

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 R. Keith Kelly, Circuit Court Judge

Appellate Case No. 2019-001575

KERWIN S. PARKER,

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. Kerwin S. Parker (Petitioner) is presently confined in the South Carolina Department of Corrections pursuant to the orders of commitment of the Lexington County Clerk of Court. In April 2007, the Lexington County Grand Jury indicted Petitioner for murder (2007-GS-32-1540); possession of a firearm during the commission of a violent crime (2007-GS-32-1541); and assault and battery with intent to kill (2007-GS-32-1542). On September 14, 2009, Petitioner proceeded to a joint jury trial with his

brother and co-defendant, Curtis T. Johnson, before the Honorable Robin B. Stilwell. Jack Duncan, Esquire, represented Petitioner. Eleventh Circuit Solicitor Donald V. Myers and Assistant Solicitor Colleen E. Dixon prosecuted the case.

2. The jury acquitted Petitioner of murder but convicted Petitioner of ABWIK and possession of a weapon during the commission of a violent crime. Judge Stillwell sentenced Petitioner to concurrent terms of twenty years' imprisonment for ABWIK and five years for possession of a weapon during the commission of a violent crime.
3. Petitioner appealed. Deputy Chief Appellate Defender Wanda H. Carter represented Petitioner on appeal. As a result of the trial transcript missing portions, a reconstruction hearing was held on October 3, 2011. The final briefs were filed with the Court of Appeals in February of 2013. The Court of Appeals affirmed. *State v. Parker*, Op. Np. 2013-UP-403 (S.C. Ct. App. filed October 30, 2013). Petitioner filed a petition for rehearing, which the Court of Appeals denied on December 27, 2013. Petitioner then filed a petition for writ of certiorari in this Court. This Court denied the petition for writ of certiorari by written order dated July 24, 2014. The remittitur was issued on August 2, 2014.
4. Petitioner filed an application for post-conviction relief (PCR) on September 2, 2014, raising multiple claims of ineffective assistance of trial counsel. The State submitted its return requesting an evidentiary hearing on September 23, 2015. An evidentiary hearing convened on November 10,

2016, before the Honorable R. Keith Kelly. Petitioner was present and represented by Aimee J. Zmroczek, Esquire. On July 15, 2019, the PCR court issued an order denying relief and dismissing the action with prejudice. A timely motion to alter or amend was filed on July 24, 2019, and denied on August 19, 2019. This appeal follows.

5. The Petition for Writ of Certiorari and Appendix in this case were filed on April 10, 2020. The Appendix, however, does not contain Petitioner's direct appeal records.
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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