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S.C. SUPREME COURT

Appendix

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FEB 17 2026
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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)".

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

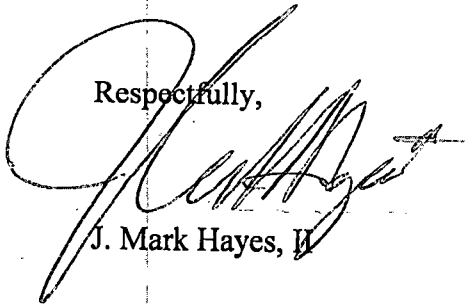
The new motions, in my opinion, are not properly filed and/or do not contain the required substantive claims to necessitate the scheduling of additional hearings by the circuit court. Expressed in more legal terms, a prima facie showing has not been made to justify conducting a hearing. Having reviewed 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 favorable 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 of, 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 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

(7 of 9)

The South Carolina Court of Appeals

Gary Lamont Petty, Petitioner,

v.

The State of South Carolina

Appellate Case No. 2025-001324

ORDER

After careful consideration of the petition for rehearing, return, and reply, the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. The letter Petitioner sought to appeal was not a final order as it simply refused to grant a hearing on Petitioner's purported motions and did not finally decide the matter in the circuit court. Accordingly, the petition for rehearing is denied.

Stephanie P. McDonald

J.

3L L J

J.

[Signature]

J.

Columbia, South Carolina

cc:

Mark Reynolds Farthing, Esquire
Gary L. Petty, 264235

FILED
Jan 21 2026



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
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January 21, 2026

Mr. Mark Reynolds Farthing, Esquire
PO Box 11549
Columbia SC 29211-1549

Gary L. Petty, 264235
Perry Correctional Institution
430 Oaklawn Road
Pelzer SC 29669

Re: Gary Lamont Petty v. The State
Appellate Case No. 2025-001324

Dear Counsel and Mr. Petty:

Enclosed is a copy of an order of the panel denying your petition for rehearing. Your petition for rehearing en banc was distributed to the judges, but it has been rejected. *See* Rule 219, SCACR.

Very truly yours,

Jasmine D. Smith, Deputy
CLERK



South Carolina Court of Appeals

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

3B224

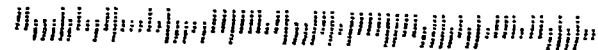
GARY L. PETTY, 264235
PERRY CORRECTIONAL INSTITUTION
430 OAKLAWN ROAD
PELZER SC 29669

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JAN 28 2025

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The South Carolina Court of Appeals

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July 08, 2025

Gary L. Petty, 264235
Perry Correctional Institution
430 Oaklawn Road
Pelzer SC 29669

Re: Gary Lamont Petty v. The State
Appellate Case No. 2025-001324

Dear Mr. Petty:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02. Please note that the responsibility for insuring that information is redacted or sealed as

required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

This is to advise that the title in the above matter has been changed to read as follows:

Gary Lamont Petty, Petitioner,

v.

The State of South Carolina, Respondent.

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in cursive script that reads "Catherine Hannison, deputy". The signature is written in black ink and is positioned above the printed title "CLERK".

CLERK

cc: Mr. Barry Joe Barnette, Esquire
Mr. Mark Reynolds Farthing, Esquire
Mrs. Wanda H. Carter, Esquire

ATTN: HONORABLE CLERK OF COURT of Appeals

Please find enclosed petitioners
Original petition for rehearing to be
filed with the Court,

Thank You,

CLARY LAMONT PERRY, #
PERRY, CORR. INST. 264235
430 OAKLAWN Rd.
Palmer, S.C. 29669

This 4th day of August, 2025

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY
COURT OF GENERAL SESSIONS

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

GARY LAMONT PETTY PETITIONER

v.
STATE OF SOUTH CAROLINA RESPONDENT

PETITION FOR REHEARING

August 4th, 2025

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(1 of 9)

Citation of Authorities

Rule 221(A)(c) SCACR

Rule 301 SCACR

STATUTE 14-3-330 (2)

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

Robertson v. Bingley, 6 S.C. eq. (1 record eq.)

