

The South Carolina Court of Appeals

The State, Respondent,

v.

Zachary David Hughes, Appellant.

Appellate Case No. 2025-000367

ORDER

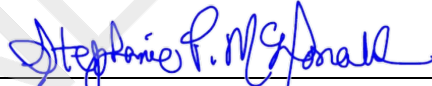
On June 22, 2026, the State filed a motion requesting permission to exceed the page limitations set forth in Rule 208(b)(5) of the South Carolina Appellate Court Rules. The State informed this court that Appellant consented to the motion. The motion is granted, and the initial brief filed on June 22, 2026, is accepted as filed.

On June 30, 2026, Appellant filed a motion to stay his appeal and remand this matter to the circuit court so that he may file a motion for a new trial based on after-discovered evidence. Appellant argues that (1) "[b]oth before and during Appellant's trial, the State repeatedly denied the existence of crucial, exculpatory evidence that would have aided the Appellant in asserting the defense of others as a legal justification to the offenses for which he stood trial," (2) "thirteen months after Appellant's trial concluded and Appellant was sentenced to life imprisonment, the State admitted to the existence of this evidence," and (3) this "drastic and irreconcilable change in the State's position vis-à-vis this crucial evidence can only be explained in one of two ways: either the State has become aware of newly discovered evidence that has validated Appellant's characterization of this evidence, or the State intentionally misrepresented to the trial court that this evidence did not exist." On July 1, 2026, the State filed a return, opposing the motion to remand because it "would ultimately be futile and duplicative of the other issues raised on appeal."

After careful consideration, we grant Appellant's motion to hold his appeal in abeyance and remand to the circuit court for consideration of Appellant's motion for a new trial based on after-discovered evidence. *See* Rule 29(b), SCACR ("A

motion for a new trial based on after-discovered evidence may not be made while the case is on appeal unless the appellate court, upon motion, has suspended the appeal and granted leave to make the motion."); *State v. Spann*, 334 S.C. 618, 619-20, 513 S.E.2d 98, 99 (1999) ("In order to prevail in [a] new trial motion, [the] appellant must show the after-discovered evidence: (1) is such that it would probably change the result if a new trial were granted; (2) has been discovered since the trial; (3) could not in the exercise of due diligence have been discovered prior to trial; (4) is material; and (5) is not merely cumulative or impeaching.").

Within ten days of the date of this order, Appellant shall notify the presiding judge of this order. Thereafter, Appellant shall provide this court with written status updates every thirty days until the circuit court rules on the issues on remand. Upon receipt of the ruling by the circuit court, Appellant shall provide this court with the circuit court's written ruling within ten days of receipt. Failure to file status updates or provide this court with a copy of the written ruling will result in dismissal of this appeal.



FOR THE COURT

J.

Columbia, South Carolina

cc:

Andrew Burke Moorman, Sr., Esquire

Alan McCrory Wilson, Esquire

Melody Jane Brown, Esquire

L. Mark Moyer, Esquire

Honorable Patrick C. Fant, III

Jay Gresham