

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM Spartanburg County  
Court of General Sessions

AUG 07 2025  
SC Court of Appeals

J. MARK HAYES, II, Circuit Court Judge  
APPELLATE CASE NO. 2025-001324

CHERYL AMONT PETTY . . . . . PETITIONER

v.  
STATE OF SOUTH CAROLINA . . . . . RESPONDENT

Petition For Rehearing

RECEIVED

August 4<sup>th</sup>, 2025

AUG 04 2025  
FCI MAILROOM

(1 of 9)

## Citation of Authorities

RULE 221(A)(C) SCACR

RULE 201 SCACR

STATUTE 14-3-330(2)

TATNALL V. GARDEN, 350 S.C. 135, 138

ROBERTSON V. BINGLEY, 6 S.C. EQ. (1 MCCORD EQ.)

PRUITT V. BOWERS, 330 S.C. 483

BLACK'S LAW DICTIONARY 11<sup>th</sup> ED. (2019)

**I.** PETITIONER GARY LAMONT PETTY, PURSUANT TO RULE 221(A)(C) SCACR, MOVES THIS COURT (SOMEONE FOR THE COURT) TO RECONSIDER ITS 7/29/25 ORDER. IN SUPPORT OF THIS PETITION, PETITIONER SHOWS THE FOLLOWING TO THE COURT:

THIS COURT HAS OVERLOOKED/MISAPPREHENDED STATUTE 14-3-330, AND MISAPPLIED THIS PRINCIPLE OF LAW IN THE FOLLOWING RESPECTS:

(2 of 9)

stating that, "The appeal arises out of a letter from a Circuit Court Judge declining to rule on motions that were improperly filed with the Circuit Court, and from due review of the public index, there is not a final order reviewable on appeal. Accordingly, this appeal is dismissed see S.C. Code Ann. § 14-3-330 (2007) (see order pg. 7, enclosed)

The Circuit Court's reason stated for the motions not being properly filed was that the rule 29(b) motions were not filed within the (1) year statute of limitations and the Juror misconduct motion for a new trial was not timely filed during trial or within 12 months after trial. (see letter from Circuit Court Judge, pg. 8-9, enclosed)

Petitioner asserts that the motions demonstrate that they were raised within 1 year of the evidence being actually disclosed or ascertained pursuant to rule 29(b) secomp; and justified reasons the Juror misconduct claim could not have been raised during time of trial nor within 12 months after trial.

Petitioner contends that SECTION 14-3-330 (2) Appellate Jurisdiction in law cases and Rule 201 SCACE, right to appeal, makes the Judges' letter decision immediately appealable as the statute states - 2) An order affecting a substantial right made in any action when such order

- a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action,
- b) grants or refuses a new trial or
- c) strikes out an answer or any part thereof or any pleading in any action.

Distinguishable from - *Tatnall v. Garden*, 350 S.C. 135, 138 [8] stating that this Court may not review an order that does not prevent a judgment from being rendered in the action, and from which the appellant can seek review. . . . in any appeal from the final judgment.

And *Robertson v. Bingley*, 6 S.C. Eq (1 McCord Eq.) 333, 351 (Ct. App. 1826) "An order which does not put a final end to the case, nor establish any principle which will finally affect the merits of the case, nor deprive the party of any benefit which he may have at a final hearing, ought to be considered an interlocutory order, from which no appeal ought to be allowed."

Furthermore, An order not directly appealable will be considered if there is an appealable issue before the Court, Prutt v. Bowles, 330 S.C. 483.

The Black's Law dictionary 11<sup>th</sup> ed. (2019) defines Final Order - AS AN ORDER THAT IS DISPOSITIVE OF THE ENTIRE CASE.

An order is A Command, directive or instruction delivered by a government official, esp. A Court or Judge. An order is the mandate or determination of the Court upon . . . Collateral matter arising in an action, NOT disposing of the merits but adjudicating A preliminary point or directing some step in the proceeding.

Petitioner asserts that the Circuit Court's decision to decline to rule on the motions for a new trial was A FINAL ORDER REVIEWABLE ON APPEAL, AS THE JUDGE HAD ALSO INSTRUCTED THE CLERKS TO NOT SCHEDULE HEARINGS ON ANY MOTION FOR A NEW TRIAL.

