

STATE OF SOUTH CAROLINA
COURT OF APPEALS

VS.

LAMONT ANTONIO SAMUEL

APPELLANT

RECEIVED

APR 19 2023

SC Court of Appeals

7
THE SOUTH CAROLINA COURT OF APPEALS
APPELLATE CASE NO. 2020-001612
" MOTION FOR REHEARING "

Comes Now Appellant moves before this Honorable Court with a "Motion for Rehearing" pursuant to SC ST §14-8-200 and *Matters of Haddock*, 283 SC 116 (1984) *Penson v. Ohio* 498 U.S. 75 (1988) *Cameron v. Lefevre* 887 F. Supp 425 (1995); *Griffin v. Illinois* 351 U.S. 12 (1956).

1. On January 12, 2023, Appellant receive the order from the SOUTH CAROLINA COURT OF APPEALS granting his motion for STAY and motion for extension of time, and denied Appellants request to compel Attorney Thomas Sims to return his legal documents.
2. Appellant contends that in his motion for stay, Paragraph 3, Appellant addressed to this court that he needed to retrieve those letters from Appellant trial Attorney Thomas Sims in order to fully and fairly exhibit his case.
3. On January 23, 2023, Appellant receive A letter from Attorney Thomas Sims where he admitted that "he received my most recent letter with the information from and to the Supreme Court." Attorney Thomas Sims stated in his letter that "I am going to send you (Appellant) the paper documents that I have in my file for you to use in whatever way you will. They will come by separate mail." See enclosed letter.
4. On January 24, 2023, Appellant receive A letter from THE SOUTH CAROLINA COURT OF APPEALS. The accompanying proof of service is not in compliance with the SCACR. Your proof of service must show that you served all counsel of record to include attorneys David Alexander, Esquire and Melody Brown, Esquire. Appellant records reflect that Appellant did corrected the deficiency within the 10 days deadline. "See enclosed letter."
5. On March 23, 2023, Appellant receive another letter from Trial Attorney Thomas Sims where he admitted that "he have again looked through the files and found the enclosed documents. Attorney Thomas Sims admitted "he did make one or more of those a court exhibit." See enclosed letter." Appellant received this letter from Attorney Thomas Sims on April 4, 2023, Appellant still did not received those letters from Trial Attorney Thomas Sims after he admitted he was gone send them by separate mail and that was every since January 23, 2023. Both letters are enclosed and I have served All Attorneys including Thomas Sims (Attorney).
6. Appellant contends that pursuant to SC ST §14-8-200 this court has the same authority as the SOUTH CAROLINA SUPREME COURT to entertain petitions for writ of certiorari. South Carolina's Supreme Court has establish in *Matters of Haddock* 283. SC 116 (1984) that and Appellants case file and discovery belongs to him and that his defense Counsel has no right to keep his discovery material and must return it to him.

7. Appellant contends that his Appellate counsel gross negligence in filing an inadequate Anders Brief, not apprising him of his rights to appeal, failing to fully investigate his case and failing to retrieve these very important legal documents from his trial Attorney Thomas Sims that proves his innocence, amounted to him abandoning Appellate at a "Critical Stage" which violate his sixth amendment right to counsel and 14th Amendment right to due process to represent himself on Appeal. See *Person v. Ohio* 488 U.S. 75 (1988), *Anders v. California* 38 U.S. 730 (1967) U.S. v. *Cronic* 466 U.S. 654 (1984) *Douglas v. California* 372 U.S. 353 (1963) *Evitts v. Lucey* 469 U.S. 387 (1985) Appellant contends that in U.S. v. *Burnett* 989 F.2d 100 (1993) 2d Cir) "The Court of Appeals, Cardamone, Circuit Judge held that (1) defense counsel's Anders Brief was inadequate and (2) defense counsel was not entitled to award of attorney fees under Criminal Justice Act. Denial of attorney fee under Criminal Justice Act is justified where Anders Brief is all practical purposes worthless. Appellant contends that his case is so strikingly similar both legally and factually contends to the U.S. v. *Burnett* under the equal protection clause, the same treatment must apply. Appellant contends that he has never ever receive those legal documents from his trial Attorney Thomas Sims.

