

The Supreme Court of South Carolina

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February 21, 2019

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

REMITTITUR

Re: Terrell McCoy v. State
Lower Court Case No. 2013CP1001994
Appellate Case No. 2017-000755

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
DS

CLERK

cc:

Clarissa Warren Joyner, Esquire
Megan Harrigan Jameson, Esquire

The Supreme Court of South Carolina

Terrell McCoy, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2017-000755

Lower Court Case No. 2013-CP-10-01994

ORDER

Petitioner has filed a petition for a writ of certiorari, following the denial of his application for post-conviction relief (PCR). Petitioner's arguments to this Court encompass allegations of (1) ineffective assistance of counsel against standby trial counsel for failing to warn him about the dangers of self-representation, (2) error by the PCR judge in denying petitioner's request to relieve PCR counsel and proceed *pro se* at the PCR hearing, and (3) multiple claims of ineffective assistance of appellate counsel. We grant the petition for a writ of certiorari and dispense with further briefing.

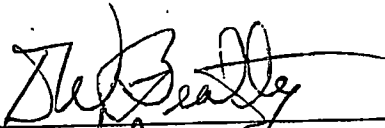
Our review of the Appendix indicates Petitioner raised numerous issues in his PCR application and at the PCR hearing. At the conclusion of the hearing, the PCR judge announced that she would issue a form order that day denying the PCR application. The PCR judge asked the State to submit a proposed, formal order and to transmit a copy to opposing counsel. The PCR judge noted that she expected to rewrite portions of the State's proposed draft so the final version would conform to her own preferences as to PCR orders.

Upon reviewing the order denying Petitioner's PCR application, we conclude many of the issues Petitioner presented to the PCR judge were not ruled upon. For example, the PCR judge issued a broad ruling finding appellate counsel was effective before addressing only two of the specific issues raised by petitioner—the failure to appeal the denial of a motion under *Batson v. Kentucky*, 476 U.S. 79

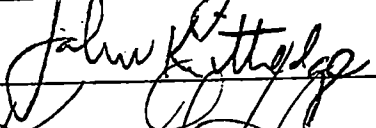
(1986), and a request for a jury charge. Petitioner filed a Rule 59(e), SCRCP, motion, which arguably preserved several additional issues that were presented at the PCR hearing. However, the PCR judge issued an order summarily denying Petitioner's Rule 59(e) motion without specifically discussing the issues raised by Petitioner.

This Court 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 (stating "[i]n 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 we cited numerous cases reiterating the law and our admonition that it be followed. *Id.* at 109-11, 423 S.E.2d at 377-78.

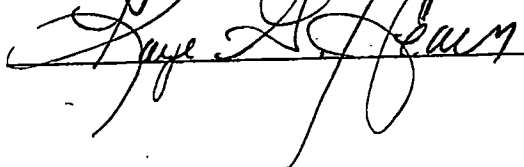
Because the PCR judge's orders denying Petitioner's PCR application and his Rule 59(e) motion did not rule on the merits of all of the issues properly presented, the orders did not comply with the law. Accordingly, we vacate the orders dismissing Petitioner's PCR application and denying the Rule 59(e) motion, and we dismiss the proceedings before this Court without prejudice. This matter is remanded to the PCR judge to issue an order that contains specific findings on each of the allegations raised by Petitioner at the PCR 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. The PCR judge shall notify this Court, in writing, that she has timely 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.



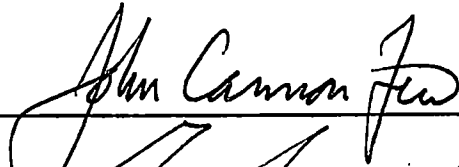
C.J.

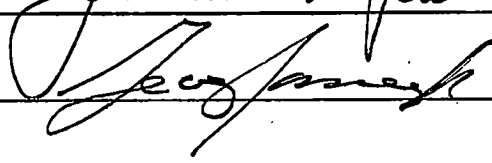


J.



J.



J.


J.

Columbia, South Carolina

February 01, 2019

cc:

Clarissa Warren Joyner, Esquire
Megan Harrigan Jameson, Esquire
The Honorable Deadra L. Jefferson
The Honorable Julie J. Armstrong