Fruitt v. Bowers, 330 S.C. 483

BLACK'S LAW DICTIONARY 11th EDITION (2019)

I. Petitioner GREG LAUREN 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 Judge 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 discovered or ascertained pursuant to Rule 29(b) second; and justified reasons the Judge 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 SCAC, 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** saying 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 record 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, Pruitt v. Bowers, 330 S.C. 483.

The Black's Law dictionary 11th 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 4th day of August, 2025
(5 of 9)

Phyllis L. Perry
Phyllis Lamarti Perry (PRO-SE)
Perry Court Trust
430 Callaway Rd.
Dexter, S.C. 29669

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY
GENERAL SESSIONS COURT

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

Gray Lamont Petty Petitioner

v.

STATE OF SOUTH CAROLINA Respondent

Certificate of Service

I, Gray 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 BARNETTE
Spty. Co. Solicitor
180 Magnolia St.
Spty., S.C. 29306

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AUG 04 2025

Gray L. Petty
Gray Lamont Petty
Petty Core. Just.
4130 EAKMAN Rd.
Petree, S.C. 29669

MARK FAETHING
ASS. ATTORNEY GENERAL
P.O. Box 11549
Columbia S.C.

FOR MAILING THIS

4th day of August, 2025

(6 of 9)



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
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August 05, 2025

The Honorable Amy W. Cox
PO Box 3483
Spartanburg SC 29304-3483

REMITTITUR

Re: The State v. Gary L. Petty
Lower Court Case No. 1999GS4202357, 1999GS4202358, 1999GS4202359
Appellate Case No. 2025-001306

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in cursive script that reads "Catherine Harrison, deputy".

CLERK

Enclosure

cc: Gary L. Petty, 264235
Alan McCrory Wilson, Esquire
Mark Reynolds Farthing, Esquire

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Inmate Services

AGREEMENT TO DEBIT E.H. COOPER ACCOUNT

Inmate's Name: <i>PETTY, Gary</i>	SCDC #: <i>264235</i>	Housing Unit: <i>(Q-5) 224</i>	Date: <i>6/19/25</i>
--------------------------------------	--------------------------	-----------------------------------	-------------------------

LEGAL MATERIAL

** Inmate is not required to have the funds in his/her account to pay for the materials; however, his/her account must be debited for all materials s/he elects to receive.

Item	Amount
Envelope	
Pen	
Paper	
Postage	<i>1</i>
Other	

** Motion NOTICE
of Appeal*

To be completed by
SCDC staff:

Cost
<i>9.45</i>
<i>9.45</i>

Sub-Total:

PHOTOCOPIES

** Inmate may be required to have funds in his/her account. See SCDC Procedure GA-01.03(OP), "Inmate Access to the Courts," to determine if inmate may receive copies with/without funds.

Item	Amount
Photocopies	

To be completed by
SCDC staff:

Cost
<i>9.45</i>

TOTAL

Inmate's Signature

Gary L. Petty

Mailroom/Canteen Signature (Request filled by)

[Signature]

6/19/25

Date

White - Inmate

Canary - Mailroom/Canteen Employee

TABLE OF CONTENT

Table of Authority

Rowell, 2024 WL 3435567

AIDRET, 333 S.C. 307 AT 315

STATE V. MCCOY, 401 S.C. 363

WOODS, 345 S.C. AT 585

SPARKMAN, 358 S.C. 491

Lynch v. Carolina Self Storage Center, Inc.

STATE V. WAKEFIELD, 443 S.C. 123

STATUTE

Right to peremptory Challenge

Burglary first STATUTE 16-11-311

Constitutional Amendments

6th Amendment right to fair and impartial Jury

Right to Jury Selection

14th Amendment right to Due process of Law

And equal protection.

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STATEMENT OF ISSUE ON APPEAL

- I. Did the trial Court Abuse its discretion in not granting the defendant a hearing on Juror misconduct motion for a new trial.
- II. Did the trial Court Abuse its discretion in not granting defendant a new trial on Rule 29(b) motion based upon ascertained evidence of there being no evidence to support physical injury element for burglary first degree.
- III. Did the trial Court Abuse its discretion in not granting the defendant a new trial on Rule 29(b) motion pursuant to evidence that the state presented false evidence during trial.

