

Mar 23 2026

EXHIBIT A

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON
)	PLEAS
COUNTY OF GREENVILLE)	THIRTEENTH JUDICIAL CIRCUIT
)	
Ronald T. Downs, Jr.,)	Case No. 2014-CP-23-2474
Applicant)	
v.)	ORDER FINDING RECORD
)	RECONSTRUCTED
The State of South Carolina,)	
Respondent)	

FILED: 125MAR19AM10:29
COC JMY GRESHAM GUL SC

THIS MATTER comes before the Court by order of the Supreme Court of South Carolina directing this Court to reconstruct the appellate record of the above-captioned case. This Court held an evidentiary hearing on February 11, 2026, in the Greenville County courthouse. Applicant was represented by his appellate counsel, W. Chandler Norville, Esquire. The state was represented by Tommy Evans, Jr., Esquire. After careful consideration, the Court finds that the hearing on the Motion to Reconstruct the Record held on Wednesday, February 11, 2026, in Greenville County, provided the court with sufficient testimony, documentation and exhibits to become the record of the original evidentiary hearing held before this court on February 19, 2015.

PROCEDURAL POSTURE

Applicant was convicted of armed robbery and assault and battery, first degree, by a petit jury in Greenville County on August 15, 2013. He did not appeal. On May 1, 2014, Applicant filed a timely application for post-conviction relief (PCR) in this Court. He alleged that trial counsel provided ineffective assistance of counsel by: (1) advising him not to accept a ten and fifteen-year plea offer from the state; and (2) failing to file an appeal from his conviction. An evidentiary hearing was held on the application by this Court on February 19, 2015. Brian P. Johnson, Esquire, was appointed to represent Applicant, and Karen C. Ratigan, Esquire, appeared on behalf of the state. The Court heard testimony from two witnesses: Applicant and

Clifford F. Gaddy, Jr., Esquire, who was Applicant's trial counsel. On March 2, 2015, this Court dismissed the application with prejudice in a written order. Applicant did not appeal.

On May 9, 2023, Applicant filed a second PCR application, pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), seeking a belated appeal from the denial of his first PCR application. An evidentiary hearing on the *Austin* claim was held before the Honorable Patrick C. Fant, III. On May 6, 2025, Judge Fant denied relief and dismissed the application with prejudice. From that order, Applicant noted a timely appeal. This appeal remains pending.

During the pendency of the appeal, the Office of Indigent Defense requested the transcript from the February 2015 PCR hearing. The court reporter was unable to produce the transcript because the five-year window for retaining tape recordings under Rule 607, SCACR, had closed. Applicant, through counsel, moved the Supreme Court to remand the matter to this Court to attempt reconstruction of the record. On November 19, 2025, the Supreme Court granted the motion and ordered this Court to reconstruct the record.

RECONSTRUCTION HEARING EVIDENCE

At the hearing, the Court heard testimony from three witnesses: Applicant, Brian P. Johnson, Esquire, and Karen C. Ratigan, Esquire. Mr. Johnson testified that he had no independent recollection of the 2015 PCR hearing, except that he remembered that trial counsel testified that he did not advise Applicant whether to accept the state's plea offers or not.

Applicant testified that his memory of the 2015 PCR hearing was spotty in some respects, but good in other respects. Applicant testified that his testimony at the 2015 PCR hearing was as follows:

- Trial counsel advised Applicant not to accept the state's plea offers, because the state could not produce evidence that he was in possession of a weapon.

EXHIBIT A

- Trial counsel advised Applicant that he could not be convicted of armed robbery unless the state proved that he utilized a weapon.
- Applicant would have accepted the state's plea offer had he known that armed robbery could be accomplished with the representation of a weapon, in the absence of an actual weapon.
- Applicant asked trial counsel what could be done, and trial counsel informed him there was nothing that could be done, and "that his money wouldn't be well spent."

Ms. Ratigan testified that she had no independent recollection of the 2015 PCR hearing.

However, Ms. Ratigan was in possession of the notes that she took during the 2015 PCR hearing.

Those notes were entered as Applicant's Exhibit 3. Ms. Ratigan's notes reflected the following:

As to Applicant's testimony

- Applicant testified that trial counsel advised him not to accept either of two plea offers made to him by the state, one for ten years, the other for fifteen. Applicant was under the impression that going to trial "was [his] best bet," so he rejected the offers.
- Applicant testified that he and trial counsel did not discuss whether his case was good or bad prior to trial, nor did they discuss the elements of armed robbery. Applicant testified that trial counsel advised him he could not be convicted of armed robbery since no weapon was found.
- Applicant testified that, had he known a representation of a weapon was sufficient to be convicted of armed robbery, he would have accepted one of the state's plea offers.
- Applicant testified that, after the trial, he asked trial counsel "what they can do." Trial counsel told him that there was nothing that could be done. Applicant wrote a letter to

trial counsel asking him to file an appeal. In response, trial counsel "said they [did not] have the [money]."

