

The Supreme Court of South Carolina

Kandy Gilliard, Petitioner,

v.

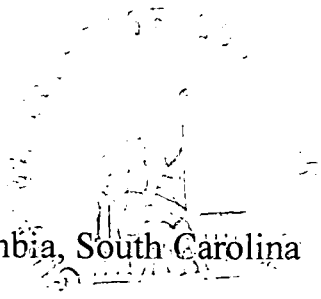
State of South Carolina, Respondent.

Appellate Case No. 2014-001425

ORDER

This matter is before the Court by way of a notice of appeal from an order of the circuit court finding petitioner is entitled to a belated review of the denial of her first application for post-conviction relief (PCR) pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). The State consented to the relief granted. However, counsel for petitioner has been informed the tapes of the proceedings in petitioner's first PCR action are not available for transcription. Accordingly, petitioner asks this Court to remand the matter to the circuit court for reconstruction of the record of those proceedings. The State has no objection to the request, noting it consented to petitioner receiving a belated review of the denial of her first PCR application.

We grant the motion and remand this matter to the Honorable Roger M. Young, Sr. to reconstruct the record of the March 14, 2007 hearing on petitioner's first PCR application. 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 Young 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.




C.J.
FOR THE COURT

Columbia, South Carolina

January 30, 2015

cc:

Ashleigh Rayanna Wilson, Esquire
Wanda H. Carter, Esquire
The Honorable Roger M. Young
The Honorable Julie Armstrong