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Did the trial Court Abuse its discretion
by not granting Appellant A hearing on
Juror misconduct motion

There is no evidence to support the trial Court's
decision to not hold hearings on appellants motion
stating that:

The motion did not meet required
standards and no prima facie showing had been
made, see (Attachment #1)

and also stated that appellant stated that
he learned of the Juror information recently; and
the nature and existence of the Juror information
was available at the time of trial or within 12
months afterwards.

STANDARD

The showing made by appellants motion, pg. (Attachment #2)
are sufficient to establish a fact or raise inference
or assumption that the fact exist because of proof
of some other facts (Prima facie)

The trial Court doesn't dispute appellants stated
facts for allegations, and has not stated cogent
and compelling reasons for not holding required hearing.

on appellants claim.

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JUN 19 2025

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(1 of 10)

20

The South Carolina Supreme Court has recently stated in Rowell, 2024 WL 3435567 (July 17th, 2024)

[1] THE QUESTION AS TO HOW THE TRIAL COURT SHOULD RESOLVE ALLEGATIONS THAT A JUROR CONCEALED INFORMATION DURING VOIE DIRE, ALLEGATIONS RAISED BY A DEFENDANT AFTER CONVICTION IN POST TRIAL INQUIRY.

[6] ONCE A PARTY HAS EXHIBITED DUE DILIGENCE AND HAS TIMELY RAISED A JUROR CONCEALMENT CLAIM.

SEE (ATTACHMENT #3 ; #)

AS STATED IN APPELLANT'S MOTION THERE'S TIMELY RAISED ALLEGATION THAT MEET THE STANDARD OF JUROR MISCONDUCT AS ALSO STATED IN APPELLANT'S TIMELY MADE 2025 AMENDMENT, SEE ATTACHMENT, (ATTACHMENT #5) (FILED AT TIME TRIAL COURT HAD MADE ITS DECISION) BASED UPON NEW STANDARD STATED IN ROWELL.

AS ALSO STATED IN ROWELL, IS [7] WHERE A PARTY CLAIMS A JUROR HAS WITHHELD MATERIAL INFORMATION IN RESPONSE TO VOIE DIRE QUESTION, THE TRIAL COURT MUST DETERMINE, PREFERABLY AFTER A HEARING, WHETHER THE JUROR'S WITHHOLDING SUGGEST BIAS.

[8] . . . A NEW TRIAL IS ORDERED ONLY WHEN PREJUDICE IS PROVEN.

[11][12][13] . . . A hearing is almost always preferred based upon mere allegations of juror non-disclosure. SEE ALSO ALDET, 333 S.C. 307 AT 315, [6] ALLEGATIONS WARRANT A HEARING.

Evaluating the merits of a juror misconduct claim is a fact intensive inquiry which is most appropriately conducted after a hearing, SEE MCCOY, [9][10], [11][12][13] . . . A hearing is almost always preferred based upon mere allegations (where defendant can offer competent evidence)

Citing WOODS, 345 S.C. AT 585-86, SPACKMAN, 358 S.C. 491-496, AND LYNCH V. CARDINA SELF STORAGE CENTER, INC., 409 S.C. 146, 160.

Juror Information

Appellant asserts that he had learned of the Jurors) at the time he discovered and had seen a Juror list for the first time in 2010, see (Attachment # 6)

AS THE JURORS' NAMES ON THE JURY LIST WAS THE BASIS OF A JUROR DISQUALIFICATION CLAIM FOR A NEW TRIAL, PURSUANT TO THE 5-PERSON STANDARD.

THEN AFTER OBTAINING TORI SMITH'S PHONE NUMBER IN 2021, AND CALLING HER, MY COUSIN CONFIRMED THAT THE NAME ON THE JUROR LIST WAS HER (JUROR #137) SEE ATTACHMENT #5, PG. 8 OF 9) AND HAD ALSO CONFIRMED THE IDENTITY OF JUROR #144.

Appellant had NOT STATED THAT HE HAD RECENTLY LEARNED OF THE JUROR INFORMATION, FURTHERMORE, THE JUROR INFORMATION WAS NOT AVAILABLE TO THE DEFENDANT AT TIME OF TRIAL, -NOT WITHIN AT LEAST 12 MONTHS AFTERWARDS.

