

EXHIBIT C

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(MONDAY, JANUARY 30, 2006.)

MR. CATHCART: YOUR HONOR, AT THIS TIME THE STATE  
CALLS THE CASES OF STATE V. TERRANCE ADAMS, SIX COUNTS OF  
BURGLARY FIRST, LARCENIES THAT ACCOMPANY, I BELIEVE, MANY,  
TWO GRAND, A POSSESSION OF BURGLARY TOOLS AND RESISTING  
ARREST. THIS IS IN REFERENCE TO 2004 -- INDICTMENT NOS.  
05-3478, 3477, 3548, 3945, 3940, 4169, 3547, 3941, 35 --  
EXCUSE ME, 3475, 3474, 3936 -- 3936, 4170, 3549, AND 3550.

HE IS REPRESENTED BY COUNSEL. HE IS COMING INTO THE  
COURTROOM RIGHT AS WE SPEAK, YOUR HONOR.

THIS IS A CASE THAT THE DEFENDANT WAS ARRESTED BACK ON  
APRIL 2005. UPON GOING THROUGH THE DEFENDANT'S RECORD IN  
PREPARATION OF TRIAL, THE STATE AT THAT TIME REALIZED HE  
HAS A PRIOR CONVICTION -- IN FACT, BOTH PRIOR CONVICTIONS  
FOR BURGLARY FIRST DEGREE. HE IS NOW FACING SIX COUNTS OF  
BURGLARY IN THE FIRST DEGREE, THESE WOULD BOTH BE MOST  
SERIOUS OFFENSES. THE STATE HAS NO CHOICE BUT AT THAT TIME  
TO SERVE HIM WITH NOTICE OF INTENT TO SEEK LIFE WITHOUT  
PAROLE. THAT NOTICE WAS SERVED UPON HIM JANUARY THE 9TH I  
BELIEVE IN FRONT OF JUDGE MANNING IF I WAS NOT MISTAKEN --

JUDGE JOHNSON.

IT WAS ON THE RECORD, YOUR HONOR. DEFENSE COUNSEL WAS  
PRESENT WHEN WE SERVED HIM WITH OUR NOTICE OF INTENTION TO  
SEEK LIFE WITHOUT PAROLE.

IF I MAY APPROACH AND HAND UP OUR NOTICE.

1 THE COURT: ALL RIGHT.

2 (PAUSE.)

3 MR. CATHCART: WE'RE PROCEEDING ON EACH OF THESE  
4 CHARGES, YOUR HONOR. EACH BURGLARY, HOWEVER, IS A SEPARATE  
5 INDIVIDUAL BURGLARY. THEY ALL OCCURRED AROUND THE SAME  
6 PERIOD OF TIME, AT THE SAME FIVE-HOUR PERIOD. HE WAS  
7 CAUGHT WITH PROCEEDS FROM ALL OF THE SAME BURGLARIES. THE  
8 WITNESSES IN ALL OF THESE BURGLARIES, OTHER THAN THE  
9 VICTIMS, SAY THAT THEY WERE NOT -- THEY DID NOT ALLOW THE  
10 DEFENDANT INTO THEIR HOME OR ALLOW HIM TO GATHER THEIR  
11 ITEMS. ALL THE WITNESSES WILL BE THE SAME.

12 HOWEVER, I JUST WANT TO MAKE CLEAR ON THE RECORD THAT  
13 EACH ONE IS A SEPARATE OFFENSE. IF THE JURY FOR SOME  
14 REASON FEELS THAT HE IS GUILTY OF ONE AND NOT THE OTHER  
15 ONE, FIND HIM GUILTY OF ONLY ONE COUNT OF BURGLARY FIRST AS  
16 OPPOSED TO ALL SIX COUNTS OF BURGLARY FIRST, IT'S STILL  
17 LIFE WITHOUT PAROLE.

18 (PAUSE.)

