

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA


Sammie Louis Stokes, #5069,	)	C/A No.: 1:16-845-RBH-SVH
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
Bryan P. Stirling, Director, South	)	ORDER DENYING STAY
Carolina Department of Corrections;	)	OF GROUND EIGHT
Joseph McFadden, Lieber Correctional	)	
Institution,	)	
	)	
Respondents.	)	
	)	

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Petitioner Sammie Louis Stokes is an inmate at the Lieber Correctional Institution of the South Carolina Department of Corrections who filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. [ECF Nos. 22, 51]. In a submission to this Court, ECF No. 96 at 15 n.4, Petitioner requested that his claim in Ground Eight be held in abeyance pending the United States Supreme Court’s decision in *Davila v. Davis*, 2017 WL 125677 (Jan. 13, 2017). In Ground Eight, Petitioner claims ineffective assistance of appellate counsel for failure to raise an issue pursuant to *Batson v. Kentucky*, 476 U.S. 79 (1986). Petitioner has conceded that Ground Eight is procedurally defaulted, but he asserts that he can “overcome the procedural default by demonstrating his post-conviction counsel was ineffective and that his claim of ineffective assistance of appellate counsel has ‘some merit.’” ECF No. 96 at 15 (quoting *Martinez v. Ryan*, 566 U.S. 1 (2012)).

The United States Supreme Court has now issued an opinion in *Davila v. Davis*, 2017 WL 2722418 (June 26, 2017), declining to extend the Martinez exception to allow a federal court to hear a substantial, but procedurally defaulted, claim of appellate ineffectiveness when a prisoner's state post-conviction counsel provides ineffective assistance by failing to raise it. In light of the issuance of the Davila decision, the undersigned denies the request to hold Ground Eight in abeyance.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Shiva V. Hodges". The signature is written in a cursive, flowing style.

June 29, 2017  
Columbia, South Carolina

Shiva V. Hodges  
United States Magistrate Judge