

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Spartanburg County  
Larry B. Hyman, Circuit Court Judge

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CHRISTOPHER HAMPTON,

V.

STATE OF SOUTH CAROLINA,

PETITIONER,

RESPONDENT

APPELLATE CASE NO. 2017-002374

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PETITION FOR ORDER  
TO RECONSTRUCT THE RECORD OF  
PETITIONER'S FIRST PCR HEARING

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Pursuant to Rule 240, SCACR, the undersigned counsel requests that the above titled appeal be held in abeyance until this Court rules on the Petition for Order to Reconstruct the Record of Petitioner's First PCR Hearing held on September 17, 2007, as such is needed to perfect a subsequent PCR Order signed by Judge Larry B. Hyman on October 4, 2017, granting petitioner's request for a belated PCR appeal per Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). Note that no prior extensions have been requested in this appeal. In support of the petition, counsel for petitioner would submit the following information.

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S.C. SUPREME COURT

1.) Petitioner pled guilty to murder on April 3, 2006, at the Spartanburg County General Sessions Court before Judge John C. Few and was sentenced to life imprisonment. Petitioner's pro se notice of appeal was improperly served and as a result, an Order dismissing the appeal was issued on June 26, 2013, and filed on July 19, 2013, by the South Carolina Supreme Court.

2.) On September 15, 2006, petitioner filed a PCR application with the Spartanburg County Office of the Clerk of Court. In response to this PCR action, a PCR hearing was convened on September 17, 2007, at the Spartanburg County Courthouse before Judge Roger L. Couch. On November 2, 2007, Judge Couch signed an Order of Dismissal, which was filed on November 5, 2007, denying petitioner's allegations of ineffective assistance of counsel in the case, but granting him a belated direct appeal under White v. State, 263 S.C. 110, 208 S.E.2d (1974). However, because PCR counsel failed to appeal Judge Couch's Order of Dismissal, petitioner did not enjoy the benefit of an appeal of his first PCR action or his belated direct appeal that was granted to him.

3.) Thereafter, petitioner filed a subsequent PCR action (2014-CP-42-1197) requesting a belated PCR appeal of his first PCR action pursuant to Austin v. State, supra, which also included the grant of a belated direct appeal per White v. State, supra. A PCR hearing was held for case number 2014-CP-42-1197 on November 9, 2015, at the Spartanburg County Courthouse before Judge Larry B. Hyman. On October 4, 2017, Judge Hyman issued an Order granting petitioner's request for an Austin review, which in effect included a belated direct appeal as well.

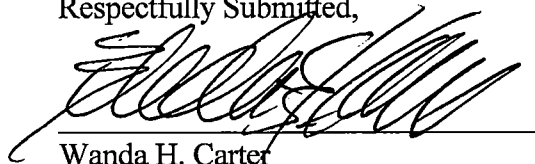
4.) A transcript of petitioner's trial court proceeding has been transcribed, but a transcript of petitioner's first PCR hearing held on September 17, 2007, has not been

transcribed. In order to perfect petitioner's belated Austin appeal, a transcript of petitioner's first PCR hearing is needed for appellate review, but it is unlikely that the record from that hearing is available since it has been five years since that hearing. Out of an abundance of caution, a request for the record of petitioner's first PCR hearing was placed and the response was that the record was not available. Thus, in light of these circumstances, counsel would request an Order to Reconstruct the first PCR hearing held on September 17, 2007.

5.) When a trial transcript has been lost or destroyed, the Court may remand to have the record reconstructed. See Whitehead v. State, 352 S.C. 215, 574 S.E.2d 200 (2002), and China v. Parrott, 251 S.C. 329, 162 S.E.2d 276 (1968). See also Deaton v. Leath, 279 S.C. 82, 302 S.E.2d 335 (1985), where the Court granted the appellant's motion to set aside their convictions and remand for a new trial where the court reporter's equipment malfunctioned and there was no transcript of the trial court proceedings in the case from which to base an appeal.

WHEREFORE, the undersigned counsel requests that this Court grant this Petition for an Order to Reconstruct the Record of Petitioner's First PCR Hearing in order for petitioner's Austin PCR appeal to be perfected.

Respectfully Submitted,



Wanda H. Carter  
Deputy Chief Appellate Defender

June 12, 2018

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Spartanburg County

Larry B. Hyman, Circuit Court Judge  
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CHRISTOPHER HAMPTON,

PETITIONER,

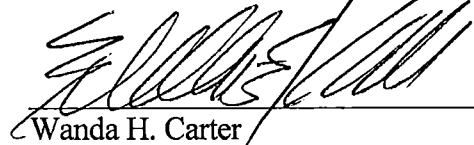
V.

STATE OF SOUTH CAROLINA,

RESPONDENT

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CERTIFICATE OF SERVICE  
\_\_\_\_\_

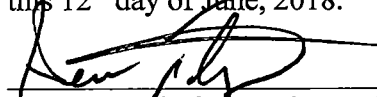
The undersigned attorney hereby certifies the Petition for Order to Reconstruct the Record of Petitioner's First PCR Hearing in the above referenced case has been served upon Jordan Cox, Esquire, Assistant General, Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Rm. 519, Columbia, SC 29201, this 12<sup>th</sup> day of June, 2018.

  
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Wanda H. Carter

Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

SUBSCRIBED AND SWORN TO before me  
this 12<sup>th</sup> day of June, 2018.

  
\_\_\_\_\_  
(L.S.)  
Notary Public for South Carolina  
My Commission Expires: October 30, 2022.



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

June 12, 2018

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S.C. SUPREME COURT

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

Re: Christopher Hampton v. State of South Carolina

Dear Mr. Shearouse,

Enclosed please find the original and six copies of the Petition for Order to Reconstruct the Record of Petitioner's First PCR Hearing in the above case.

If you have any questions concerning this matter, please contact me.

Sincerely,

Wanda H. Carter  
Deputy Chief Appellate Defender

WHC/smf

Enclosures