

**ORIGINAL**

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to Greenville County

D. Garrison Hill, Circuit Court Judge

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**SEP 29 2016**

**S.C. SUPREME COURT**

Opinion No. 2016-UP-330 (S.C. Ct. App. filed June 29, 2016)

2014-GS-23-4271

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THE STATE,

RESPONDENT,

V.

WILLIAM TRAVIS CALVERT,

PETITIONER

APPELLATE CASE NO 2016-001938

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PETITION FOR WRIT OF CERTIORARI  
TO THE COURT OF APPEALS

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**CERTIFICATE OF COUNSEL**

Counsel for Petitioner certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on August 18, 2016. App. 14.

**QUESTION PRESENTED**

Whether a structure deemed unfit for human occupation by a governmental body charged with determining habitability of structures is a “dwelling house” as defined by the burglary statutes?

## STATEMENT OF THE CASE

On May 27, 2014, a Greenville County grand jury indicted Petitioner for burglary in the first degree (2014-GS-23-4271). R. 139. The state, represented by Austin F. Watts, called the case for trial before the Honorable D. Garrison Hill and a jury on September 3-4, 2014. Charles S. Propst, Jr., represented Petitioner. R. 1. The jury found Petitioner guilty as charged. R. 136, line 25 – R. 137, line 4. Judge Hill sentenced Petitioner to the mandatory minimum sentence of fifteen years' imprisonment. R. 138, lines 2-5; R. 141.

Petitioner filed a timely notice of appeal, which was perfected by undersigned counsel. On June 29, 2016, the Court of Appeals affirmed Petitioner's conviction and sentence in an unpublished opinion. App. 1-2; State v. Calvert, 2016-UP-330 (S.C. Ct. App. filed June 29, 2016).<sup>1</sup> On July 14, 2016, Petitioner filed a timely petition for rehearing. App. 3-13. On August 18, 2016, the Court of Appeals denied the petition. App. 14.

Petitioner now files this petition for writ of certiorari.

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<sup>1</sup> The three-judge panel consisted of the Honorable James E. Lockemy, the Honorable H. Bruce Williams, and the Honorable Stephanie P. McDonald. App. 1-2.

## ARGUMENT

Petitioner was entitled to a directed verdict on the charge of burglary in the first degree where the undisputed evidence demonstrated the county authorities had deemed the burglarized structure unfit for human occupation, and as a result, the structure was not a “dwelling house” as defined by the burglary statutes.

### **Reasons to grant certiorari**

This Court should grant certiorari to address the novel question of law presented – whether a structure deemed unfit for human habitation by a governmental body may be considered a dwelling under the burglary statutes. See Rule 242(b)(1), SCACR. While this Court has provided guidance concerning how to determine whether a structure is a dwelling house as defined by the South Carolina Code concerning burglary, which will be discussed in greater detail *infra*, this Court has not addressed the precise question presented here.

### **Relevant facts**

#### *Prosecutor’s Evidence*

On November 13, 2013, Stephen Pepper was in jail awaiting disposition of his criminal charges related to manufacturing methamphetamine. R. 8, lines 17-21; R. 35, lines 4-11; R. 49, lines 23-25; R. 69, lines 13-20; R. 76, lines 6-10. The house he once occupied sat empty, having been condemned by Greenville County in light of the hazardous materials there.<sup>2</sup> These hazardous materials were in the structure due to Pepper’s manufacturing of methamphetamine. The Greenville County Sheriff’s Office posted signs warning of unsafe living conditions and threatened to prosecute anyone who entered the premises for trespassing. Despite the numerous

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<sup>2</sup> The inside of the house was ransacked - “items [were] everywhere.” These conditions corroborated the signs warning of inhabitability. R. 27, lines 21-23; R. 35, lines 12-18; R. 59, line 24 – R. 60, line 9; R. 71, lines 9-20.

signs warning of the dangerous materials and forbidding entry and occupation, people entered the structure daily. R. 9, lines 4-7; R. 12, line 18 – R. 13, line 22; R. 15, lines 13-14; R. 32, line 24 – R. 35, line 11; R. 58, line 25 – R. 59, line 20; R. 69, line 24 – R. 71, line 8; R. 76, lines 6-10. Pepper's neighbor, Christy Crawford, set up a baby monitor in the structure so that she could monitor the activity within it from her house next door. R. 7, lines 24-25; R. 9, lines 13-15.