19 THE COURT: ALL RIGHT. WE HAVE SOME PRETRIAL MOTIONS,  
20 MS. MOBLEY.

21 MS. MOBLEY: THANK YOU. MAY IT PLEASE THE COURT.  
22 WOULD YOUR HONOR CARE TO ---

23 THE COURT: LET'S START -- LET'S GO AHEAD WITH THE  
24 MOTION TO QUASH, WHICH MUST BE HEARD PRIOR TO HAVING A JURY  
25 SELECTED. LET'S GO AHEAD AND DEAL WITH THAT, AND THEN THE

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Terrance Adams, #229165

Petitioner,

-VS-

STATE OF SOUTH CAROLINA

Respondent,

AMENDED

AFFIDAVIT

Terrance Adams

RICHLAND COUNTY  
FILED  
2014 AUG 20 AM 2:18  
JEANNETTE W. TEBBIE  
C.C. & G.S.

I, Terrance Adams, 229165, do hereby swear & attest, depose and say the truth to the following:

- 7) That the State submitted Misinformation to the Court that Petitioner (Adams) was Present at the Proceeding in Front of Judge Manning when we served him NOTICE OF INTENTION TO SEEK LIFE WITHOUT PAROLE. See Exhibit [dated October 22, 2013 ]

SWORN and SUBSCRIBED to before  
me this 5th day of August 2014.

Audrey W. Fry  
Notary Public For South Carolina  
MY Commission Expires: \_\_\_\_\_

THE STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE CASE OF COMMON LAW

CASE NO:

Terrance Adams, #229165 )  
 )  
Petitioner )  
 )  
-VS- )  
 )  
STATE OF SOUTH CAROLINA, )  
 )  
Respondent )

PETITION FOR  
WRIT OF HABEAS CORPUS

2018 AUG 20 PM 4:46  
JEANETTE W. MCBRIDE  
C.C.P. & G.S.  
RICHLAND COUNTY  
FILED

The Petitioner, **Adams**, respectfully moves this Honorable Court to convene an evidentiary hearing and to grant the Writ of Habeas Corpus on issues presented in this Petition For Writ of Habeas Corpus pursuant to S.C. Court of Laws §17-17-10, 17-17-30.

The Petitioner brings forth this Writ of Habeas Corpus to protect his right to be free from a conviction based upon insufficient evidence to sustain each and every elements of the charge offense. The insufficient evidence permeated petitioner entire judicial proceeding such that petitioner only means to right this wrong this true Habeas Corpus.

UNDER AVAILIBILITY OF DIRECT APPEAL

As a threshold matter, the State Habeas Corpus is the only available avenue and the appropriate mechanism by which this petitioner can have this current issue adjudicated under South Carolina of Law and Legal Jurisprudence. This State Habeas Corpus is not being instituted as a substitution for the Appeal Process established by the South Carolina Legal Jurisprudence.

The Petitioner's Constitutional issue that the evidence adduced at trial shows that no rational trier of facts could have found proof of guilt beyond a reasonable doubt is not reviewable upon Direct Appeal.

The South Carolina Appellate Court Rule 201 defines who may appear or what may be appeal Subsection (b) of South Carolina Appellate Court Rule 201 specifically sets the parameters that; only a party aggrieved by an order, judgment, sentence or decision may appeal. ( ) This is significant because there is no actual written order, sentence or decision issued by Honorable James W. Johnson, Jr., which specifically adjudicate insufficient evidence to sustain the conviction of Petitioner trial. Because there is no written order, judgment, sentence, or decision on this specific issue the appeal mechanism is barred and unavailable to Petitioner Terrance Adams (see Bronson v. American Koyo Bearing 367 S.C. 161. 623 S.E. 2d 870 (S.C. App. 2005) " South Carolina adheres to the final judgment rule which provides that appeal lies only from final judgment." See Fulmer v. Cain, 380 S.C. 466, 670 S.E. 2d 652 (S.C. 2008). And State v. Isaac 747 S.E. 2d 677 (S.C. 2013).

