

The STATE of South Carolina
IN THE SUPREME COURT

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SC Court of Appeals

APPEAL FROM Spartanburg County
Court of General Sessions

J. MARK HAYES, II, Circuit Court Judge

APPELLATE CASE # 2025 - 001324

THE STATE of South Carolina

Respondent

v.

GARY LAMONT PETTY

PETITIONER

PETITION FOR WRIT OF
CERTIORARI

OTHER COUNSEL OF RECORD:

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I. The Court of appeals should have held that the trial Courts letter constitutes a final appealable order under S.C. Code Ann. § 14-3-330, Rule 201 SCACR, a party aggrieved by order, judgment or decision may appeal.

(b) Whether the absence of a formal order may be excused where the Circuit Courts letter operates as a de facto final order, denying relief and triggering appellate deadline.

(c) Whether denial of a hearing on Juror *voix clée* misconduct constitutional violation constitutes an error of law.

(d) This case presents important questions of state wide importance.

II. The Supreme Court has appellate jurisdiction over an intermediate order in an action involving

THE MERITS AS MUCH AS IT AFFECTS A SUBSTANTIAL RIGHT AND IN EFFECT DETERMINES THE ACTION AND PREVENTS A JUDGMENT FROM WHICH AN APPEAL MIGHT BE TAKEN.

CERTIFICATE OF PETITIONER (PRO-SE)

PETITIONER GARY LAMONT PETTY CERTIFIES THAT THE PETITION FOR REHEARING WAS MADE AND FINALLY RULED ON BY THE COURT OF APPEALS ON

Jurisdiction

THIS PETITION IS FILED PURSUANT TO RULE 242 SCACR, SEEKING REVIEW OF THE SOUTH CAROLINA COURT OF APPEALS ORDER DISMISSING PETITIONER'S APPEAL FOR LACK OF A FINAL ORDER AND DENYING A HEARING ON JURE VOIR DICE MISCONDUCT MOTION, JURISDICTION IS PROPER UNDER ART. V. OF THE S.C. CONST. AND RULE 221, 242 AND 268 SCACR.

CERTIORARI IS APPROPRIATE BECAUSE THE TRIAL COURT ISSUED A LETTER DENYING PETITIONER'S MOTION, WHICH THIS RULING FINALLY DISPOSED OF THE CLAIM AND LEFT NOTHING FURTHER FOR ADJUDICATION.

ALTERNATIVELY, EVEN IF DEEMED INTERLOCUTORY, THE RULING EFFECTIVELY FORECLOSES APPELLATE REVIEW OF A SUBSTANTIAL CONSTITUTIONAL ISSUE, RENDERING CERTIORARI THE ONLY ADEQUATE REMEDY.

Question Presented

1. Whether the Court of Appeals erred by dismissing the appeal for lack of a final order where the Circuit Courts' written letter denying a hearing on Juror voir dire misconduct which implicates a Constitutional right to an impartial jury, effectively foreclosed any avenue for further relief and rendered the claim incapable of further adjudication.
2. Whether a Circuit Courts' letter denying a hearing on Juror misconduct constitutes an appealable order under S.C. Code Ann. § 14-3-330(2) in that it is an intermediate order involving the merits or affecting a substantial right which, in effect, determines the action and prevents a judgment from which an appeal might be taken.

STATEMENT OF THE CASE

Petitioner is serving a life sentence pursuant to a guilty verdict that was imposed after a February 7-10, 2000 jury trial.

Following the verdict, petitioner discovered information indicating that jurors had failed to disclose material information during voir dire (due to external influence) that bore directly on the jurors' impartiality; and that the trial court had failed to conduct a juror selection process, see Appendix pg. 12.

Petitioner timely filed a post trial Juror Voir dire misconduct motion, requesting an evidentiary hearing to address the Juror's non disclosure. The motion alleged facts which if proven, would establish Juror bias and would warrant a new trial, POWELL, 444 S.C. 109.

Rather than scheduling a hearing or issue a formal written order, on June 6th, 2025 the honorable J. Mark Hayes, II in administrative capacity issued a written letter, stating that no hearing would be held and denying the requested relief. The letter provided substantive reason for denying relief, expressly advising petitioner to seek appellate review, which disposed of the Juror misconduct claim in its entirety. No further proceedings were scheduled and no opportunity afforded to present other testimony or evidence. No final order was subsequently entered on the record.

As a result petitioner was left without a conventional final order from which to file an appeal, despite the court's ruling conclusively rejecting the Juror misconduct claim.

Petitioner timely filed a notice of appeal, the South Carolina Court of Appeals dismissed the appeal, holding that the Circuit Court letter did not constitute a final appealable order, and subsequently denied petition for rehearing.

