

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Horry County

Robert E. Hood, Circuit Court Judge

RECEIVED

Jun 07 2022

S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

JEROME JENKINS, JR.,

PETITIONER.

APPELLATE CASE NO. 2019-001280

PETITION FOR STAY OF EXECUTION

Counsel for Jerome Jenkins, Jr., petitions this Court for a stay of execution to allow him to file a petition for writ of certiorari with the United States Supreme Court.

I.

This Court affirmed petitioner's conviction and death sentence in State v. Jerome Jenkins Jr., Op. No. 28089, Howard's Advance Sh. No. 12 (filed April 6, 2022) at pp. 46-71. Petitioner filed for rehearing. This Court denied rehearing today, Tuesday, June 7, 2022.

II.

A petition for writ of certiorari to the United States Supreme Court is petitioner's proper avenue for relief from the judgment of this Court affirming his murder conviction, and sentence of death. Supreme Court Rule 13.1. Pursuant to *In re STAYS OF EXECUTION IN CAPITAL CASES*,

321 S.C. 544, 471 S.E.2d 544 (1996), this Court is the proper Court to issue the stay pending the disposition of petitioner's case in the United States Supreme Court.

III.

Petitioner can and plans to raise the following three federal constitutional issues as preliminarily framed:

1.

Whether the South Carolina Supreme Court erred by holding petitioner was not entitled to plead guilty and have jury sentencing for his death penalty trial where the trial judge told petitioner he would sentence him to death if petitioner pled guilty and waived jury sentencing as mandated by the state statute since petitioner was entitled under state law to plead guilty in a death penalty case, and he had a constitutionally guaranteed due process right to an impartial jury finding of every fact necessary for the imposition of a death sentence pursuant to Hurst v. Florida, 577 U.S. 92 (2016), particularly where a valid waiver of jury sentencing was not possible given the trial judge's pronounced refusal to be impartial?

2.

Whether the South Carolina Supreme Court erred by holding it was not an abuse of discretion for the trial judge to exclude expert testimony from a forensic psychiatrist during the penalty stage of his capital trial that a co-defendant had admitted to her that he ordered petitioner to kill a victim during one of the crime spree armed robberies since that admission by the co-defendant was a major factor in her expert opinion that petitioner "was acting under the dominion of another person," a critical statutory mitigating circumstance in petitioner's case, since applying the hearsay rule in such a mechanistic fashion denied petitioner his right to Due Process and a fair trial on the issue of punishment in derogation of Green v. Georgia, 442 U.S. 95 (1979)?

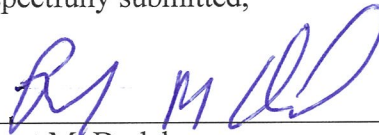
3.

Whether the South Carolina Supreme Court erred by holding it was not an abuse of discretion for the trial judge to refuse to disqualify a juror who said that jurors needed to be able to articulate a reason for their life or death penalty verdict, and that giving a life sentence for any reason or no reason simply as an act of mercy was not proper or logical since this demonstrated that the juror's ability to follow her oath and death penalty instructions was substantially impaired mandating her excusal for cause pursuant to Wainwright v. Witt, 469 U.S. 412 (1985)?

Based on the above, petitioner requests a ninety day stay of execution from the date of the order denying rehearing, June 7, 2022, in which to file for certiorari in the United States Supreme Court. Counsel does not make this request for purposes of delay.

WHEREFORE, counsel for Jerome Jenkins, Jr., requests a ninety day stay of execution from June 7, 2022, in which to file a petition for writ of certiorari in the United States Supreme Court.

Respectfully submitted,



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Appellate Defender

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ATTORNEYS FOR PETITIONER

This 7th day of June, 2022.