

# The Supreme Court of South Carolina

Derek W. Gibson, Respondent.

v.

State of South Carolina, Petitioner,

Appellate Case No. 2024-001408

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## ORDER


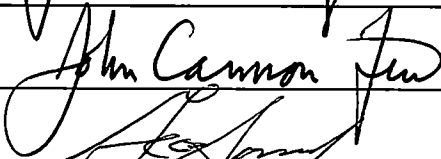
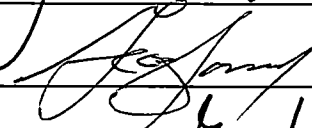
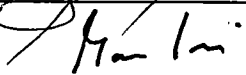
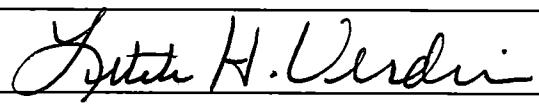
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The State filed this appeal of the post-conviction relief (PCR) court's July 1, 2024 order granting Derek Gibson relief in the form of resentencing. According to the State, it received written notice of entry of the order on July 8, 2024, and filed a motion for reconsideration on July 18, 2024, which the PCR court denied on July 29, 2024. However, unbeknownst to the State, Gibson was resentenced on July 17, 2024. Because the solicitor who represented the State at the July 17 proceeding was satisfied with Gibson's new sentence, the State now wishes to withdraw its appeal.

However, the State asserts the resentencing court was without jurisdiction to impose Gibson's new sentence because of the State's "pending" motion for reconsideration of the PCR court's order. Thus, the State requests this Court remand the case to the circuit court to resentence Gibson a second time, pursuant to the relief granted by the PCR court.

The State's request to remand for a second resentencing is denied. Contrary to the State's assertion, its motion for reconsideration was not pending on July 17, when Gibson was resentenced. Although the State's motion was timely, the resentencing court reasonably believed it had jurisdiction to resentence Gibson pursuant to the PCR court's order. To remand for a second resentencing when both parties were apparently satisfied with the July 17 proceeding would not be an appropriate expenditure of judicial resources.

The State's motion to withdraw this appeal is granted and the appeal is dismissed.  
See Rule 260(c), SCACR.

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

Columbia, South Carolina  
January 16, 2025

cc:  
Talida Balaj  
Susannah Conyers Ross