#### UNAVAILABILITY OF POST-CONVICTION RELIEF ACT

As a threshold matter, the State Habeas Corpus is the only available avenue and the appropriate mechanism by which Petitioner Terrance Adams can have his current issue adjudicated under South Carolina Law and Legal Jurisprudence. This State Habeas Corpus is not being instituted as a substitution for Post Conviction Relief as established by the uniform Post-Conviction Procedure Act. The Petitioner's Constitutional issue that the evidence adduced at trial shows no rational trier of facts could have found proof of guilt beyond a reasonable doubt is not cognizable under the mandated parameters of the uniform Post-Conviction Procedure Act unavailable to Petitioner Adams

The uniform Post Conviction Procedure Act defines who may utilize it mechanism under which specific circumstances the mechanism trigger (see generally S.C. Code of Law 17-27-20). The petitioner Terrance Adams specifically challenging insufficiency of the evidence upon which his conviction rests. The Post Conviction Act 17-27-20(a)(6) specifically says, "that this section shall not be construed to permit collateral attack under ground with out the evidence was insufficient to support the conviction." This subsection of the Post-Conviction Procedure Act creates a bar which prohibits the petitioner from bringing this under the uniform Post-Conviction Procedure Act as a Matter Of Law.

So clearly, as a Matter Of Fact, and as a Matter Of Law, The uniform Post-Conviction Procedure Act is not and will not ever be available to an individual who alleges insufficient evidence to sustain an conviction in South Carolina as the Act is presently written.

## UNAVAILABILITY OF POST-CONVICTION RELIEF ACT.

As a threshold matter, the State Habeas Corpus is only available avenue and the appropriate mechanism by which Petitioner Terrance Adams can have his current issue adjudicated under South Carolina Law and Legal Jurisprudence. This State Habeas Corpus is not being instituted as a substitution for Post-Conviction Relief as established by the Uniform Post-Conviction Procedure Act. The Petitioner's constitutional issue that the evidence adduced at trial shows no rational trier of facts could have found proof of guilt beyond a reasonable doubt is not cognizable under the mandated parameters of the Uniform Post-Conviction Procedure Act unavailable to Petitioner Terrance Adams.

The Uniform Post Conviction Procedure Act defines who may utilize its mechanism under these specific circumstances the mechanism triggers. (See generally S.C. Code of Law § 17-27-20).

The Petitioner Terrance Adams is specifically challenging insufficiency of the evidence upon which his conviction rests. THE POST-CONVICTION ACT 17-27-20 (a)(6) specifically says: "that this section shall not be construed to permit collateral attack under ground without the evidence was insufficient to support the conviction." This subsection of the Post Conviction Procedure Act creates a bar which prohibits the Petitioner from bringing this under the Uniform Post-Conviction Procedure Act as a matter of law.

So clearly, as a matter of ~~fact~~ and as a matter of law, the Uniform Post-Conviction Procedure Act is not and will not ever be available to an individual who alleges insufficient evidence to sustain a conviction in South Carolina as the Act is presently written.

## REASONS FOR GRANTING THE WRIT

The Petitioner has exhausted all available POST-CONVICTION RELIEF remedies, as well as other remedies, such as Federal HABEAS CORPUS; The act is inadequate and available to Petitioner by the rule governing S.C. Code Ann. § 17-27-10. The Petitioner's only means of getting his Constitutional claims adjudicated on is by State habeas Corpus. Petitioner Terrance Adams claims his Fifth (5), Sixth (6) and Fourteenth (14) Amendment right were violated by a substantive Amendment of the indictment upon which he was indicted, and returned by the Grand Jury, and that the evidence adduced at trial was insufficient to sustain his convictions and sentences, as it was a fundamental error that goes directly to the foundation of the Petitioner's convictions and sentences, which in the setting, constitutes a denial of fundamental fairness shocking to the universal sense of justice. SIMPSON v. State, 329 S.C. 43, 46, 495 S.E.2d 429, 431 (1998) and habeas Corpus is Petitioner Adams' only avenue for relief, which continue to be available as a Constitutional remedy. Gibson v. State, 329 S.C. at 42, 495 S.E.2d at 428. Butler v. State, 334 S.E.2d 813, 106 S.Ct. at 869. Simply put, this action has merits and calls for an evidentiary hearing on them and should not be summarily dismissed. To do so would be to deny Petitioner Adams the fundamental right to have his claims heard and adjudicated upon their legal and Constitutional merits. Further, the Petitioner has set forth in his Petitioner Constitutional claims that more than well meet the standard delineated in Butler v. State, [SIC] and do very well indeed, which in the setting, constitutes a denial of fundamental fairness shocking to the universal sense of justice, as well as public interest in such matters. Gibson, supra; Butler supra.

