

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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NOV 26 2018

CERTIORARI TO CHARLESTON COUNTY
The Honorable Eugene C. Griffith, Circuit Judge

S.C. SUPREME COURT

APPELLATE CASE NO 2018-000004

Jonta Green,

Petitioner,

vs.

State of South Carolina,

Respondent.

**RESPONDENT'S MOTION FOR REMAND FOR SPECIFIC FINDINGS OF FACT AND
CONCLUSIONS OF LAW PURSUANT TO S.C. CODE SECTION 17-27-80**

This matter is before the court on Petitioner's appeal pursuant to Austin v. State challenging the denial of his post-conviction relief application. In this initial PCR action (2013-CP-10-6337) a hearing was held before the Honorable Eugene C. Griffith Jr. on February 18, 2015. The State was represented by former assistant attorney general Ashleigh Wilson and Petitioner was represented by James Falk. In a written order signed July 1, 2015, Judge Griffith denied relief and dismissed the application. On July 23, 2015, Petitioner filed a timely motion to reconsider pursuant to Rule 59(e), SCRCP asking the court rule on the three remaining issues not addressed in the original order and on July 29, 2015, Judge Griffith denied the motion. A notice of intent to appeal was not filed.

On December 9, 2015, Petitioner filed a second PCR application, 2015-CP-10-6633 seeking belated Austin review of his prior PCR. The State filed a return on August 11, 2016. On December 4, 2017, the parties entered into a consent agreement granting Petitioner a belated appellate review of his prior PCR pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). The Honorable Deadra L. Jefferson, acting in her capacity as Chief Administrative Judge of Charleston County Common Pleas, signed the order. A timely notice of intent to appeal was served on December 19, 2017.

Petitioner filed a petition for writ of certiorari on July 10, 2018. Petitioner raised the following issue: "The PCR judge erred in refusing to address in the order of dismissal all of the issues raised during the PCR hearing and included in the motion pursuant to Rule 59 (e). Pet. p. 4. Petitioner requested as relief that the "Court vacate the order of dismissal and remand the case to the circuit court for the issuance of an order that addresses, in addition to the issues included in the original order, the three issues omitted from the order of dismissal yet raised at the PCR hearing and in the Rule 59 (e) motion."

This case has been reassigned to undersigned counsel who has reviewed the record and the PCR order from Petitioner's initial PCR Proceeding. Respondent agrees that in the present case, remand is appropriate for detailed findings of fact and conclusions of law on the numerous issues raised. Therefore, Respondent moves that this case be remanded to enable the PCR court to issue an order in accordance with Section 17-27-80.

WHEREFORE, Respondent prays that this Court remand this matter to the PCR court so the PCR court may enter an amended order pursuant to Section 17-27-80.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Respondent's Motion for Remand for Specific Findings of Fact and Conclusions of Law Pursuant to S.C. Code Section 17-27-80 has been served upon the applicant by mailing one copy in the United States mail, postage prepaid, addressed to:

Kathrine H. Hudgins, Esquire
S.C. Commission on Indigent Defense
PO Box 11589
Columbia, SC 29211-1589

This 26th day of November, 2018.


Jennifer A. Jennison
Legal Assistant for Petitioner