

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

MICHAEL CHALK

v.

STATE OF RHODE ISLAND

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C.A. No. 09-031S

ORDER

As discussed at today's hearing, because it does not address both of the Grounds for Relief raised in Chalk's Section 2254 Petition, the State's Motion to Dismiss (Document No. 4) is DENIED without prejudice.

The State shall, by May 22, 2009, file a Renewed Motion which addresses both of the Grounds for Relief raised in Chalk's Petition. Such Grounds are (1) the alleged violation of his Sixth Amendment Right to a public trial; and (2) the claimed ineffective assistance of counsel in failing to raise the alleged public trial violation on direct appeal. (See Document Nos. 1 at p. 5; and 6 at p. 3). In addition, pursuant to Rule 7(a) of the Federal Rules Governing Section 2254 Cases, the State shall append the following documents to its Renewed Motion:

1. the June 17, 2001 Motion filed on behalf of one of the complaining witnesses;
2. the June 20, 2001 Opposition filed by defense counsel;
3. a transcript of the oral argument on the Motion and the Trial Justice's Ruling on the Motion; and
4. the stipulation apparently reached between the State and Chalk during the State Court proceedings on post-conviction relief as to the individuals excluded by the Trial Justice's Ruling and those permitted to remain during the victim's testimony.

Chalk shall file his Response to the State's Renewed Motion by June 12, 2009. Finally,

Chalk's request in his Opposition brief (Document No. 6 at p. 5) for an evidentiary hearing is DENIED without prejudice to renewal, if appropriate, in a properly supported Motion under Rule 8 of the Federal Rules Governing Section 2254 cases.

SO ORDERED

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
April 24, 2009