Late at night on November 18, 2013, Hannah Horne went for a ride with Johnny Banks and Petitioner. Banks dropped Horne and Petitioner at the vacant structure, while he went next door to visit Crawford, his ex-girlfriend. R. 61, line 23 – R. 62, line 3; R. 63, line 8 – R. 65, line 12. According to Horne, Petitioner entered the structure by removing a window air conditioning unit. He then allowed Horne to enter through the back door. R. 66, lines 8-14. The two planned to steal tools. R. 66, lines 15-17. Crawford heard "talking, doors opening, closing" coming from the baby monitor she had set up inside the structure. Alarmed, she contacted police. R. 9, line 16 – R. 10, line 20. When the police arrived, they found Horne and Petitioner in the structure. R. 17, lines 3-4; R. 20, line 18 – R. 21, line 21; R. 30, lines 2-4; R. 38, lines 16-18; R. 43, lines 2-3; R. 54, lines 8-10; R. 67, line 21 – R. 68, line 4.

After Pepper's release from jail on bond, he went to the condemned structure:

Q. And where did you go to live when you got out of jail?

A. Well, I couldn't legally live in my house until it was reexamined by DHEC and certified. But, you know, I - - they tested it. And I moved back in thinking that they was [*sic*] going to turn that in. And they - - the officer went off to Myrtle Beach, whatever. And it - - they come out and fined me \$500 for being there. And then it was cleared up. And the Judge dropped it to \$150. And I'm legally now allowed to live in my house.

R. 78, lines 10-19; R. 80, line 16 – R. 81, line 11.

*Motion for Directed Verdict*

Petitioner moved for a directed verdict, arguing that the prosecution “failed to meet the burden of establishing that the incident location was a dwelling house for the purposes of the burglary statute.” After referencing the statutory definition for a dwelling house, Petitioner directed the court’s attention to State v. Evans, 376 S.C. 421, 656 S.E.2d 782 (2008). Petitioner argued “that whether a building is a dwelling turns on whether the occupant left with the intention to return.” Additionally, Petitioner cited State v. Ferebee, 273 S.C. 403, 257 S.E.2d 154 (1979) to explain that “although a temporary absence of occupants would not prevent a residence from becoming the subject of a burglary, [the statute] required that the occupant leave with the purpose of returning.” Petitioner noted that burglary is an offense against habitation, not property; thus, occupation, or at a minimum, the ability to be occupied, is required. Petitioner also provided the trial judge with the statutory provision – S.C. Code Ann. § 31-15-320 – governing condemnation of property when unfit for human habitation. Pursuant to the statute, when a county finds a structure unfit for human habitation, the county may preclude individuals from living in the structure and may demolish the structure. Petitioner argued that Pepper could have no intent to return to the home because occupation of the home was illegal. R. 82, line 15 – R. 87, line 24.

Citing State v. White, 349 S.C. 33, 562 S.E.2d 305 (2002), the prosecutor argued against the directed verdict motion. The prosecutor characterized Pepper as being temporarily absent from the structure, and argued that the temporary absence had “absolutely no bearing on whether this is a dwelling or not.” Agreeing that the test to determine whether a structure is a dwelling is whether someone intends to return, the prosecutor argued that Pepper intended to return and that this intent was shown through his actual returning to the property even “before he was able to get in the house and was cited for a criminal offense.” Additionally the prosecutor argued that the

fact that the structure was empty was not a factor for the court's consideration when determining whether the structure of the dwelling. R. 88, line 4 – R. 93, line 22.

*Ruling on the Motion for Directed Verdict*

Judge Hill denied the motion for directed verdict based on the statutory definition of dwelling and “the case law refinement of that.” Citing Evans, supra, he concluded “it is a jury question about whether or not this structure constituted a dwelling in the context of the burglary first statute.” R. 94, lines 4-8.

*Closing Arguments*

The prosecutor told the jury that “the crux of this case is really going to turn on whether you, the finders of fact, determined that this house was a dwelling.” R. 110, lines 3 – 5. The prosecutor classified the defense argument “a legal nuance.” R. 110, lines 5 – 7. Thereafter, the prosecutor argued that Pepper was “temporarily absent.” R. 110, line 22 – R. 111, line 2. In direct contradiction of testimony by law enforcement, the prosecutor argued that the structure had *not* been condemned. R. 66, lines 20 – 25. Further, the prosecutor argued Pepper intended to return because he actually returned. On this point, the prosecutor argued:

Quite frankly, he broke the law. There's no doubt he intended to return. He, actually, returned. He even came so early that they were able to let him in yet. He had to pay a fine because he came back too early before DHEC inspected the house. Quite frankly, it sounds like – – quite honestly, a moneymaking scheme where they just need him to pay for something and they take the little placards off and there he goes.

