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NOV 12 2019

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

S.C. SUPREME COURT

—————
Certiorari to Richland County

Honorable J. Derham Cole, Circuit Court Judge
—————

JEFF CHESTNUT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-000347
—————

SUPPLEMENTAL APPENDIX
—————

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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

COUNTY OF RICHLAND)

CASE NO.: 2014 -CP-40-5179

Jeff Chestnut, #304420)

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff,)

vs.)

State of South Carolina)

Defendant.)

Plaintiff's Attorney: <u>Jonathan D. Waller, Bar No. 76290</u> Address: <u>1315 Blanding Street, Columbia, SC 29201</u> Phone: <u>803-708-6767</u> Fax <u>803-708-6769</u> E-mail: <u>jwaller@thegieselawfirm.com</u> Other:	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other:
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: <u>Discovery</u> Estimated Time Needed: <u>15</u> Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant Date submitted <u>1/26/2016</u>	
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: \$ _____ <input checked="" type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other:	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE CODE _____ Date:
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

REC'D JAN 26 11:34
 CLERK OF COURT
 FIFTH JUDICIAL CIRCUIT
 RICHLAND COUNTY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 JEFF CHESTNUT, #30442,)
 Applicant,)
)
 vs.)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FIFTH JUDICIAL CIRCUIT

C/A NO.: 2014-CP-40-5179

NOTICE OF MOTION AND MOTION
 FOR DISCOVERY, FUNDING, AND
 CONTINUANCE

2016 JAN 26 PM 1:34
 CLERK OF COURT

TO: J. CLAYTON MITCHELL, ASSISTANT ATTORNEY GENERAL:

PLEASE TAKE NOTICE that the Applicant, by and through his undersigned attorney will move before the court on Wednesday, February 3, 2016, or soon thereafter for an order allowing discovery in the above captioned Post Conviction Relief case.

The Applicant was indicted during the July 2012 term of the Richland County grand jury for Kidnapping (3 counts) and Armed Robbery (4 counts). Applicant was represented by Matthias G. Chapman, Esquire. On September 17, 2012, applicant proceeded to trial before the Hon. G. Thomas Cooper, and was ultimately convicted, as indicted, of each of the seven charges. Following his conviction, Judge Cooper sentenced Applicant to a term of thirty (30) years for each charge. All sentences were ordered to be run concurrently.

The Applicant was arrested approximately two and a half weeks following the alleged incident. The incident occurred on May 23, 2010 and the Applicant was subsequently identified via one solitary lineup on June 9, 2010, seventeen days later. The assailant was identified as wearing a bandana on his face with only his eyes being visible to the victims. Furthermore, the assailant was armed and the robbery seemed to be a well planned and executed endeavor; taking only a matter of moments. In the time between the incident and the identification, the witness had conferred with her co-workers, reviewed surveillance videos, spoken with law enforcement,

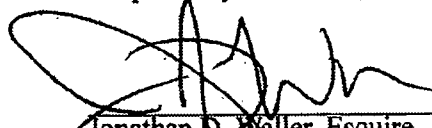
and the Applicant had been arrested, placing his picture on a public website of persons detained at the county detention center. There was no testimony at trial, other than Applicant's statement and testimony, regarding any planning or prior knowledge by the Applicant. There was no testimony by any co-defendants or witnesses who had an opportunity to view the assailants without the bandanas around their faces. Identification was made based upon a pair of eyes and became a deciding factor in the prosecution of Applicant.

Additionally, Applicant was only developed as a suspect based upon what the State characterized as evidence of guilt based upon his phone records. The State attempted to show that his girlfriend, who worked at the incident location, made multiple calls, from multiple phones, to him in the hours and minutes leading up to the robbery and that during the brief period that the robbery took place, there were no calls between them, a fact they argued indicated that Applicant and his girlfriend were too busy committing a robbery to call one another. The State further called an expert witness to testify regarding the phone records. Applicant testified in his own defense and attempted to explain that his girlfriend often called him from different phones throughout the day and that a review of past phone records would be evidence of this. There were no phone records presented during Applicant's defense, the only records introduced were those of the State.

Applicant was identified as a potential suspect through the behavior of his girlfriend. Once he was identified, based on someone else's behavior, he was picked out of a line-up by a victim of an armed robbery who admittedly only had an opportunity to view the assailant's eyes. This victim witness was not shown a lineup until weeks later and was overly certain in her identification based upon the circumstances. Due to the State introducing expert testimony regarding phone records and the important, yet questionable reliability of a witness' identification, the Applicant hereby seeks to conduct discovery in his Post Conviction Relief case to ascertain whether an expert in eyewitness identification would have altered the outcome of the trial and also the ability to subpoena telephone records for Applicant's phone for three months prior to the incident. Applicant also requests funding for the above.

Therefore, the Applicant respectfully moves for an order granting discovery in this case, the funding to conduct said discovery, and for the matter to be continued to the next available term of Post Conviction Relief court for the Fifth Judicial Circuit.

Respectfully submitted,



Jonathan D. Waller, Esquire
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(803) 708-6767
ATTORNEY FOR THE APPLICANT

Columbia, South Carolina
January 25, 2016