8. Appellant contends that according to clearly established state and Federal Laws supported by the united states Supreme Court that unjustifiable inordinate delays in furnishing and Appellant legal documents needed for perfection of his appeal violated his rights to due process, and warranted a conditional order that prisoner be released if appeal was not heard in reasonable time. See *Cameron v. Lefevre* 887 F. Supp 425 (1995); *Griffin v. Illinois* 351 U.S. 12 (1956).

9. Appellant contends that his Appellate counsel gross negligence in filing an inadequate Anders Brief, failing to fully investigate his case according to the transcript of record: Transcript November 5, 2020 Page 24 lines 15-21 "Mr. Sims: I have been given these letters. What I'll do is make copies for Mr. Sorenson so he can have copies of them, but I just received them myself." "The Court": Yes as I will note on the record. Let the record reflect that Mr. Sims just received those letters from Mr. Samuel's mother. See Transcript November 5, 2020.

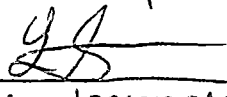
10. Transcript December 1-3 2020 Page 425 lines 14-21, Also See Transcript Page 434 lines 8-10 "The Court:" "If somebody looks at this on appeal. they've got some context to use to understand what your clients been talking about. Appellant contends that if trial Attorney Thomas Sims would have been sent those legal documents Appellant would not have had to file a "motion to compel" Instead Appellant could have file his pro se brief in a timely fashion had Appellant trial Attorney Thomas Sims sent those legal documents when Appellant first requested them. Enclosed are both of Attorney Thomas Sims most recent letters where he constantly delay Appellant in furnishing Appellant legal documents in order to fully and fairly exhibit his case.

11. Appellant contends that the record reflects that the trial court Judge stated "If somebody looks at this on appeal, they've got some context to use to understand what Appellant been talking about. Appellant contends that on May 4, 2021 Appellant receive a letter from Appellate Counsel David Alexander where he stated "It was good speaking with Appellant yesterday. Appellate Counsel took a closer look at the transcript issue we discussed." See Appellate David Alexander letter where he admitted also that not only did we discussed this issue he noticed they were made court's exhibits at Appellant trial. However Appellate Counsel David Alexander abandon Appellate at a "Critical Stage" and did not raise any issue Appellant raised or discussed. "See enclosed letter."

12. Appellant contends that from the record itself, Appellant have a merit issue and Appellant trial Attorney Thomas Sims has those legal documents that proves Appellant innocence. Appellant respectfully request that this Honorable Court exercise it's jurisdiction pursuant to SC ST § 14-8-200 and Matters of Haddock 283 S.C. 116 0984 and grant this motion to protect Appellant Constitutional Right to Due Process to prevent any further delays in Appealing His Conviction. See Transcript of Record February 12, 2020 Page 20 lines 13-16.

13. Enclosed please find A copy of Attorney Thomas Sims most recent letters, where he still haven't sent these legal documents. Enclosed please find A copy of David Alexander (Appellate Defender) letter, Also please find a copy of Appellant letter dated on February 27, 2023 showing that Appellant did correct the deficiency within ten days of the date of that letter after Appellant received the letter at Kershaw CI on February 21, 2023. Enclosed please find A copy of 2 sets of Proof of Service, (1) dated on February 27, 2023 where it shows Appellant file on time, and the other Proof of Service with the additional date that correspond within 15 days of the date April 3, 2023. For the foregoing reasons Appellant respectfully request that this Honorable Court grant Appellants request "Motion for rehearing" and request Attorney Thomas Sims to return the requested case file pursuant to South Carolina Rules of Evidence Specifically those letters that Alan Fields wrote exonerating him.

