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IN THE STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

Chad Stephen Hayes, #360913

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
S.C. SUPREME COURT  
FOR THE ELEVENTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-32-01247  
APPELLATE CASE NO. 2024-000515

NOTIFICATION TO THE SUPREME  
COURT OF SOUTH CAROLINA

In this PCR matter, the attorneys and I held two meetings to address the missing PCR hearing transcript. The hearing was held on April 11, 2022, in Lexington County. It was an in-person hearing, not WebEx. A digital reporter was present to operate the digital recording device. The hearing lasted one to two hours. I issued a ruling and an appeal followed. No testimony was recorded at the hearing. On October 31, 2024, the Supreme Court issued an order to reconstruct the transcript. During our recent meetings we discussed the possibility of reconstructing the transcript for appeal purposes.

I conclude that a full and fair transcript cannot be reconstructed and recommend that Petitioner be granted a de novo hearing before another judge. I offer the following reasons.

We do not have complete and balanced notes from the hearing. The State's notes from the hearing are impressive and detailed. At the hearing, Ms. Meadows and Mr. Taylor were present for the State. That team made notes that were exchanged recently. Ms. Aimee Zmroczek represented Petitioner at the 2022 hearing and has no notes from that hearing. Ms. Zmroczek could not be expected to try the case and, at the same time, take notes. Thusly, we only have the State's notes.

Reconstructing some of a trial or hearing is one thing, creating an entire transcript is another matter entirely. Here, where there is no transcript, context is lost.

In this situation it is expected that material disagreements would arise when parties attempt to create an accurate record from a hearing that occurred over two years and nine months ago.

The hearing was held before a judge who was the fact-finder. A fact-finding judge sees and hears witnesses and relies on his or her ability to assign credibility or believability. I have no recollection of the credibility cues, and this would hamper my ability to determine with reasonable certainty the accuracy of a reconstructed record.

A laudable suggestion was made to recall witnesses to hear from them. However, doing so would likely take as much or more time than a de novo hearing.

Fairness demands that Petitioner's appellate attorney has a complete and accurate transcript.

We are not considering a week-long or multi-day hearing.

For the foregoing reasons, I conclude Petitioner should be granted a de novo PCR hearing before another judge.

Respectfully submitted,

S/George M. McFaddin, Jr.

Circuit Court Judge

January 15, 2025

Sumter, South Carolina