R. 112, lines 7 – 17.

The prosecutor argued the defense was “disingenuous” “to argue that this house is so bad that Mr. Pepper can't go in it, but, yet, he can.” Confusing the legal argument, the prosecutor told the jury that the defense was arguing that “Mr. Pepper can't go in the house, but I sure can steal your stuff. That place is condemned. It's terrible. You can't go in there, but I can steal

your stuff, and something about burglary in the second degree.” R. 113, lines 6-13. The prosecutor anticipated that the defense would argue that “because of the alleged meth laboratory,” the structure was “transferred into something more akin to a building, a watercraft, and aircraft.” He characterized such an argument as “a stretch.” R. 118, lines 17 – 23.

Petitioner argued the prosecution had failed to prove the structure was a dwelling house. Agreeing with the prosecutor that whether a structure is a dwelling turns on whether there is an intent to return, Petitioner argued Pepper could have no intent to return because doing so was illegal. R. 120, line 8 – R. 121, line 3. Petitioner highlighted the testimony of a law enforcement officer who “agreed that the building was condemned.” The undisputed testimony was that it was illegal for anyone to be in the building due to the meth laboratory’s hazardous and dangerous materials. R. 121, lines 11-23; R. 122, lines 10-17. Petitioner clarified that he was not arguing that it was “right” for Petitioner to be there. Rather, he was arguing that the structure was not a dwelling because Pepper could not have an intent to return to somewhere he could not be. R. 122, lines 18-21. “[B]ottom line, it’s literally illegal to live in this house. It’s illegal to be in the house. It’s illegal to live there. In order to live there, it’s got to be legal. You can’t live there. You can’t return there because it’s illegal.” Therefore, the structure could not be considered a dwelling under the burglary statute. R. 123, lines 8-17; R. 124, lines 14-21. In essence, Petitioner was arguing that he was guilty of the lesser-included offense of burglary in the second degree.

#### *Jury Instructions*

Relevant to this issue, the trial judge instructed that jury regarding the elements of first degree burglary and defined a dwelling:

The state, in order to convict [Petitioner] of first degree burglary, must first prove beyond a reasonable doubt that he entered a dwelling without consent. A

dwelling is any building or portion of a building in which a person ordinarily sleeps.

Dwelling is defined as any house, outhouse, apartment, building, erection, shed, or box in which there sleeps a person who lodges there with a view to the protection of property. But a structure is a dwelling even if the occupant is temporarily absent from the building, as long as you find the occupant has left with the intent to return. If, however, you find the occupant left the structure with no intent of returning, then the statute - - then the structure cannot be a dwelling.

R. 130, line 25 – R. 131, line 13. Additionally, the trial judge instructed the jury on the lesser-included offense of burglary in the second degree. R. 132, line 15 – R. 133, line 9.

### **Discussion**

A defendant is entitled to a directed verdict when the prosecution fails to provide evidence of the offense charged. State v. Brown, 103 S.C. 437, 88 S.E. 21 (1916); State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006); State v. McHoney, 344 S.C. 85, 97 544 S.E.2d 30, 36 (2001). “If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused,” the trial judge may deny the motion for directed verdict. State v. Lollis, 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001); State v. Pinckney, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000); State v. Martin, 340 S.C. 597, 533 S.E.2d 572 (2000).

Burglary in the first degree is a statutory crime, and understanding the statute requires application of the rules of statutory construction. The analysis must begin with the statute itself. The crime of burglary in the first degree requires the person (1) enter a dwelling (2) without consent (3) with the intent to commit a crime in the dwelling and (4) the existence of an enumerated aggravating circumstance. S.C. Code Ann. § 16-11-311(A). The primary issue before this Court is what structures are deemed “dwellings” for purposes of the burglary statute. The South Carolina Code defines a dwelling house as “any house, outhouse, apartment, building, erection, shed or box in which there sleeps a proprietor, tenant, watchman, clerk, laborer or person who lodges there with

a view to the protection of property.” S.C. Code Ann. § 16-11-10. Further, a dwelling “also means the living quarters of a building which is used or normally used for sleeping, living, or lodging by a person.” S.C. Code Ann. § 16-11-310(2). As required by the rules of statutory construction, courts must strictly construe the criminal statutes *against* the state. State v. Myers, 313 S.C. 391, 393, 438 S.E.2d 236, 237 (1993).

