

ROSS AND ENDERLIN, PA
ATTORNEYS AT LAW

December 6, 2021

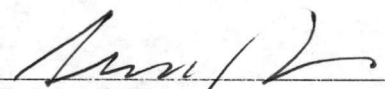
Ms. Patricia A. Howard
Clerk, The S.C. Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: Ronne C. Swofford v. State
2018-CP-23-5662

Dear Ms. Howard:

Enclosed you will find the original Notice of Appeal in the above matter along with Proof of Service upon the Respondent and the Order of Dismissal. These matters are being referred to the Office of Appellate Defense.

Sincerely,


Susannah Ross
Attorney at Law

enclosure

cc: Office of the Attorney General
Office of Appellate Defense
Greenville County Clerk of Court

RECEIVED

DEC 10 2021

S.C. SUPREME COURT

330 E. COFFEE ST. • GREENVILLE/SC • 29601

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ROSS & ENDERLIN, PA
ATTORNEYS AT LAW

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December 3, 2021

S.C. SUPREME COURT

The Honorable Patricia A. Howard
Clerk of the South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

Re: Ronnie . Swofford v. State of South Carolina
2018-CP-23-5662

Dear Ms. Howard:

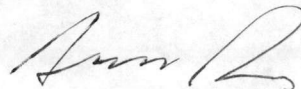
By way of explanation Pursuant to Rule 243(c), SCACR; Mr. Swofford wants to assure his arguments are preserved in the record after an untimely filing of the 59(e) motion and appeal following his initial PCR hearing. At his 2021 hearing, the State's motion to exclude testimony by Attorney John Reckenbeil regarding problems with chain of custody regarding fungible DNA evidence that was presented in the Applicant's trial was granted and the Applicant's objection was noted. The Applicant then proffered Attorney John Reckenbeil's testimony that he had reviewed the Applicant's trial transcript and discovery materials and found irregularities with chain of custody and the trial presentation of DNA evidence as Mr. Swofford had argued at his initial PCR hearing. He said he prepared supportive excerpts and these materials were made a court's exhibit for purposes of the proffer over the State's objection.

The State argued such testimony amounted to hybrid representation and was improper expert opinion testimony under Green v. State and that that all issues beyond whether the Applicant's appeal rights were violated were successive and procedurally barred because they could have been raised at the first PCR. Austin v. State, 305 S.C. 453, 409 SE2d 392 (1991); Aice v. State, 302 S.C. 448, 409 SE2d 392 (1991); Green v. State, 351 S.C. 184, 198, 569 S.E.2d 318 (2002). The Applicant argued that this issue was not successive because Mr. Reckenbeil had been retained to review the transcript and discovery in the case and his testimony would clarify issues that the Applicant had brought up in his first PCR but may not have been raised properly in the record due to the untimely filing of the Applicant's Motion for Reconsideration. Aice, 302 S.C. at 450, 409 SE2d at 394. The Applicant argued further that the testimony should be allowed because the Applicant has the burden to show a meritorious issue and should be given the opportunity to fully preserve the issue that was improperly raised by original PCR counsel. For this reason, the Applicant believed this is a meritorious issue that should be reviewed on appeal.

The undersigned was appointed in this matter and moves to be relieved at this time.

December 3, 2021

Sincerely,



Susannah Ross
Attorney at Law #11205

cc: Assistant Attorney General Taylor Smith
Office of Appellate Defense
Greenville County Clerk of Court
Ronnie Swofford



SUSANNAH ROSS ESQ.

330 EAST COFFEE ST.
GREENVILLE SC 29601



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