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1. Did the circuit court err in holding that petitioner's trial counsel was not ineffective in failing to object to the malice charge?
2. Did the circuit court err in holding that petitioner's trial counsel was not ineffective in failing to move for a continuance?

### STATEMENT OF THE CASE

On April 1, 1994, petitioner was convicted of murder and was sentenced to life imprisonment. On direct appeal, his conviction was affirmed by the South Carolina Supreme Court. State v. Smith, 1998-MO-000 (S.C. S.Ct. filed August 1, 1998).

Petitioner then brought this action seeking post-conviction relief in July 1999. He alleged. . . .

[Set forth facts relevant to the questions presented. Counsel may wish to simply give a brief history of the case at this point and set forth the facts in the argument on each question. Reference should be made to where salient facts can be found in the Appendix (i.e., App.p. 10, lines 1-6).]

The circuit court denied the application on September 1, 2000, and a notice of appeal was served on September 9, 2000. Petitioner now seeks a writ of certiorari to review this denial.

### ARGUMENT

1. COUNSEL WAS INEFFECTIVE IN FAILING TO OBJECT TO THE MALICE

INSTRUCTION.

[Set forth discussion and citations of authority.]

2. COUNSEL WAS INEFFECTIVE IN FAILING TO MOVE FOR A CONTINUANCE.

[Set forth discussion and citations of authority.]

### CONCLUSION

For the reasons stated, petitioner asks this Court to grant the petition for a writ of certiorari.

Respectfully submitted,

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