

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

Appeal From Aiken County

Court of General Sessions

Michael G. Nettles, Circuit Judge

Case No. 2023-GS-020134; 2023-GS-
0201036;

Dallan Timothy Thorstensen, Appellant

v.
State of South Carolina, Respondent

Petition For Leave To Make And
File a Motion For New Trial

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APR 15 2025

SC Court of Appeals

Petition For Leave To Make And File
a Motion For New Trial

The Appellant, Dallan Timothy Thorstenson, hereafter appellant has jurisdiction before this honorable Court pursuant to SCAER Rule 201.

The appellant in this instant case has evidence, that new trials are based on note;

see; Rule 29 Post-Trial Motions (b), New Trials Based on After-Discovered Evidence. A motion for a new trial based on after-discovered evidence must be made within one (1) year after the date of actual discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the

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"exercise of reasonable diligence. 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. Leave of the appellate court is not required if no appeal has been taken or if the appeal has been finally decided in the appellate court."

Here, the appellant has evidence that was not presented at trial and was found on a later date not expressed or presented by counsel of the State or defense. see; Exhibit No. 1.

This evidence was illegally searched by police and seized. The evidence was exculpatory in nature. e.g., (the cell phone of appellant and video of the incident)).

Further, this evidence violates the Brady Rule see; *Brady v. Maryland*, 337 U.S. 838 (1963); also, *Riddle*

v. Ozmint, 369 S.C 39, 631 S.E.2d 70 (2006) held solicitor's failure to disclose impeachment evidence constituted Brady violation.)

Furthermore, In this case, the failure of counsel to file a motion for new trial within the Rule or statute predicated on ineffective assistance of counsel, see; U.S. v. Smith, 62 F.3d 641 (4th Cir. 1995)

WHEREFORE, with the presented Brady violation and after discovered evidence, the request for leave to file motion is sought.

On this — of April, 2025

Respectfully Submitted

x 

April 10, 2025

Dallan Timothy Thorstenson
100 Prison Road
Enoree, S.C., 29335

Re: Petition For leave

Dear Clerk:

Enclosed please find my Petition
For Leave For Newly discovered evidence
and Motion for New Trial. Please file
and Clock stamp for filing.

Thank you for your time

x 

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SC Court of Appeals

Dallan Timothy Thorstenson,
100 Prison Road
Enoree, S.C. 29355

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