Respectfully

S/ 
Lament Samuel 355793 SA025C
Evans Correctional Institution
610 Highway #9 West
Bennettsville SC, 29512

February 27, 2023

Jenny Abbott Kitchings, Clerk
 Post Office Box 11629
 Columbia, South Carolina 29211

27
 JERAL OUB
 February 27, 2023

RE: The State V. Lamont Samuel
 Appellate Case No. 2020-001612

Enclosed please find the copies of the "Motion to Compel Discovery." I received a letter from the Clerk of Court on February 21, 2023 at Kershaw Correctional Institution. Appellant noticed that the head of the letter was addressed to Evans Correctional Institution and was dated January 24, 2023. Appellant immediately ask Captain Cambrel to call the mailroom Postal Director to come down and provide a SCDC Form 10-12 Legal/Privileged/Certified Mail Delivery log! Appellant contends that the last institution, Appellant was housed at was Allendale Correctional Institution, and from Allendale Correctional Institution, Appellant was transferred to Kershaw Correctional Institution on January 30, 2023. Appellant records reflect that Appellant transferred from Evans CI and was sent to Allendale CI April of 2022! On February 27, 2023 Appellant records reflect that he was transferred back to Evans CI and that Appellant mail was Notarized and sent out at Kershaw CI! Once Appellant arrived at Evans CI Appellant spoke with Lt. Richardson and stated that he wanted to make more copies and have his legal documents sent from Evans CI Mailroom also to show that he had served both Attorney's David Alexander Esquire and Melody Jane Brown Esquire.

1. Please find A true Copy of the envelope dated on January 24, 2023 where it shows that the Clerk of Court serve the wrong institution.
2. Please see the places where the letter was sent to! It was sent to Evans CI on January 24, 2023, then it was sent to Allendale CI on Feb 1, 2023, Allendale then forward it to Kershaw CI on February 6, 2023, from there Appellant can show that Appellant didn't receive the letter until February 21, 2023.
3. Appellant contends that Appellant did correct the deficiency within the 10 day deadline.
4. Appellant motion should be considered, because the error was not made on Appellant end.
5. Appellant Respectfully ask that this Honorable Court look at all the evidence concerning this matter and grant Appellant's "motion to Compel Discovery".



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 24, 2023

Lamont Antonio Samuel, 00355793
Evans Correctional Institution
610 Highway #9, West
Bennettsville SC 29512

Re: The State v. Lamont A. Samuel
Appellate Case No. 2020-001612

Dear Mr. Samuel:

Upon reviewing your motion to compel discovery, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your motion will not be considered:

- The accompanying proof of service is not in compliance with the SCACR. Your proof of service must show that you served all counsel of record to include attorneys David Alexander, Esquire and Melody Brown, Esquire.

Very truly yours,

A handwritten signature in cursive script that reads "V. Claire Allen".

CLERK

cc: Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
David Alexander, Esquire

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Receipt of Legal Correspondence Verification

This is to verify that legal correspondence from (Name and Address):

SC Court of Appeals
Jenny Abbott Kitchings
P O Box 11629
Columbia, Sc 29211

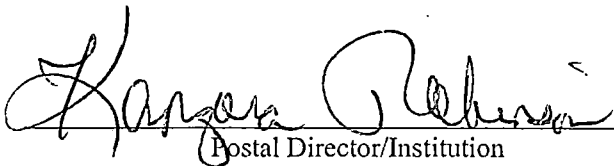
Addressed to (Inmate Name, SCDC#, and Address):

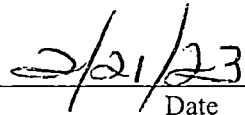
Lamont Samuel 355793 CYP-55A
Kershaw Correctional Institute
4848 Gold Mine Highway
Kershaw, SC 29067

was received and logged in on SCDC Form 10-12, "Legal/Privileged/Certified Mail Delivery Log," at the
Kershaw Correctional Mailroom on (Date) February 06, 2023.

