

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Honorable Edgar W. Dickson, Circuit Court Judge

Dennis M. Temple,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT,

APPELLATE CASE NO. 2016-002254

SUPPLEMENTAL PROSE BRIEF

RECEIVED

MAY 29 2018

SC Court of Appeals

ARGUMENT

The PCR court erred in granting summary judgment to the state on the issue of ineffective assistance of appellate counsel, where there was a genuine issue of material fact established at a pre-trial hearing and where the transcript from that hearing was not included in the Record on Appeal.

"A new trial is appropriate if the appellant establishes that the incomplete nature of the transcript prevents the appellate court from conducting a meaningful appellate review." see STATE V. Ladson, 373 S.C. 320, 644 S.E.2d 271 (S.C. 2007)

We conclude from china and its progeny, combined with a review of the law of other jurisdictions, that our supreme court would require a reconstructed record on appeal to allow for "meaningful appellate review." A new trial is therefore appropriate if the appellant establishes that "the incomplete nature of the transcript prevents the

appellate court from conducting a meaningful appellate review". IN RE D.W. 171 N.C. APP. 496. 615 S.E. 2d 90, 94 (2005). See also State v. Chanze, 211 W. Va. 257, 565 S.E. 2d 379, 382-83 (2002) (finding criminal defendant is entitled to meaningful appellate review of his lower court proceedings, and if this is not possible from reconstructed record, a new trial is appropriate). See STATE v. Ladson, 373 S.C. 320, 644 S.E. 2d 271 (S.C. 2007).

Our fourth circuit stated "A criminal defendant has a right to a meaningful appeal based on a complete transcript. See Hardy v. United States, 375 U.S. 277, 279, 84 S. Ct. 424, 11 L. Ed. 2d 331 (1964). When a transcript is less than complete, the court must determine whether the alleged omissions or deficiencies justify a new trial. In United States v. Gillis, we held that whether an omission from a transcript warrants a new trial depends on whether the appellant has demonstrated that the omission "specifically prejudices his appeal..." 773 F. 2d 549, 554 (4th Cir. 1985).

CONCLUSION

For the foregoing reasons, Petitioner requests that the Court grant his Petition for writ of Certiorari to allow full briefing on this issue, reverse the charges against him, and remand the case for a new trial.

Dennis M. Temple

Dennis M. Temple # 274802

Perry Corr. Inst Q2A121

430 Oaklawn Road

Pelzer, South Carolina 29669

This 23 day of May 2018

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

RECEIVED

MAY 29 2018
SC Court of Appeals

IN RE: Dennis M. Temple v STATE
APPELLATE Case NO. 2016-002254

Dear Mr. Shearouse:

Please find enclosed petitioner supplemental Pro se Brief. I do believe that a order was issued in this case by chief Justice Beatty transferring this case to the South Carolina Court of Appeal. Please make sure it is in the right court. So it can be reviewed.

Thank YOU!

Dennis M. Temple
Dennis M. Temple, # 274002
Perry CORR. Inst. Q2A121
430 Oaklawn Road
Pelzer, South Carolina 29669

May 23, 2018

Dennis M. Temple, SCDC # 274802
PERRY Correctional Institution Q219121
430 Oaklawn Road
Pelzer, South Carolina 29669

RECEIVED

MAY 23 2018

P.C.I. MAILROOM

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

LEGAL MAIL