This petition follows :

Argument

The Court of Appeals should have held that the trial court's letter constitutes a final, appealable order under S.C. Code Ann. § 14-3-330(2)

South Carolina law looks to the substance and effect of a ruling not its label or format in determining finality. An order is final when it finally determines the rights of the party and leaves nothing further to be decided, here the trial court's letter :

- explicitly denied petitioner's request for a hearing.
- rejected the juror voir dire misconduct claim, and contemplated no further proceedings.
- conclusively ended petitioner's ability to obtain relief in the circuit court.

Nothing remained pending before the circuit court, the ruling therefore had the practical effect of a final order, notwithstanding its form as a letter rather than a formal order entered by the clerk.

The absence of a formal caption or signature block does not negate finality where the substance of the ruling is conclusive.

SOUTH CAROLINA PRECEDENT RECOGNIZES THAT SUBSTANCE CONTROLS OVER FORM, PARTICULARLY WHERE FAILURE TO TREAT AN ACTION AS FINAL WOULD DEPRIVE A LITIGANT OF APPELLATE REVIEW Altogether. SOUTH CAROLINA APPELLATE COURTS HAVE CONSISTENTLY REJECTED SUCH A RESULT.

TREATING THE LETTER AS A NONE FINAL ORDER CREATES A JURISDICTIONAL CATCH-22, THE COURT OF APPEALS DECISION LEAVES PETITIONER WITHOUT ANY PROCEDURAL PATH:

- THE CIRCUIT COURT REFUSES TO RULE FURTHER,
- THE CLERK OF COURT BARRED FROM SCHEDULING A HEARING,
- THE APPELLATE COURT REFUSE REVIEW DUE TO LACK OF FORMALITY.

THIS RESULT VIOLATES BASIC PRINCIPLES OF DUE PROCESS AND ACCESS TO THE COURTS, A LITIGANT CAN NOT BE DENIED APPELLATE REVIEW SIMPLY BECAUSE A TRIAL COURT DECLINES TO ENTER A FORMAL ORDER AFTER CONCLUSIVELY DENYING RELIEF.

SOUTH CAROLINA LAW RECOGNIZES THAT A JUDGE'S LETTER CAN CONSTITUTE AN APPELLABLE ORDER IF IT IS SIGNED BY THE JUDGE, FILED WITH THE CLERK AND CONSTITUTES A FINAL ADJUDICATION OF THE SUBSTANTIVE RIGHTS OF THE PARTY.

c) Denial of a hearing on Juror Voir dire misconduct constitutes an error of law.

South Carolina Law is clear that substantiated allegations of Juror non disclosure or misconduct during Voir dire requires an evidentiary hearing. Juror Voir dire exist to ensure an impartial Jury and Juror honesty is essential to that process and a fair trial.

By denying any hearing the trial Court committed an error of law, violating petitioners constitutional right to a fair trial by an impartial Jury.

The denial of a hearing on Juror misconduct prevents the creation of a factual record, making meaningful appellate review impossible, without Juror testimony from the Juror, or other evidence and witnesses, appellate Courts are left to speculate -- something South Carolina law does not permit in Juror bias cases.

The Court denying a hearing via letter, the Court has issued a finality to that specific issue, leaving the petitioner with no other avenue for relief, thereby fitting the criteria of §14-3-330(2).

D. This case presents an important question of state wide importance.

This issue expands beyond petitioners' case and if left unreviewed, Circuit Courts' may insulate rulings from appellate review by issuing "letters", instead of orders -- particularly in post conviction and pro-se context.

The Supreme Court's guidance is necessary to clarify:

- When Judicial Correspondence constitutes an appealable ruling, and
- How litigants may obtain review when a trial court refuses to enter a formal order.

The letter constitutes a final appealable order subject to this Court's review -- even if the letter is deemed interlocutory, certiorari is proper because the ruling forecloses appellate review. Certiorari exists precisely to address such circumstances, where the lower courts' actions also implicate fundamental rights.

- There is no adequate remedy by appeal
- The lower court's ruling results from an error of law or exceeds its authority.

Why Certiorari Should be granted.

Certiorari is warranted because :

- The decision below conflicts with fundamental principles of Finality.
- The issue is Jurisdictional and Recurring
- Petitioner has no alternative remedy, and
- The case presents exceptional circumstances justifying review.

Conclusion

For the foregoing reasons, petitioner respectfully requests that this Court grant Certiorari, reverse the dismissal by the Court of Appeals, and remand with instructions that the Circuit Court enter a final order or otherwise permit appellate review.

Respectfully Submitted,
Gary Lamont Petty, #264235

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Certificate of Service

I did this DATE SERVE THE petition for writ of Habeas Corpus, by placing a copy of the same in a U.S. Postal Service mail box, postage pre paid and addressed as follows:

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Amy L. Petty
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This 17th day of February, 2025

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