On (Date) February 21, 2023, the above referenced correspondence was delivered to
Inmate Lamont Samuel, SCDC # 355793, and his signature
was obtained on SCDC Form 10-12, "Legal/Privileged/Certified Mail Delivery Log".

Additional Notes:


Postal Director/Institution


Date

Thomas Ray Sims, Attorney at Law

1136 Church Street NE
P. O. Box 2016
Orangeburg, South Carolina 29115

* Also Licensed in Mississippi

Telephone: (803)533-0177
Fax: (803)829-7118
Email: Thomas_Sims_esq@yahoo.com

March 23, 2023

Mr. Lamont Samuel 355793 BBA A-39
Allendale Correctional Institution
Post Office Box 1151
Fairfax, SC 29827

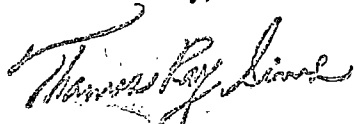
Re: Kite

Dear Mr. Samuel:

I have again looked through the files and found the enclosed documents. I did make one or more of these a court exhibit.

I now have nothing further.

Sincerely,



Thomas Ray Sims
Attorney-at-Law

pb

Thomas Ray Sims, Attorney at Law

1136 Church Street NE
P. O. Box 2016
Orangeburg, South Carolina 29115

* Also Licensed in Mississippi

Telephone: (803)533-0177
Fax: (803)829-7118
Email: Thomas_Sims_esq@yahoo.com

January 23, 2023

Mr. Lamont Samuel 355793 BBA A-39
Allendale Correctional Institution
Post Office Box 1151
Fairfax, SC 29827

Re: Discovery

Dear Lamont:

I received your most recent letter with the information from and to the Supreme Court. First, in response to your allegations that you did not receive your discovery. That is a complete lie, just like the lie you told during your trial that you did not keep an exhibit that was put in your hand while on the witness stand. Second, prior to trial we spent time preparing you for trial. We discussed extensively the problems with your defense and the issues that had to be overcome. You were provided with all the documents you requested and that I had received pursuant to discovery. My only regret is that I did not have you to sign for them when you received them.

I am going to send you the paper documents that I have in my file for you to use in whatever way you will. They will come by separate mail.

Also, remember that you were offered a plea deal in light of the evidence the state had against you. I explained that with the time you had already served you would be released without serving the full time because the offer was to a crime that only required 85%. However, you rejected the offer, in light of the evidence. You said that God told you that you were going to walk out of jail. However, God did not tell you when you would walk out!

Sincerely,



Thomas Ray Sims
Attorney-at-Law

pc



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1345

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

May 4, 2021

Mr. Lamont Antonio Samuel, #355793
Evans Correctional Institution
610 Hwy. 9 West
Bennettsville, SC 29512

Re: Your Case

Dear Mr. Samuel:

It was good speaking with you yesterday. I took a closer look at the transcript issue we discussed. It appears the transcripts were made court's exhibits at your trial. If you look on page 9, court's exhibits 3 and 4 are transcripts and the judge directed the parties to make those transcripts part of the record. I am ordering those along with the other exhibits I need from the clerk of court and will send you copies when I get them.

Sincerely,

David Alexander

David Alexander
Appellate Defender

DAA/lmm



South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS, CLERK
POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

COLUMBIA SC 290

24 JAN 2023 PM 2 L

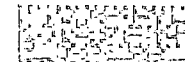
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FIRST-CLASS MAIL

01/24/2023

US POSTAGE

\$00.60⁰⁰



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MAILROOM
- ACI -

Kershaw
RECEIVED

FEB 06 2023

KERSHAW CI
MAIL ROOM

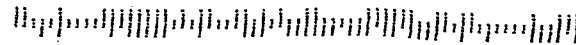
LAMONT ANTONIO SAMUEL, 00355793
EVANS CORRECTIONAL INSTITUTION
610 HIGHWAY #9, WEST
BENNETTSVILLE SC 29512

