

IN THE
SUPREME COURT OF THE UNITED STATES

JUSTIN JAMAL WARNER,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

AGREEMENT TO DISMISS

Pursuant to Supreme Court Rule 46.1 petitioner and respondent agree to dismiss the above-captioned case. Petitioner Justin Jamal Warner filed a petition for writ of certiorari and motion for leave to proceed *in forma pauperis* with this Court on August 26, 2022. Petitioner sought a writ of certiorari regarding his entitlement to a Neil v. Biggers, 408 U.S. 188 (1972), hearing on the reliability of an out-of-court identification through the use of video technology. Petitioner asserted this Court had jurisdiction pursuant to 28 U.S.C. § 1257(a). However, the Supreme Court of South Carolina in State v. Warner, 436 S.C. 395, 872 S.E.2d 638 (2022), remanded an unrelated suppression issue to the lower court for its reconsideration. The present action before this Court is therefore not a “final judgment” pursuant to 28 U.S.C. § 1257(a).

Consequently, petitioner and respondent agree that this case should be

dismissed without prejudice. Petitioner and Respondent will bear their own costs.

WHEREFORE, petitioner and respondent agree that the above-captioned case be dismissed without prejudice with each party bearing their own costs.

By



*Robert M. Dudek
Attorney at Law

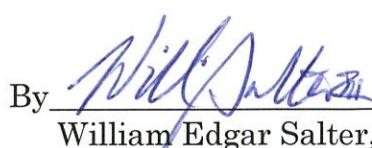
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ATTORNEY FOR RESPONDENT

This 12th day of October, 2022.