

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

**Jan 07 2026**

**SC Court of Appeals**

Appeal from Greenwood County

Honorable Eugene C. Griffith, Jr., Circuit Court Judge

Opinion No. 2025-UP-427

THE STATE,

APPELLANT,

V.

TERRENCE O'NEIL FRAZIER,

RESPONDENT

APPELLATE CASE NO. 2023-001439

PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, Respondent Terrence O'Neil Frazier requests that this Court grant rehearing in order to remand the case for a new trial. Respondent respectfully asserts that given the unusual procedural history of this case, this Court overlooked his request that the Court not only affirm the circuit court's ruling that the waiver of the right to counsel was not knowingly and intelligently made, but also that, resultantly, this Court remand the case to the Greenwood County Court of General Sessions for a new trial. *See* Brief of Respondent at 23.

The circuit court correctly concluded Frazier’s waiver of the right to counsel was not knowingly and intelligently made, since there was a plethora of evidence to support the court’s findings that Frazier was neither adequately warned of the dangers of proceeding pro se nor had sufficient background to understand the risks of self-representation.

In his 2018 brief of appellant, Respondent Frazier argued he was “entitled to a new trial because he did not knowingly and intelligently waive his right to counsel where the record does not demonstrate that [Frazier’s] decision to represent himself was made with an understanding of the risks of self-representation.” *See* Final Brief of Appellant at 1 – 17 (Appellate Case No. 2015-002464). In that brief, Frazier requested this Court reverse his convictions and grant him a new trial. *See* Final Brief of Appellant at 18 (Appellate Case No. 2015-002464). On November 27, 2019, this Court issued an opinion in which it remanded the case to the circuit court for an evidentiary hearing to determine whether Frazier’s waiver of the right to counsel was knowingly and intelligently made. *See State v. Frazier*, Op. No. 2019-UP-371 at 4 (S.C. Ct. App. filed November 27, 2019) (“[W]e remand for an evidentiary hearing to determine whether Frazier’s waiver was knowingly and intelligently made.”).

After a hearing at which both sides were permitted to present testimony and introduce evidence, the circuit court determined Respondent Frazier’s waiver of the right to counsel was not knowing and intelligent. R. 1 – 11; R. 12 – 65. This Court subsequently affirmed the circuit court’s ruling that Frazier’s waiver of counsel was not knowingly and intelligently made, citing, *inter alia*, *State v. Cash*, 309 S.C. 40, 419 S.E.2d 813 (Ct. App. 1992) (enumerating factors to be considered in determining if accused had sufficient understanding of disadvantages of self-representation). *State v. Frazier*, Op. No. 2025-UP-427 at 2 – 3 (S.C. Ct. App. filed December 23, 2025). Respondent Frazier obviously takes no issue with this Court’s holding in that regard.

Rather, Respondent Frazier seeks rehearing in order to request this case consequently be remanded to the circuit court for a new trial, since that issue (whether Frazier was entitled to a new trial) was not before the circuit judge on remand. Instead, this Court only remanded the case to the circuit court for an evidentiary hearing to determine whether Frazier’s waiver of the right to counsel was knowingly and intelligently made. *State v. Frazier*, Op. No. 2019-UP-371 at 3 (S.C. Ct. App. filed November 27, 2019). Therefore, in this situation, this Court—not the circuit court—has the power to grant a new trial.

*Compare State v. Dixon*, 269 S.C. 107, 109, 236 S.E.2d 419, 420–21 (1977) (“The case is remanded to the lower court for a determination of whether the waiver was intelligently made . . . If it be found by the lower court that the waiver was intelligently made, an order dismissing the appeal shall be made by this Court. If it is determined that the waiver was not intelligently made, an order reversing the appellant’s conviction and granting him a new trial shall be issued.”); *State v. Dial*, 429 S.C. 128, 135-36, 838 S.E.2d 501, 505 (2020) (“we remand Dial’s case to the circuit court for the court to conduct an evidentiary hearing pursuant to *Dixon* to determine whether Dial knowingly and intelligently waived his right to counsel . . . if the trial court finds the waiver was not knowing and intelligent, it shall grant the defendant a new trial . . . Alternatively, if the trial court determines ‘the waiver was intelligently made, an order dismissing the appeal shall be made by this Court’”); *State v. Cash*, 304 S.C. 223, 225, 403 S.E.2d 632, 634 (1991) (“we remand the case to the trial judge to determine whether appellant knowingly and intelligently waived his right to counsel . . . If the trial court determines that the waiver was knowingly and intelligently made, it shall issue an order denying appellant a new trial on this ground. If the trial court finds that the waiver was not knowing and intelligent, it shall grant appellant a new trial.”). Importantly, this Court did not remand the case for a decision

