

ADNAN SYED,	*	IN THE
Appellant,	*	COURT OF SPECIAL APPEALS
v.	*	OF MARYLAND
STATE OF MARYLAND,	*	Application for Leave to Appeal
Appellee.	*	(Post Conviction)
		No. 2519
		September Term, 2013
	* * * * *	

MOTION TO STRIKE APPELLANT’S SUPPLEMENT TO
APPLICATION FOR LEAVE TO APPEAL AND REQUEST FOR A REMAND

The State of Maryland, Appellee, by its attorneys, Brian E. Frosh, Attorney General of Maryland, and Edward J. Kelley, Assistant Attorney General, moves, pursuant to Maryland Rule 8-431, to strike Appellant’s supplement to application for leave to appeal the denial of post conviction relief and request for a remand. In support, the State respectfully represents unto this Honorable Court as follows:

1. On January 27, 2014, Appellant filed an application for leave to appeal the post conviction court’s ruling denying post conviction relief, arguing that the post conviction court erred when it rejected his claims that trial counsel was ineffective for (1) failing to investigate a possible alibi witness and (2) failing to honor his request to seek a plea offer. *See R.* (Application for Leave to Appeal). By order dated September 10, 2014, this Court directed the State to file a response to the application for leave to appeal addressing only the second of these two questions. On January 14, 2015, the State filed the directed response, which the State incorporates herein by reference. This Court neither ordered nor authorized any additional briefing in the case. Upon the filing of the State’s response, the matter was ripe for disposition.

2. On January 20, 2015, Appellant filed a supplement to his application for leave to appeal the denial of post conviction relief and a request for a remand (the “supplement”). The supplement was: (1) filed well outside the 30-day time period for filing an application for leave to appeal; (2) not authorized by either the statute, Md. Code Ann., Crim. Pro. Art., § 7-109 (2014), or the Maryland rule of appellate procedure, Md. Rule 8-204, cited by Appellant, or by any other statute or rule; (3) not authorized by order of this Court; and (4) not accompanied by a request for an order from this Court allowing its submission. Additionally, the supplement relies substantially on evidence that Appellant acknowledges existed since 1999, but was not presented at the proceedings below or in his application for leave to appeal. It is also apparent that rather than promptly informing this Court and the State of the information to be contained in the supplement, Appellant delayed the filing of the supplement until after the State filed the response directed by this Court. For any and all of these reasons, the supplement should be stricken by this Court.

WHEREFORE, this Court should strike Appellant's supplement to application for leave to appeal the denial of post conviction relief and request for a remand.

Respectfully submitted,

BRIAN E. FROSH
Attorney General of Maryland

EDWARD J. KELLEY
Assistant Attorney General

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Counsel for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of January, 2015, a copy of the foregoing Motion and proposed Order was mailed, postage prepaid, to C. Justin Brown, 231 E. Baltimore Street, Suite 1102, Baltimore, MD 21202.

EDWARD J. KELLEY
Assistant Attorney General

ADNAN SYED,

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* * * * *

ORDER

Upon the foregoing motion to strike Appellant's supplement to application for leave to appeal the denial of post conviction relief and request for a remand, it is this ____ day of January, 2015, by the Court of Special Appeals of Maryland,

ORDERED, that Appellant's supplement to application for leave to appeal the denial of post conviction relief and request for a remand is stricken.

Chief Judge