Burglary is “a crime against possession, not against property.” State v. Brooks, 277 S.C. 111, 112, 283 S.E.2d 830, 831 (1981). “The law of burglary is primarily designed to secure the sanctity of one’s home, especially at night time when peace, solitude, and safety are most desired and expected.” Id. “Thus, at the heart of burglary law is protection of the individual and family from unlawful intrusion while home at night.” Id. at 113, 283 S.E.2d at 831. “[B]urglary is an offence against the *habitation* of some other person.” State v. Trapp, 17 S.C. 467, 471 (1882) (emphasis in original); see also State v. Singley, 392 S.C. 270, 274, 709 S.E.2d 603, 605 (2011)(“We have maintained consistently for well over one hundred years that burglary is a crime against possession and habitation, not a crime against ownership”). “[T]he core of a dwelling constituting one’s home for burglary purposes is the expectation of peace and security therein. Mere ownership does not automatically confer this status on a person. That ownership interest must be examined in light of who possesses that expectation of sanctity in the dwelling.” Singley, 392 S.C. at 276, 709 S.E.2d at 606.

South Carolina’s first degree burglary statute serves to protect occupants inside a dwelling who could be harmed when intruders break in with intent to commit a crime inside. See Id. at 274, 709 S.E.2d at 605. Other jurisdictions have held accordingly when examining common law burglary, which is most akin to South Carolina’s first degree burglary statute. See generally, People v. Davis, 958 P.2d 1083, 1088 (Cal. 1998)(explaining “[t]he interest sought to be protected

by the common law crime of burglary ... was the sanctity of a person's home during the night hours when the resident was most vulnerable"); State v. Rooney, 862 N.W.2d 367, 373 (Iowa 2015)(explaining "the common law purpose of burglary was an offense against security of occupancy"); State v. Lozier, 375 So.2d 1333, 1337 (La. 1979)(stating that "[b]urglary laws are not designed primarily to protect the inhabitant from unlawful trespass and/or the intended crime, but to forestall the germination of a situation dangerous to the personal safety of the occupants"); State v. White, 330 P.3d 482, 485 (Nev. 2014)(describing common law burglary as "a crime against habitation and occupancy" that "clearly sought to protect the right to peacefully enjoy one's own home free of invasion")(internal quotation omitted); State v. Holt, 352 P.3d 702, 705 (N.M. Ct. App. 2015)(noting that the purpose of burglary statutes is to protect possessory rights); Rash v. Commonwealth, 383 S.E.2d 749, 751 (Va. Ct. App. 1989)(explaining that "[b]urglary laws are based primarily upon a recognition of the dangers to personal safety created by the usual burglary situation – the danger that the intruder will harm the occupants in attempting to perpetrate the intended crime or to escape and the danger that the occupants will in anger or panic react violently to the invasion").

In State v. Steadman, 257 S.C. 528, 541, 186 S.E.2d 712, 716, (1972), the defendant was charged with burglary in the first degree at South of the Border, a motel. The prosecuting witness maintained an apartment on the second floor of the office building where he resided "from time to time." Id. He used the adjacent area for business purposes. Id. At the time of the burglary, the prosecuting witness was in the business office adjoining the living area. Id. This Court found no error in a trial judge instructing the jury "that it was not necessary that the entire building be devoted to dwelling purposes, nor that the dwelling area entered be constantly inhabited every day or night of the year; and that the dwelling area might be in a building a

portion of which is devoted to business purposes.” This Court noted, in approving the jury instructions, that “[i]t was made clear that the area entered must be devoted to dwelling purposes.” Id.

This Court analyzed the meaning of “dwelling” in the seminal case of State v. Ferebee, 273 S.C. 403, 257 S.E.2d 154 (1979), concluding that the statutory definition of dwelling required that the structure “have an identifiable occupant sleeping or residing therein for it to qualify as a dwelling house.” Id. at 405, 257 S.E.2d at 155. This Court explained that although “temporary absence of occupants will not prevent a residence from becoming the subject of a burglary, it is required that such occupants leave with the purpose of returning in order for breaking and entering during their absence to constitute burglary.” Id. According to this Court, “the mere fact that a building is suitable for use as a dwelling is insufficient.” Even a house furnished as a dwelling house “loses its character as such for the purpose of burglary, if the occupant leaves it without the intention to return.” Id. (internal citation omitted). This finding rested upon the centuries-old rationale that burglary is an offense against habitation, and not against property. Id. at 406, 257 S.E.2d at 155.