by the trial court as to whether Frazier was entitled to a new trial in the event it determined his waiver was not knowing and intelligent. Instead, as seen, the 2019 opinion only held: “we remand for an evidentiary hearing to determine whether Frazier’s waiver was knowingly and intelligently made.” Therefore, it is for this Court, rather than the circuit court, to order Frazier receive a new trial.

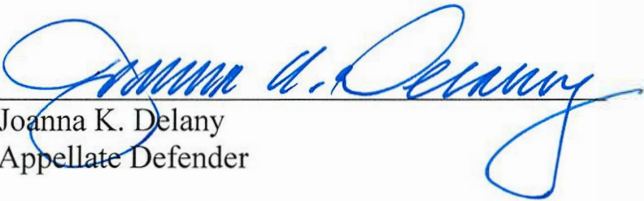
The proper remedy in this situation is to remand for a new trial. *See State v. Thompson*, 355 S.C. 255, 269, 584 S.E.2d 131, 138 (Ct. App. 2003) (remanding for new trial where defendant was erroneously deprived of his fundamental right to assistance of counsel); *Prince v. State*, 301 S.C. 422, 424, 392 S.E.2d 462, 463 (1990) (remanding for new trial where record did not demonstrate petitioner was sufficiently aware of the dangers of self-representation to make an informed decision to proceed pro se); *State v. Bateman*, 296 S.C. 367, 369, 373 S.E.2d 470, 471 (1988) (remanded for new trial where record did not demonstrate request to proceed pro se was accompanied by a knowing and intelligent waiver); *Bridwell v. State*, 306 S.C. 518, 519, 413 S.E.2d 30, 31 (1992) (remanded for new trial where waiver of counsel was not knowing and voluntary); *In re Christopher H.*, 359 S.C. 161, 170, 596 S.E.2d 500, 505 (Ct. App. 2004) (remanded for new trial where waiver of right to counsel was not knowingly and intelligently made).

The circuit court found Respondent Frazier’s waiver of the right to counsel was not knowingly and intelligently made. R. 1 – 11. This Court affirmed that ruling. *State v. Frazier*, Op. No. 2025-UP-427 (S.C. Ct. App. filed December 23, 2025). However, Frazier has not been granted a new trial. Because the proper remedy in this case is to remand for a new trial, and because neither the circuit court nor this Court has ruled that Frazier is entitled to a new trial, Frazier respectfully requests this Court grant rehearing, hold he is entitled to a new trial, and

remand the case for a new trial. *E.g.*, *Bateman*, 296 S.C. at 369, 373 S.E.2d at 471; *Thompson*, 355 S.C. at 269, 584 S.E.2d at 138.

**CONCLUSION**

Respondent Frazier respectfully requests this Court grant rehearing, hold he is entitled to a new trial, and remand the case for a new trial.



Joanna K. Delany  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR RESPONDENT

This 7th day of January, 2026.

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THE STATE,

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TERRENCE O'NEIL FRAZIER,

RESPONDENT

APPELLATE CASE NO. 2023-001439

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Petition for Rehearing in the above-referenced case has been served upon Joshua A. Edwards, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Terrence O'Neil Frazier, #334278, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 7th day of January, 2026.

  
Joanna K. Delany  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR RESPONDENT

**From:** [Mcinnis, Sara](#)  
**To:** [Josh Edwards](#)  
**Cc:** [Susan Spencer](#); [Delany, Joanna](#)  
**Subject:** 2023-001439 The State v. Terrence O'Neil Frazier Petition for Rehearing  
**Date:** Wednesday, January 7, 2026 3:42:00 PM  
**Attachments:** 2023-001439 The State v. Terrence O'Neil Frazier Petition for Rehearing.pdf

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Good Afternoon Mr. Edwards,

Attached for service in the above-referenced case is the petition for rehearing, which will be filed with the Court of Appeals today, January 7, 2026, via email filing.

Thank you!

Sara McInnis  
Administrative Assistant  
South Carolina Commission on Indigent Defense  
Appellate Division  
(803) 734-1330

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