

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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Jun 26 2026

SC Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
Hon. Grace Gilcrest-Knie, Circuit Court Judge

Lower Court Case No. 2025-CP-42-03614
Appellate Court Case No. 2026-001039

John Garvin. Appellant,

v.

The State of South Carolina and Asst. Solicitor, James E. Hunter. Appellee.

***MOTION TO PROCEED ON THE
RECORD WITHOUT TRANSCRIPTS***

NOW COMES, the Appellant, John Garvin, proceeding as pro se, and respectfully moves this Court for an order allowing this appeal to proceed on the existing written record without the transcripts of the hearings held in the Court of Common Pleas, Seventh Judicial Circuit, Spartanburg County, on October 27, 2025, and March 23, 2026. In support thereof, Appellant states as follows:

**I.
FACTUAL BACKGROUND**

1. Appellant is an indigent inmate incarcerated at the Ridgeland Correctional Institution. He has no income, no assets, and is unable to pay the costs associated with prosecuting this appeal.
2. On November 7, 2025, the trial court issued an Order granting Respondent, James E. Hunter's Motion to Dismiss Appellant's declaratory judgment action.
3. On November 10, 2025, Appellant filed a Rule – 59(e) Motion for Reconsideration to Alter or Amend Judgment.

4. On March 23, 2026, the trial court held a hearing on Appellant's Rule – 59(e) Motion. Appellant appeared pro-se, and Respondent appeared through counsel. The trial court denied Appellant's Rule – 59(e) Motion on April 3, 2026.
5. Appellant has filed a Notice of Appeal from the trial court's Orders and is currently prosecuting this appeal before the South Carolina Court of Appeals.
6. Appellant previously filed on June 22, 2026, a letter seeking to proceed on the record, consisting of the pleadings and orders due the \$238.00 cost to transcribe the October 27, 2025, and March 23, 2026, hearings.
7. Appellant now moves, in support of his filed June 22, 2026, letter with this motion to proceed on the existing written record without the transcripts. The written record includes the Complaint, Respondent's Motion to Dismiss, Respondent's Memorandum of Law in Support of Motion to Dismiss, Appellant's Memorandum of Law in Opposition to Motion to Dismiss, Appellant's Rule – 59(e) Motion, the trial court's Order Granting Motion to Dismiss, and the trial court's Order Denying Rule – 59(e) Motion.

II. LEGAL AUTHORITY

8. The South Carolina Court of Appeals has recognized that in certain circumstances, an appeal may proceed on the written record without a transcript. See *State v. Ladson*, 373 S.C. 320, 644 S.E.2d 271 (Ct. App. 2007) (addressing procedure when transcript is unavailable). In *Ladson*, the Court noted that when a transcript is unavailable, the record may be reconstructed or the appeal may proceed on the existing record. *Id.* at 324, 644 S.E.2d at 274.
9. South Carolina Appellate Court Rule – 210(h) provides that “an appellate court will not consider any fact which does not appear in the Record on Appeal.” However, the Rule does not require that every appeal include a transcript of every hearing. The Record on Appeal may consist of the pleadings, motions, orders, and other documents filed with the trial court.
10. When the issues on appeal are purely legal and do not require review of factual testimony or evidentiary rulings, a transcript of the hearings may not be necessary. The appellate court can review the trial court's legal conclusions de novo based on the written record. See *Doe v. Marion*, 361 S.C. 463, 468, 605 S.E.2d 556, 559 (Ct. App. 2004) (reviewing Rule – 12(b)(6) dismissal de novo based on pleadings).
11. An indigent appellant is entitled to proceed on appeal without being required to pay costs that are not necessary for the prosecution of the appeal. *Ex parte Cauthen*, 291 S.C. 465, 467, 354 S.E.2d 381, 382 (1987).

III. ARGUMENT

12. The transcripts of the October 27, 2025, and March 23, 2026, hearings are not necessary for the proper prosecution of this appeal. The issues raised on appeal are purely legal and can be resolved based on the written record.
13. The trial court's November 7, 2025, Order granting Respondent's Motion to Dismiss was based on the pleadings and legal arguments, not on factual testimony or evidentiary rulings. The Order addressed legal issues including the PCR Act's exclusivity bar, the statute of limitations, prosecutorial immunity, and *res judicata*. These are legal questions that this Court can review de novo based on the Complaint, the Motion to Dismiss, the memorandum of law, and the Orders itself.
14. The trial court's April 3, 2026, Order denying Appellant's Rule – 59(e) Motion was likewise based on legal arguments. The hearing did not involve the presentation of witness testimony or the introduction of evidence. The Rule – 59(e) Motion sought reconsideration of the trial court's legal conclusions, not a re-examination of factual evidence.
15. This Court has stated that it “will not consider any fact which does not appear in the Record on Appeal.” Rule – 210(h), SCACR. The facts relevant to this appeal—the procedural history, the pleadings, the motions, and the Orders—all appear in the written record. No facts requiring a transcript are necessary for this Court's review.
16. Appellant is indigent and cannot afford to pay for the transcripts. In the interest of judicial economy and to avoid unnecessary delay, Appellant respectfully requests that this Court allow the appeal to proceed on the existing written record without the transcripts.
17. Proceeding without the transcripts will not prejudice Respondent. Respondent can rely on the same written record that is before this Court. The absence of the transcripts does not deprive either party of the ability to present their arguments on appeal.
18. If this Court determines that the transcripts are necessary, Appellant respectfully requests that the Court grant the attached Motion for Authorization to have the Expense of Obtaining Transcripts—To Be Paid for By the South Carolina Commission on Indigent Defense to pay for the transcripts.

