

RECEIVED

Aug 14 2026

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

ON PETITION FOR WRIT OF
CERTIORARI TO MARLBORO COUNTY
Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Case No. 2025-000136

Weldon W. Stewart, Jr., #295095 Petitioner,

v.

State of South Carolina, Respondent.

PETITION FOR REHEARING

Weldon W. Stewart, Jr. #295095
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina 29010
(803) 896-2400
Pro Se Petitioner

Other Counsel of Record:
D. Russell Barlow, II
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3970
Attorney for Respondent

Weldon W. Stewart, Jr. (Stewart), proceeding pro se, respectfully petitions this Court for rehearing of its August 12, 2026 Order denying his Petition for Writ of Certiorari.

This Petition does not reargue the merits. Under Rule 221, SCACR, Stewart submits that the Court overlooked or misapprehended a preserved procedural issue: the PCR court never made findings on material claims arising from newly obtained evidence from the State's trial forensic pathologist, Dr. Russell Harley, even after Stewart specifically sought those findings through Rule 59(e), SCRCP. The Court also overlooked the constitutional significance of the record developed in these proceedings, which reflects recurring barriers to meaningful judicial and appellate review through missing rulings, unsupported factual premises, and omitted findings.

Section 17-27-80 requires a PCR court to make specific findings of fact and expressly state conclusions of law on each issue presented. This Court has repeatedly remanded when deficient PCR orders prevent meaningful appellate review. See *Reese v. State*, 425 S.C. 108, 820 S.E.2d 376 (2018); *Inman v. State*, 440 S.C. 158, 889 S.E.2d 714 (2023); *Marlar v. State*, 375 S.C. 407, 653 S.E.2d 266 (2007); *Bryson v. State*, 328 S.C. 236, 493 S.E.2d 500 (1997); *McCullough v. State*, 320 S.C. 270, 464 S.E.2d 340 (1995); *Pruitt v. State*, 310 S.C. 254, 423 S.E.2d 127 (1992).

Stewart followed the preservation procedure those cases require: he presented the claims, identified the omitted rulings in Rule 59(e), requested specific findings, and presented the preserved deficiency to this Court. *App.* 1607-33, 1654-56; *Pet.* pp. 7-11; *Reply* pp. 2-5. The PCR court still did not adjudicate the claims.

Rehearing is therefore warranted either to apply the Court's longstanding precedent or to identify the legally material distinction that makes it inapplicable here. The issue is not only

compliance with § 17-27-80; it is whether a preserved statutory failure may be allowed to prevent meaningful review where the record before this Court shows that comparable barriers have repeatedly prevented adjudication of Stewart's newly discovered evidence and constitutional claims.

PROCEDURAL BASIS FOR REHEARING

Rule 221(a), SCACR, permits rehearing to identify points the Court overlooked or misapprehended. Although Rule 221 bars rehearing from a Rule 242 denial, this PCR certiorari proceeding arises under Rule 243. Rule 221(c) also permits rehearing when the Court's action finally disposes of an appeal. The August 12, 2026 Order finally disposed of Stewart's Rule 243 proceeding.

POINT OVERLOOKED OR MISAPPREHENDED

The denial leaves standing PCR orders that did not adjudicate Stewart's properly presented and preserved claims arising from Dr. Harley's new evidence. The question is narrow but constitutionally significant: does § 17-27-80 still require findings and conclusions on each issue presented when an applicant specifically preserved the omission through Rule 59(e), particularly where the record before this Court shows that the omission is part of a recurring deprivation of meaningful judicial and appellate review?

Section 17-27-80 provides that the PCR court "shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented." In Pruitt, McCullough, Bryson, Marlar, Reese, and Inman, this Court enforced that command. Marlar further holds that "[a] Rule 59(e) motion must be filed if issues are not adequately addressed." 375 S.C. at 410, 653 S.E.2d at 267. Stewart did exactly that.

