



The Supreme Court of South Carolina

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February 14, 2020

The Honorable Lisa M. Comer
205 East Main Street
Suite 128
Lexington SC 29072

REMITTITUR

Re: Michael J. Young, Jr. v. State
Lower Court Case No. 2012CP3204648
Appellate Case No. 2020-000115

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,

CLERK

cc:
Elizabeth Anne Franklin-Best, Esquire
Lillian Loch Meadows, Esquire

The Supreme Court of South Carolina

Michael James Young, Jr., Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2020-000115

Lower Court Case No. 2012CP3204648

ORDER

Petitioner asks this Court to grant him a belated appeal in the above post-conviction relief (PCR) case pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). He also seeks to have the Division of Appellate Defense appointed to represent him in this appellate case.

Since relief under *Austin* must be sought by filing an application for post-conviction relief in the circuit court,¹ this matter is dismissed without prejudice to whatever right petitioner may have to seek relief under *Austin* by filing

¹ See *Odom v. State*, 337 S.C. 256, 523 S.E.2d 753, 755-756 (1999) ("This Court has allowed successive PCR applications where the applicant has been denied complete access to the appellate process. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). . . . A PCR applicant is entitled to an *Austin* appeal if the PCR judge affirmatively finds either: (1) the applicant requested and was denied an opportunity to seek appellate review; or (2) the right to appellate review of a previous PCR order was not knowingly and intelligently waived. See *King [v. State]*, 308 S.C. at 348, 417 S.E.2d at 868. If the PCR court finds an applicant was denied his right to appeal, the applicant can petition for certiorari and this Court will review whether the petitioner was prejudiced by the failure to obtain appellate review. *Id.*; see *King*, 308 S.C. at 349, 417 S.E.2d at 868 (outlining the procedure used to seek review pursuant to *Austin v. State*; *Wicker v. State*, 310 S.C. 8, 425 S.E.2d 25 (1992).")

an application for post-conviction relief in the circuit court. The motion to appoint the Division of Appellate Defense is denied as moot.



FOR THE COURT C.J.

Columbia, South Carolina
January 29, 2020

cc: Elizabeth Anne Franklin-Best, Esquire
Lillian Loch Meadows, Esquire
Division of Appellate Defense