

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Orangeburg County
Honorable Kristi L. Harrington, Circuit Court Judge

RECEIVED

Feb 18 2021

S.C. SUPREME COURT

DONTE JAROD STOKES,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2019-002027

**MOTION TO WITHDRAW THE PETITION FOR WRIT OF CERTIORARI AND
APPENDIX AND FILE AN AMENDED PETITION FOR WRIT OF CERTIORARI AND
APPENDIX**

Counsel for Petitioner, Donte Jarod Stokes, respectfully requests that this Court allow counsel to withdraw the petition for writ of certiorari and appendix that were filed in this case on October 6, 2020, and allow counsel to file an amended petition for writ of certiorari and appendix within thirty (30) days of this Court's ruling on the motion. In support of this request, counsel shows:

1. The petition for writ of certiorari and appendix were filed with the Court on October 6, 2020. One of the issues raised in the petition challenges the fact that a judge who did not preside over the post-conviction relief hearing signed the order of dismissal. In the petition counsel asked this Court to grant Petitioner a new post-conviction relief hearing so that the judge can make

findings of fact, conclusions of law and determinations as to credibility, based on the evidence and testimony that judge heard during the evidentiary hearing.

2. On February 10, 2021, opposing counsel, Assistant Attorney General Michael D. Davidson, provided counsel with a copy of an e-mail thread showing that another assistant attorney provided the judge who signed the order of dismissal, the Honorable Edgar W. Dickson, with a copy of the transcript of the post-conviction relief hearing heard by the Honorable Kristi Harrington. Assistant Attorney General Davidson proposed supplementing the appendix with the e-mail.

3. Counsel was not aware of the e-mail at the time that the petition for writ of certiorari and accompanying appendix were filed. Counsel does not oppose including the e-mail thread in an amended appendix but would like the opportunity to address the issue in light of the e-mails. Counsel respectfully requests that this Court allow counsel to withdraw the petition for writ of certiorari and appendix filed October 6, 2020, and allow counsel to file an amended petition for writ of certiorari and appendix, to include the referenced e-mails, within thirty (30) days of this Court's ruling on the motion.

4. Counsel makes this request in good faith and not for purpose of delay.

5. Opposing counsel, Assistant Attorney General Michael D. Davidson, has graciously consented to this motion to withdraw the petition for writ of certiorari and appendix that were filed in this case on October 6, 2020, and allow counsel to file an amended petition for writ of certiorari and appendix within thirty (30) days of this Court's ruling on the motion.

Based on the above showing, counsel for Petitioner, Donte Jarod Stokes, respectfully requests that this Court allow counsel to withdraw the petition for writ of certiorari and appendix that were filed in this case on October 6, 2020, and allow counsel to file an amended petition for writ of certiorari and appendix within thirty (30) days of this Court's ruling on the motion.

Counsel respectfully requests that all filing deadlines be held in abeyance until this Court has had the opportunity to rule on the motion.

Respectfully submitted,

s/ Kathrine H. Hudgins

Kathrine H. Hudgins

Appellate Defender

Attorney for Petitioner.

This 18th day of February, 2021.