I. STEWART PRESERVED THE PCR COURT'S FAILURE TO RULE.

The current PCR action began October 30, 2023. While it was pending, Stewart obtained new information from Dr. Harley. On March 7, 2024, Dr. Harley provided a written statement addressing Dr. J.C. Upshaw Downs's forensic opinion and acknowledging that his original conclusion concerning the right parietal skull fracture "could be wrong." *App. 1475-81*. Dr. Harley made further admissions on March 19, 2024. *App. 1618*.

Stewart placed that evidence before the PCR court through his April 1, 2024 Motion for Leave to Conduct Discovery and April 18 supporting memorandum. *App. 1422-28, 1482-96*. Those filings sought access to the autopsy materials so Dr. J.C. Upshaw Downs could complete his review and presented Dr. Harley's statements concerning the limited toxicology, the significance of a possible suicide history, and the importance of evidence not considered during the original autopsy. *Id.*

Respondent filed its Return and proposed Conditional Order on May 3, 2024. Stewart responded to the proposed order on June 10, 2024, again relying on the new forensic evidence and the need for discovery. *App. 1527-44*. The PCR court filed the Conditional Order on August 12, 2024. *App. 1545-66*. Although the March statements and April discovery filings were already before the court, the order did not adjudicate the current claims in that factual context; instead, it addressed materially different predicates drawn from prior litigation. *App. 1555-62; Pet. pp. 9-11*.

On August 23, 2024, Dr. Harley reduced and expanded his prior statements into a sworn affidavit. *App. 1591-94*. Stewart then filed a Supplemental Response attaching and relying on the affidavit and again requesting discovery and factual development. *App. 1588-90*. The Final Order, filed October 15, 2024, did not cure the omissions. *App. 1606*.

Stewart then filed a detailed Rule 59(e) motion on November 7, 2024. *App. 1607-33*. It traced Dr. Harley's March 7 and March 19 admissions and August 23 affidavit; identified the Conditional Order's incorrect factual predicate; renewed the discovery request; and asked the court to address the claims as actually presented. *Id. at 1618-24, 1633*.

Respondent opposed the motion and submitted a proposed order. *App. 1635-53*. Stewart replied, specifically invoking § 17-27-80 and Reese and explaining that a general assertion that the dismissal order was sufficient could not replace findings on the identified issues. *App. 1654-56*. The PCR court denied Rule 59(e), stating generally that its dismissal order contained adequate findings, but it supplied no substantive findings on the omitted claims. *App. 1675*.

Thus, Dr. Harley's evidence did not appear only after the Conditional Order, and Stewart did not fail to preserve the omission. The March evidence preceded the Conditional Order; the sworn affidavit preceded the Final Order; and Rule 59(e) specifically sought the missing findings. This preservation history matters not only under § 17-27-80. It places the current omission within the broader due process record already developed before this Court, addressed in Section V below.

II. REESE IDENTIFIES THE REMEDY FOR A PRESERVED FAILURE TO MAKE FINDINGS.

Reese presents the same procedural principle. The PCR order failed to address Reese's claims; Reese filed Rule 59(e) identifying the deficiencies; and the PCR court summarily denied the motion. This Court held that the circuit court erred both in signing the deficient PCR order and in denying Rule 59(e), vacated both orders, and remanded for a legally sufficient order. 425 *S.C. at 111, 820 S.E.2d at 378*.

Stewart's preservation is at least as clear. He identified the omitted claims and incorrect factual predicates in Rule 59(e), requested findings, and replied when Respondent proposed another generalized denial. *App.* 1607-33, 1654-56. Yet the PCR court still did not adjudicate the claims.

III. THIS COURT HAS CONTINUED TO ENFORCE § 17-27-80.

Fishburne v. State, 427 S.C. 505, 832 S.E.2d 584 (2019), again emphasized findings sufficient for appellate review and discussed both Reese and Marlar. More recently, Inman remanded because the PCR court failed to rule on remaining issues as § 17-27-80 requires. 440 S.C. 158, 889 S.E.2d 714. Stewart presents the stronger preservation posture because he filed Rule 59(e).

