

11/18/20

To whom it may concern,

My name is Genuine Truth Banner. On November 9<sup>th</sup>, 2020, Appellate Defender filed a petition for Writ of Certiorari to the South Carolina Supreme Court. However, I am requesting that certiorari be withheld until another PCR hearing is had for the following reasons. The PCR court failed to rule on a 14<sup>th</sup> amendment due process violation claim said to have been committed by the trial court that resulted in an involuntary plea. In fact, the PCR court ruled on a PCR application that did not include the pro se amended due process violation claim at all, although the claim was still raised on the record. App. 163

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The case history report for my case shows that there were two amendments to my PCR application. The first amendment was requested by me in pro se on August 2<sup>nd</sup>, 2018, and was clocked by the clerk of court on September 11<sup>th</sup>, 2018. Now the state alleged that the clocked September 11<sup>th</sup>, 2018 amendment was made by my PCR attorney App. 228. However, this is simply not true, as the application to amend made by my PCR attorney is signed and dated September 19<sup>th</sup>, 2019, App. 143 (a year later). It was subsequently clocked by the clerk of court on September 23<sup>rd</sup>, 2019. App. 143. Therefore, by not ruling on a clocked amendment that should have otherwise been in the final application, the state effectively censored and barred it from being raised procedurally to the State Supreme Court altogether.

For this reason, I am requesting that certiorari be withheld until after a PCR hearing has been had on the PCR application reflecting my original claims, my clocked amendment, as well as PCR attorney's clocked amendments and is thereafter ruled upon. Given the fact that the amendment was clocked by the clerk of court, evidence was presented to substantiate the claim at the PCR hearing and trial counsel's PCR testimony corroborated the claim, it is only fair and reasonable for the claim to be ruled upon by a PCR court prior to certiorari. Also, although it would have alleviated the issue, no special motion such as a "59(e)" should have been necessary, given the fact that the amendment was clocked by the clerk of court and therefore should have been presented to the PCR court in the final application and subsequently ruled upon by the same.

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