

# The Supreme Court of South Carolina

Maurice A. Kelley, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2011-192810

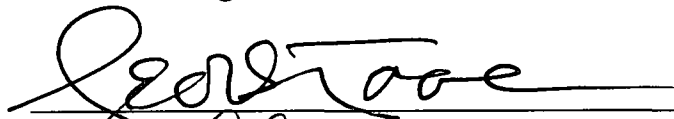
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## ORDER

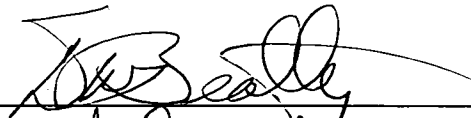
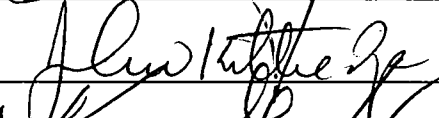

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Petitioner has filed a notice of appeal from an order of the circuit court finding he is entitled to an *Austin* review of the denial of his first application for post-conviction relief (PCR). However, the record of the hearing on petitioner's first PCR application is no longer available. Petitioner moves this Court to remand the matter to the circuit court for reconstruction of the record of that hearing. The State has filed a return in opposition to the motion.

We grant the motion and remand this matter to the Honorable L. Casey Manning to reconstruct the record of the 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 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.

  
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C.J.

  
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J.  
  
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J.  
  
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J.

Columbia, South Carolina

December 6, 2012

cc:

Robert Daniel Corney

Wanda H. Carter

**The Honorable L. Casey Manning**