

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

**Jan 07 2026**

**SC Court of Appeals**

Appeal from Sumter County

Honorable George M. McFaddin, Circuit Court Judge

Opinion No. 2025-UP-425 (S.C. Ct. App. Filed December 23, 2025).

THE STATE,

RESPONDENT,

V.

CELIA WINDHAM,

APPELLANT.

APPELLATE CASE NO. 2023-000283

PETITION FOR REHEARING

On December 23, 2025, this Court affirmed Appellant’s conviction finding that the state “presented evidence reasonably tending to prove the elements of breach of trust with fraudulent intent” and therefore the trial court did not err in failing to direct a verdict of acquittal. State v. Celia Elizabeth Windham, Op. No. 2025-UP-425 (S.C. Ct. App. Filed December 23, 2025). Pursuant to Rule 221(a), SCACR, Appellant respectfully requests this Court rehear the matter because the state failed to present evidence that a trust relationship existed between Appellant and the owner of the vehicle.

A trust, by definition, is an “arrangement whereby property is transferred with intention that it be administered by [the] trustee for another's benefit.” Id. citing State v. Jackson, 338 S.C. 565, 527 S.E.2d 367 (Ct.App.2000), *citing* Black's Law Dictionary 1047 (6th Ed.1991). Thus, the **transferor** of the property *must intend* that the trustee will act for the transferor's benefit instead of on his own behalf. Id., See State v. McCann, 167 S.C. 393, 166 S.E. 411 (1932) (emphasis added). While breach of trust was enacted to enlarge the field of larceny, the law still requires that the party charged with breach of trust received property in the trust which they afterwards violated. See State v. Parris, 363 S.C. 477, 482, 611 S.E.2d 501, 503 (2005) (emphasis added). Therefore, the State *must prove the existence of a trust relationship* to sustain a charge of breach of trust with fraudulent intent. Id. citing State v. LeMaster, 231 S.C. 321, 98 S.E.2d 756 (1957) (emphasis added). “Failure to prove the existence of a trust relationship will result in a directed verdict of acquittal for the defendant.” Id.

The modern jurisprudence of this state has repeatedly defined a trust as an arrangement whereby property is transferred with intention that it be administered by the trustee for another's benefit. See State v. Jackson, 338 S.C. 565, 527 S.E.2d 367 (Ct.App.2000), State v. Parris, 363 S.C. 477, 611 S.E.2d 501 (2005), State v. Holcomb, 426 S.C. 557, 827 S.E.2d 367 (2019). What is clear from all the cases dealing with breach of trust is that the property in the trust cannot be used for the benefit of the trustee but must be used at the direction of the trustor for the benefit of the trustor or another.

In the present matter, the state did not present any evidence of a trust between Appellant and the McCoy. McCoy (the purported trustor) lent his car to Appellant (the purported trustee) for her own personal needs (the trustee's benefit). There was no evidence presented that McCoy lent Appellant his car to act for his (trustor) benefit or for the benefit of a third party. The

evidence repeatedly showed that the car was loaned to Appellant to fulfil her own personal needs. Even the state's own arguments during the directed verdict motions support finding that no trust relationship was ever created. The solicitor argued repeatedly that the loaning of the car to Appellant created a trust for Appellant's sole benefit. However, for a trust to be valid, the trustee *must not be acting in their own interest or on their own behalf*. The loaning of the car to Appellant in no way benefited McCoy, and McCoy did not direct Appellant to use the car for a specific purpose but allowed her to use the car for her own personal needs. Under the jurisprudence of this State, which makes it plain that a trust is created for the benefit of the transferor or another, but not for the sole benefit of the trustee, a trust was not created in Appellant's case. See State v. Jackson, 338 S.C. 565, 527 S.E.2d 367 (Ct.App.2000); State v. Parris, 363 S.C. 477, 611 S.E.2d 501 (2005).



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Jessica M. Saxon  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 7th day of January, 2026.

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Appeal from Sumter County

Honorable George M. McFaddin, Circuit Court Judge

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THE STATE,

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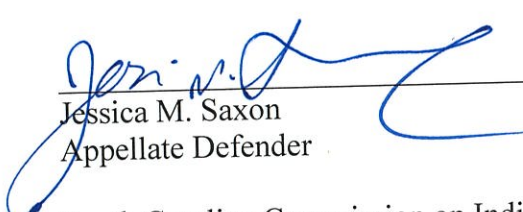
CELIA WINDHAM,

APPELLANT.

APPELLATE CASE NO. 2023-000283

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CERTIFICATE OF SERVICE

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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Petition for Rehearing in the above-referenced case has been served upon Joshua A. Edwards, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); this 7th day of January, 2026.

  
\_\_\_\_\_  
Jessica M. Saxon  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

**Warren, Kaylynn**

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**From:** Warren, Kaylynn  
**Sent:** Wednesday, January 7, 2026 3:28 PM  
**To:** Josh Edwards  
**Cc:** Saxon, Jessica; Susan Spencer  
**Subject:** 2023-000283 The State v. Celia Windham  
**Attachments:** 2023-000283 The State v. Celia Windham Petition for Rehearing.pdf

Good Afternoon,

Attached for service in the above-referenced case is the Petition for Rehearing which will be filed today, January 7, 2026, with the Court of Appeals via email filing.

Respectfully,  
Kaylynn

**Kaylynn Warren**  
Administrative Assistant  
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
(803) 734-1330

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