

The State of South Carolina
In The Court of Appeals

Appeal From Chester County
Court of General Sessions
The Honorable Clifton Newman

RECEIVED
JUN 01 2026
SC Court of Appeals

Appellate Case NO.: 2026-000715
Trial Court case No.: 2024GS1200560
2024GS1200561

State of South Carolina, Respondent
Phillip D. Newberry, Appellant

Motion For a New Trial

Comes Now Phillip D. Newberry Defendant Pro Se, and Pray the Court grant Motion for a new trial, based on the matters outlined in the issues on appeal, and Supplemental issues on Appeal. Defendant requests that upon the Courts ruling on the issues that the cases be severed, and remanded for a new trial. Defendant claims that the Joinder was Prejudicial, not only due to victim testimony, but due to the fact that the two cases were treated as one "spree", and therefore since the States investigators had been engaging in the same Pattern of Conduct as these two cases, as well as the Pending 2025A1210100569, therefore since the state severed one case, then all should have been severed. Defendant alleges that he was biased, by looking at the first two cases as a spree, but severing the third case. He also argues malice in regards to the States eleventh hour severance, and the lowering of one of the allegations to "stalking" from "Stalking While restraining order or injunction is in effect."

Part of the States Prosecutors Job is to establish some sort of Pattern of Conduct. From the Perspective of a Prosecutor, defendants request to have all three charges tried before the same jury actually makes their case stronger. In the sense it is easier to allege a Pattern to the alleged "spree" instead the State Elected to Sever the case involving the Jr. Solicitor who lost her job due to witness intimidation from the other two cases where she was the original Prosecutor, and then did not sever the Joinder involving the two victims from Texas, then at the 11th hour, after having two years to review Case material then decide to drop one of the indictments down to a lesser charge. after defendant had already spent 14 months in County, and had already bonded out. Defendant alleges

Phillip D. Newberry
SCDC # 400374

Prosecutorial misconduct. The State had two years to review discovery. The victim Steve Sizemore did not have a protective order, and this was known, yet the State decided to keep the original indictment until the last minute. Knowing they could not meet the necessary elements, but failed to then separate the two cases from each other, alleging them to be a pattern as part of the same spree, but not recognizing the third charge as part of the same pattern or spree.

It is worth noting that both the States investigator, and the original prosecutor lost their jobs. They may have "retired" or "relocated" officially to save the state bad publicity, but they still lost their jobs.

In defendant's issues on appeal he noted that illegally obtained evidence and the fruits thereof were not suppressed. This should be on record being argued before Judge Dunbar. He also alleged a pattern of conduct on behalf of the government, specifically the use of illegal monitoring. It was shown in court how the illegal monitoring occurred, then at the preliminary hearing for 2025A1210100549 Agent Kyle Radford under cross examination by the defendant stated that the emails in question that Candice Lively told Judge Hood in open court with a projected image of her inbox that she did not open or read, were in fact read by the IT department. There is a warrant in this case, however it was dated for 9-22-2025, almost 3 weeks after arrest. In the arrest affidavit Mr. Radford states "Some of the emails contain implied threats." There would be no way of proving that without a warrant, as Lively stated "she hasn't opened or read anything." Therefore the defendant's claim of malfeasance on behalf of the state for illegal monitoring in all three cases should be sustained.

Therefore defendant alleges that the states failure to sever all three cases or to bring all three to trial constitutes a prejudicial joinder, as the partial severance alleging the first two cases as part of a pattern of conduct, but failing to observe the governments pattern of misconduct simultaneously, creates bias. Furthermore the fruit of the poisonous tree doctrine has been violated in all three cases, and the states investigator Kyle Radford testified to the facts, under oath, upon cross examination prior to even the partial severance, and both the investigator and prosecutor have been relieved of their duties. For these reasons, and the fact that other evidence that should not have been admitted by law, was allowed and for the reasons stated in the defendant's issues on appeal, and the supplemental issues on appeal, defendant prays the court rule on the matters, and remand the cases for a new trial.

5-28-2026

Phillip D. Newberry
SCDC # 400374

The State of South Carolina
 in the Court of Appeals

Appeal from Chester County
 Court of General Sessions

RECEIVED

JUN 01 2026

CC Court of Appeals

The Honorable Clifton Newman

Appellate Case NO.: 2026-000715

Trial Court Case No.: 2024GS1200560

2024GS1200561

State of South Carolina, Respondent
 v.
 Phillip D. Newberry, Appellant

Proof of Service

I Certify that Pursuant to Rule 203 SCACR, I have served the Notice of Appeal and all other required documents, on respondent by placing a copy of it in the United States mail, Pre-Paid Postage on 3-16-2026 Addressed to the State of South Carolina's Attorney of Record, who's name and address is:

- Jason Edward Bridges, Esquire, South Carolina office of the Attorney General
 Po Box 11549 Columbia S.C. 29211

as well as the appropriate court clerks who's names and addresses are:

- Betty Jo Lawson, Post office Drawer 580 Chester S.C. 29706
- Jenny Abbott Kitchings, Clerk of Appellate Court, P.O. Box 11629 Columbia S.C. 29211
- Patricia A. Howard, South Carolina Supreme Court Clerk, 1231 Gertrude St.
 Columbia S.C. 29201

Date of Proof of Service 5-28-2026 of Service

Phillip D. Newberry
 SCDC # 400 374

Phillip D. Newbern, #400374
Kirkland Reception & Evaluation Prison F3A-107
4344 Broad River rd.
Columbia S.C. 29210

COLUMBIA SC 290

28 MAY 2026PM 2 L



US POSTAGE PAID PITNEY BOWES



ZIP 29210 \$ 000.74⁰
02 4W
0000378357 MAY 28 2026

The Honorable
South Carolina Court of Appeals
Clerk of the Court
1220 Senate Street
Columbia, S.C., 29201

RECEIVED

JUN 01 2026

SC Court of Appeals

SCDC

JUL 30 2026

MAILROOM

RECEIVED

MAY 27 2026

Kirkland R&E Center
Mailroom

only open by addressee. 29201-378999

