

STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM CHARLESON COUNTY
Court of Common Pleas (PCR)

S.C. SUPREME COURT

The Honorable G. Thomas Cooper, Jr., Circuit Court Judge

WILLIAM DICKERSON,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

Appellate Case No. 2018-001499

UNOPPOSED MOTION TO SEAL PORTION OF PETITIONER'S APPENDIX

Pursuant to this Court's Order of April 15, 2014, the parties move to seal a portion of the appendix in the above captioned matter. In support of the motion, the parties would respectfully show:

1. Petitioner filed the appendix to the petition for writ of certiorari on April 1, 2019.
2. Counsel for Petitioner consulted with counsel for Respondent before completing the petition appendix. Counsel for Respondent requested inclusion of one sealed document. Petitioner has designated Volume 22 as "sealed." Volume 22 has the sealed brief with attachments which reflects protected sensitive and/or privileged information regarding Juror 209, and also protected sensitive and/or privileged post-trial information Petitioner argued was connected to Juror 209 which was ordered sealed and protected during the circuit court proceedings. (Attachment 1).

3. Pursuant to this Court's Order of April 15, 2014, the parties request this Court allow the filing of the Volume 22 under seal as it contains a complete copy of the redacted brief and attachment reflecting and discussing the protected information.

Respectfully submitted,


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By:



MELODY J. BROWN
ATTORNEYS FOR RESPONDENT

April 1, 2019

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	
)	
William O. Dickerson, #6030)	Cases Number: 2012-CP-10-3216
)	
v.)	
)	
)	Order Granting Applicant's Request for Access to
State of South Carolina,)	Criminal Histories of Jurors
Defendant)	

This matter is before the Court on the Applicant, William Dickerson, Jr.'s, motion for an evidentiary hearing related to counsel's inability to secure sufficient criminal history reports from SLED.¹ The Court convened a hearing at the Conway County Courthouse on February 2, 2015. Prior to convening the hearing, the Court met with the counsel for the parties in chambers. The Court makes the following findings of fact and conclusions of law.

Findings of Fact

Mr. Dickerson is a death-sentenced inmate seeking post-conviction relief. His amended application for post-conviction relief alleges, "Defense counsel rendered ineffective assistance of counsel by failing to advance a comparative juror analysis when he raised his Batson challenge." During jury selection, the trial court judge convened a Batson hearing. During this hearing, the Solicitor gave prior criminal history as a reason for striking an African-American juror. In chambers and during the hearing, counsel for Mr. Dickerson informed the Court the application will be amended to include an allegation of prosecutorial misconduct during the *Batson* hearing.²

¹ South Carolina Law Enforcement Division.

² At the Court's request, Counsel agreed to amend the application and add this allegation as part of the follow up for this hearing.

Counsel for Mr. Dickerson, accordingly, want to investigate the criminal histories of the jurors summoned for Mr. Dickerson's case. In chambers and during the hearing, counsel informed the Court they would limit this request to the jurors that actually participated in individual *voir dire*.

Counsel for the State argued that this request should be limited to the publically accessible SLED Catch, available through SLED's website. Counsel for Mr. Dickerson contacted SLED and was informed that the SLED Catch does not include out-of-state arrests and convictions and might not include South Carolina arrests that did not result in a conviction. Counsel also informed the Court that the SLED Catch Terms and Conditions³ provide:

As for the release of criminal history for discovery purposes, the rule is simple. If there is an order of discovery entered by a judge in a specific case and the prosecutor has in his discoverable file a copy of the criminal history, then it is part of the discovery and can be released. If it is not part of the prosecutor's discoverable file, then the judge must subpoena the criminal history directly from FBI CJIS. An agency may not run this III request through III from their terminal. If they do, and it is caught in an Audit, they will be marked out of compliance.

At the time of the hearing, counsel for Mr. Dickerson was not aware of whether or not there is any cost associated with obtaining these records from FBI CJIS. Since the hearing, counsel contacted the FBI on February 3, 2015 and learned there is not a fee associated with obtaining these records by subpoena.

The Court finds that counsel for Mr. Dickerson should be allowed to obtain the criminal histories of the jurors by subpoena from FBI CJIS.


³ Sled Catch Terms and Conditions can be found on the SLED website at http://www.sled.state.sc.us/sled/default.asp?Category=CATCH_SSN&Service=crc.

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Conclusions of Law

Therefore, it is ordered that FBI CJIS release NCIC criminal histories for the jurors that participated in individual *voir dire*. The Court will issue separately a subpoena for these records, along with a list of the jurors, including dates of birth. Applicant may not include these documents in public findings without proper redaction of private or sensitive information, must not use the records in any other proceedings, or otherwise disseminate the records. The jurors' privacy must be protected to the extent possible while still allowing Applicant to make investigation into the jurors' criminal histories, if any.

IT IS SO ORDERED.



G. Thomas Cooper, Presiding Judge
By Special Assignment of the Supreme Court

MARCH 3, 2015
Columbia, South Carolina

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PROOF OF SERVICE

I, Angela Bennett, certify that I have served the Unopposed Motion to Seal Portion of Petitioner's Appendix on Petitioner by depositing two copies of the same in the United States mail, postage prepaid, addressed to: Elizabeth Franklin-Best, Esquire, 900 Elmwood Avenue, Suite 200, Columbia, South Carolina 29201.

I further certify that all parties required by Rule to be served have been served.

This 1st day of April, 2019.


ANGELA BENNETT
Administrative Coordinator

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