IV. RESPONDENT'S RETURN CONFIRMS WHY THE MISSING FINDINGS MATTER.

Respondent's Return confirms that the PCR court's omissions are substantive, not technical. Respondent acknowledged that the orders referenced arguments from prior PCR actions as "shorthand" and that Stewart filed a detailed Rule 59(e) motion and reply flagging the alleged misstatements. *Respondent's Return* pp. 18-19. Stewart's Reply identified those concessions and explained that § 17-27-80 requires rulings on the issues presented, not materially altered substitutes. *Reply* pp. 3-5.

Respondent then argued the merits of Dr. Harley's new evidence: that he did not retract his original findings or reclassify the death, that "could be wrong" was only a professional caveat, and that the evidence did not justify discovery or an evidentiary hearing. *Respondent's Return* pp. 21-24. Stewart replied that these arguments concerned claims the PCR court never adjudicated. *Reply* pp. 5-9.

That is precisely why § 17-27-80 matters. The parties dispute the legal and evidentiary significance of Dr. Harley's affidavit, but there are no PCR court findings resolving those disputes for appellate review. Stewart asked this Court to remand, not to make those findings in the first instance. *Pet. pp. 7-11, 16; Reply pp. 4-5, 14.*

V. THE COURT OVERLOOKED THAT THE RECORD DEVELOPED IN THESE PROCEEDINGS ESTABLISHES A CONTINUING STATE-CREATED DEPRIVATION OF STEWART'S RIGHT TO A FAIR PROCESS AND MEANINGFUL APPELLATE REVIEW.

This constitutional issue does not depend upon allegations outside the record or upon a new claim presented for the first time on rehearing. The factual record establishing the deprivation was developed in proceedings before this Court, and Stewart expressly presented its constitutional significance. His April 20, 2026 Reply distinguished ordinary delay from state-created interference with the adjudicative process that prevented rulings on properly presented claims and deprived him of meaningful judicial review. *Reply to Respondent's Return in Opposition to Motion for Bond and Immediate or Conditional Release pp. 3-10.*

The record demonstrates that deprivation through a recurring series of procedural barriers affecting separate claims. First, Stewart presented his newly discovered jury misconduct claim to the circuit court in 2016. Although the court orally rejected the claim, no written appealable order was entered, preventing appellate review. *App. 999-1001, 1049, 1225; Reply to Respondent's Return in Opposition to Motion for Bond and Immediate or Conditional Release pp. 8-10.*

Second, the proceedings before this Court exposed a fundamental defect in the prior adjudication of Agent Al Stuckey's crime scene notes. Stewart discovered the previously

undisclosed notes in 2018 and raised them in PCR. *App. 1131, 1222, 1228-29*. The 2018 Respondent asserted that prosecutorial correspondence established the notes had been disclosed in 2003, and the resulting order relied upon that premise. *App. 1244, 1297*.

But the purported correspondence—identified as “Exhibit A”—is not in the 2018 PCR record. Stewart raised that discrepancy in his October 2, 2025 motion before this Court and supplied the complete 2018 PCR record showing that the only prosecutor correspondence in the record was the July 1, 2003 disclosure letter Stewart himself had filed, which did not list Stuckey's notes. *Motion for Court to Grant Leave to Raise Issue Before Court in its Original Jurisdiction pp. 1-3; App. 1215-16*.

Respondent's October 13, 2025 Return did not produce the purported correspondence. Instead, Respondent conceded that, more than six years after the 2018 hearing, it “cannot definitively assert” whether the attachment was or was not included in the Return or the judge's packet and “cannot conclusively say” what those packets contained. *Respondent's Return to Petitioner's Motion for Court to Grant Leave to Raise Issue Before Court in its Original Jurisdiction pp. 12-13*. Yet Respondent asked this Court to infer from the language of the 2018 order that the correspondence must have existed. *Id. at 13*. Stewart then again presented the problem in his April 20, 2026 Reply: no such correspondence appears in the record, and Respondent had failed to produce it despite direct challenge. *Reply to Respondent's Return in Opposition to Motion for Bond and Immediate or Conditional Release pp. 8-10*.

