

# The Supreme Court of South Carolina

Jonathan Kyle Binney, Petitioner-Respondent,

v.

State of South Carolina, Respondent-Petitioner.

Appellate Case No. 2012-212107

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## ORDER

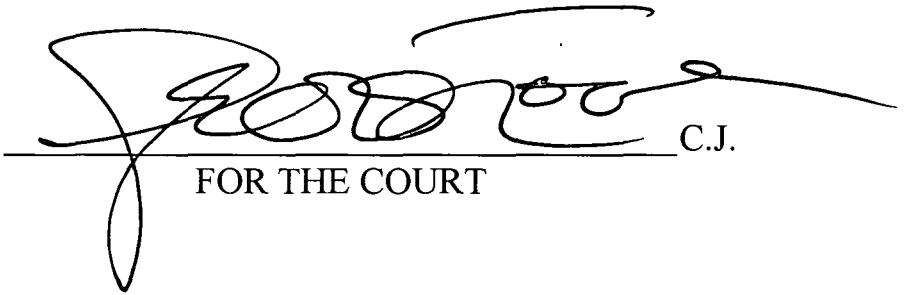
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Petitioner-Respondent (Binney) was convicted of murder and first degree burglary and sentenced to death. This Court affirmed his convictions and sentence, and the United States Supreme Court denied Binney's request for a writ of certiorari. *State v. Binney*, 362 S.C. 353, 608 S.E.2d 418, *cert. denied*, 546 U.S. 852 (2005). Following a hearing on Binney's application for post-conviction relief (PCR) and a petition for rehearing, the PCR judge granted Binney's PCR application as to sentencing. Counsel for Binney has filed a Notice of Appeal from the PCR order. The State has also appealed the order. Counsel for the State has provided this Court with a letter from Binney indicating he wishes to waive appellate review of the PCR order.

This matter is remanded to the Honorable J. Michael Baxley for a determination of whether Binney is competent and his decision to waive his right to petition for a writ of certiorari is knowing and voluntary. John H. Blume, III, and Emily Paavola shall represent Binney at the competency hearing.

Judge Baxley shall, within sixty (60) days of the date of this order, conduct a full hearing allowing the introduction of testimony, exhibits, and evidence to provide a full record for this Court's evaluation. In determining Binney's competency to waive his petition for a writ of certiorari, Judge Baxley shall apply the standard set forth in *Singleton v. State*, 313 S.C. 75, 437 S.E.2d 53 (1993). Further, Judge Baxley shall conduct an in depth inquiry to ensure that Binney persists in his desire to abandon his petition for a writ of certiorari. *Id.*

IT IS SO ORDERED.



C.J.  
FOR THE COURT

Columbia, South Carolina

July 2, 2012

cc: John H. Blume, III

Emily C. Paavola

W. Edgar Salter, III

The Honorable J. Michael Baxley

Motte L. Talley, Esquire