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SC Court of Appeals



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

March 13, 2025

The Honorable Jenny Kitchings
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

Re: State v. James W. Owens, Appellate Case No. 2022-001458

Dear Ms. Kitchings:

Today the Court issued an Order dismissing the above-captioned appeal. I have spoken to Mark Farthing who represents the State in this matter and we both believe this Order was issued in error. On remand, the circuit court found the record could not be reconstructed. The relief asked for by appellant in his motion filed in this Court on February 25, 2025, was a new trial. The State did not oppose the grant of a new trial in its letter in lieu of a formal return filed March 7, 2025. Both Mr. Farthing and I agree that in a reconstruction situation like this one, that the only Court of Appeals—not the circuit court—has the power to grant a new trial. See State v. Ladson, 373 S.C. 320, 327-28, 644 S.E.2d 271, 275 (Ct. App. 2007) (“For the reasons stated above, we are convinced that under the circumstances of this case the reconstructed record lacks the completeness and reliability necessary for this court to engage in meaningful appellate review. We reverse and remand for a new trial.”).

If this Order was not issued in error and our interpretation is incorrect, please let me know so that we can act accordingly. Thank you for the Court’s attention.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Alexander", with a long horizontal flourish extending to the right.

David Alexander

c: The Hon. R. Ferrell Cothran
Mrak R. Farthing, Esquire
Curtis A. Pauling, III, Esquire
Client

From: [Mcinnis, Sara](#)
To: [Mark Farthing](#)
Cc: ccollins@scag.gov; [Alexander, David](#); [Stock, Chris](#)
Subject: 2022-001458 The State v. James W. Owens Letter Re. March 13 2025 Order
Date: Thursday, March 13, 2025 12:11:00 PM
Attachments: 2022-001458 State v James Owens Letter Re March 13 2025 Order.pdf

Good Afternoon Mr. Farthing,

Attached for service in the above-referenced case is a letter to the Court of Appeals regarding the Order of Dismissal issued today, March 13, 2025. This letter will be filed with the Court today via email filing.

Thank you,

Sara McInnis

Administrative Assistant

South Carolina Commission on Indigent Defense

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