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MAY - 5 2014

S.C. Supreme Court

May 5, 2014

The Honorable Daniel E. Shearhouse  
S.C. Supreme Court  
Post Office Box 11330  
Columbia, SC 29211

Re: Sammie Stokes vs. State  
2013-000635

Dear Mr. Shearhouse:

Pursuant to our conversation last Thursday in connection with the Stokes case, I request an extension to hold a reconstruction hearing. I've attached an e-mail from Mr. Bob Dudek which explains the reason for this request.

Very truly yours,

L. Casey Manning  
Fifth Judicial Circuit

Attachment

**Shearouse, Daniel**

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**From:** Manning, L. Casey  
**Sent:** Monday, May 05, 2014 11:31 AM  
**To:** Shearouse, Daniel  
**Subject:** FW: Sammie Stokes v. State, 2013-000635

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MAY - 5 2014

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**From:** Manning, L. Casey  
**Sent:** Monday, May 05, 2014 10:55 AM  
**To:** Manning, L. Casey Law Clerk (Eve Goodstein)  
**Subject:** FW: Sammie Stokes v. State, 2013-000635

S.C. Supreme Court

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**From:** Robert M. Dudek [RDudek@sccid.sc.gov]  
**Sent:** Wednesday, April 30, 2014 11:24 AM  
**To:** Manning, L. Casey  
**Cc:** [cmanningjlc@sccourts.org](mailto:cmanningjlc@sccourts.org); Don Zelenka  
**Subject:** Sammie Stokes v. State, 2013-000635

Judge Manning:

I understand our deadline to hold the reconstruction hearing in this case is Monday, May 5, 2014 as we discussed today. I have forwarded to Don Zelenka a scanned and a hard copy of what purports to be a copy (scanned by PCR counsel Lominack) of each of the two Applicant's exhibits (Thomas Sims research notebooks) that were apparently lost by the Orangeburg County Clerk of Court after their admission at the PCR hearing. I understand that Don will discuss the copies of these exhibits with Thomas Sims since these are copies of his research notebooks that were admitted at the PCR hearing and then lost. I have discussed the copies with Keir Weyble and Robert Lominack. There is the possibility this reconstruction hearing could end with a stipulation but there is also the possibility that there will need to be a full evidentiary hearing.

The present problems are my Mother died on April 17, 2014, and I have had to attend to her funeral and burial although I was only out of the office from Thursday, April 17 – Tuesday, April 22, 2014. Further, Don Zelenka is involved in the Torres death penalty PCR in Spartanburg before Judge Cole. I understand the Applicant's case restarted again today with no apparent end in sight since the state has not even begun its case.

If any additional information is required or desired please call upon me. Best –

Bob Dudek  
734-1955

Robert M. Dudek  
Chief Appellate Defender  
South Carolina Commission on Indigent Defense  
Appellate Division  
1330 Lady Street, Suite 401  
PO Box 11589  
Columbia, SC 29201-1589  
(803) 734-1330 – Telephone  
(803) 734-1397 – Fax

# The Supreme Court of South Carolina

Sammie Louis Stokes, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2013-000635

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## ORDER

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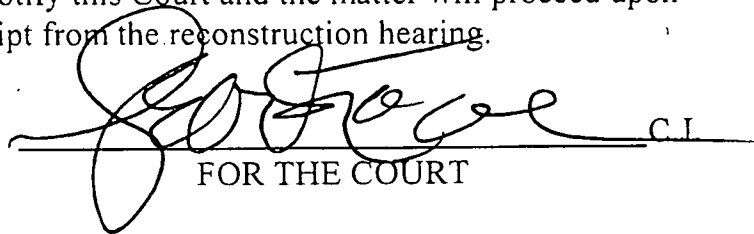
Robert Dudek, counsel for petitioner, states he has been unable to obtain two exhibits and "filed copies" of several documents from petitioner's post-conviction relief (PCR) action. Mr. Dudek moves this Court to issue a transportation order or, in the alternative, remand the case to the circuit court for a hearing to reconstruct the exhibits and documents.

Donald Zelenka has filed a return on behalf of the State in which he indicates he has copies of the documents Mr. Dudek seeks, but does not have copies of any of the exhibits from the PCR hearing. Mr. Zelenka submits that while reconstruction of the documents Mr. Dudek requests is not necessary, it may be necessary to conduct a reconstruction hearing with regard to the exhibits.

By way of reply, Mr. Dudek continues to submit that an order directing the Orangeburg County Clerk of Court to produce all of the missing exhibits and documents for transportation to this Court is the best course of action. He asserts that although Mr. Zelenka may have many of the missing documents, he believes "filed copies" are preferable and that the Clerk of Court's Office should locate them. In the alternative, Mr. Dudek moves the Court to remand the case to the circuit court for a reconstruction hearing.

We find the copies of the documents Mr. Zelenka has in his possession, which he shall provide to Mr. Dudek, although not "filed copies," will suffice for the record in this matter given the fact that "filed copies" are not available. However, we find a remand is necessary solely for the purpose of reconstructing Exhibits 2 and 3

from petitioner's post-conviction relief hearing (Volumes 1 and 2, respectively, of Thomas Sims' pre-trial research documents), as no copies of those exhibits can be located. We remand this matter to the Honorable L. Casey Manning for that purpose. See *Koon v. State*, 358 S.C. 359, 595 S.E.2d 456 (2004), *overruled on other grounds by State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005); *Whitehead v. State*, 352 S.C. 215, 574 S.E.2d 200 (2002); *China v. Parrott*, 251 S.C. 329, 162 S.E.2d 276 (1968); *State v. Ladson*, 373 S.C. 320, 644 S.E.2d 271 (Ct. App. 2007). A hearing should be held within 45 days of the date of this order. If Judge Manning determines reconstruction is not possible, he shall notify this Court and the parties within 15 days of the reconstruction hearing. If the record is reconstructed, the parties shall notify this Court and the matter will proceed upon petitioner's receipt of the transcript from the reconstruction hearing.

  
FOR THE COURT

Columbia, South Carolina

March 19, 2014

cc:

Keir M. Weyble, Esquire

Robert Edward Lominack, Esquire

Robert Michael Dudek, Esquire

Donald J. Zelenka, Esquire

Alan McCrory Wilson, Esquire

The Honorable L. Casey Manning

The Honorable Winnifa Brown-Clark