To bar this case would continue to uphold a Mockery of the Justice System, and a Fundamental Miscarriage of Justice and Fairness Shocking to the Universal Sense of Justice, which has Proceeded to exists For Years. U.S. Const. Amends. Five (5), Six (6), and Fourteen (14). This action must be heard as the Following:

"A STATE HABEAS CORPUS" Pursuant to S.C. Code Ann. § 17-17-10 et. seq. and S.C. Const. Art. I. § 18. Gibson, 329 S.C. at 41, 495 S.E.2d at 428 or in the "ORIGINAL JURISDICTION" OF The Supreme Court Pursuant to S.C. Const. Art. 5 § 5. Gibson, Supra; Butler, Supra. To not hear this case without review, would result in a Gross Miscarriage of Justice. Butler v. State, 334 S.C. 813, 106 S.Ct. at 869.

The evidence in Petitioner case was insufficient to Submit to the Grand Jury on the issue of Petitioner's Guilt of burglary First degree, S.C. Code Ann. § 16-11-311, (A) (2) (B) and S.C. Code Ann. § 17-25-45. State v. Bostick, 392 S.C. 134, 708 S.E.2d 774.

As well as being insufficient to sustain Petitioner Adams Convictions and Sentences as a Matter of Law, this error in law Made Petitioner Adams trial so egregiously Unfair as to deny him a Fair trial.

Therefore, we must honor the Mandatory Constitutional rights of an accused established by our legislature Many Years ago; to do otherwise would result in an abandonment of the requirement to even have an indictment or a written waiver thereof. The resources of our Judicial branch are better served by requiring compliance on the front end with this clear, unambiguous, and long-standing Constitution prerequisite to any Criminal Proceeding State v. Bullock, 574 S.E.2d 17 (N.C. App. 2002); State v. Pressler 176 N.E.2d 308 (Ohio App. 1960); and See e.g. Ex Parte Coley, State, 842 So.2d 605 (Ala. 2002). The Grand Jury exists not merely to investigate and accuse, but as a curb on the Unbridle Power of the Sovereign and to issue valid indictments; to do otherwise results, in a denial of an accused's long-standing Constitutional rights and would vanish the constitution altogether, as well as the Fifth (5) amendment Grand Jury clause.

STATE OF SOUTH CAROLINA  
IN THE COURT OF COMMON PLEAS

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Appeal From Richland County  
James W. Johnson, Jr. Circuit Court Judge

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Terrance Adams,

Petitioner,

v.

The State

Respondent,

RICHLAND COUNTY  
FILED  
2014 AUG 20 AM 2:48  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

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HABEAS CORPUS BRIEF

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Pro Se Petitioner

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TABLE OF AUTHORITIES

Cases

Blakely v. Washington, 134 S.ct. 2531 (2004)  
Hair v. State 305, 77, 406 S.E. 2d 278 S.C. 1991  
Jackson v. Virginia 99 S.ct. 2781  
James v. State 372, S.C. 287, 294, 641 S.E. 2d 899, 903 (2003)  
McLeod v. State 272, S.C. 373, 252 S.E. 2d 126 (S.C. 1999)  
Sprouse v. State 355 S.C. 336, 585 S.E. 2d 278 (S.C. 2003)  
State v. Bostick 392 S.C. 134, 708 S.E.2d 774 (S.C. 2011)  
State v. Jenkins, 727 S.E.2d 761 (S.C. 2012)  
State v. Johnston 333 S.C. 459, 462, 510 S.E.2d 423 (2003)  
State v. Mitchell, 341 S.C. 406, 535 S.E.2d 126 (S.C. 2000)  
State v. Odem 720 S.E. 2d 48  
State v. Robinson, 2014 WL 1614765  
State v. Washington, 338 S.C. 392, 526 S.E.2d 709 (2000)  
Santobello v. New York. 92 S.ct. 495 (1971)

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South Carolina Rules:

South Carolina Rule 403 SCRE \_\_\_\_\_  
South Carolina Rule 404(B) SCRE \_\_\_\_\_

Statutes

South Carolina Code §16-1-60  
South Carolina Code §16-1-70  
South Carolina Code §16-11-311  
South Carolina Code §16-11-312(A)  
South Carolina Code §16-11-312(B)  
South Carolina Code §17-19-100  
South Carolina Code §17-25-45

S.C.Const.Art.1§3,15  
U.S.Const.Amend1,8,14.