AS ALSO STATED IN APPELLANT'S MOTION, (ATTACHMENT #5 PG. 7-10) THE JURY TRIAL COURT HAD NOT CONDUCTED A JURY SELECTION PROCESS AS THE COURT STATED IT WOULD, WITH THE PERSPECTIVE JURORS' NAMES CALLED OUT AND JUROR STANDING IN FRONT OF THE COURTROOM, SEE (PG 12, L1-7) ENCLOSED

This prevented the defendant from being aware of the disqualified jurors by not being able to hear their names or maybe being able to recognize the jurors.

No juror list was provided to Counsel, see (Attachment #5) TR.P. 12, L. 1-18) NO juror list was included as pages inside the transcript nor attached to the transcript as stated on pg. —, TR. pg. 25, L. 16-17, or appellant would have raised claim earlier.

As stated in McCoy, 401 S.C. 363 [9] [10], a claim of juror misconduct is to be timely raised, as appellant has exhibited due diligence and timely raised the claim of juror concealment during voir dire:

- per Application (0251), see (Attachment #6) Juror disqualifications raised 2010-2011, based upon juror list received for the first time, raised within 1yr of basis of claim being discovered, see Clerk File Stamp

Claim was dismissed pursuant to inapplicable 5-prong standard for a new trial, S.C. Supreme Court stated in McCoy, [6]. should not be basis of summary dismissal.

- Attempted Amendment to per Application (04184) Clerk File Stamp 2022 (Attach. #3) Juror misconduct claim based upon phone conversation with disqualified juror #137, confirming identity;

PCR Application (04184) had already been dismissed without appellant being served with the final order for a year and 3 months, SEE Attachment # 7, pg 2 (1/12/24)

* THE STATE ATTEMPTED TWICE TO HAVE APPELLANT ABANDON THE JUDGE MISCONDUCT CLAIM, THATS BEEN TIMELY FILED.

• Independent Judge misconduct motion filed MAY 9th, 2024 [DUE TO THE STATES PROCEDURAL ERRORS] BASED UPON THE JUDGE LIST AND SEVERAL OTHER CONVERSATIONS WITH THE DISQUALIFIED JUDGE. (NO HEARING); INTENTIONAL/UNINTENTIONAL STANDARD.

• ATTEMPTED AMENDMENT 2025 SEE ENCLOSED ATTACHMENT ATTACH. # 5, BASED UPON THE NEW S.C. SUPREME COURT STANDARD STATED IN ROWELL. TRIAL COURT'S DECISION REVERSED 6/13/2025.

THE TRIAL COURT'S DECISION IS NOT REASONABLY SUPPORTED BY ANY EVIDENCE, AND GROUNDED IN FACTUAL CONCLUSIONS WITHOUT EVIDENTIARY SUPPORT AND CONTROLLED BY AN ERROR OF LAW, CAUSING PREJUDICE TO APPELLANT AS A HEARING IS TO BE GRANTED.

APPELLANT HAS BEEN DEPRIVED OF 6th AND 14th AMENDMENT RIGHTS TO A FAIR TRIAL BY AN IMPARTIAL JURY.

Did the trial Court Abuse its discretion
in not granting Appellant A new trial
based upon Rule 29(b) motion (bur. 1st)

The trial Court stated on its letter decision,
Attachment (#1) that evidence of this motion
could have been previously raised, did not
meet the statute of limitations and was
not after discovered evidence; and that
"injury to support burglary conviction is
not support in law."

The trial Court's conclusions have no evidentiary
support and is an error of law.

As stated in Appellant's motion, Attachment pg —
The evidence could not have been raised in prior
action due to being ascertained by the exercise of
due diligence and raised within 1yr.

Appellant is entitled to a new trial, as the
stated after discovered evidence is such that will
change result of a new trial, has been discovered
since trial, could not in the exercise of due diligence
have been discovered prior to trial, is material and
not merely cumulative or impeaching, State v. Wakefield,
443 S.C. 123.

