

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM LAURENS COUNTY  
Court of General Sessions  
W. Jeffery Young, Circuit Judge

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Court of Appeals Case No. 2015-000718

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**RECEIVED**

JUN 20 2016

SC Court of Appeals

The State ..... Respondent,

v.

Michael Vernon Beaty, Jr. .... Appellant.

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Motion to Transfer Case Pursuant to Rule 204(b)

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Pursuant to Rule 204(b) of the South Carolina Appellate Court Rules, Michael Vernon Beaty, Jr, the Appellant above named, hereby moves the South Carolina Supreme Court to accept this appeal which involves two issues which the Appellant believes are of significant public interest and involves a legal principle of major importance. This motion is based upon the following:

1. The State and Michael Vernon Beaty have both fully briefed the issue of the proper order of closing argument in the State of South Carolina. This case involves the question of whether Mr. Beaty was prejudiced when the solicitor, David M. Stumbo used his final argument to inform Mr. Beaty of his theory of exactly how the alleged strangulation occurred and Mr. Beaty did not have the opportunity to respond to this previously unknown theory. In addition, there were other arguments made for the first time in final closing argument to which Mr. Beaty

did not have an opportunity to respond. On this issue, arguably *State v. Lee*, 255 S.C. 309, 178 S.E.2d 652 (1971) is binding authority which would require the South Carolina Court of Appeals to deny the relief requested by Mr. Beaty.

2. In addition the appeal involved an objection to the trial judge, where, in his opening charge to the jury, he states that their function is “to search for the truth.” Tr. at 78, ll 6-9. . While this Court has been critical of the charge in *State v. Daniels*, 401 S.C. 251, 737 S.E.2d 473 (2012), such language continues to appear in the General Sessions charge book previously found on The Judicial Department’s website.<sup>1</sup> As only this Court has the authority to change the recommended charges, this Court should grant the Motion so as to be able to issue an opinion and change the recommended jury charges.

For the foregoing reasons, this Court should grant the Motion of Michael Vernon Beaty to transfer this matter to the Supreme Court of South Carolina.

June 16, 2016



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<sup>1</sup> These charges were last viewed on June 4, 2016, but have recently been removed from the website.

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Appellate Case N° 2015-000718

The State, ..... Respondent,

vs.

Michael Vernon Beaty, Jr. .... Appellant.

AFFIDAVIT OF SERVICE

PERSONALLY appeared before me, Sandy Traynham who, after being duly sworn, deposes and says that she is the receptionist for C. Rauch Wise, Attorney for the Appellant in the above entitled case. That on June 16, 2016, she did deposit in the United States Mail with proper postage affixed thereto, a copy of the Motion to Transfer Case Pursuant to Rule 204(b) in the above case addressed to the Clerk for the South Carolina Court of Appeals, P.O. Box 11629, Columbia, SC 29211 and to Susannah R. Cole, P.O. Box 11549, Columbia, South Carolina 29211.

Sworn to and Subscribed

*Sandy Traynham*

before me this 16 day

of June, 2016

*Mary Jane Harten*  
Notary Public for South Carolina

My Commission Expires: 11/30/22

LAW OFFICE OF  
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June 16, 2016

Daniel E. Shearouse  
Clerk of Court  
Supreme Court of South Carolina  
P.O. Box 143300  
Columbia, SC 29211

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SC Court of Appeals

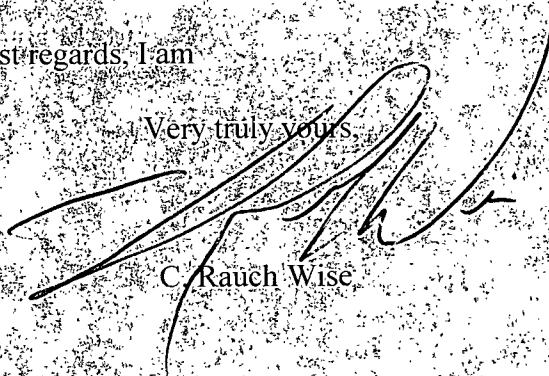
Re: State vs. Michael Vernon Beaty, Jr.; Case No. 2015-000718

Dear Mr. Shearouse:

I am enclosing herewith for filing the original and six copies of the Motion pursuant to Rule 204(b) of the South Carolina Appellate Court Rules together with the original Affidavit of Service.

