

STATE OF SOUTH CAROLINA
In The Supreme Court

Appeal From Newberry County

The Honorable Brooks P. Goldsmith, Circuit Court Judge

RECEIVED

JAN 10 2013

S.C. Supreme Court

Stephen Andrew Beckham,

Petitioner,

vs.

State of South Carolina,

Respondent.

2011-204368

MOTION TO EXCEED PAGE LIMIT
ON PETITION FOR WRIT OF CERTIORARI, By Consent

Petitioner, Stephen Beckham, requests authorization to exceed the 25 page limit in petition for writ of certiorari from the denial of post-conviction relief, which is due to be filed on January 10, 2013. In support of this motion, Petitioner respectfully submits the following, pursuant to Rule 243(e)(3), SCACR, which provides that a petition for writ of certiorari "shall not exceed twenty-five (25) pages:" Petitioner has conferred with counsel for Respondent, Ms. Salley Elliott, and she consents to this request.

The petition for writ of certiorari is approximately a total of 50 pages in length. This extended the petition is necessary for a number of reasons. First, the post-conviction record in this case

includes approximately 7,000 pages . In order to adequately address all of the findings of the PCR court, Mr. Beckham will need to file a petition approximately 50 pages in length.

Second, in addition to addressing the questions, Mr. Beckham will need to file an oversized petition in order to preserve adequately all issues for federal habeas corpus proceedings, just in the event Petitioner must pursue additional relief. In short, a federal court will not review an issue that has not been “exhausted” in state court. 28 U.S.C. § 2254(b). Exhaustion requires that the issue be “fairly presented” to the “highest” state court, *Brown v. Allen*, 344 U.S. 443, 447 (1953), either on direct appeal or in state post-conviction proceedings, *Castille v. Peoples*, 489 U.S. 346, 351 (1989). Exhaustion also requires pursuit of all available discretionary review options, which are a part of the ordinary appellate process. *O’Sullivan v. Boerckel*, 526 U.S. 838 (1999). Exhaustion requires that the state court be presented with the facts and the specific legal arguments necessary for the state court to address the issue. *Anderson v. Harless*, 459 U.S. 4 (1982); *Picard v. Connor*, 404 U.S. 270 (1971).

Exhaustion means more than notice. In requiring exhaustion of a federal claim in state court, Congress surely meant that exhaustion be serious and meaningful.

The purpose of exhaustion is . . . to channel claims into an appropriate [state court] forum, where meritorious claims may be vindicated Comity concerns dictate that the requirement of exhaustion is not satisfied by the mere statement of a federal claim in state court. Just as the State must afford the petitioner a full and fair hearing on his federal claim, so must the petitioner afford the State a full and fair opportunity to address and resolve the claim on the merits.

Keeney v. Tamayo-Reyes, 504 U.S. 1, 10 (1992). Failure to exhaust the claims will result in the federal court denying relief without reviewing the substance of the unexhausted claims. 28 U.S.C. § 2254(b)(3). Thus, Petitioner requests leave to file a petition not to exceed 50 pages.

WHEREFORE, Petitioner requests that this Court grant leave to file the petition for writ of certiorari, not to exceed 50 pages in length.

Respectfully Submitted,

By

Diana Holt
Diana Holt, LLC
Post Office Box 6465
Columbia, SC 29260
(803) 782-1663

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

Pro Bono Counsel for the Petitioner

January 10, 2012

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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JAN 10 2013

Appeal from Newberry County

S.C. Supreme Court

The Honorable Brooks P. Goldsmith, Circuit Court Judge
2000-CP-36-0051

STEPHEN ANDREW BECKHAM,

PETITIONER,

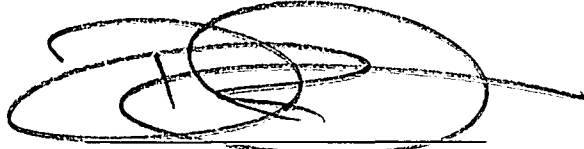
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Certificate of Service

The undersigned attorney hereby certifies that a copy of the Motion to exceed the 25 page limit on the Petition for Writ of Certiorari was delivered to Respondent's counsel by first class mail, postage prepaid, addressed to counsel of record, Salley Elliott, Post Office Box 11549, Columbia, South Carolina 29211.



DIANA L. HOLT

Diana Holt, LLC
P.O. Box 6454
Columbia, S.C. 29260
(803) 782-1663

Counsel for Petitioner.

January 10, 2013