

# The Supreme Court of South Carolina

Breon Alexandre, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2022-001654

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## ORDER


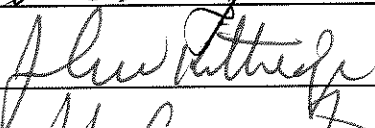
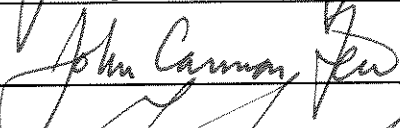


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This matter is before the Court by way of a notice of appeal from an order of the post-conviction relief (PCR) court finding Petitioner is entitled to an appeal of the denial of his first PCR application pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Because the record of Petitioner's 2013 PCR hearing is not available, Petitioner asks this Court to remand the matter to the PCR court to reconstruct the record of his 2013 PCR hearing. The State does not oppose a reconstruction hearing.

We hereby hold this matter in abeyance and remand the matter to the PCR court to reconstruct the record of Petitioner 2013 PCR hearing. *See Koon v. State*, 358 S.C. 359, 367, 595 S.E.2d 456, 460 (2004) (holding where a transcript has been lost or destroyed, this Court may remand the matter to have the record reconstructed), *overruled on other grounds by State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005). The PCR court may consider affidavits of PCR counsel, the Assistant Attorney General who represented the State at the hearing, the court reporter, the PCR judge, and any other person who may assist in determining what transpired at the hearing. *See China v. Parrott*, 251 S.C. 329, 333–34, 162 S.E.2d 276, 278 (1968) (holding the trial court properly considered affidavits of the plaintiff's counsel and the court reporter in determining what transpired at a hearing).

Petitioner's counsel shall contact counsel for the State and the PCR court within ten days of the date of this order to schedule such hearings as the PCR court deems appropriate. Petitioner's counsel shall provide an update to the Clerk of this Court not later than thirty days from the date of this order, and every thirty days

thereafter, with copies of the update provided to counsel for the State. If the PCR court determines reconstruction is not possible, the court shall immediately notify this Court and the parties of that determination. If the record is reconstructed, Petitioner's counsel shall notify this Court, and the matter will proceed on Petitioner's receipt of the transcript from the reconstructed hearing.

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina  
April 21, 2023

cc:  
Megan Harrigan Jameson, Esquire  
Joanna Katherine Delany, Esquire