

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

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**FROM SPARTANBURG COUNTY  
Court of Common pleas  
J. Derham Cole, Circuit Court**

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**Case No. 2020-001418**

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John Garvin..... Petitioner-Appellant,

v.

The State of South Carolina..... Respondent-Appellee.

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**AFFIDAVIT IN SUPPORT OF JOHN GARVIN'S  
MOTION FOR REINSTATEMENT AND  
SUBSEQUENT APPLICATION FOR RELIEF,  
PURSUANT TO RULE – 266, SCACR**

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I, John Garvin, being first duly sworn, deposes and says:

1. I am the Petitioner in the above – entitled action proceeding as pro-se, makes this affidavit in support of my Motion for Reinstatement and Subsequent Application for Relief, pursuant to Rules – 260(a) and Rule – 266, SCACR.
2. Petitioner would move before this court three motions, whereas two out of the three motions were dismissed and improvidently denied on May 25th, and May 26th, 2021. (See Exhibits – 1 and 2).
3. Petitioner's first motion that was improvidently denied had asked for access to certain lawyer disciplinary records for the purpose of supplementing the appendix with those records, pursuant to Rule – 212 (b)(c), SCACR. Due to a complaint that was filed with the Office of Disciplinary Council (ODC), that he was directly involved with in the matter and seeks Asst. Solicitor, James E. Hunter and Scott D. Robinson, Esquire's, answer/response and the ODC's finding of their investigation to the complaint that was filed against them both on January 13, 2013, for case no.(s): 13-DE-L-0150 and 13-DE-L-0151.

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4. The Order would state that “since these disciplinary records were not before the PCR Judge, they are not part of the lower courts record, and cannot be included in the appendix.” (see Exhibit –1).
5. Petitioner states that he did present some of the lawyer disciplinary records to the PCR Court in an affidavit in support of a Rule – 59(e), Motion for Reconsideration to Alter/Amend Judgment as Exhibits – I, K, and L. (See Exhibit – 3). Whereas, the PCR judge denied that motion. (See Exhibit – 4).
6. The use of the lawyer disciplinary records is to be utilized for supplementing the record and setting for the principal matter Petitioner’s issue of ineffective assistance of counsel as well be presented in his Petition for writ of Certiorari and Appendix, pursuant to Rules – 208(b)(1)(c)(2), Rule – 212(b)(c), and Rule – 243(f)(3), SCACR.
7. The second Motion that was dismissed, was a Motion for Request to Listen to Audio Recordings and to read Steno Notes. Whereas, Petitioner wrote a letter to Court Reporter, Linda D. Moffett, about challenging the accuracy of the transcript. (See Exhibit – 5). Her response to my letter would refer me to get in contact with a car Karama T. Bailey, deputy director, Court Reporter/Court Interpreting at the office of South Carolina Court Administration. (See Exhibit – 6).
8. On March 23, 2021, Petitioner would write a letter to the Presiding Judge, J. Derham Cole, (see Exhibit – 7), who is now the current Chief Administration Judge of Spartanburg County Court of Common Pleas, about a request to listen to the PCR audio recording. Inasmuch as, Judge Cole has failed to even respond to my request.
9. On May 6, 2021, Petitioner would write a letter to Karama T. Bailey, Deputy Director, Court Reporter/Court Interpreting, about Petitioner’s desire to challenge the accuracy Court Reporter, Linda D. Moffitt’s transcription of the PCR transcript in question. And is currently awaiting the results of her review of the PCR transcript, pursuant to South Carolina Court Reporters Manual § XIII(B)(C). See Exhibit – 8).
10. The third Motion, was a Motion to Supplement the Record with various documents. This court would deny that motion, stating that the “motion is seeking to include documents or materials in the appendix beyond those specified by Rule – 243(f) of the South Carolina Appellate Court Rules (SCACR), this motion is denied. When the appendix is filed in this case, it shall only include the materials specified by Rule – 243(f), SCACR.” (see Exhibit – 2).
11. Petitioner states that those additional documents are needed to set “forth the principal matter contained in [Petitioner’s Petition for writ of Certiorari and] Appendix.” See Rule – 243(f)(3), SCACR.
12. The Petitioner makes this Motion for Reinstatement and Subsequent Application for Relief, for the reinstatement and the granting of the above-mentioned Motions that was denied and dismissed on May 25, and May 26, 2021, pursuant to Rule – 260(a), and Rule – 266, SCACR.

