

# The Supreme Court of South Carolina

James Randolph Frady, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2012-207126

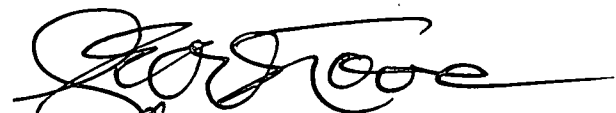
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## ORDER

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This matter is before the Court by way of a notice of appeal from an order denying petitioner's application for post-conviction relief (PCR). Petitioner now moves the Court to remand the matter to the circuit court for reconstruction of the record because a portion of the recording of the PCR hearing is inaudible and cannot be transcribed. Petitioner also requests the Court appoint counsel to represent petitioner at the reconstruction hearing. The State opposes the motion

We hereby grant the motion and remand this matter to the Honorable J. Cordell Maddox, Jr., to reconstruct the missing portion of the record in this matter. *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 to reconstruct the record should be held within 45 days of the date of this order. If Judge Maddox 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. Rodney Wade Richey is appointed to represent petitioner at the reconstruction hearing.

  
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C.J.

  
\_\_\_\_\_  
J.

*Donald W. Sealey* J.  
*John K. Street* J.  
*Raymond L. Hearn* J.

Columbia, South Carolina

August 10, 2012

cc:

Kaelon Elizabeth May

Breen Richard Stevens

James Randolph Frady #317328

Rodney Richey

The Honorable J. Cordell Maddox, Jr.