, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Julie A. Coleman
Assistant Attorney General
Bar Number 102214

JAC/ces
Enclosures

cc: Tristan M. Shaffer, Esquire
Victim Advocacy Division