

# The Supreme Court of South Carolina

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January 16, 2025

Emory W. Roberts, Jr., 373393  
Perry Correctional Institution  
430 Oaklawn Road  
Pelzer, SC 29669

Re: Emory Roberts v. State  
Appellate Case No. 2024-001521

Dear Mr. Roberts:

Please be advised that the Court has issued the attached order holding this case in abeyance. Because this case is held in abeyance, no action will be taken on your motion for a declaratory judgment at this time.

Very truly yours,

*Patricia A. Howard*

CLERK

cc: Danielle Dixon

# The Supreme Court of South Carolina

Emory W. Roberts, Jr., Plaintiff,

v.

Denise Swope, Leah Guerry Dupree (Clerk of Court),  
Danielle Dixon, State of South Carolina, Defendants.

Appellate Case No. 2024-001679

and

Emory W. Roberts, Jr., Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2024-001521

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## ORDER

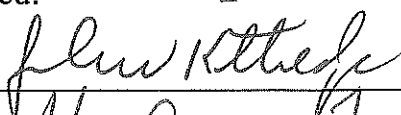
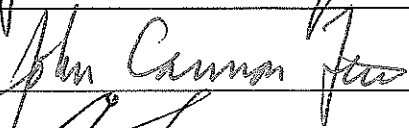


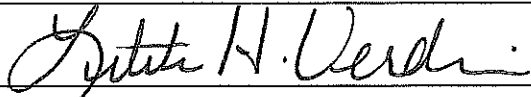
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On July 2, 2020, Petitioner filed an application for post-conviction relief (PCR) in Berkeley County. After an evidentiary hearing during which Petitioner elected to represent himself, the PCR court issued an order denying and dismissing Petitioner's application. Petitioner thereafter attempted to file several pro se motions for reconsideration, which the Berkeley County Clerk of Court returned to him unfiled, advising him to contact his attorney.

In Appellate Case No. 2024-001679, Petitioner has filed a petition for a writ of mandamus requesting, in part, that this Court compel the Berkeley County Clerk of Court to accept his pro se motions for reconsideration of the PCR court's order. The Clerk filed a return stating she did not have jurisdiction to accept Petitioner's filings because he was indicted by a state grand jury.

After careful consideration, Petitioner's request is granted. Within thirty days of the date of this order, Petitioner must serve and file his motions for reconsideration with the Berkeley County Clerk of Court. The Clerk is directed to accept Petitioner's pro se motions for filing and to designate the filing date as the date the motions were first presented for filing. *See Barnes v. State*, 433 S.C. 399, 402, 859 S.E.2d 260, 261-62 (2021) (explaining clerks of court have a ministerial duty to docket filings, irrespective of potential procedural flaws, and may not perform any judicial functions unless expressly authorized by statute or the constitution). Petitioner properly filed his PCR application in the county in which he was convicted, Berkeley County; the evidentiary hearing was held in Berkeley County; and the order of dismissal was issued and filed in Berkeley County. *See* S.C. Code Ann. § 17-27-40 (2014) ("A proceeding is commenced by filing an application verified by the applicant with the clerk of the court *in which the conviction took place.*" (emphasis added)). Thus, the Clerk's assertion that she lacks jurisdiction to accept Petitioner's filings is erroneous. The remaining requests contained in the petition for a writ of mandamus are denied.

In Appellate Case No. 2024-001521, Petitioner has filed a notice of appeal from the denial of his PCR. He has also filed a motion to hold this matter in abeyance while he resubmits and seeks a ruling on his aforementioned motions for reconsideration that he attempted to file with the PCR court. The motion to hold the PCR action in abeyance is also granted.

|  |      |
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|  | C.J. |
|  | J.   |
|  | J.   |
|  | J.   |
|  | J.   |

Columbia, South Carolina  
January 16, 2025

cc:

Alan McCrory Wilson  
W. Jeffrey Young  
Bart Jackson Stegall  
Emory W. Roberts, Jr., 373393  
Denise Grainger Swope  
Danielle Dixon  
The Honorable Leah Guerry Dupree