

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**Jun 11 2026**

S.C. SUPREME COURT

Appeal from Greenville County  
Court of Common Pleas  
(Post-Conviction Relief)  
Honorable G.D. Morgan, Jr., Circuit Court Judge

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CLARENCE W. JENKINS, JR.,

PETITIONER,

v.

THE STATE

RESPONDENT

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APPELLATE CASE NO. 2025-002211

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MOTION TO LIFT ABEYANCE ORDER AND RECOGNIZE PREVIOUSLY  
PRODUCED TRANSCRIPT AS CONTROLLING

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The captioned appeal stems from the denial of post-conviction relief. The appeal is presently in abeyance after consideration of a motion submitted by Petitioner that was largely based on reported delay and difficulties regarding a transcript request. Respondent moves to lift the order holding this appeal in abeyance, and for this Court to accept the previously produced transcript as controlling in the appeal, for these reasons:

1. On May 29, 2026, Petitioner's appellate counsel moved to hold the appeal in abeyance for receipt of the "complete transcript of the January 30, 2023 evidentiary hearing." (Mtn. at 3). On that same day, this Court granted the motion and held the matter in abeyance for 60 days. However, the full transcript already exists.

2. The State had previously ordered the transcript of the PCR evidentiary held January 30-31, 2023, for purposes of preparing the proposed order of dismissal. Indeed, both parties and the PCR judge had copies of that transcript while engaging in the proposed order process. Respondent submits that the controlling transcript should be the one prepared by an official court reporter on or about August 24, 2023, certified to be correct, and used in the proceedings below. A copy of the transcript is attached to this motion. (Attachment 1).

3. “In the appeal process, the transcript is the official document which provides the appellate court reliable information regarding trial court proceedings.” Court Reporter Manual, at p. 27, South Carolina Court Administration publication (Updated May 1, 2018) (available at <https://www.sccourts.org/media/1p2hbkmw/courtreportermanual.pdf>). The transcript referenced above is accompanied by the required Certificate of Reporter signed by Ms. Renee Tollison. (Attachment 1 at 339). *See* Court Reporter Manual, at 35. Further, as noted, this is the transcript relied upon in writing the proposed order of dismissal, in review of the proposed order, and in the adoption of the order, as evidenced by n. 3 in the order on appeal:

By email dated February 6, 2023, this Court advised counsel for the parties that it had determined that relief would be denied and directed counsel for the State to prepare and provide a proposed order of dismissal. Due to changes of counsel for the State, the proposed order [was] delayed. However, the State ordered the transcript of the hearing and provided counsel for Applicant the transcript, as well a copy to the [the court], to ensure accuracy in this process. Further, Applicant’s counsel has been provided a copy of the proposed order drafted by the State for this Court’s review and has been encouraged to carefully review the order pursuant to *Fishburne v. State*, 427 S.C. 505, 516, 832 S.E.2d 584, 589 (2019), particularly to bring to the Court’s attention any argument or issue that Applicant believes was not sufficiently addressed.

(Order of Dismissal, at 2 n. 3).

Thus, the attached transcript is the transcript that should control in this appeal.

4. Respondent's undersigned counsel communicated with Petitioner's appellate counsel and provided a copy of the referenced transcript by email of June 1, 2026. Opposing counsel requested time to review the transcript which Respondent obliged. However, upon further communication, it is Respondent's understanding that opposing counsel wishes to wait for the completed transcript from Legal Eagle.

5. Respondent submits that production of a new transcript is not only unnecessary but runs the risk of injecting confusion into the settled, controlling record. Production of another transcript should be halted as an official transcript, certified as accurate, exists and is already available. *See generally* 21 C.J.S. Courts § 243 (April 2026 Update) ("While a party is entitled to use a privately contracted certified shorthand reporter, that reporter is not a substitute for the official court reporter, and only the official reporter's transcript will be considered the official record of the proceedings."). Further, any objection to the transcript used in preparation of the order in this case could have, and indeed should have, been raised during the circuit court proceedings. *See, e.g., Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial [court] to be preserved for appellate review."); Rule 607 (i)(2), SCACR (allowing one-year from transcription for "a party to challenge the accuracy of the transcription").

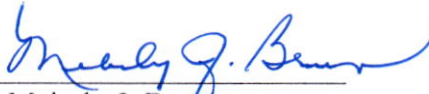
THEREFORE, Respondent submits the order holding the matter in abeyance should be lifted; the transcript certified on August 24, 2023, should be deemed controlling in this matter; and the production of an alternate transcript should be halted.

Respectfully submitted,

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