AS STATED IN APPELLANT'S RULE 29(b) MOTION, THE STATE HAD NOT PROVEN THAT INJURY HAD BEEN CAUSED BY THE DEFENDANT (PHYSICAL INJURY ELEMENT)

16-11-311 burglary; first degree STATES

(A) A PERSON IS GUILTY OF BURGLARY IN THE FIRST DEGREE IF THE PERSON ENTERS A DWELLING WITH OUT CONSENT AND WITH INTENT TO COMMIT A CRIME IN THE DWELLING AND EITHER:

(1) WHEN, IN EFFECTING ENTRY OR WHILE IN THE DWELLING OR IN IMMEDIATE FLIGHT, HE OR ANOTHER PARTICIPANT IN THE CRIME;

(b) CAUSES PHYSICAL INJURY TO A PERSON WHO IS NOT A PARTICIPANT IN THE CRIME, (ETC)

(B) BURGLARY IS PUNISHABLE BY LIFE IMPRISONMENT.

PHYSICAL INJURY TO SUPPORT BURGLARY CONVICTION IS SUPPORTED BY LAW.

The trial Court has Abused its Discretion
in not granting Appellant A new trial
on his RULE 29(b) motion (DNA)

Appellant's motion was made within 1yr of the
evidence being discovered/ascertained, see (Attachment #8)
---, based upon the STATES DNA EVIDENCE item,
Submission Form enclosed, ATTACHMENT (#9)

SEE motion file stamped by Clerk's office 2021
and has not received Adjudication, see enclosed Clerk's
LETTERS and public index pg. (ATTACHMENT #7 ? #10)

This Submission form shows that the STATE could
NOT submit its trial STATED DNA EVIDENCE item (no
PAPER WORK OR OTHER DOCUMENTATION) FOR THE DNA RETEST,
indicating that the trial STATED DNA EVIDENCE WAS
FALSE.

The trial Court stated only part of the Alleged
Bodes DNA testing result -

however, this COMPLETE paragraph (Attach. #11) is stated
in reference to an Alleged VAGINAL SWAB that WAS
NOT AN item that had been Collected from the CASE
Victim, there was no penile/VAGINA penetration in CASE
From vic testimony pg 4 and medical report pg 3
(9 of 10)

Conclusion

DUE TO THE TRIAL COURTS ABUSE OF DISCRETION SHOWN APPELLANT RESPECTFULLY REQUEST THAT THIS HONORABLE COURT REVERSE AND REMAND HIS CASE BACK TO THE HONORABLE TRIAL COURT FOR HEARINGS TO BE HELD ON THE MOTIONS

Respectfully Submitted,
GARY LAMONT PERRY

Indict. # 1999-GS-42-2357-2359

ATTN : HONORABLE GENERAL SESSIONS Clerk of Court

PLEASE find enclosed defendant's Amendment to his JUDGE misconduct (solicitor JUDGE tampering) Motion for A NEW TRIAL (filed 3/8/2022, Common Pleas attempted amendment) based upon NEW SOUTH CAROLINA Supreme Court standard stated in STATE V. ROSWELL, 444 S.C. 109.

When time permits please return me a filed stamped copy of the enclosed amendment and forward a copy to the Court, and solicitor's office,

Thank You,

Gray Lamont Petty
Petty Corr. Inst.
430 OAKLAWN Rd.
Pelzer, S.C. 29669

cc: Supreme Court
4th Cir.

This 2nd day of June, 2025

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SOUTH CAROLINA

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(1 of 12)

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FOR MAILROOM

STATE of South Carolina
County of Spartanburg

In the Court of General Sessions, 7th Circuit

GARY LAMONT PETTY, # 264235

Indictment # 1999-GS-42-2357, 2358-2359

v.

STATE of South Carolina

Amendment to Juror misconduct motion for A NEW TRIAL

The defendant makes this Amendment to his Juror misconduct motion for a new trial (filed 3/8/2022) based upon evidence that confirmed Juror(s) identity discovered/ascertained on 8/6th/21, see Affidavit of Gary Petty attached to motion. Due to Clerk procedural error this claim was refiled on 5/9/2024.

This Amendment is pursuant to new South Carolina Supreme Court standard stated in STATE V. BOWELL, 444 S.C. 109 (citing McCoy v. State, 737 S.E. 2d 623 (2013))

The S.C. Supreme Court stated in [6] para. 6 that, "it abandoned the intentional versus unintentional distinction, proven unwieldy," [8] overruled this framework and concluded the better path to simplify the (bias) inquiry.

