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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO LEXINGTON COUNTY
Court of Common Pleas

The Honorable Edgar W. Dickson, Circuit Court Judge

Appellate Case No. 2015-002142

Quincy McCants, Petitioner,

v.

State of South Carolina, Respondent.

**Return to Petitioner’s Motion to Remand for
Reconstruction of Post-Conviction Relief Hearing
or the Granting of a New Trial**

In response to Petitioner’s Motion to Hold Appeal in Abeyance and Motion to Remand for Reconstruction of Post-Conviction Relief Hearing or the Granting of a New Trial, Respondent submits the following:

1. Respondent opposes Petitioner’s motion.
2. In its Order dismissing Petitioner’s application for post-conviction relief the PCR Judge made extensive factual findings – laying out thorough and detailed summaries of each witness’s testimony at the evidentiary hearing. These summaries are the best evidence of what actually occurred at the evidentiary hearing, and are sufficient to allow for meaningful appellate review.
3. Further, Petitioner has failed to identify any specific issues that cannot be reviewed absent a full reconstruction of the evidentiary hearing. *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) (denying request to remand for reconstruction of a post-conviction relief hearing after appellant failed to allege specifics regarding his assignments of error).
4. Petitioner’s contention that the exhibits are unable to be obtained is also incorrect. The exhibits introduced during the evidentiary hearing are available and on file at the Lexington County Clerk’s office, and attached to this motion. Many of these exhibits,

combined with the PCR Judge's summary of testimony, directly refute the claims Petitioner raised at the evidentiary hearing. Defendant's Exhibit 7, for example, outlines counsel's rationale for choosing not to hire an expert fingerprint analyst, specifically refuting Petitioner's fourth amended allegation.

5. Given Petitioner's failure to identify *any* specific issues that cannot be adequately reviewed, the PCR Judge's highly detailed summary of the testimony, and the availability of the exhibits presented during the evidentiary hearing, reconstruction of the record is unwarranted.
6. Alternatively, Respondent requests that Petitioner identify specific issues that cannot be adequately reviewed so that this Court can determine whether and to what extent reconstruction is actually necessary.
7. Finally, Petitioner has moved for a remand to reconstruct the record or a new trial. Even if this Court remands the matter to reconstruct the record and the lower court determines reconstruction is not possible, Petitioner has failed to present any reason this Court should grant a new trial rather than a new PCR evidentiary hearing.

Respondent therefore requests that Petitioner's motion be denied.

Respectfully submitted,

ALAN WILSON
Attorney General

PATRICK SCHMECKPEPER
Assistant Attorney General
S.C. Bar # 102100

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By: 
ATTORNEYS FOR RESPONDENT

October 3, 2016

STATE OF SOUTH CAROLINA
In The Supreme Court

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v.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Return to Petitioner's Motion to Remand for Reconstruction of Post-Conviction Relief Hearing or the Granting of a New Trial, has been served upon opposing counsel by mailing two (2) copies in the United States mail, postage prepaid:

Mrs. Tricia A. Blanchette
Law Office of Tricia A. Blanchette, LLC
PO Box 12725
Columbia, SC 29211

This 3rd day of October, 2016


FELICIA V. HAYES
LEGAL ASSISTANT



ALAN WILSON
ATTORNEY GENERAL

October 3, 2016

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S.C. SUPREME COURT

The Honorable Daniel E. Shearouse
Clerk of the South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: Quincy McCants v. State of South Carolina
Appellate Case No. 2015-002142
Lower Court Case No. 2009-CP-32-4236

Dear Mr. Shearouse:

Enclosed please find the original and six (6) copies of the **Return to Petitioner's Motion to Remand for Reconstruction of Post-Conviction Relief Hearing or the Granting of a New Trial** in the above mentioned case.

Sincerely,

Patrick Schmeckpeper
Assistant Attorney General
S.C. Bar # 102100

PS/fvh

cc: Tricia A. Blanchette, Esquire