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SC Court of Appeals

Appendix



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

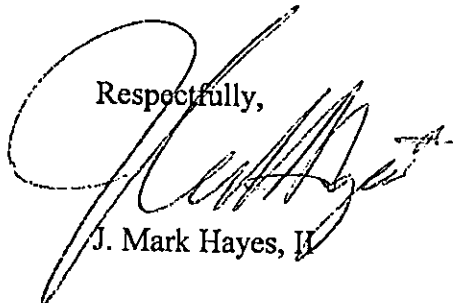
The new motions, in my opinion, are not properly filed and/or do not contain the required substantive claims to necessitate the scheduling of addition hearings by the circuit court. Expressed in more legal terms, a prima facie showing has not been made to justify conducting a hearing. Having reviewed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

Gary Lamont Petty, Petitioner,

v.

The State of South Carolina

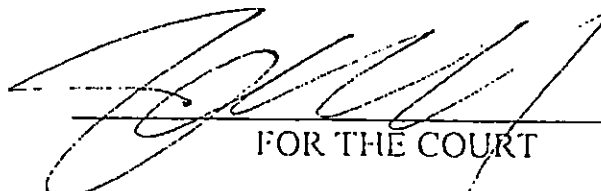
Appellate Case No. 2025-001324

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## ORDER

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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.



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FOR THE COURT

Columbia, South Carolina

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

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cc:

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

# The South Carolina Court of Appeals

Gary Lamont Petty, Petitioner,

v.

The State of South Carolina

Appellate Case No. 2025-001324

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## ORDER

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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**

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## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
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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

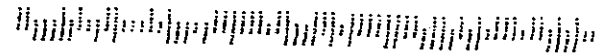
GARY L. PETTY, 264235  
PERRY CORRECTIONAL INSTITUTION  
430 OAKLAWN ROAD  
PELZER SC 29669

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JAN 26 2025

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## The South Carolina Court of Appeals

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CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

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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](http://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](http://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,

  
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 petitioner's  
Original petition for rehearing to be  
Filed with the Court,

Thank You,

Gray Lamont Petty, #264235  
Pract. Cert. Inst.  
430 OAKWOOD Rd.  
Pelzer, S.C. 29669

This 4<sup>th</sup> 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

CHASEY LAMONT PETTY . . . . . PETITIONER

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

Petition For Rehearing

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

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CRIMINAL DIVISION

(1 of 4)

## 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 record eq.)

Pruitt V. Bowers, 330 S.C. 483

Black's Law Dictionary 11<sup>th</sup> ed. (2019)

**I.** Petitioner Gray Lambert 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/misapplied/misinterpreted STATUTE 14-3-330, and misapplied this principle of law in the following respects:

Siting 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 (2017) (see index p. 7, enclosed)

The Circuit Court's reason stated for the motions not being properly filed was that "the rule 21(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, p. 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 21(b) seeking; and justified reasons the Judge misconduct claim could not have been raised during trial or 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 - Tithall v. Gardner, 358 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, 36 S.C. 333, 351 (Ct. App. 1896) "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, Pratt 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 clerk 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 (sincerely for the Court) to reconsider its order and rule in favor of the petitioner.

This 4th day of August, 2025  
(5 of 9)

Gregory J. Perry  
Gregory Vincent Perry (1965-2025)  
Perry Court Just  
430 Central Ave.

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

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 BARNETTE  
Spartanburg Co. Solicitor  
180 Magnolia St.  
Spartanburg, S.C. 29306

Gary L. Petty  
Gary Lamont Petty  
Petty Core. Inst.  
430 Parkway Rd.  
Petzer, S.C. 29166

AUG 04 2025

MARK FRITHING  
Ass. Attorney General  
P.O. Box 11549  
Columbia S.C.

1 MAIL ROOM This 4th day of August, 2025



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
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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>244235</i>	Housing Unit: <i>(Q35) 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>	
Sub-Total:	<i>9.45</i>

**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**

*[Signature]*  
\_\_\_\_\_  
Inmate's Signature

*[Signature]*  
\_\_\_\_\_  
Mailroom/Canteen Signature (Request filled by)

*6/19/25*  
\_\_\_\_\_  
Date

White - Inmate  
Canary - Mailroom/Canteen Employee

# Table of Content

## Table of Authority

POWELL, 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 preemptory challenge

Regulatory 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 Juroe 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 Appellant's 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 Appellant's motion, see (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 Appellant's stated  
facts for allegations, and has not stated cogent  
and compelling reasons for not holding required hearing.  
on Appellant's claim.

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JUN 19 2025

(1 of 10)

20

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

[1] THE QUESTION AS TO HOW THE TRIAL COURT SHOULD RESOLVE ALLEGATIONS THAT A JUROR CONCEALED INFORMATION DURING VOIR 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 VOIR 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 ALBERT, 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. CAROLINA 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 Juror's names on the Jury list was the basis of a Juror disqualification claim for a new trial, pursuant to the 5-prong 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, nor within at least 12 months afterwards.

