

To who this may concern,

All court have repeatedly addressed a defendants right to have evidentiary hearing outside the presence of the jury the trial judge should conduct a hearing in the absence of the jury and the competency of the evidence should be evaluated. In such a hearing the testimony should be taken and all factual questions determined including those involving the appellants constitutional rights pertinent to the admissibility of the proffered evidence 1d at 353 185 S.E.2d at 526-27.

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JUN 18 2014

**S.C. SUPREME COURT**

Effective September 3, 1995

(A) Questions of admissibility generally (Rule 104 SCRPC)

Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege or the admissibility of evidence shall be determined by the court subject to the provisions of subdivision (B) in making its determination it is not bound by the rules of evidence except those with respect to privileges.

(C) Hearing of jury

Hearing on admissibility of confessions or statements by an accused an pretrial identification of an accused in all cases be conducted out of the hearing of the jury.

The Note Following Rule 104 states:

Subsection (c) modifies the federal rule by adding the phrase or statement made by an accused. This addition is added to make and emphasize the fact that hearing on the admissibility of all statements, made by a criminal defendant, whether inculpatory or exculpatory, must be made outside the presence of the jury.

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JUN 23 2014

**SC Court of Appeals**

CC: Devatee Clinton

United States Supreme Court

South Carolina Rules of evidence

The State v Cheatham 349 S.C. 101 561 S.E.2d

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S.C. SUPREME COURT

Devatee Glinson # 317521

MCC1

386 Redemption Way

McCormick, S.C. 29899

The Supreme Court of South Carolina

P.O. Box 11330

Columbia, S.C. 29211

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JUN 13 2014

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