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Feb 26 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DILLON COUNTY
Court of General Sessions

Paul M. Burch, Circuit Court Judge

Appellate Case No. 2022-000324

The State of South Carolina,

Respondent,

v.

Marc Yasin Mckeiver,

Appellant.

PETITION FOR REHEARING

Appellant Marc Yasin Mckeiver respectfully petitions for rehearing pursuant to Rule 221(a), SCACR, on the basis that this Court overlooked and misapprehended material facts and principles of law in affirming his conviction and sentence. Specifically, Appellant is requesting that this Court rehear the issues raised on appeal based on the following reasons:

(1) As to issue four, this Court failed to properly address the nature of the alleged information withheld by Juror number 6 and Juror number 53, and whether the jurors' concealment of that information suggests bias. *See State v. Rowell*, 444 S.C. 109, 115, 906 S.E.2d 554, 557 (2024) (finding [w]here a party claims a juror has withheld material information in response to a voir dire question, the trial court must determine, preferably after a hearing, whether the juror's withholding suggests bias. This will typically turn on the nature of the information withheld, rather than the nature of the juror's state of mind in not disclosing it.”).

(2) This Court's opinion improperly assumed that Appellant was aware of the biases and prejudice against him by Juror number 6 and Juror number 53 without providing any basis for how and when Appellant knew this information and should have notified his Counsel and the Court.

(3) This Court failed to address the Trial Court's denial of Appellant's request for an *evidentiary* hearing to present testimony of the witnesses who provided affidavits in support of the motion for new trial and to potentially question Juror number 6 and Juror number 53 under oath regarding the allegations of their intentional concealment of bias and prejudice against Appellant. In other words, the post-trial hearing was insufficient for the Trial Court to properly assess the reliability and credibility of these allegations based on the affidavits alone. Therefore, a full evidentiary hearing was reasonable and necessary for the Trial Court to properly rule on the motion for a new trial. *See State v. Sparkman*, 358 S.C. 491, 496, 596 S.E.2d 375, 377 (2004) (finding evaluating the merits of a juror misconduct claim is a fact-intensive inquiry, which is most appropriately conducted after a hearing).

(4) This Court also previously denied Appellant's Motion to Hold Appeal in Abeyance and to Remand for a Hearing on a Motion for a New Trial Based on After-Discovered Evidence and Petition for Rehearing during the pendency of this direct appeal. Specifically, this Court did not provide any specific basis for the denial except for citing *State v. Prince*, 316 S.C. 57, 69, 447 S.E.2d 177, 184 (1993) (providing the five-factor test for seeking a new trial based on after-discovered evidence). In the prior petition for rehearing, Appellant requested for the Court to issue a specific ruling to preserve that issue for appellate review because all five elements of the after-discovered evidence test are satisfied based on the affidavits of Winter Bennett, Appellant, and Trial Counsel Thurmond Brooker.

CONCLUSION

Based on the foregoing reasons, the Appellant respectfully requests that this Court grant the Petition for Rehearing.


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Trial Court Case No. 2019-GS-16-0996

The State of South Carolina,

Respondent,

v.

Marc Yasin Mckeiver,

Appellant.

CERTIFICATE OF SERVICE

The undersigned Counsel certifies that a true copy of the Petition for Rehearing has been served upon **Mark Farthing, Esquire**, at S.C. Attorney General's Office, PO Box 11549, Columbia, SC 29211, on **February 26, 2026**.



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SUBSCRIBED AND SWORN TO before me
this 26th day of February, 2026.

Courtney Powers (L.S.)
Notary Public for South Carolina
My Commission Expires: May 2, 2027.

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February 26, 2026

The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: State v. Marc Yasin Mckeiver
PETITION FOR REHEARING
Appellate Case No.: 2022-000324

Dear Ms. Kitchings:

I have emailed the Petition for Rehearing for filing today in the above-referenced case.

Thank you for your assistance with filing these documents. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

s/ Dayne C. Phillips
Dayne C. Phillips, Esq.
(803) 807-0234

cc: **Marc Yasin Mckeiver**
Mark Farthing, Esq.

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