The constitutional consequence is not merely an evidentiary disagreement. The crime scene notes claim was denied on a factual premise—prior disclosure through purported correspondence—that the record before this Court does not substantiate. The record instead contains the prosecutor's disclosure correspondence showing Stuckey's notes were not listed

among the materials disclosed. *App.* 1215-16. A process in which an unsupported factual premise defeats review of material newly discovered evidence is not the fair adjudicative process due process requires.

The significance became greater in 2024. Dr. Harley's sworn statement revealed that the crime scene information reflected in Stuckey's notes had not been available to the State's own trial pathologist, and he considered the absence of blood significant in reassessing his original homicide conclusion. *App.* 1592-93. Thus, the earlier procedural barrier prevented fair consideration of evidence that later proved material to the State's own trial expert's reassessment.

Third, the present PCR proceeding repeated the same fundamental problem in another form. Stewart timely presented claims arising from Dr. Harley's March 2024 evidence, reasserted them in responses to the Conditional Order, and specifically identified their omission through Rule 59(e) and reply. *App.* 1536-40, 1588-90, 1619-21, 1625-28, 1654-56. Yet the Respondent-drafted orders addressed materially different issues and failed to adjudicate the claims actually presented. *Pet. pp.* 7-11; *Reply pp.* 2-9.

Viewed together, these are not merely adverse rulings. They are separate instances in which Stewart could not obtain meaningful appellate review because the adjudicative record necessary for that review was not properly created: the jury misconduct claim lacked a written order; the crime scene notes claim was denied upon purported disclosure correspondence absent from the record; and the claims arising from Dr. Harley's evidence were omitted from the current PCR orders despite Rule 59(e) preservation.

Stewart expressly presented this pattern before the Court ruled. His April 20, 2026 Reply identified the recurring sequence: material evidence is discovered; review is blocked through procedural or factual barriers; and the resulting rulings prevent meaningful appellate review.

Reply to Respondent's Return in Opposition to Motion for Bond and Immediate or Conditional Release pp. 8-10. Rehearing therefore does not ask the Court to entertain a new theory. It asks the Court under Rule 221(a), SCACR, to address the constitutional significance of material facts and arguments already developed in the proceedings before it.

VI. THE PROCEDURAL RECORD PRESENTS AN APPARENT CONFLICT WITH THIS COURT'S PRECEDENT.

The sequence is straightforward: Dr. Harley's March 2024 statements were filed with the April discovery materials; the Conditional Order did not adjudicate the current claims in that factual context; the August 23 affidavit was filed before the Final Order; the Final Order did not cure the omissions; and Stewart preserved them through Rule 59(e) and reply. *App. 1422-28, 1475-81, 1482-96, 1527-44, 1545-66, 1588-94, 1606-33, 1654-56.*

Respondent's Return reinforces the point. It defended the orders' reliance on prior PCR arguments as “shorthand,” acknowledged Stewart's Rule 59(e) preservation, and then supplied merits arguments the PCR court had never resolved. *Respondent's Return pp. 18-24; Reply pp. 3-9.*

Marlar directs applicants to use Rule 59(e) when a PCR order omits an issue; Reese vacated and remanded when the applicant did so but the PCR court still failed to make the required findings; and Inman confirms that § 17-27-80 remains enforceable. Stewart followed that procedure. If remand is not required here, the disposition leaves unresolved what remedy remains when an applicant does everything this Court's precedent requires yet the PCR court still does not make findings sufficient for appellate review.

VII. THE PRESENT DISPOSITION CREATES AN UNEXPLAINED DEPARTURE FROM THIS COURT'S LONGSTANDING INSISTENCE UPON A FAIR AND REVIEWABLE PROCESS.

The apparent conflict is not limited to § 17-27-80. This Court's cases reflect a broader and longstanding principle that constitutional rights require a fair process in which preserved claims can actually be adjudicated and reviewed. Stewart does not ask for a rule unique to his case; he asks for consistent application of the rules this Court has applied to other litigants.