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9] The new standard set by the S.C. Supreme Court for Juror concealment of information during voir dire focuses on the potential bias of the juror and how the bias may prejudice a party. This protects a party's fundamental right to a fair trial and impartial jury, as well as society's interest in the finality of judgments.

A new trial is to be ordered when - prejudice is proven by showing that the concealed information reveals a potential for bias and would have made an objective material difference in the moving party's use of a peremptory strike or resulted in a successful challenge for cause.

For a claim of juror non-disclosure a hearing is almost always performed or the trial court must document cogent and compelling reasons for not holding a hearing, see McCoy v. State.

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IN defendant Eriq Lamont Petty's case, The Jurors) withheld information during voir dire questions asked by the Judge that suggest bias, see enclosed transcript pages (7 of 12 - 10 of 12) as Jurors failure to respond prejudiced defendant Petty's right to exercise preemptory challenges, a successful challenge for cause by the court and the right to a fair trial by an impartial jury.

Due to one juror (#137) being defendant Petty's cousin [see pg. 12 of 12, and defendant's personal affidavit attached to juror misconduct motion, filed 2022 (refiled 2024)] and juror #144 a one-time neighbor, (see pg. 11 of 12, jury list) both juror(s) would have had prior knowledge of defendant Petty, witnesses and the case, and would have preconceived judgment or opinions about the defendant, witnesses and the case, which would have colored the jurors perspective and caused them to be biased toward defendant Petty.

Both Jurors lacked the ability to follow their oath and lacked the understanding of the trial process and the consequences of their actions [as shown by them being able to be threatened (by the solicitor) with contempt of court if they said anything during voir dire (etc), and unable to commit a contempt of court by not responding (truthfully) during voir dire.

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SOUTH CAROLINA STATUTE 14-7-910 STATES : NO PERSON is qualified to SERVE AS A JUROR in ANY COURT in this state if (4) Any person Called to Jury Service who KNOWS OR HAS good REASON to suspect that he is disqualified under this section upon questioning by the trial Judge, hearing officer or Clerk of Court must STATE the disqualifying facts OR THE REASON for his suspicions and any failure to do so is punishable AS Contempt of Court. The trial Judge has final determination on JUROR qualifications.

The JURORS could NOT make a decision on the CASE Verdict based upon the EVIDENCE.

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STATE OF SOUTH CAROLINA
County of Spartanburg

In the Court of General Session
7th Circuit

GARY LAMONT PERRY, #
264235

INCLT. # 1999-GS-42-2357, 2358,
2359

v.

Certificate of Service

STATE OF SOUTH CAROLINA

I, Gary Lamont Perry, Certify that I have served
the Respondent with the defendant's Amendment to
JUROR misconduct claim pursuant to NEW S.C.
Supreme Court standard, by placing a copy in the
MAIL, pre-paid postage, addressed as follows:

BARRY BAENETTE Spky. Co. Solicitor
7th Cir. Solicitor's office
180 MAGNOLIA ST.
Spky., S.C. 29306

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SPARTANBURG COUNTY
SOUTH CAROLINA

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Under the penalty of perjury, the facts and evidence
stated are true to the best of my knowledge,

This 2nd day of JUNE, 2025 Gary L. Perry

cc: Supreme Court
4th Cir.

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Jury qualification

1 MR. MORIN: No, sir.

2 THE COURT: All right. Counsel, I haven't worked with
3 you before, either one of you.

4 What we do is we will bring the panel in. The clerk
5 will call out the jurors and that will -- I will have the
6 juror come up and stand in front of you. Then you can
7 select or reject them as you wish.

8 The defense will have ten strikes, ten preemptory
9 strikes; the state will have five. We will select one
10 alternate in the case. The state will have two. Excuse me.
11 The defense will have two strikes. The state will have one.

12 Does anyone else have a copy of this juror list? Do
13 you-all have a copy, any other copy, of the juror list?

14 MS. STONE: We don't have a copy, Your Honor.

15 THE COURT: Okay. I mean the one prepared by the
16 clerk.

17 MS. STONE: No, sir.

18 THE COURT: Okay.

19 (The following takes place in the presence of the jury
20 venire.)

