

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

CERTIORARI TO LEXINGTON COUNTY
Court of Common Pleas
The Honorable Walton J. McLeod, IV, PCR Judge

Appellate Case No. 2019-000831

CHRISTOPHER MANNING,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

MOTION TO FILE A SUPPLEMENTAL APPENDIX

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, counsel for Respondent moves for this Court to allow Respondent file a Supplemental Appendix in this case. In support of this motion, Respondent would present the following facts:

1. Christopher Manning (Petitioner) is incarcerated with the South Carolina Department of Corrections pursuant to the orders of commitment of the Lexington County Clerk of Court. During its November 2009 term, the Lexington County Grand Jury indicted Petitioner for felony driving under the influence resulting in death (2009-GS-32-2855). On May 11-13, 2009, Petitioner proceeded to a jury trial before the Honorable R. Knox McMahan. The jury convicted Petitioner as indicted. Judge McMahan sentenced Petitioner to eighteen years' imprisonment

and imposed a \$10,000 fine.

2. Petitioner filed a timely notice of appeal. The Court of Appeals affirmed Petitioner's conviction and sentence in an unpublished opinion on August 1, 2012. Petitioner's subsequent petition for rehearing was denied; however, on October 10, 2012, the Court withdrew its first opinion, substituted and refiled a second, published opinion again affirming Petitioner's conviction and sentence. Petitioner's subsequent petition for writ of certiorari to this Court was denied. The remittitur was issued on June 26, 2014.
3. Petitioner filed an application for post-conviction relief (PCR) on August 25, 2014, raising multiple claims of ineffective assistance of trial counsel, ineffective assistance of appellate counsel, and prosecutorial misconduct. An evidentiary hearing into the matter convened on April 18, 2016, at the Lexington County Judicial Center before the Honorable Perry H. Gravely. On August 26, 2016, Judge Gravely issued an order denying Petitioner's claims and dismissing the application with prejudice. Petitioner did not appeal.
4. Petitioner filed a second application for post-conviction relief on June 27, 2018, seeking belated appellate review of his initial post-conviction relief action pursuant to *Austin v. State* 305 S.C. 453. 409 S.E.2d 395 (1991). An evidentiary hearing into the matter convened on April 1, 2019, at the Lexington County Judicial Center before the Honorable Walton J. McLeod, IV. On May 8, 2019, Judge McLeod issued an order denying Petitioner's request for *Austin* relief and dismissing the application with prejudice.
5. The Petition for Writ of Certiorari and Appendix in this case were filed on January

6, 2020. The Appendix, however, does not contain the following documents from Petitioner's direct appeal:

- a. Initial Brief of Appellant and Designation of Matter
- b. Initial Brief of Respondent and Designation of Matter
- c. Final Brief of Appellant
- d. Final Brief of Respondent
- e. Petitioner for Rehearing
- f. Order Denying Petition for Rehearing and Substituting Opinion
- g. Opinion
- h. Petition for Writ of Certiorari
- i. Return to Petition for Writ of Certiorari
- j. Order Denying Petition for Writ of Certiorari
- k. Remittitur

6. This Court requires a Petition for Writ of Certiorari include the entire lower court record. Rule 227(e)(1), SCACR. Without these documents, the appellate record is incomplete, and Respondent cannot fully answer the Petition. Inasmuch as the above documents are relevant and pertinent material under Rule 243(f), SCACR that should be included in the Appendix, counsel moves this Court to allow Respondent to include the same in a Supplemental Appendix, provisionally filed along with this motion.
7. Undersigned counsel has conferred with counsel for Petitioner, who consents to the filing of a supplemental appendix.

WHEREFORE, as the Appendix is incomplete, counsel for Respondent requests this Court: (1) grant the motion to allow Respondent to supplement the Appendix, and (2) accept Respondent's Supplemental Appendix for filing today.

Respectfully submitted,

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