That principle was reaffirmed unanimously in State v. Murdaugh, *Op. No. 28329* (S.C. filed May 13, 2026). There, this Court held that improper state official interference with the adjudicative process deprived the defendant of a fair trial and emphasized that South Carolina's justice system “provides—indeed demands—that every person is entitled to a fair trial.” State v. Murdaugh, *Op. No. 28329*, *slip op. at 1* (S.C. filed May 13, 2026).

Murdaugh involved a different procedural violation, but the governing principle is directly relevant: the integrity of the process itself matters. The Court acknowledged the “time, money, and effort” already expended but concluded it had “no choice” but to remedy the constitutional violation once the record established that the adjudicative process had been compromised. *Id.* The same commitment to fair process must inform review here.

Stewart seeks less drastic relief. He does not ask this Court on the present record to resolve the ultimate forensic disputes or vacate his conviction based solely upon the unresolved newly discovered evidence. He asks the Court to enforce the procedural protections South Carolina law already provides by requiring the PCR court to adjudicate the claims he actually presented and preserved, so meaningful appellate review can occur.

Yet the present disposition permits the opposite result. If a PCR court may omit properly presented claims, decline to correct those omissions after a Rule 59(e) motion specifically identifies them, and nevertheless obtain affirmance because an appellate court cannot review findings the PCR court never made, the procedural defect becomes self-insulating: the failure to adjudicate becomes the mechanism by which appellate review is defeated.

That result is difficult to reconcile with Pruitt v. State, McCullough v. State, Bryson v. State, Marlar v. State, Reese v. State, Fishburne v. State, Inman v. State, and now State v. Murdaugh. Unless the Court identifies a legally material distinction, the disposition creates an unexplained exception to procedural protections the Court has repeatedly enforced in other cases.

Due process cannot depend upon the identity of the litigant. Stewart respectfully asks for application of the same principle this Court recently expressed in Murdaugh: South Carolina's justice system demands fairness for “every person.” *Murdaugh, Op. No. 28329, slip op. at 1*. Rehearing would permit the Court either to apply its established rules here or identify the legally material distinction that makes those rules inapplicable.

VIII. REHEARING WOULD ALLOW THE COURT TO APPLY EXISTING PRECEDENT OR IDENTIFY A LEGALLY MATERIAL DISTINCTION.

Stewart does not presume the basis for the summary denial and does not seek a second merits review. The § 17-27-80 issue, Rule 59(e) preservation, missing Harley findings, due process significance of the developed record, and request for remand were all before the Court. *Pet. pp. 7-11; Reply pp. 2-9; Reply to Respondent's Return in Opposition to Motion for Bond and Immediate or Conditional Release pp. 8-10*. Rehearing would allow the Court to apply its established rules or identify the legally material distinction that makes them inapplicable here.

This is not a new argument of the kind rehearing forbids. See Kennedy v. S.C. Retirement Sys., 349 S.C. 531, 532, 564 S.E.2d 322, 322 (2001). It asks the Court to address the legal significance of issues and record facts already presented before disposition.

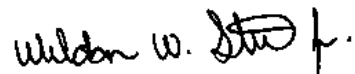
IX. THE COURT NEED NOT DECIDE THE ULTIMATE MERITS OF THE HARLEY EVIDENCE.

Stewart does not ask this Court to find that Dr. Harley established suicide or to resolve competing forensic opinions. Those unresolved disputes are the reason remand is necessary. The narrow issue is whether the PCR court could dispose of the current claims without the findings required by § 17-27-80 after Stewart expressly sought them through Rule 59(e). Under Reese, Marlar, Inman, Pruitt, McCullough, and Bryson, Stewart submits it could not.

CONCLUSION

For these reasons, Stewart respectfully requests rehearing; full-Court consideration to the extent permitted by law; withdrawal of the August 12, 2026 Order; certiorari on the preserved § 17-27-80 issue; and remand for a legally sufficient PCR order containing findings of fact and conclusions of law on Stewart's properly presented and preserved claims arising from Dr. Russell Harley's newly obtained evidence, together with any proceedings necessary for meaningful adjudication and appellate review.

Respectfully submitted,



Weldon W. Stewart, Jr. 295095
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina 29010
Pro Se Petitioner

August 14, 2026