

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Honorable D. Craig Brown, Circuit Court Judge

Case No. 2008-CP-22-1446

STEPHEN C. STANKO #6022.....PETITIONER,

v.

STATE OF SOUTH CAROLINA.....RESPONDENT.

PETITION FOR WRIT OF SUPERSEDEAS

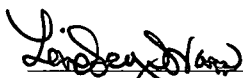
Petitioner, Stephen C. Stanko, appealed an order from the post-conviction relief (“PCR”) court compelling Petitioner to turn over his prior, unqualified, PCR counsel’s time sheets, funding information, and investigation notes and reports by filing a Notice of Appeal and Petition for Writ of Certiorari. Petitioner now asks this Court to exercise its discretion to grant a writ of supersedeas staying the PCR court proceedings, specifically the court’s order compelling discovery.¹

¹ Petitioner believes that Rule 205, SCACR, automatically stays the PCR Court’s order which is being appealed once the notice of appeal is filed. However, Petitioner recognizes that this Court has previously dismissed a notice of appeal from a discovery order, finding instead that a petition for writ of certiorari is the proper vehicle for challenging a discovery order. *Oncology & Hematology Assoc. S.C. v. S.C. Dep’t Health & Env. Control*, 387 S.C. 380, 381 n.1, 692 S.E.2d 920, 921 n.1 (2010). Petitioner, therefore, files this Petition for Writ of Supersedeas to request a stay of the PCR court’s order in the event the Notice of Appeal is dismissed.

On August 30, 2018, the PCR court issued an order requiring Petitioner to turn over the specific documents Respondent requested through the discovery process. These documents relate to initial PCR counsel's investigation and preparation for the initial PCR hearing, despite the fact the PCR court has already determined initial PCR counsel were unqualified under S.C. Code § 17-27-160(B) and were *per se* deficient under *Robertson v. State*, 418 S.C. 505, 795 S.E.2d 29 (2016). The PCR court's order gave Petitioner ten (10) days to comply, requiring production of the documents by September 10, 2018.

Petitioner raises a novel question related to discovery in cases where initial PCR counsel have been found unqualified in his Petition for Writ of Certiorari (filed the same day as this Petition). Given that this question has not before been addressed by this Court and that disclosure ordered by the PCR court cannot be undone, staying the PCR court's order pending the resolution of the currently pending Petition for Writ of Certiorari is the most efficient way to ensure Petitioner's attorney-client privilege is protected during the pendency of this appeal.

Respectfully submitted,



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September 7, 2018.

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Case No. 2008-CP-22-1446

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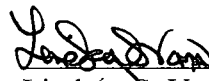
v.

STATE OF SOUTH CAROLINA.....RESPONDENT.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Petitioner's Petition for Writ of Supersedeas was served by first class United States mail, postage prepaid, this 7th day of September, 2018, upon the following:

Caroline M. Scrantom
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211



Lindsey S. Vann