CYP 55A

~~Alendall~~

~~FEB 10 REC'D~~

29512-219010



Proof of Service

The undersigned, here by certifies that a true copy of the attached matter has been served upon the parties listed below, by mailing (1) Copy in an envelopes properly addressed to each party, with the properly postage affixed this 27th day of February 2023

Jenny Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, South Carolina 29211

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APR 19 2023

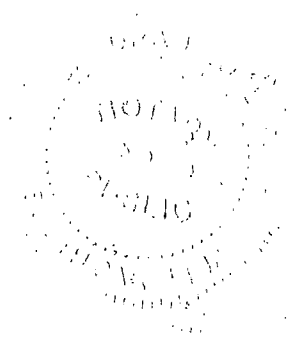
SC Court of Appeals

S / GL

SWORN to and Subscribed before me this

27th day of February 2023

Sarabeth Outlaw
Notary Public



My Commission Expires 2/17/24

Proof of Service

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SC Court of Appeals

Office of Attorney General

Alan Wilson Esquire

P.O Box 11549

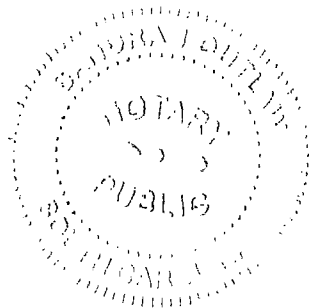
Columbia SC, 29211

S/ [Signature]

known to subscribed before me this

27th day of February 2023

Sarah Oelle
Notary Public



My Commission Expires 2/17/24

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The undersigned, here by certifies that a true copy of the attached matter has been served upon the parties listed below, by mailing (1) copy in an envelopes properly addressed to each party, with the properly postage affixed this 27th day of February 2023

Office of Attorney General
Melody Jane Brown Esquire
P.O. Box 11549
Columbia SC, 29211

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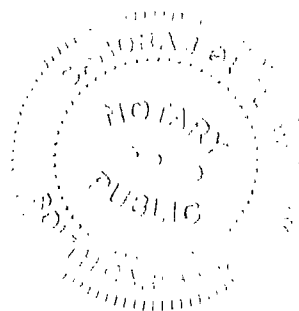
SC Court of Appeals

SJ

sworn to subscribed before me this

27th day of February 2023

Susan O'Leary
Notary Public



My Commission Expires 2/17/24

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SC Commission of Indigent Defense
David Alexander, Esquire
Division of Appellate Defense
P.O. Box 11589
Columbia SC, 29211-1589

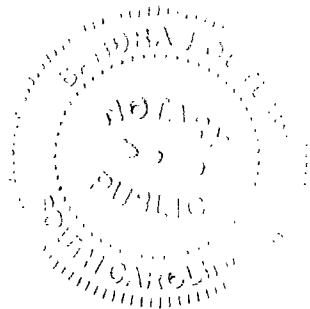
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APR 19 2023
SC Court of Appeals

S/ GA

sworn to and subscribed before me this

27th day of February 2023

Saxena Oulain
Notary Public



My Commission Expires 2/17/24

The undersigned, here by certifies that a true copy of the attached matter has been served upon the parties listed below by mailing (1) copy in an envelopes properly addressed to each party with the properly postage affixed this 13th day of Apr 2023

South Carolina Court of Appeals
Jenny Abbott Kitchings Clerk
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
APR 19 2023
SC Court of Appeals

S/ [Signature]

Sworn to Subscribed before me this

13th day of April 2023

[Signature]
Notary Public

My Commission Expires 2/17/24



The undersigned, here by certifies that a true copy of the
matter has been served upon the parties listed below, by mailing a) copy
in an envelopes properly addressed to each party, with the properly postage
affixed this 13th day of April 2023

