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CHIEF JUSTICE

State of South Carolina
The Circuit Court of the Tenth Judicial Circuit

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S.C. SUPREME COURT

J. Cordell Maddox, Jr.
Judge

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February 28, 2013

Re: James Randolph Frady v. State of South Carolina, Appellate Case No. 2012-207126

Dear Chief Justice Jean Hoefler Toal;

This matter came before the court by way of an Order of the Supreme Court of South Carolina dated August 10, 2012, to reconstruct the missing portion of the record from the PCR hearing.

In accord with the order, I held a hearing on February 25, 2013 in Oconee County. Present at the hearing was Karen C. Ratigan of the Attorney General's Office, Rodney Richey, counsel for petitioner, petitioner, and witness Chuck Allen. Upon review of the transcript and consideration of issues presented at the hearing, I have determined that the record could not be reconstructed adequately.

The missing portion of the record contained all or portions the direct and cross examination of the petitioner and two witnesses, as well as the direct examination of witness Chuck Allen. The State presented extensive notes taken by Kaelon E. May, formerly of the Attorney General's Office, at the original hearing. The State asked the court to admit the notes as the best evidence of the record, as a means to reconstruct the record. Mr. Richey objected to this manner of reconstruction as potentially biased.

Although Chuck Allen and the petitioner were present and prepared to re-testify, the two additional witnesses whose testimony was absent from the original record, Michael and Tammy Harper, were not present.

Given these issues, as well as the gravity of the charge and the potential sentence, it is my conclusion that the record could not be sufficiently reconstructed at this hearing.

J. Cordell Maddox, Jr.

Walhalla, South Carolina
February 27, 2013

cc:

Justice Costa M. Pleicones
Justice Donald W. Beatty
Justice John W. Kittredge
Justice Kaye G. Hearn
Beverly Whitfield
Karen C. Ratigan
Rodney Richey
James Randolph Frady #317328