

# The Supreme Court of South Carolina

Darrell L. Goss, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2022-000924

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## ORDER

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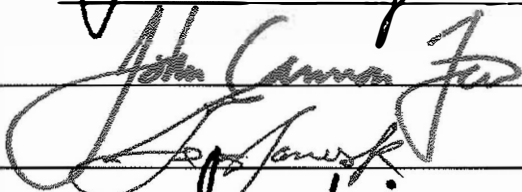
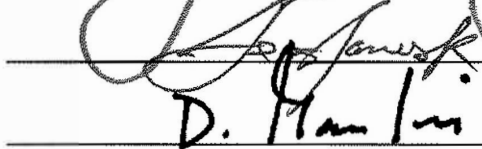
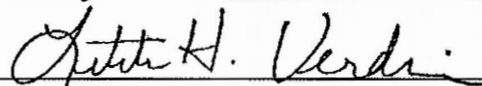
By order dated June 14, 2022, the Honorable Jennifer B. McCoy denied Petitioner's first post-conviction relief (PCR) application. On June 27, 2022, Petitioner filed a Rule 59(e), SCRCP, motion to alter or amend the judgment asserting constitutional violations and ineffective assistance of counsel.

While the Rule 59(e) motion was pending, Petitioner filed a notice of appeal of Judge McCoy's denial of his PCR application and moved to proceed *pro se*. This Court denied the motion to proceed *pro se*. In an accompanying letter, the Clerk of Court instructed Petitioner to submit proof that he had retained counsel or applied for counsel through the South Carolina Commission on Indigent Defense within twenty days.

By order dated October 24, 2022, this Court dismissed the case because Petitioner failed to comply with the Court's letter. The remittitur was sent on November 9, 2022.

Because the Rule 59(e) motion seeking to alter or amend Judge McCoy's order had not been ruled on, the notice of appeal was premature, and the Court should have dismissed the appeal on that ground rather than for Petitioner's failure to provide proof of counsel. See *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 15, 602 S.E.2d 772, 775 (2004) (holding a timely Rule 59(e), SCRCP, motion stays the time for an appeal until the lower court rules on the motion). Therefore, we recall the remittitur in this case sent on November 9, 2022; vacate the order dated October 24, 2022, dismissing Petitioner's notice of appeal from Judge McCoy's order for

failing to provide proof of counsel; and remand the matter to Judge McCoy to rule on Petitioner's Rule 59(e) motion. *See Wise v. S.C. Dep't of Corr.*, 372 S.C. 173, 174, 642 S.E.2d 551, 551 (2007) (holding, when a remittitur has been properly sent, the appellate court no longer has jurisdiction over the case and no motion can be heard thereafter unless the remittitur is sent down by mistake, error, or inadvertence of the Court (citing *State v. Keels*, 39 S.C. 553, 17 S.E. 802 (1893))). We direct Judge McCoy to rule on the motion within thirty days from the date of this order. Within thirty days following that ruling, Petitioner must serve and file a notice of appeal if he wishes to seek appellate review of Judge McCoy's order.

	C.J.
	J.
	J.
D. Manlin	J.
	J.

Columbia, South Carolina  
August 14, 2025

cc:  
Danielle Dixon  
Jessica M. Saxon  
Darrell Goss  
The Honorable Jennifer B. McCoy  
The Honorable Julie J. Armstrong