Alan Wilson
Office of Attorney General
P.O. Box 11549
Columbia SC, 29211

RECEIVED

APR 19 2023

SC Court of Appeals

S/ JA

sworn to subscribed before me this

13th day of April 2023

EW
Notary Public

My Commission Expires 2/17/24



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SC Court of Appeals

Melody J. Brown
Office of Attorney General
P.O. Box 11549
Columbia SC, 29211

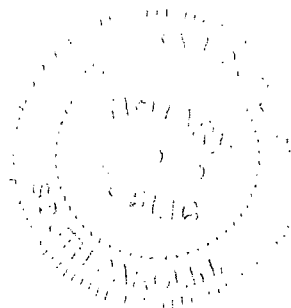
S/ [Signature]

Sworn to Subscribed before me this

13 day of April 2023

[Signature]
Notary Public

My Commission Expires 2/17/24



The undersigned, here by certifies that a true copy of the attached matter has been served upon the parties listed below by mailing (1) copy in an envelopes properly addressed to each party with the property postage affixed this 13th day of April 2023

SC Commission on Indigent Defense
Division of Appellate Defense
David Alexander
1330 Lady Street, Suite 401
P.O. Box 11589
Columbia SC, 29201

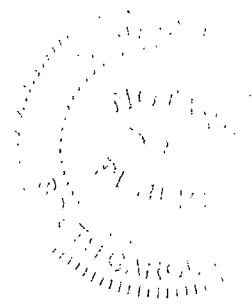
RECEIVED
APR 19 2023
SC Court of Appeals

S/ [Signature]

Sworn to Subscribed before me this
13th day of April 2023

[Signature]
Notary Public

My Commission Expires 2/17/24



The undersigned, here by certifies that a true copy of the attached matter has been served upon the parties listed below by mailing (1) copy in an envelopes properly addressed to each party with the properly postage affixed this 13th day of April 2023

Thomas Ray Sims, Attorney At Law
Post Office Box 2016
Orangeburg, South Carolina 29116

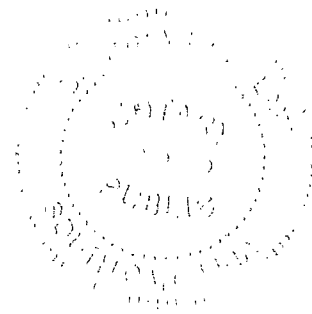
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APR 19 2023
SC Court of Appeals

S/ YLS

Sworn to Subscribed before me this

13 day of April 2023

Sammie
Notary Public



My Commission Expires 2/17/24

ament Samuel, 355793 SA 0250
vans Correctional Institution
10 Highway #9 West
Bennettsville SC 29512

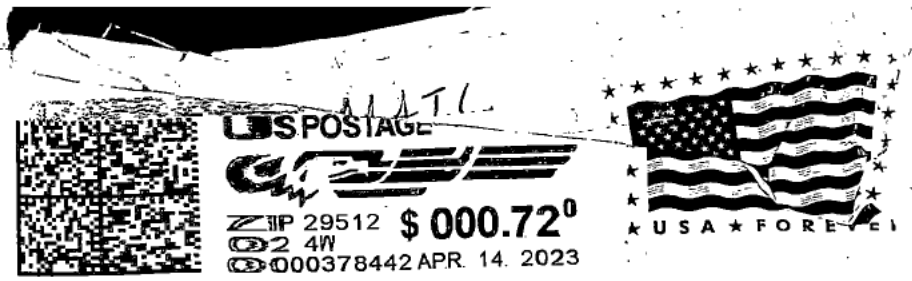
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APR 19 2023

SC Court of Appeals

SCOC
Christmas
Packet

2023 1 162929



South Carolina Court of Appeals
Jenny Abbutt Kitchings, Clerk
Post Office Box 11629
Columbia, South Carolina 29211