Ferebee was accused of burglarizing a vacant apartment. Id. at 404, 257 S.E.2d at 155. The issue before this Court was “whether the apartment was being used as a dwelling house *at the time* of the alleged offense.” Id. (emphasis added). The apartment was owned by a doctor and leased through a local real estate agency. “The building was a duplex containing two separate living units which had been utilized as rental property for the past three years.” Id. Although one unit remained occupied, the unit alleged to have been burglarized was vacant because the former tenants had moved out the prior week. Id. at 405, 257 S.E.2d at 155. The unit was partially furnished and available for rent at the time of the break-in. Id. This Court

found “there was clearly no occupant or inhabitant against him the offense could have been committed” where the “former tenant had permanently abandoned the premises without the intention of returning.” Id. at 406, 257 S.E.2d at 155. Based on this reasoning, this Court reversed Ferebee’s conviction for burglary. Id. at 406, 257 S.E.2d at 156.

Relying upon the test in Ferebee, this Court found a mobile home was a dwelling house based upon evidence showing the occupant intended to return. State v. Glenn, 297 S.C. 29, 32, 374 S.E.2d 671, 672 (1988). Glenn and her husband purchased a mobile home in 1985. Id. at 30, 374 S.E.2d at 671. The following year, Glenn’s husband died. Id. Shortly after the funeral, Glenn learned that she would have to surrender the mobile home or it would be repossessed. Id. Within a week of the funeral, Glenn stopped by the mobile home to retrieve a Bible. Id. at 31, 374 S.E.2d at 671. Shortly after Glenn left the mobile home, a passerby noticed it was on fire. Id. at 31, 374 S.E.2d at 671-672. The only issue before the appellate court was whether the mobile home was a dwelling house at the time of the fire. Id. at 31, 374 S.E.2d at 672. This Court found the mobile home was a dwelling house because Glenn had \$10,000 worth of personal possessions in the mobile home and had returned to the home many times after her husband’s death to gather possessions, evidencing her intent to return. Id. at 32, 374 S.E.2d at 672.

The Court of Appeals found a vacation home to be a dwelling in State v. Evans, 376 S.C. 421, 656 S.E.2d 782 (Ct. App. 2008). The owner of the home burglarized, Charles Shaw, testified that he had owned the home for the past ten years as a secondary residence. Id. at 424, 656 S.E.2d at 783. The home was set on heavily wooded, mountainous, and secluded terrain. Id. The family had lived in the home “off and on” for years until three years before the break-in when Shaw’s wife became ill preventing the family from spending significant amounts of time at

the property. Id. Nevertheless, Shaw went to the home “once every two weeks or once a month.” In fact, he had been at the home just weeks prior to the break-in. Id. The Court found “sufficient evidence of the Shaws’ intent to return to the mountain property.” Id. at 425, 656 S.E.2d at 784.

The question in this case is whether the structure, which had been deemed unfit for human habitation by the local authorities, was a dwelling as that term is used in the burglary statutes. Therefore, an examination of the relevant statutes and ordinances concerning property unfit for human habitation is useful. According to the South Carolina Code, the governing body of a county may “exercise its police powers to repair, close, or demolish” any dwellings that are unfit for human habitation due to “conditions rendering such dwellings unsafe or insanitary, dangerous or detrimental to the health, safety, or morals or otherwise inimical to the welfare of the residents of the county.” S.C. Code Ann. § 31-15-320. Under this portion of the Code, a dwelling is “any building or structure, or part thereof, used and occupied for human habitation or intended to be so used and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.” S.C. Code Ann. § 31-15-310(5). In accordance with the state statute, Greenville County authorized the codes administrator to exercise the powers to declare dwellings unfit for human habitation. Greenville County, S.C., Code of Ordinances, § 5-53. The Greenville County codes administrator “may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: ‘This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.’” Greenville County, S.C., Code of Ordinances, § 5-55(c). Thus, under the state statutory scheme and corresponding county ordinances, a structure deemed unfit for human habitation is the antithesis of a dwelling.