STATEMENT OF THE CASE

Richland County grand jurors indicted Petitioner for six counts of First Degree Burglary; one count of grand larceny; three counts of Petit larceny; resisting arrest; and possession of burglary tools. Petitioner stood trial during the January term of the Richland County Court of General Sessions before the Honorable James W. Johnson and a jury. The jury found Petitioner guilty as charged, and he was sentenced to concurrent terms totaling life confinement without the possibility of Parole under S.C. code Ann. § 17-25-45.

Reasons For Granting The Writ: See Pages 9-13 See Exhibit document Attached September 29, 2011

1. Are petitioner's convictions and sentences obtained on unconstitutionally insufficient evidence where the information and evidence to vote on first degree burglary.

On July 22, 2005, The Grand Jurors of Richland County presented upon their oath:

That Terrance Adams did in Richland County on April 19, 2005 unlawfully enter the dwelling \_\_\_\_\_ without consent and with intent to commit a crime therein and the defendant has two prior convictions for burglary/ house breaking all in violation of code section 16-11-311, code of laws of South Carolina (1976 as amended)

Petitioner aver that the Government submitted insufficient evidence to the Grand Jury to Procure indictment(s) for First Degree Burglary. See. Ex PARTE McLeod v. State. 272 S.C. 373, 252 S.E. 2d 126 S.C.1979 See. State v. Robinson, 2014 W L 1614765

2. Are Petitioner's convictions and sentences obtained on unconstitutionally insufficient evidence presented at trial to substantiate the element of first Degree Burglary (A)(2).

On January 30th-February 1, 2001. The Court committed a reversible error, in accepting invalid convictions and relying on insufficient evidence to sustain a conviction under the First Degree Burglary Statute.

The improper enhancement was extremely prejudicial, whereas the court charged second degree burglary (A) Indictment Number 1993-GS-40-9516 and Indictment Number 1993-GS-40-9530 as a violent offense under section 16-1-60.

Under South Carolina Law Burglary under Subsection 16-11-312(A) is insufficient evidence under section 16-1-60 and classifying the offense violent is a prejudicial error to make Indictment numbers 2005-GS-40-3548, 3940, 3935, 3478, 3477, 4169 First Degree Burglary with out an aggravating circumstance present. R.P.12, R.P.199-200, R.P.298 line 21-25, R.P.299 line 1-8. See Exhibit#

Second Degree Burglary (A) is not equivalent to First Degree Burglary nor Second Degree Burglary (B) under section 16-1-60, it is classified as a nonviolent offense. See S.C. code Ann § 16-1-70

If the legislature wanted to exclude Burglary in the Second Degree under subsection 16-11-312 (A) from being classified nonviolent it could have done so by classifying it as a violent offense as it did in second degree burglary under subsection 16-11-312 (B) See Hair v. State 305 S.C. 77, 406 S.E. 2d at 334

Thus, evidence included at trial was confusing, misleading and should have been excluded pursuant to Rule 403 and 404 (B) SCRE.

In addition, to the argument that there is no case law on enhancing second degree burglary (A) nonviolent to make first degree burglary there was insufficient proof that petitioner was seen inside building 3. R.P. 57 line 6-8, R.P. 248 line 4-17.

Petitioner argues insufficient evidence presented did not prove guilt. State v. Odem 720 S.E. 2d 48. (State v. Bostick 392 S.C. 134, 708 S.E. 2d 774 S.C. 2011. Suspicion is not proof. State v. Mitchell 341 S.C. 406, 535 S.E. 2d 126 (S.C. 2000) State v. Jenkins, 727 S.E. 2d 761 (S.C. 2012).