As also stated in Appellant's motion, (Attachment #5 pg. 7-11) the Jury trial Court had not conducted a Jury selection process as the Court stated it would, with the prospective Juror's 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. 303 [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 file Application (04184) Clerk File stamp 2023 (Attach. #3) Juror misconduct claim based upon phone conversation with disqualified juror #137, confirming identity;

• PCE Application (C4184) 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 Juror misconduct claim, that's been timely filed.

• Independent Juror misconduct motion filed May 9<sup>th</sup>, 2024 [due to the states procedural errors] based upon the Juror list and several other conversations with the disqualified Juror (no hearing); intentional/unintentional standard.

• Attempted amendment 2025 see enclosed Attachment Attach. # 5, based upon the new S.C. Supreme Court Standard stated in Powell, Trial Court's decision received 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 6<sup>th</sup> and 14<sup>th</sup> 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 (buic. 1<sup>st</sup>)

The trial Court stated on its letter decision,  
Attachment ( # L ) 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 FIGHT, 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 #17 ? 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  
Bates DNA testing result -

however, this COMPLETE paragraph (ATTACH.#11) is stated  
in reference to an alleged Original 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.

## Conclusion

Due to the trial Courts Abuse of discretion shown Appellant respectfully request that this honorable Court REVERSE and REWARD his CASE back to the honorable trial Court for hearings to be held on the motions

Respectfully Submitted,  
GARY LAMONT PERRY

Indict. # 1999-GS-42-2357-235  
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. JUST.  
430 OAKLAWN RD.  
PETZER, S.C. 29669

CC: Supreme Court  
4th Cir.

This 2<sup>nd</sup> day of June, 2025

2025 JUN 03 09:58

(1 of 12)

RECEIVED  
JUN 03 2025  
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 JUDGE  
MISCONDUCT MOTION FOR  
A NEW TRIAL

The defendant makes this Amendment to his JUDGE  
misconduct motion for a new trial (filed 3/8/2022)  
based upon evidence that confirmed Juror's identity  
discovered/ascertained on 8/6<sup>th</sup>/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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(2 of 12)

Clerk

19] 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 preferred or the trial court must document cogent and compelling reasons for not holding a hearing, see McCoy v. State.

2025 JUN 16 PM 8:58 (3 of 12)

01/11/2025

IN defendant Gary Lamont Petty's case, the Juror(s) withheld information during voir dire questions asked by the Judge that suggest bias, see enclosed transcript pages (7 of 12 - 10 of 12) as Juror 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 Juror's 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 made to commit a contempt of court by NOT responding (truthfully) during voir dire<sup>ss:8</sup>].

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.

(5 of 12)

2025 APR 16 PM 3:58  
COURT REPORTER

STATE OF SOUTH CAROLINA  
County of Spartanburg

In the Court of General Sessions  
7th Circuit

GARY LAMONT PETTY # 260235

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

v.

STATE OF SOUTH CAROLINA

Certificate of Service

I, Gary Lamont Petty, Certify that I have served the respondent with the defendant's Amendment to Judge misconduct claim pursuant to New S.C. Supreme Court standard, by placing a copy in the mail, prepaid postage, addressed as follows:

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

2025 JUN 03 15:00:58

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. Petty

cc: Supreme Court  
4th Cir.

(6 of 12)

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FOR MAILROOM



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

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

89-3-11 91 and 1202

(9 of 12)

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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11:11:32

(10 of 12)

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.

THE STATE

Against

Dany Lomant Potts

Defendant

In the Aponteburg County  
District Court

Charged with CSC, Burg, Ph,

99-2358, 99-2257, 99-2359

1. William Carkey (31)

2. Patricia Edwards (39)

3. Christopher Sutton (144)

4. Anna Hughes (67)

5. Toni Smith (137)

6. Judy DeWalt (34)

7. Patricia Martin (87)

8. Virginia Whitmore (157)

9. Lynise Miller (95)

10. Celia Hightbrat (153) Jarpenon

11. Tina DeWalt (37)

12. Kenneth Martin (86)

Att. L. Glenn Smith (132)

Excluded from case due to  
knowing a witness  
Retained prima facie evidence

(11 of 12)

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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
<del>COURTNEY</del>	<del>H</del>	<del>COVERDALE</del>
<del>KEITH</del>	<del>E</del>	<del>WELLS</del>
<del>LATRICE</del>	<del>N</del>	<del>RICE</del>
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

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un

TH

GARY LAMONT PATTY # 264283 / Q3(6) 224  
PERRY COCK, TRUST  
430 OAKLAWN RD.  
DRTZER, S.C. 29669

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FEB 17 2026

FBI MAILROOM

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FEB 19 2026

SC Court of Appeals

South Carolina Court of Appeals  
Tommy A. Kitchens, Clerk  
P.O. Box 11629  
Columbia, S.C. 29211