Additionally, while South Carolina has not addressed this novel issue, other jurisdictions have discussed whether condemned properties or those deemed unfit for human habitation are dwellings or similar structures under their burglary statutes. Those cases provide relevant persuasive authority for this Court to rehear the present matter.

The Iowa Supreme Court held a soon-to-be demolished, dilapidated house was not an “occupied structure” as required in order for the defendant’s burglary charge to stand. State v. Rooney, 862 N.W.2d 367, 377 (Iowa 2015). According to the Iowa Supreme Court, its burglary statute expanded the common law by replacing the term “dwelling house” with the more expansive term “occupied structure.” Id. at 371. In order for a structure to be considered “occupied” it had to be “adapted for overnight accommodation of persons, or occupied by persons for the purpose of carrying on business or other activity therein, or for the storage or safekeeping of anything of value.” Id. at 373 (internal citation omitted). The Court emphasized that the house was “boarded up” “to keep people out,” there was “no electricity or running water,” “[i]t was falling apart,” and “[t]he city had determined to demolish the structure,” which was “imminent.” Id. at 377.

The Ohio Court of Appeals concluded a condemned house was not a “permanent or temporary dwelling” as required by its burglary statute. State v. Anderson, 975 N.E.2d 556, 560 (Ohio Ct. App. 2012). The court rejected the argument that the continuing purpose of the house was residential because “it [could] no longer be said that that such [was] the house’s purpose when no one [could] lawfully reside in the house.” Id. Additionally, the court was not persuaded by testimony that the homeowner continued to store her personal items at the residence because the court concluded she was not maintaining the home as a permanent or temporary dwelling in light of the city condemning the home. Id. at 561.

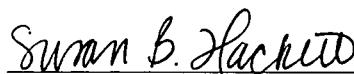
In the present case, the trial judge erred in finding the structure burglarized to be a dwelling. Petitioner's entrance into the home could not have been an offense against possession because no one had a possessory right to the house. Greenville County had declared the house uninhabitable due to the hazardous materials contained in the house as by-products of the methamphetamine laboratory that Pepper was running. The county forbade not only occupation, but entry onto the property by everyone, including Pepper. When Pepper entered the property, he was cited by the county for illegal conduct – trespassing. Certainly, he could not have been fined for trespassing on his own property if he had a possessory interest at the time. In light of the county's actions of condemning the property and prohibiting entry and occupation, no one, including Pepper, had a possessory interest in the property. The structure was akin to the vacant apartment in Evans, supra. Although the apartment bore all the hallmarks of a dwelling, including furnishings, it was not a dwelling because no one had a possessory interest in the vacant apartment at the time of the break-in. Pepper could have no intent to return to the structure because doing so was illegal – as evidenced by the undisputed evidence presented at trial, including the signs posted by the county prohibiting entry and occupation and ticket and fine Pepper received when he returned to the structure.

When a county prohibits human occupation of a structure based upon the presence of hazardous materials, the structure is not a dwelling house as defined by the burglary statutes, and an individual charged with burglary in the first degree of such a structure is entitled to a directed verdict. This Court should grant certiorari to review this important novel issue presented.

**CONCLUSION**

Petitioner respectfully requests this Court grant the petition for writ of certiorari and order full briefing on the issue presented.

Respectfully Submitted,



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Susan B. Hackett  
Appellate Defender

ATTORNEY FOR PETITIONER

This 29th day of September, 2016.

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

RECEIVED

SEP 29 2016

Certiorari to Greenville County  
D. Garrison Hill, Circuit Court Judge

S.C. SUPREME COURT

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RESPONDENT,

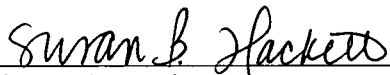
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WILLIAM TRAVIS CALVERT,

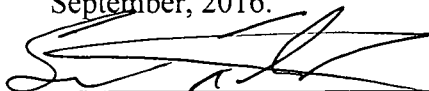
PETITIONER

CERTIFICATE OF SERVICE

I certify that a copy of the Petition for Writ of Certiorari and a copy of the Appendix in this case has been served on Susannah R. Cole, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and William Travis Calvert, #323038, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 29th day of September, 2016.

  
Susan B. Hackett  
Appellate Defender  
ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 29th day of  
September, 2016.

 (L.S)

Notary Public for South Carolina  
My Commission Expires: October 30, 2022.