THE STATUTE OVERLOOKED/MISAPPLIED REQUIRES A DIFFERENT DECISION FROM THAT RENDERED BY THE COURT OF APPEALS. THE DECISION SHOULD HAVE BEEN RENDERED FOR THE PETITIONER.

Wherefore, The petitioner respectfully request the Court (someone for the Court) to reconsider its order and rule in favor of the petitioner.

This 4<sup>th</sup> day of August, 2025

(5 of 9)

*Gary L. Petty*  
GARY LAMONT PETTY (PRO-SE)  
PERRY CORR. INST.  
430 OAKDAWN RD.  
PETZER, S.C. 29669

# The South Carolina Court of Appeals

Gary Lamont Petty, Petitioner,

v.

The State of South Carolina

Appellate Case No. 2025-001324

## ORDER

---

This appeal arises out of a letter from a circuit judge declining to rule on motions that were improperly filed with the circuit court. From our review of the public index, there is not a final order reviewable on appeal. Accordingly, this appeal is dismissed. *See* S.C. Code Ann. § 14-3-330 (2007). The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.



---

FOR THE COURT

Columbia, South Carolina

**FILED**  
**Jul 29 2025**

---

cc:

Barry Joe Barnette, Esquire  
Mark Reynolds Farthing, Esquire  
Wanda H. Carter, Esquire  
Gary L. Petty, 264235



State of South Carolina  
Circuit Court Judge, At-Large, Seat 5

J. MARK HAYES, II  
JUDGE

180 MAGNOLIA STREET, 2ND FLOOR  
SPARTANBURG, SOUTH CAROLINA 29306  
TELEPHONE: (864) 562-4144  
FAX: (864) 562-4142  
E-MAIL: mhayesj@sccourts.org

June 6, 2025

Gary Lamont Petty, #264235  
Perry Correctional Institute  
430 Oaklawn Road  
Pelzer, South Carolina 29669

Re: 1999-GS-42-02357 to 59

Dear Mr. Petty:

The motions you filed with the Spartanburg County Clerk of Court's Office over the past year were forwarded to me to review. They were sent to me in my capacity as the Seventh Circuit Chief Administrative Judge for General Sessions matters.

After reviewing the numerous motions and filings, please be advised that, by copy of this letter to the Spartanburg Clerk of Court, I am instructing the Clerk to not schedule any of the motions for a hearing.

I write to you to advise you of my instructions in the event you desire to seek additional judicial review before other courts. If you wish to appeal my decision, please do so in a timely manner. I also wished you to have this letter so that you can also share it with the lawyer of your choice. My belief is that any lay person benefits from receiving independent legal advice—especially matters that are important as the ones you raise in these motions. I realize in the past you were represented by Joseph McCulloch of the Palmetto Innocence Project and William Yarborough of the Greenville Bar when you raised issues related to DNA. Mr. McCulloch and Mr. Yarborough should be considered by you as appropriate legal resources to share the content of this letter and advise you of your rights. These two lawyers are just my suggestions, please consult with whichever lawyer you feel best serves you.

As reflected in the materials, you received a life sentence to a Burglary First Degree and a 30-year sentence on a Criminal Sexual Conduct charge (the 5-year sentence for grand larceny has expired because of the time you have served). Since the time you were sentenced, you and your lawyers have filed numerous actions in circuit court and other courts challenging various aspects of your case. A review of the records indicates that you have been unsuccessful with your challenges. It does appear that additional DNA testing was accomplished in 2017. This DNA report indicated the following; "the major component DNA profile matches the DNA profile obtained from sample CCC 1666-0364-R03 (Gary Petty)".

