

# The Supreme Court of South Carolina

Keshaun D. Jeter, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-000080

Lower Court Case No. 2015-CP-42-03800

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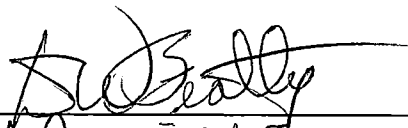
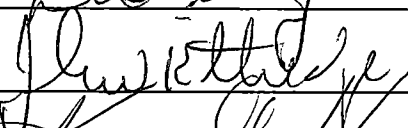
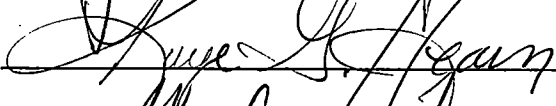

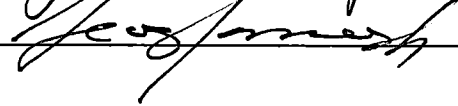
## ORDER

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Petitioner has filed a Notice of Appeal from Judge Stilwell's order denying his application for post-conviction relief. Because the court reporter has been unable to produce the transcripts of his trial and ensuing guilty plea transcripts, petitioner asks the Court to have an employee familiar with information technology to attempt to open the hard drive containing the trial and plea transcripts and transcribe them. In the alternative, he asks that his appeal be held in abeyance and the matter be remanded to reconstruct the record. The State has not filed a return to the motion.

We vacate Judge Stilwell's order and remand this matter to Judge Stilwell for the parties to explore the possibility of finding an expert to open the hard drive so that the trial and plea proceedings can be transcribed or, alternatively, reconstructing the record. *See Koon v. State*, 358 S.C. 359, 367, 595 S.E.2d 456, 460 (2004), *overruled on other grounds by State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005) (where a transcript has been lost or destroyed, a court may remand to have the record reconstructed). If a hearing to reconstruct the record is necessary, Judge Stilwell may consider testimony from anyone who participated in the proceedings, including the retired trial judge. *See China v. Parrott*, 251 S.C. 329, 162 S.E.2d 276 (1968) (trial judge properly considered affidavits of counsel and the court reporter in reconstructing the record where the court reporter's records were unavailable and the trial judge had no independent recollection of the proceeding). If no transcription can be produced and the record cannot be reconstructed, Judge Stilwell may consider whether a new trial is appropriate if petitioner establishes the transcripts are necessary for Judge Stilwell to conduct a

meaningful PCR proceeding. *See Adams v. H.R. Allen, Inc.*, 397 S.C. 652, 656–57, 726 S.E.2d 9, 12 (Ct. App. 2012) (when a record is reconstructed, the reconstructed record must allow for meaningful appellate review; 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).

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina

December 13, 2018

cc:

Jordan Adraine Cox, Esquire  
Joanna Katherine Delany, Esquire  
The Honorable Robin B. Stilwell