

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

February 21, 2019

The Honorable Julie J. Armstrong
100 Broad St Ste 106
Charleston SC 29401-2210

REMITTITUR

Re: Jonta Green v. State
Lower Court Case No. 2013CP1006337
Appellate Case No. 2018-000004

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

Daniel E. Shearouse
BS

CLERK

cc:

Kathrine Haggard Hudgins, Esquire
Benjamin Hunter Limbaugh, Esquire
Eugene C. Griffith, Jr., Esquire

The Supreme Court of South Carolina

Jonta Green, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-000004

Lower Court Case No. 2013-CP-10-06337

ORDER

Petitioner's application for post-conviction relief (PCR) and his timely Rule 59(e), SCRCP, motion were denied by Judge Griffith. No notice of appeal was served. Petitioner seeks a writ of certiorari from an order issued by Judge Jefferson finding Petitioner was entitled to a belated review of Judge Griffith's order pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). The State has filed a motion to remand, in essence, conceding that Judge Griffith did not address all of the issues raised by Petitioner at the PCR hearing.

We grant the petitions for writs of certiorari from the orders of both Judge Jefferson and Judge Griffith and dispense with further briefing.

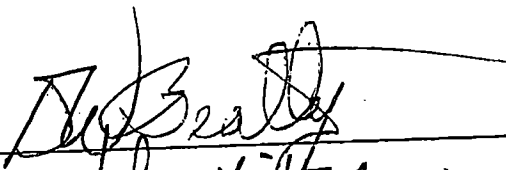
Both parties were asked by Judge Griffith to submit proposed orders. The order signed by Judge Griffith, presumably prepared by the State, sets forth the following issues on which Petitioner proceeded at the PCR hearing—ineffective assistance of counsel for failing to investigate and call certain witnesses, stipulating the gun belonged to Petitioner, failing to object to hearsay evidence, and failing to advise Petitioner of counsel's serious medical issues resulting from brain surgery. However, the order discusses only the allegations concerning the failure to call witnesses and the stipulation about the gun. Although Petitioner argued in his Rule 59(e) motion that Judge Griffith erred in failing to address all of the issues raised, Judge Griffith summarily denied the motion.

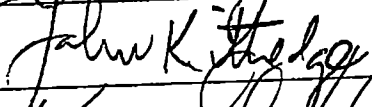
In his petition for a writ of certiorari, Petitioner again argues Judge Griffith erred in failing to address all of the allegations raised at the PCR hearing. The State concedes this was error and moves to remand this matter to Judge Griffith for a

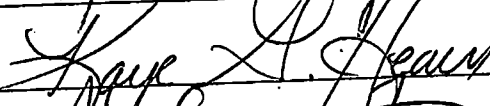
new PCR order.

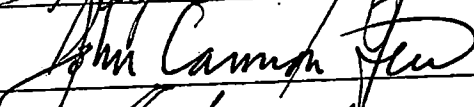
This Court has recently addressed our continuing concerns over PCR orders that do not comply with S.C. Code Ann. § 17-27-80 (2014) (requiring the PCR court to "make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented"), and Rule 52(a), SCRCP ("In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon"). See *Reese v. State*, 425 S.C. 108, 110, 820 S.E.2d 376, 377 (2018) ("Counsel preparing proposed orders should be meticulous in doing so, opposing counsel should call any omissions to the attention of the PCR judge prior to issuance of the order, and the PCR judge should carefully review the order prior to signing it." (quoting *Pruitt v. State*, 310 S.C. 254, 256, 423 S.E.2d 127, 128 (1992))). In *Reese*, we noted *Pruitt* was decided twenty-six years earlier and cited numerous cases in which we repeated the law and our admonition that we expected it to be followed. *Id.* at 109-11, 423 S.E.2d at 377-78.

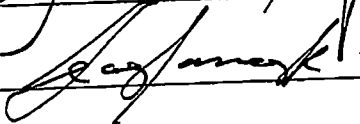
Because there was evidence presented at the PCR hearing on the issues raised by Petitioner, Judge Griffith's order, which did not rule on the merits of all of the issues raised, did not comply with the law. Accordingly, we vacate Judge Griffith's orders dismissing Petitioner's PCR application and denying the Rule 59(e) motion and dismiss the proceedings before this Court without prejudice. This matter is remanded to Judge Griffith to issue a PCR order containing specific findings on each of the allegations raised by Petitioner at the hearing and in his Rule 59(e) motion. The new PCR order shall be issued within thirty (30) days of the date of this order. Judge Griffith shall notify this Court, in writing, that he has complied with this order. Following the issuance of a legally sufficient PCR order and a ruling on any Rule 59(e) motion, the aggrieved party may serve and file a new Notice of Appeal.


_____ C.J.


_____ J.


_____ J.


_____ J.


_____ J.

Columbia, South Carolina

February 01, 2019

cc:

Kathrine Haggard Hudgins, Esquire
Benjamin Hunter Limbaugh, Esquire
The Honorable Eugene C. Griffith, Jr.
The Honorable Deadra L. Jefferson
The Honorable Julie J. Armstrong