

# The Supreme Court of South Carolina

Jacoby Fields, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2020-001229

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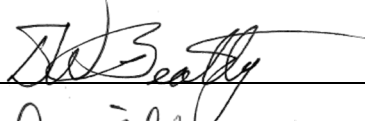
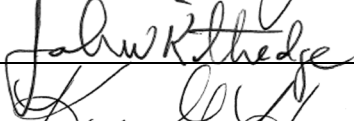
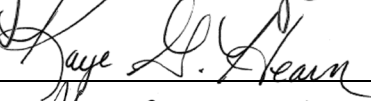


## ORDER

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This matter is before the Court by way of a notice of appeal from an order of the circuit court finding Petitioner is entitled to a belated appellate review of the order issued in Petitioner's first post-conviction relief (PCR) action pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 396 (1991). However, Petitioner's counsel states the record of Petitioner's first PCR hearing is not available. Accordingly, counsel asks this Court to hold the appeal in abeyance and remand the case to the circuit court for reconstruction of the record of the PCR hearing. The State has not filed a return to the motion.

We hereby hold this appeal in abeyance and remand the matter to the Honorable Deadra L. Jefferson to reconstruct the record of the evidentiary hearing on Petitioner's first PCR application. See *Koon v. State*, 358 S.C. 359, 595 S.E.2d 456 (2004), *overruled on other grounds by State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005); *China v. Parrott*, 251 S.C. 329, 162 S.E.2d 276 (1968); *State v. Ladson*, 373 S.C. 320, 644 S.E.2d 271 (Ct. App. 2007). Petitioner's counsel shall contact counsel for the State and Judge Jefferson within ten (10) days of the date of this order to schedule such hearings as Judge Jefferson deems appropriate. Petitioner's counsel shall provide an update to the Clerk of this Court no later than fifteen (15) days of the date of this order, and every fifteen (15) days thereafter, with copies of the updates provided to counsel for the State. If Judge Jefferson determined reconstruction is not possible, she shall immediately notify this Court and the parties of that determination. If the record is reconstructed, Petitioner's counsel shall notify this Court, and the matter will proceed upon Petitioner's receipt

of the transcript from the reconstruction hearing.

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

Columbia, South Carolina  
March 9, 2021

cc: Benjamin Hunter Limbaugh, Esquire  
Robert Michael Dudek, Esquire  
Taylor D. Gilliam, Esquire