

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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CERTIORARI TO JASPER COUNTY
Court of Common Pleas
The Honorable Thomas A. Russo, PCR Judge

S.C. SUPREME COURT

Appellate Case No. 2019-001176

PHILLIP MONROE,

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. Phillip Monroe (Petitioner) is incarcerated with the South Carolina Department of Corrections pursuant to the orders of commitment of the Jasper County Clerk of Court. In September 2012, the Jasper County Grand Jury indicted Petitioner for possession with intent to distribute a schedule IV controlled substance—first offense (2012-GS-27-189) and trafficking in cocaine, ten to twenty-eight grams—third or subsequent offense (2012-GS-27-190). On February 11, 2013, Petitioner proceeded to a jury trial before the Honorable Perry M. Buckner. The jury convicted

Petitioner as indicted for trafficking in cocaine and to the lesser-included offense of possession of a schedule IV controlled substance.¹

2. where he was found guilty as indicted for one (1) count of Drugs/Trafficking Cocaine, More than 10 grams but Less than 28 grams (2012-GS-27-190). The Applicant was also found guilty of one (1) count of the lesser included offense of Possession of Other Controlled Substances in Schedule I to V, First Offense (2012-GS-27-189). Judge Buckner sentenced Petitioner to concurrent terms of twenty-seven years' imprisonment for trafficking and six months' imprisonment for possession.
3. Petitioner appealed. Following briefing and oral argument, the Court of Appeals affirmed Petitioner's convictions and sentences. The remittitur was issued on March 10, 2015.
4. Petitioner filed an application for post-conviction relief (PCR) on August 11, 2015, raising multiple claims of ineffective assistance of trial counsel. An evidentiary hearing into the matter convened on October 13, 2017, at the Beaufort County Courthouse before the Honorable Thomas A. Russo. On May 3, 2019, Judge Russo issued an order denying relief and dismissing the action with prejudice. This appeal follows.
5. The Petition for Writ of Certiorari and Appendix in this case were filed on January 13, 2020. The Appendix, however, does not contain the transcript of Petitioner's pretrial Jackson v. Denno hearing.

¹ The trial court directed a verdict in favor of Petitioner as to the possession with intent to distribute charge but submitted the lesser-included offense of possession of a schedule IV controlled substance to the jury. (App. 181).

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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