As to trial counsel's testimony

- Trial counsel testified that he explained the elements of the charges to Applicant, as well as the minimum and maximum sentences on each. He explained that armed robbery carried a maximum penalty of thirty years, and that armed robbery could be committed "if [evidence] showed that [defendant] was [representing] by words/actions that he had a gun, it'd be [the] same as if [defendant] had a gun."
- Trial counsel testified that his trial strategy was to bring out the fact that Applicant did not have a gun to persuade the jury that Applicant was guilty of common law robbery rather than armed robbery.
- Trial counsel believed the jury had grounds to find that Applicant did not use a weapon.
- Trial counsel testified that he conveyed the state's plea offers but made no recommendation to Applicant as to whether he should accept them.
- Trial counsel testified that he met at least four times with Applicant and that Applicant did not say why he rejected the plea offers. Trial counsel testified that Applicant "was fairly uncooperative the whole time."
- Trial counsel testified that, after the trial, Applicant asked him what could be done. Trial counsel told him he "wasn't aware of anything to be done." He testified that he told Applicant he "knew of no grounds for [an appeal]" and that his money would not be "well spent on an appeal."
- Trial counsel testified that he would have filed the appeal had Applicant asked him to, but Applicant did not.

ANALYSIS

For the reasons that follow, the Court finds that the evidence presented at the reconstruction hearing, taken together with the documents in the record, are sufficient to reconstruct the record to provide Applicant with “meaningful appellate review.”

The authority to set the record for an appeal lies with the trial court. *State v. Ladson*, 373 S.C. 320, 324, 644 S.E.2d 271, 273 (Ct. App. 2007). When a transcript of a trial has been lost or destroyed, an appellate court may remand the case to the trial court to have the record reconstructed. *Whitehead v. State*, 352 S.C. 215, 221, 574 S.E.2d 200, 203 (2002). The record must be sufficient “to allow for ‘meaningful appellate review.’” *Ladson*, 373 S.C. at 325, 644 S.E.2d at 274. “The inability to prepare a complete verbatim transcript, in and of itself, does not necessarily present a sufficient ground for reversal.” *Id.* at 324, 644 S.E.2d at 273 (quoting *Smith v. State*, 433 A.2d 1143, 1148 (Md. 1981)). In other words, the reconstructed record need not be a carbon-copy of the original, but it must not leave the appellate courts to speculate. *Id.* at 327, 644 S.E.2d at 274 (“In short, we are left to speculate, and we decline to do so.”).

At the 2015 PCR hearing, Applicant alleged two grounds of ineffective assistance of counsel: (1) trial counsel advised him against accepting the state’s plea offers; and (2) trial counsel failed to file an appeal on Applicant’s behalf. Therefore, the issue before this Court is whether the evidence presented at the reconstruction hearing sufficiently conveys the evidence presented at the 2015 PCR hearing to provide for meaningful appellate review. The Court finds that it does.

The Court heard testimony from Applicant, who remembered a substantial amount of his own testimony at the 2015 PCR hearing. The Court also received Ms. Ratigan’s hand-written, contemporaneous notes from the 2015 PCR hearing. Because of Ms. Ratigan’s testimony that she

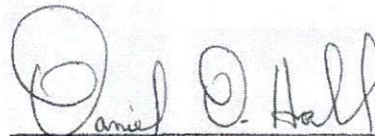
EXHIBIT A

would have taken such notes in her normal practice, and because of the similarities between Ms. Ratigan's notations of the testimony, and Applicant's recollection of the testimony, the Court finds both Applicant's recollection and Ms. Ratigan's notes to be credible.

The issues from the 2015 PCR hearing that will be presented on appeal by Applicant are that trial counsel failed to advise him to accept the state's plea offers and that trial counsel did not file an appeal on Applicant's behalf. The Court finds that, based on the evidence presented at the reconstruction hearing and the documents already in the record, the appellate record is not so "incomplete" as to prevent "the appellate court from conducting a 'meaningful appellate review.'" *Ladson*, 373 S.C. at 325, 644 S.E.2d at 274 (quoting *In re D.W.*, 615 S.E.2d 90, 94 (N.C. Ct. App. 2005)).

Accordingly, the Court finds the record in this case to be reconstructed.

AND IT IS SO ORDERED.



Hon. Daniel D. Hall
Circuit Court Judge (Ret.)

This 9th day of March, 2026
Greenville, South Carolina