21 THE COURT: Good afternoon, ladies and gentlemen of the
22 jury panel.

23 If you would give me your attention, please, I
24 apologize for the delay in actually getting started with the
25 case today. We had a lot of other work that we had to do

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Jury qualification

1 They contain allegations against the defendant. That's
2 all they are at this time, are allegations, and may not be
3 considered as proof in this case.

4 Now, the defendant, Gary L. Petty, is represented by
5 Mr. Michael D. Morin. Mr. Morin, would you please stand?
6 And also ask Mr. Petty to stand and face the jury panel.

7 (Whereupon, Mr. Morin and the defendant stood.)

8 THE COURT: Okay. Thank you. You may be seated.

9 Is anyone on the jury panel related by blood or
10 marriage or friends with the defendant, Gary L. Petty? If
11 so, please stand.

12 (No response.)

13 THE COURT: Is anyone on the jury panel related by
14 blood or marriage or friends with Mr. Michael D. Morin,
15 attorney for Mr. Petty? If so, please stand. Related by
16 blood or marriage or friends with. And let me say also if
17 you've ever been represented by Mr. Morin, if you would,
18 please stand.

19 (No response.)

20 THE COURT: The state is represented by Assistant
21 Solicitor Teri Stone. Ms. Stone, would you please stand and
22 face the jury panel?

23 (Whereupon, Ms. Stone stood.)

24 THE COURT: Thank you. You may be seated.

25 Is anyone on the jury panel related by blood or

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Jury qualification

1 marriage or friends with Teri Stone? If so, please stand.

2 (No response.)

3 THE COURT: Is anyone on the jury panel related by
4 blood or marriage or friends with anyone who works in the
5 Seventh Circuit Solicitor's Office? If so, please stand.

6 (No response.)

7 THE COURT: All right. I am going to go over a list of
8 possible witnesses in this case. These are potential
9 witnesses. They may or may not be called. But what I am
10 going to ask you as to each witness, if you are related by
11 blood or marriage or friends with any of these persons,
12 please stand.

13 Brian Johnson, deputy with the Spartanburg County
14 Sheriff's Office. Anyone related by blood or marriage or
15 friends with Deputy Brian Johnson? If so, please stand.

16 (No response.)

17 THE COURT: Todd Dreher, spelled D-R-E-H-E-R. Anyone
18 related by blood or marriage or friends with Todd Dreher?
19 If so, please stand.

20 (No response.)

21 THE COURT: Clara Petty. Anyone on the jury panel
22 related by blood or marriage or friends with Clara Petty?
23 If so, please stand.

24 (No response.)

25 THE COURT: Melissa Shrum. Anyone on the jury panel

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Jury qualification

1 THE COURT: Does any member of the jury panel know
2 anything about this case before coming to court here today?
3 If so, please stand. If you've heard or know anything about
4 this case prior to coming to court today, please stand.

5 (No response.)

6 THE COURT: Has any member of the jury panel formed or
7 expressed an opinion as to the guilt or the innocence of the
8 defendant, Gary Lamont Petty? If so, please stand.

9 (No response.)

10 THE COURT: Is any member of the jury panel conscious
11 of any interest, bias or prejudice for or against the
12 defendant, Gary Lamont Petty? If so, please stand.

13 (No response.)

14 THE COURT: Can each member of the jury panel give both
15 the state and the defendant, Gary Lamont Petty, a fair and
16 impartial trial in this case? If not, please stand.

17 (No response.)

18 THE COURT: Does any member of the jury panel know of
19 any reason whatsoever why he or she should not serve as a
20 juror on this particular case? If so, please stand.

21 (No response.)

22 THE COURT: Any additional questions requested of the
23 jury panel from the state?

24 MS. STONE: No, sir, Your Honor.

25 THE COURT: From the defense?

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Jury qualification

1 MR. MORIN: Your Honor, I don't have any, but I would
2 like to clarify the witness Melissa Shrum. Her name is
3 spelled, actually spelled, S-H-R-U-M.

