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Aug 27 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Court of General Sessions

Honorable Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2023-001578

Order filed on August 13, 2025

John Alexander Webb,.....Appellant,

vs.

The State,.....Respondent.

PETITION FOR REHEARING

Appellant John Alexander Webb respectfully petitions this Court for rehearing pursuant to Rule 221(a), SCACR, on the basis that this Court overlooked or misapprehended material facts and principles of law in its unpublished opinion affirming Appellant's convictions and sentences filed on August 13, 2025. State v. Webb, 2025-UP-293 (S.C. Ct. App. filed July 7, 2021).

Specifically, Appellant notes that, although this Court identifies a single S.C. regulation that would constitute a record-keeping requirement for physicians under § 44-53-340 of the South Carolina Code, Id. n.1, neither the regulation identified by this Court nor any other was provided to the jurors that would have allowed the jurors to find that Appellant was in violation of § 44-53-340.

This Court cites only the testimony of Investigator Strickland as evidence supporting the lower court's denial of Appellant's Motion for Directed Verdict and Motion for New Trial. Investigator Strickland, however, did not identify any "record-keeping and inventory requirements of federal law" or any additional rules issued by DHEC in the form of regulations, but rather stated, generally, that records must be kept,

As this Court points out, Strickland stated that there are requirements for record-keeping, but he did not identify any federal law or DHEC regulation that provided requirements for record-keeping. The single DHEC regulation cited by this Court was not presented to jurors, and there was no basis for Appellant's conviction other than Investigator Strickland's opinion testimony and the repeated statements by witnesses regarding Appellant's contractual requirements with the hospital, either of which was an improper basis for conviction under § 44-53-340.

Furthermore, Appellant does not "concede[] his remaining issues are not preserved for this court's review."

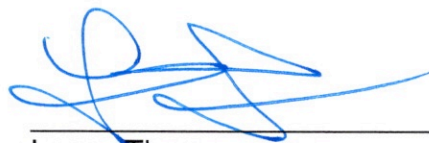
Rather, Appellant urges this Court to reverse his conviction based on the remaining issues as plain error because 1) the Trial Court failed to charge the jurors on the relevant laws and regulations that contain the requirements for record-keeping pursuant to S.C. Code Section 44-53-390(a)(4), 2) the Trial Court chose to grant a motion in arrest of judgment – a remedy that doesn't exist in South Carolina criminal court - instead of ordering a new trial or directed verdict, 3) the State's assertion that Appellant Webb was not permitted to recreate the records in question when they were lost or destroyed due to circumstances beyond his control, making it impossible for him to comply with the statute in question, violated his right to Due Process under the Fifth

and Fourteenth Amendments, and 4) the State's repeated references to uncharged conduct or prior bad acts violated Rules 403 and 404(b), SC Rules of Evidence, the Court's pretrial rulings, and the State's pretrial agreement.

It was an abuse of discretion to deny Appellant Webb's Motion for New Trial in light of the original trial judge's Findings of Fact in the Order Granting Judgment in Arrest of Verdicts that no evidence of federal law, state law, or DHEC rule was offered by the State or received by the Court, no request to charge was made by the State, no jury instruction was given by the Court to the jury regarding the record-keeping requirements, and that there was uncontradicted evidence in Appellant Webb's statement that he had kept the records as required, lost them through no fault of his own, and did not knowingly or intentionally fail to maintain the required records. See Order, 7.

These errors were flagrantly prejudicial and are grounds for this Court to reverse on direct appeal.

For the foregoing reasons, Appellant requests that this Court grant the Petition for Rehearing and reverse Appellant's conviction.



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PROOF OF SERVICE

I certify that I have served the Petition for Rehearing, dated August 27, 2025 on the following electronically by email:

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August 27, 2025