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State of South Carolina
In THE SUPREME COURT

MAY 09 2019

S.C. SUPREME COURT

Certiorari to Berkeley County
Honorable Roger M. Young, Circuit Court Judge

JULIE L. GORDON-GOOKINS

PETITIONER

V.

STATE OF SOUTH CAROLINA

RESPONDENT

APPELLATE CASE NO. 2018-001409

CRIMINAL CASE NO. 2014-GS-08-1883; 1884; 1886

MOTION TO COMPEL DEFENSE COUNSEL TO
SURRENDER THE CASE FILE IN THE ABOVE
STYLED ACTION TO THE PETITIONER OF THIS
CASE

COMES NOW the Petitioner, Julie L. Gordon-Gookins in PRO SE, in necessity, and hereby MOVES this Honorable Court to ISSUE an ORDER, compelling Defense Counsel of Record, DAVID SCHWACKE, ESQ. Berkeley County Public Defender's Office 219 North Highway 52, SUITE E Moncks Corner, South Carolina 29464 to surrender the Case/Work File he created in representing the Petitioner/Defendant.

The Petitioner/Defendant hereby avers that the portions of her Case/Work File, that she has been denied by Defense Counsel of record, includes but are not limited to:

- 1) Transcripts she reviewed for appeal advice
- 2) All discovery available by Standing Court Order
- 3) All Court filings, motions, responses and orders
- 4) All notes, Letters, Correspondence, plea agreements, emails, and/or any other tangible thing associated with this case
- 5) Photo's and DVD Evidence
- 6) Investigation evidence by Defense Counsel

The Petitioner/Defendant hereby avers that she is in the process of Answering motion PPO BE in Certiorari Petition and is in need of listed items to Assist in her action. For such motion to be timely, the Petitioner must File by June 19, 2019. The records that the Petitioner seeks are necessary for preparation of such pleadings and are the Defendants property. In support, the Petitioner shows the Court the following:

- 1) The Petitioner has made several attempt to obtain this information ~~in~~³⁶ in writing to Defense Counsel and to the Prosecution in this case in hopes that she/he would act professionally and responsibly by turning over the Case/Work File of the Petitioner to her.

- 2) To date, Defense Counsel of record, has failed to surrender Petitioner's ENTIRE Case/Work file to the Petitioner, and the Petitioner asserts that based on the FACT that Counsel is CLEARLY aware that the Petitioner/Defendant seeks these records to pursue Post-Conviction Relief, Counsel is attempting to frustrate her (Petitioner's) attempts to prepare a motion attacking Counsel's Ineffectiveness during all crucial points of proceedings.
- 3) The Petitioner seeks the ACTIVE PROTECTION of this Court through a Court ORDER directing Defense Counsel of record to surrender the Case/Work File to the Petitioner within (14) fourteen days.
- (4) The Court may ORDER Defense Counsel of record to surrender the Case/Work file. First the Petitioner/Defendant is entitled to the Case/Work File because it was created during the time period that Counsel represented the Defendant/Petitioner. Second both law and the American Bar Association recognize that Counsel has a duty not to obstruct the Petitioner's attempts to challenge her conviction and/or sentence. See ABA Standards for Criminal Justice, Defense Functions Standards and Commentary

("The resounding message is that defense attorneys, because of their intimate knowledge of the trial proceedings and their possession of unique information regarding possible post-conviction claims, have an obligation to cooperate with the claimants attempt to challenge their convictions.") United States v.

Dorman, 58 M.J. 295 (C.A.A.F. 2003);

Hiatt v. Clark, Ky. NO. 2005-SC-455-MR (6/15/06)

See also Maxwell v. Florida, 479 U.S. 972, 93 L.Ed.2d 418-420, 107 S.Ct. 474 (1986) ("The right to effective

assistance fully encompasses the client's right to obtain from trial counsel the work files generated during and pertinent to the client's defense. It further entitles the client to utilize materials contained in these files in any proceeding at which the adequacy of trial counsel's representation may be challenged.");

Spivey v. Zant, 683 F.2d 881, 885 (5th Cir. 1982)

(Habeas Corpus petitioner is entitled to former trial attorneys file and the work product doctrine does not apply to situations in which the client seeks access to documents or other tangible things created during course of attorneys representation.

5) Finally, it's clear to Defense Counsel that Petitioner/Defendant is diligently seeking to Obtain her Case/Work File and other tangible things. Counsel recognizes that the Petitioner has a right to her Case/Work File and seems to be attempting to stall the Petitioner until her statutory limit has expired.

WHEREFORE NOW, above premises considered, the Petitioner/defendant hereby MOVES this Honorable Court to Issue an ORDER compelling Defense Counsel of record to surrender the Complete Case/Work File to the Petitioner/Defendant as pertains to the Defendant's/Petitioner's Criminal Case, furthermore, that Counsel place these materials in large envelopes, CLEARLY MARKED: "LEGAL MAIL, OPEN ONLY IN THE PRESENCE OF THE INMATE" and mail the large packages to:

Julie L. Gookins #370329
CGBC I "Blue Ridge C-40A"

4450 Broad River Rd
Columbia, SC 29210

Done This 7th Day of May 2019.

Respectfully Submitted

Julie L. Gookins

Julie L. Gookins
370329

If it pleases the Court I would also like to request this Honorable Court to compel the Berkeley County Clerk of Court and Berkeley County Sheriff's Office P.O. Box 6122, Moncks Corner 29461 to release the following information related to the afore mentioned case:

- 1) Copy of all search warrants served in the case along with all inventory sheets for property seized.
- 2) list of All Current victim Advocates from 2013 to present working for the Sheriff's office as this new information may have bearing on my writ.

I have requested this information three (3) times as well.

Please direct this information to be sent within (14) fourteen days to:

Julie L. Gordon Gookins
CGGC I "Blue Ridge C-40A"
4450 Broad River Rd.
Columbia, SC 29210

Done this 7th Day of May 2019.

Respectfully Submitted

Julie L. Gookins
Julie L. Gookins

370329

Julie Gookins 370329
CGCI "Blue Ridge C 40A"
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Columbia, SC 29210



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

SCDC

MAY 19 2019

MAIL ROOM

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Legal

MAY 07 2019

The Department of Corrections
has not censored this item.
Therefore the Department does
not assume responsibility for
its contents. Graham CI, SCDC

Serial 221165

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