

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Appeal from Anderson County  
The Honorable R. Scott Sprouse, Circuit Court Judge  
\_\_\_\_\_

Appellate Case No. 2018-000095

Jerome J. Noone,

Petitioner,

v.

State of South Carolina,

Respondent.

\_\_\_\_\_  
**MOTION TO WITHDRAW ORIGINAL APPENDIX AND RE-FILE APPENDIX  
WITHOUT REDACTION UNDER SEAL**  
\_\_\_\_\_

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, counsel for Petitioner moves for this Court to direct Petitioner to withdraw the original Appendix in this case and re-file a non-redacted version under seal. In support of this motion, Respondent would present the following facts:

1. In May 2016, the Anderson County Grand Jury indicted Petitioner for a DUI – second offense, which occurred on September 24, 2015. Scott Thomason, Esquire, and Joseph Oppermann, Esquire, represented Applicant. Assistant Solicitor Stephanie Looper, Esquire, prosecuted the case. On February 2, 2017, Petitioner pleaded guilty in Anderson Summary Court

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to DUI – first offense before the Honorable Ronald W. Whitman. Judge Whitman sentenced Petitioner to pay a fine of four-hundred dollars plus court costs and fees in a total amount of one-thousand ninety-two dollars. Petitioner did not appeal his conviction or sentence.

2. Petitioner filed an application for post-conviction relief (PCR) on May 17, 2017, raising a single claim of ineffective assistance of counsel alleging plea counsel affirmatively misadvised Petitioner as the consequences of a conviction to his driving privileges. An evidentiary hearing into the matter was convened on October 6, 2017, at the Anderson County Courthouse before the Honorable R. Scott Sprouse. At the hearing, Petitioner argued his guilty plea was not freely and voluntarily entered because his counsel gave erroneous advice regarding the status of Petitioner's driving privileges upon conviction. Judge Sprouse issued an Order, filed November 27, 2017, denying Petitioner's claim and dismissing the application.

3. During the evidentiary hearing, Respondent entered into evidence two letters from the South Carolina Department of Motor Vehicles (DMV), dated April 29, 2016, and February 10, 2017, respectively.

4. Petitioner's Appendix includes copies of both of the DMV letters at pages 81-84. Due to concerns about Petitioner's identifying information being made public, counsel for Petitioner redacted the address on the DMV letters, along with other identifying information, when filing the Appendix. Respondent submits, however, the address itself is pertinent to Respondent's argument, and it is necessary for this Court to see the letters without any redaction.

5. Without these documents in their non-redacted form, the appellate record is incomplete, and Respondent cannot fully argue its Return to Petition for Writ of Certiorari. Therefore, Respondent submits the DMV letters should have been included in the Appendix in their non-

redacted form.

6. Therefore, counsel for Respondent moves this Court to direct Petitioner to withdraw the original, redacted version of the Appendix, to re-file the Appendix without redaction, and to place the re-filed Appendix under seal so as to prevent disclosure of Petitioner's identifying information.


WHEREFORE, as the Appendix is incomplete in that it contains redactions which prevent Respondent from fully arguing its Return to Petition for Writ of Certiorari, counsel for Respondent requests this Court: (1) grant the motion to direct Petitioner to withdraw the original Appendix, (2) direct Petitioner to re-file the Appendix without redactions, and (3) place the re-filed Appendix under seal to prevent disclosure of Petitioner's identifying information.

Respectfully submitted,

ALAN WILSON  
Attorney General

LINDSEY A. MCCALLISTER  
Assistant Attorney General  
S.C. Bar #79054

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By:   
ATTORNEYS FOR RESPONDENT

November 16, 2018

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from Anderson County  
The Honorable R. Scott Sprouse, Circuit Court Judge

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Appellate Case No. 2018-000095

JEROME NOONE;

PETITIONER,

v.

THE STATE OF SOUTH CAROLINA,

RESPONDENT.

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**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies that a true copy of the Motion to Withdraw Appendix and Re-File Appendix Without Redaction Under Seal has been served upon opposing counsel by mailing two (2) copies in the United States mail, postage prepaid:

E. Charles Grose, Esquire  
Grose Law Firm  
404 Main Street  
Greenwood, South Carolina 29646

This 15<sup>th</sup> day of November, 2018

  
CAMILLE HENRY  
LEGAL ASSISTANT



ALAN WILSON  
ATTORNEY GENERAL

November 16, 2018

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

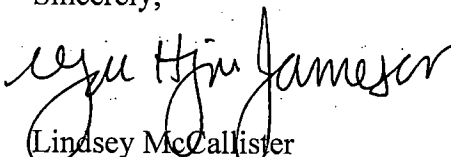
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**RE: Jerome Noone v. State of South Carolina**  
**Appellate Case No. 2018-000095**  
**Lower Court Case No. 2017-CP-04-01012**

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the Motion to Withdraw Appendix and Re-File Appendix Without Redaction Under Seal in the above-mentioned case.

Sincerely,

*for*   
Lindsey McCallister  
Assistant Attorney General  
SC Bar No. 79054

LAM/ch

cc: E. Charles Grose, Jr., Esquire