IV. CONCLUSION

WHEREFORE, Appellant respectfully requests that this Court enter an Order:

1. Finding that the transcripts of the October 27, 2025, and March 23, 2026, hearings are not necessary for the prosecution of this appeal;
2. Allowing this appeal to proceed on the existing written record, consisting of the Complaint, Respondent's Motion to Dismiss, Respondent's Memorandum of Law in Support of Motion to

Dismiss, Appellant's Memorandum of Law in Opposition to Motion to Dismiss, Appellant's Rule – 59(e) Motion, the trial court's Order Granting Motion to Dismiss, and the trial court's Order Denying Rule –59(e) Motion; and

3. Granting such other and further relief as the Court deems just and proper.

In the alternative, if this Court determines that the transcripts are necessary for the prosecution of this appeal, Appellant respectfully requests that this Court grant the Attached Motion for Authorization to have the Expense of Obtaining Transcripts—To Be Paid for By the South Carolina Commission on Indigent Defense, to pay for the transcripts.

Dated: June 26, 2026


Respectfully Submitted,

John Garvin, # 355509, Pro-se
Ridgeland Correctional Institution
P.O. Box # 2039
Ridgeland, S.C. 29936

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John Garvin. Appellant,

v.

The State of South Carolina and Asst. Solicitor, James E. Hunter. Appellee.

CERTIFICATE OF SERVICE

I, John Garvin, certify that I have serve a **MOTION TO PROCEED ON THE RECORD, CONSISTING OF THE PLEADINGS AND HIS MOTION FOR AUTHORIZATION TO HAVE THE EXPENSE OF OBTAINING TRANSCRIPTS —TO BE PAID FOR BY THE SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE** on the Court to be delivered, by via e-mail on June 26, 2026, addressed to the Hon. Jenny A. Kitching, Clerk of S.C. Court of Appeals, at e-mail: ctappfilings@sccourts.org and also delivering to Defendant's a filed date-stamped copy by depositing in the United States Mailbox to be delivered via United States First Class Postage Priority Mail on or about June 29, 2026, addressed to Mr. J. Nathan Ozmint, Esq., at 325 Rocky Slope Road, Suite # 201, Greenville, S.C. 29607, and to the South Carolina Commission on Indigent Defense, 1330 Lady St., Suite # 300, Columbia, S.C., 29201.

Dated: June 26, 2026

Respectfully Submitted,


John Garvin, # 355509, Pro-se
Ridgeland Correctional Institution
P.O. Box # 2039
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Attn: Hon. Jenny A. Kitching, Clerk
South Carolina Court of Appeals Clerk's Office
P.O. Box # 11629
Columbia, S.C. 29211

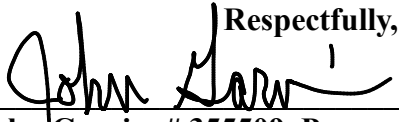
RE: *Garvin v. State of South Carolina and Asst. Solicitor, James E. Hunter,*
Appellate Case No.: 2026-001039, Filing Motion to Proceed on the Record,
Consisting of the Pleadings and Orders Due to the Cost to Transcribe Transcripts

Dear Hon. Clerk Kitching:

Attached to this letter is Appellant's Motion to Proceed on the Record, Consisting of the Pleadings and his Motion for Authorization to Have the Expense of Obtaining Transcripts —To Be Paid for By The South Carolina Commission on Indigent Defense. Please file these two Motion and return a filed clocked-stamped copy to Appellant.

By copy of this letter, I am serving Mr. J. Nathan Ozmint, Esquire, with a copy of the above-mentioned documents by United States Postal Service Mail.

Dated: June 26, 2026

Respectfully,

John Garvin, # 355509, Pro-se

JG/lg

cc: J. Nathan Ozmint, Esquire (via Mail)
South Carolina Commission on Indigent Defense (via Mail)