(B of 9)

PAGE TWO  
GARY LAMONT PETTY, #264235  
JUNE 6, 2025

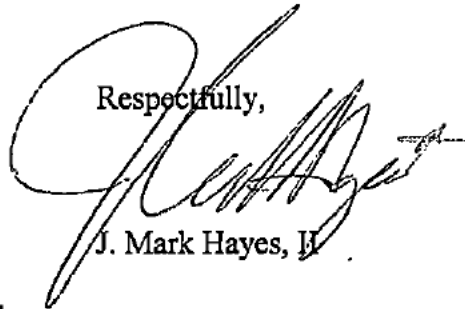
The new motions, in my opinion, are not properly filed and/or do not contain the required substantive claims to necessitate the scheduling of additional hearings by the circuit court. Expressed in more legal terms, a prima facie showing has not been made to justify conducting a hearing. Having reviewed the materials, these new motions, on their face, do not meet the standard for conducting a SCCrimR 29(b) review. Viewing the issues you raised in a manner most favorably to you, these issues, if true, should have been raised in your previous filings. Statute of limitations is a problem for you. Additionally, even though you assert you did not know of this information (jury information) until recently, the nature and existence of the information was available at the time of your trial, or at least within 12 months afterwards. Additionally, the affidavit filed is your own affidavit and contains inadmissible hearsay statements from your cousin. Additionally, your assertion through a Rule 29(b) motion of third party guilty of another man convicted of similar crimes that occurred during the same time as the ones you were convicted is, again, untimely, based upon inadmissible information—newspaper accounts—and is, at best, speculative—especially given the DNA information previously obtained. Again, no prima facie showing. Also, the issue of needing an actual “injury” to support a burglary conviction is not support in law.

The above is a brief summary of my reasons for instructing the Clerk of Court that no hearing will be needed on the motions you have filed.

Even though my decisions are not favorable and no hearing will be conducted, I understand these issues are important to you. Thus, I, again, encourage you to seek legal advice with an attorney. Please share this letter with them and your prior filings.

I wish you only the best.

Respectfully,



J. Mark Hayes, II

CC: The Honorable Amy Cox  
Spartanburg County Clerk of Court  
Spartanburg County Courthouse  
180 Magnolia Street  
Spartanburg, South Carolina 29306

CC: The Honorable Barry Barnette  
Solicitor, Seventh Judicial Circuit  
Spartanburg County Courthouse  
180 Magnolia Street  
Spartanburg, South Carolina 29306

JMH/smw



THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM SPARTANBURG COUNTY  
GENERAL SESSIONS COURT

AUG 07 2025

SC Court of Appeals

HONORABLE J. MARK HAYES, Circuit Court Judge  
APPELLATE CASE NO. 2025 - 001324

GARY LAMONT PETTY . . . . . PETITIONER

v.

STATE OF SOUTH CAROLINA . . . . . RESPONDENT

Certificate of Service

I, Gary Lamont Petty, Certify that I have filed  
and served the petition for rehearing with the  
Court Clerk and upon each party, by depositing  
copies of the petition in the U.S. mail, prepaid  
postage, addressed to respondents:

cc:

Barry Joe Barnett  
Spartanburg Co. Solicitor  
180 Magnolia St.  
Spartanburg, S.C. 29306

RECEIVED

AUG 04 2025

Mary L. Petty  
Gary Lamont Petty  
Pokey Core, Just.  
1130 Parklawn Rd.  
Petzer, S.C. 29669

Mark Farthing  
ASS. ATTORNEY GENERAL  
P.O. Box 11549  
Columbia S.C.

PCI MAILROOM  
This

4th day of August, 2025

ATTN: HONORABLE CLERK OF COURT OF APPEALS

PLEASE FIND ENCLOSED PETITIONER'S  
ORIGINAL PETITION FOR RESHEARING TO BE  
FILED WITH THE COURT,

**RECEIVED**  
AUG 07 2025  
SC COURT OF APPEALS

Thank You,

GARY LAMONT PERRY, #264235  
PERRY CORR. INST.  
430 OAKLAWN RD.  
PITZER, S.C. 29669

This 4<sup>th</sup> day of AUGUST, 2025

Gray Lamont Petty # 204235 / Q3(6) 204  
Peevy Corb. Just.  
430 Oaklawn Rd.  
Petree, S.C. 29669



RECEIVED  
AUG 04 2025  
FOR MAILROOM

RECEIVED  
AUG 07 2025  
SC Court of Appeals

South Carolina Court of Appeals  
1220 SENATE STREET  
Columbia, S.C. 29201