4 THE COURT: Okay. Let me ask that question again,
5 then. I asked you previously if any member of the jury
6 panel knew Melissa Strum, but it's actually spelled -- it's
7 Shrum, spelled S-H-R-U-M.

8 Is any member of the jury panel -- are you related to,
9 blood or marriage, or friends with Melissa Shrum, S-H-R-U-M?
10 If so, please stand.

11 (No response.)

12 THE COURT: Okay. Any other questions?

13 MR. MORIN: No, sir.

14 THE COURT: All right, sir. All right. Madam clerk,
15 give us a jury.

16 (Whereupon, a jury was impanelled. Form attached to
17 transcript.)

18 THE COURT: Counsel, approach just a minute, please.

19 (Bench conference held off the record in the presence
20 of the jury but out of the hearing of the jury.)

21 (Whereupon, the remaining members of the jury venire
22 were excused.)

23 THE COURT: Ladies and gentlemen of the jury panel --
24 counsel, approach just a minute please.

25 (Bench conference held off the record in the presence

Comments by the Court

1 of the jury but out of the hearing of the jury.)

2 THE COURT: Madam clerk, would you please swear the
3 jury panel?

4 (Whereupon, the jury was duly sworn.)

5 THE COURT: Ladies and gentlemen of the jury panel, if
6 you will give me your attention, please, I am going to give
7 you what I call a preliminary instruction. I suspect that a
8 number of you have not served on a jury in circuit court
9 before, and particularly not a general sessions or criminal-
10 court jury in circuit court.

11 I want to go over with you and give you some idea of
12 what to expect and a complete description of how the trial's
13 going to go so you will get a little better understanding of
14 how it's going to go, and hopefully you'll be a little more
15 comfortable in these unfamiliar surroundings.

16 The first thing that will happen after I've completed
17 this instruction to you, or normally would happen -- I don't
18 think we're going to get to that today -- is that the
19 attorney for the state, who is the assistant solicitor, will
20 make an opening statement to you. And then the attorney for
21 the defendant will have the same opportunity to address you.

22 These opening statements by the attorneys are not
23 evidence, but you should pay close attention, because
24 they're, in essence, going to identify to you what they
25 perceive or say the issues in this case are.

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THE STATE

Against

Donna Kermit Potts

Defendant

In the Spartanburg County
General Session Court

Charged with CSC, Dist. Pl.

99-2358, 99-2257, 99-2359

1. William Cooksey (31)

2. Patricia Edmonds (39)

3. Christopher Sutton (144)

4. Lora Hughes (67)

5. Toni Smith (137)

6. Judy Dewarth (34)

7. Patricia Martin (87)

8. Virginia Whitford (157)

9. Linnia Miller (95)

10. Colin Maguire (153) Jerepman

11. Tina Sawelle (37)

12. Kimberly Martin (86)

att. L. Linnia Smith (122)

Removed from case due to
knowing a witness
Retained prior to closing arguments

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AP

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
NOTIFICATION OF APPROVED VISITORS

DATE: 2005/08/17

SCDC# 00264235 INMATE NAME GARY LAMONT PETTY

INMATE DORM F20118X

INMATE INST MCCORNICK

LISTED BELOW ARE THE VISITORS WHO HAVE SUBMITTED PROPER DOCUMENTATION AND HAVE BEEN APPROVED TO VISIT YOU.
IF YOU WANT ANY ADDITIONAL PEOPLE ADDED TO YOUR LIST, YOU MUST OBTAIN VISITATION REQUEST FORM(S) FROM YOUR INSTITUTION VISITATION COORDINATOR AND MAIL THEM TO THE VISITOR YOU WISH TO ADD.

VISITOR NAME		
KELLI	A	NICKERSON
COURTNEY	M	COVERDALE
KEITH	E	WELLS
LARRY	N	RICE
ALBERT	LOUISE	HALL
WILLIE	MAE	PETTY
TEDDY	LAMONT	BYERS
TORI	ANN	SMITH
MELISSA	DAWN	SHRUM
ELISA	MARLA	PETTY
KRISTA	AALIYAH	PETTY
NICHOLE	MARIE	JONES
JOHNATHAN	LEE	PETTY
CLARA	MAE	PETTY
LILLY	MAE	MILLER

(in file)

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