With kindest regards, I am

Very truly yours,



C. Rauch Wise

CRW/slt  
Enclosure

cc SC Court of Appeals  
Susannah R. Cole, Attorney General Ofc.

LAW OFFICE OF  
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June 16, 2016

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**SC Court of Appeals**

Jenny Abbott Kitchings, Clerk  
SC Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

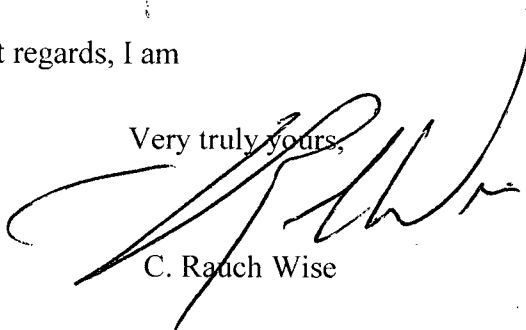
Re: State vs. Michael Vernon Beaty, Jr., Case No. 2015-000718

Dear Ms. Kitchings:

I am enclosing herewith for filing the original Initial Reply Brief of Appellant together with the original Affidavit of Service regarding the above matter. I am also enclosing herewith a copy of the Motion to Transfer Case Pursuant to Rule 204(b) which I have filed with the Supreme Court.

With kindest regards, I am

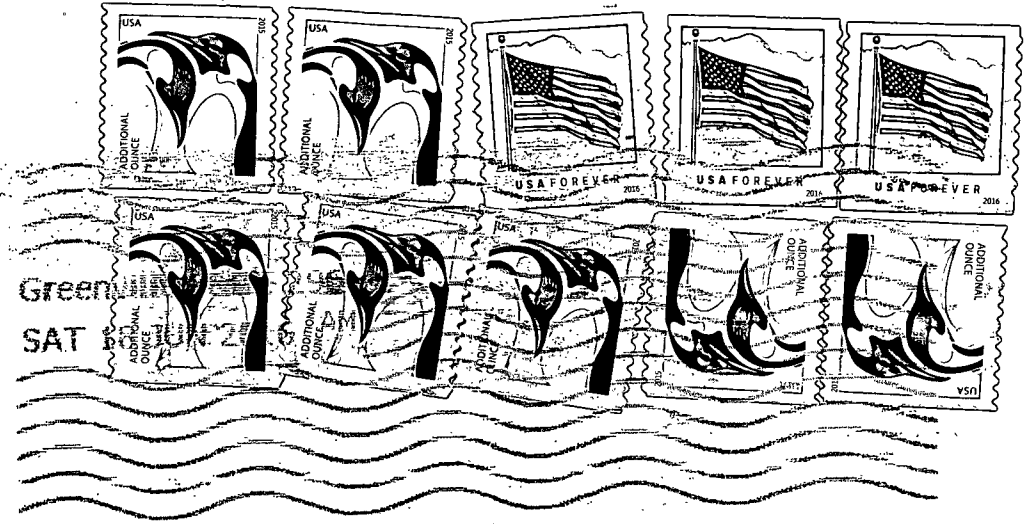
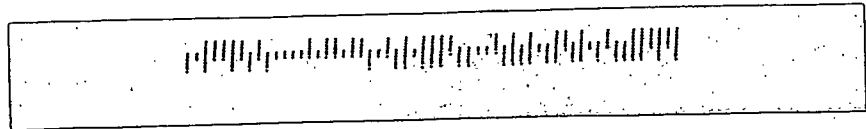
Very truly yours,



C. Rauch Wise

CRW/slt  
Enclosure

cc Susannah R. Cole



POSTED  
JUN 20 2016  
SC Court of Appeals

LAW OFFICE OF  
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