

PCR Judgment signed and received on Jan 3, 2025

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Jerome Curry,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
)) CASE NOS. 2020-CP-10-05357 AND
) 2022-CP-10-02017
)) **ORDER HOLDING ACTIONS**
) **IN ABEYANCE**
)
)
)
)
)FILED
2024 DEC 19 PM 4:51
JULIE J. ARMSTRONG
CLERK OF COURT

This matter is before the Court by way of applications for post-conviction relief (PCR) filed by Jerome Curry (Applicant) challenging two separate convictions. On December 4, 2020, and November 30, 2022, Applicant filed PCR applications (2020-CP-10-4357, 2022-CP-10-5515) challenging a May 8, 2012 plea to indecent exposure. Respondent filed a return, motion to merge, and motion to dismiss the actions as untimely and successive to his prior PCR action from this same conviction. On May 8, 2023, the Honorable Roger M. Young issued a Conditional Order of Dismissal merging the 2022 action into the 2020 action, provisionally dismissing the actions, and providing Applicant twenty days to set forth reasons the applications should not be dismissed. Prior to the issuance of a Final Order, however, Respondent expressed concerns about Applicant's competency. As a result, Judge Young ordered counsel for Applicant be appointed and the matter be set for a hearing.

On May 2, 2022, Applicant filed a PCR application challenging an October 21, 2012 plea to attempted armed robbery (2022-CP-10-02017). Respondent filed a return requesting an evidentiary hearing. Christopher L. Murphy, Esquire, was appointed to represent Applicant. Prior to the hearing, however, Applicant moved to relieve counsel and proceed pro se. On April 19, 2023, the Court issued an order relieving counsel and ordering the matter be set for the June

2023 PCR term in the Ninth Judicial Circuit. A hearing was set; however, at that time Respondent expressed concerns about Applicant's competency and ability to proceed pro se. As a result, the Court appointed Blake Abbott, Esquire, as guardian ad litem for Applicant. Thereafter, on March 25, 2024, the Court issued an order requiring the Department of Mental Health to conduct a Competency to Stand Trial evaluation pursuant to State v. Blair.

On December 19, 2024, a status conference for both cases convened before the Undersigned. At that time, the parties informed the Court that the Department of Mental Health had issued a report finding Applicant lacks the capacity to proceed with PCR and stand trial; Applicant's capacity is likely to restore in the foreseeable future; and "there is no mechanism for competency restoration for PCR at this time." This Court has had the opportunity to review the report. Additionally, this Court has had the opportunity to observe Mr. Curry and question him during the hearing. Based on the foregoing, this Court finds Applicant lacks the capacity at this time to represent himself pro se or assist his counsel in pursuing his PCR actions. This Court further finds the ^{South Carolina Department of Corrections and} Department of Mental Health shall take whatever steps are available to attempt to restore Applicant to competency. Finally, this Court finds good cause to hold this matter in abeyance until such time as Applicant's competency is restored.¹

[Signature page follows]

¹ This Court is aware Applicant has several pending pro se motions, including Motions for Summary Judgement; Motions for Default Judgement; Motions to Compel Respondent to produce documents; Motions to Hold Respondent in Contempt; Motions to Relieve counsel in his 2020 action; and, alternately, Motions to have counsel appointed in his 2022 action. This Court finds Applicant should be restored to competency before his motions to relieve and/or appoint counsel are heard. This Court further finds the remaining motions should not be ruled upon until such time as Applicant's competency is restored and the issue of whether he will proceed pro se or with counsel has been resolved.

IT IS THEREFORE ORDERED: ^{and SCDC}


1. The Department of Mental Health shall take any steps available to restore Applicant to competency;
2. These PCR actions (2020-CP-10-05357 and 2022-CP-10-02017) shall be held in abeyance Applicant's competency is restored; and
3. Applicant shall be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED THIS ^{19th} day of December, 2024.


JOCELYN NEWMAN

Presiding Judge
Ninth Judicial Circuit

Charleston, South Carolina

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., C.S. & F.C.
By 
DEPUTY CLERK

21

APPEAL TRANSMITTAL SHEET (non-death penalty)

Transmittal to 4CCA of notice of appeal filed: <u>10/24/24</u> <input checked="" type="checkbox"/> First NOA in Case <input type="checkbox"/> Subsequent NOA-same party <input type="checkbox"/> Subsequent NOA-new party <input type="checkbox"/> Subsequent NOA-cross appeal <input type="checkbox"/> Paper ROA <input type="checkbox"/> Paper Supp. Vols: _____ Other: _____	District: South Carolina Division: Rock Hill Caption: Jerome Curry v. Kirkland Corr Inst.	District Case No.: 0:24-cv-01674-JDA 4CCA No(s) for any prior NOA: 4CCA Case Manager:
Exceptional Circumstances: <input type="checkbox"/> Bail <input type="checkbox"/> Interlocutory <input type="checkbox"/> Recalcitrant Witness <input type="checkbox"/> Other _____		
Confinement-Criminal Case: <input type="checkbox"/> Death row-use DP Transmittal <input type="checkbox"/> Recalcitrant witness <input type="checkbox"/> In custody <input type="checkbox"/> On bond <input type="checkbox"/> On probation Defendant Address-Criminal Case:	Fee Status: <input type="checkbox"/> No fee required (USA appeal) <input type="checkbox"/> Appeal fees paid in full <input checked="" type="checkbox"/> Fee not paid If the fee has not been paid, please check one of the following: Criminal Cases: <input type="checkbox"/> Defendant proceeded under CJA in district court. <input type="checkbox"/> Defendant did not proceed under CJA in district court. Civil, Habeas & 2255 Cases: <input checked="" type="checkbox"/> Court granted & did not revoke IFP status (continues on appeal) <input type="checkbox"/> Court granted IFP & later revoked status (must pay fee or apply to 4CCA) <input type="checkbox"/> Court never granted IFP status (must pay fee or apply to 4CCA)	
District Judge: Jacquelyn D Austin	PLRA Cases: <input type="checkbox"/> Proceeded PLRA in district court, no 3-strike determination (must apply to 4CCA) <input type="checkbox"/> Proceeded PLRA in district court, determined to be 3-striker (must apply to 4CCA)	
Court Reporter (list all): Coordinator:	Sealed Status (check all that apply): <input type="checkbox"/> Portions of record under seal <input type="checkbox"/> Entire record under seal <input type="checkbox"/> Party names under seal <input type="checkbox"/> Docket under seal	
Record Status for Pro Se Appeals (check any applicable): <input checked="" type="checkbox"/> Assembled electronic record available upon request <input type="checkbox"/> Additional sealed record available upon request <input type="checkbox"/> Paper record or supplement available upon request <input checked="" type="checkbox"/> No in-court hearings held <input type="checkbox"/> In-court hearings held – all transcript on file <input type="checkbox"/> In-court hearings held – all transcript not on file <input type="checkbox"/> Other:	Record Status for Counseled Appeals (check any applicable): <input type="checkbox"/> Assembled electronic record available upon request <input type="checkbox"/> Additional sealed record available upon request <input type="checkbox"/> Paper record or supplement available upon request <input type="checkbox"/> No in-court hearings held <input type="checkbox"/> In-court hearings held – all transcript on file <input type="checkbox"/> In-court hearings held – all transcript not on file <input type="checkbox"/> Other:	

Deputy Clerk: Amanda D. Hilley Phone: 803-765-5063 Date: 10/25/24