- Because of the insufficient evidence of indictment no. 9530 and 9516 petitioner continue to suffer prejudice. In the matter of record shows that"" there has been a violation which, in the getting, constitution a denial of fundamental fairness shocking to the universal sense of justice. As well as public interest in these matters

3. Are petitioner's sentence of life without possibility of parole on unconstitutional convictions obtained where there was insufficient evidence presented at trial and sentencing to substantiate the elements in S.C. Code Ann. § 17-25-45.

On January 30th- February 1, 2006 the Petitioner was "shock" when the court read into record this is a life without parole case. On January 9th 2006, the court relied on misinformation that petitioner was served with notice of intention to seek life without parole.  
R. P. 7, R. P. 311 Line 10

Petitioner has material facts that the documents is sufficient proof no hearing was ever held regarding this prejudicial error. Exhibit# see [document dated October 22, 2013. Office of the public defender, fifth judicial circuit, Richland County Judicial Center].

Pursuant to authorities: S.C. code Ann. § 17-25-45 (H)(2003) (Supp.2012) To seek sentencing under the recidivist statute). A written notice must be presented to the defendant not less than ten days before trial). James v. State, 372 S.C. 287 294, 641 S.E. 2d 899, 903 (2003).

The enhancement to Burglary First is improper because it requires two distinct offenses. In this case indictment number 1993-GS-40-9516 an indictment number 1993-GS-40-9530 was classified as a "most serious" offense. But under South Carolina Law second degree burglary (A) is insufficient evidence in section 17-25-45.

In State v. Washington, 338 S.C. 392, 526 S.E. 2d 709 (2000) the court properly ruled defendant's prior commonlaw 1982 conviction for burglary a most serious offense because it contain the same legal elements as burglary first degree in section 17-25-45(c)(1).

In petitioner (Adams) case the agreement in the record and documents that the 1997 conviction indictment number 1993-GS-40-9516 and 1995 conviction indictment number are second degree burglary (A) non-violent. Citing Sprouse v. State, 355 S.C. 336, 585 S.E. 2d 278 S.C. 2003 (The pertinent language expressly refers to an obligation...to perform under the contract. Santobello v. New York, 42 S.ct. 495 (1977))

Based on evidence that there is no case law on enhancing second degree burglary(A) nonviolent to make first degree burglary and / or sentenced petitioner under section 17-25-45. This violation is a prejudicial error.

Petitioner argues that insufficient evidence should not stand to support or sustain an exceptional sentence see State v. Johnston, 333 SCC. 459, 462, 510 S.E. 2d 423 (S.C. 1999) Jackson v. Virginia, 99 S.ct. 2781 : Blakely v. Washington, 134 S.ct. 2531 (2004)

In the matter of record petitioner has shown a constitutional violation ion which in the setting constitutes a denial of fundamental fairness shocking to the universal sense of justice.

South Carolina Court of Appeals  
Jenny ABBOTT Kitchings, Clerk  
Post Office Box 11629  
Columbia, South Carolina 29211

RECEIVED

JUL 23 2015

Re: Terrance Adams v. State  
Appellate Case No. 2015-601383

SC Court of Appeals

Dear SCAC,

Enclosed please find exhibit C which was evidence to indicate prejudice to WRIT FOR HABEAS CORPUS signed by Judge L. Casey Manning.

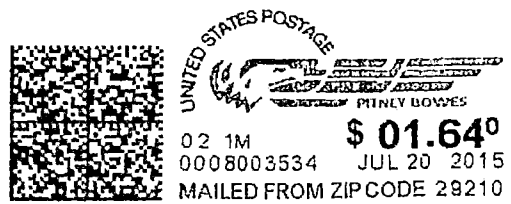
Respondent and Judge L. Casey Manning held a ex parte hearing on January 9th 2006. The two prior used for enhancement and sentencing are insufficient under (section 16-1-60) and sentencing under (section 17-25-45)..

The court never explained with the 8 convictions relied on in appellate case. ~~What~~ the words, which convictions is violent?

This 14th day of July 2015

Terrance Adams, 229163

Amle Adams 224/60  
Monticello 259  
60 Broad River Road  
Columbia South Carolina



**RECEIVED**  
JUL 23 2015  
SC Court of Appeals

South Carolina Court of Appeal  
Jenny ABBOTT Kitchings, Clerk  
Post Office Box 11629  
Columbia, South Carolina 29211

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