

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Charleston County
Honorable G. Thomas Cooper, Jr., Circuit Court Judge

WILLIAM COAXUM,

PETITIONER

v.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000572

PETITIONER PETITION FOR WRIT OF CERTIORARI

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SC Court of Appeals

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DEC 14 2018

S.C. SUPREME COURT

William Coaxum, pro se
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

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ISSUE PRESENTED

Trial Counsel's abandonment of the issue relating to the 2008 guilty plea was ineffective assistance.

STATEMENT

The Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk Court. Petitioner was initially indicted at the August 2007 term of the Charleston County Grand Jury for one (1) count of Armed Robbery (2007-BS-10-0978) involving the April 03, 2007 armed robbery at the Piccadilly Cafeteria. On April 9, 2008 the Petitioner accepted a plea offer presented by the state. Petitioner pled guilty to the 2007 Armed Robbery charge with the understanding all other charges pending would be dismissed. The Petitioner was sentenced to 12 years by the Honorable James Williams.

The Petitioner was indicted at the April 8, 2008 term for one (1) count of Armed Robbery and Possession of Firearm During Commission of Violent

Crime (2008-05-10-2629). On January 12-13, 2009 the Petitioner was found guilty and sentenced by the Honorable Mackley Dennis, Jr., to life without parole and five years concurrent on the weapons charge.

A notice of Appeal was filed and perfected. The South Carolina Court of Appeals reversed and remanded. The State petitioned the South Carolina Supreme Court for Certiorari which was granted. The South Carolina Supreme Court reversed the Court of Appeals' decision in Opinion No. 23452. The Remittitur was issued on October 24, 2014.

This Court has before it the records of the Charleston County Clerk of Court regarding the convictions, Petitioner's public records from the South Carolina Department of Corrections, the Application Appellate records, and the transcripts of the January 2009 trial, and December 5, 2016 PCR hearing.

ARGUMENT

Trial Counsel's abandonment of the issue relating to the 2008 guilty plea was ineffective assistance...

The petitioner was charged with (4) four armed robberies in 2007, 1) an armed robbery at Picadilly Cafeteria in Charleston on April 30, 2007; 2) an arm robbery of a Pizza Hut in Charleston November 27, 2007; 3) arm robbery of a North Charleston Inn on November 27, 2007; and 4) an arm robbery of a Family Dollar in North Charleston on November 23, 2007.

On April 4, 2008, the petitioner entered a guilty plea based on the State's offer to dismiss all pending charges.

The petitioner argues that he did not waive his right to have the following issues

withdrawn and abandoned at his Postconviction Relief hearing by Counsel that he's being held in custody unlawfully for the following reasons:

1. "Ineffective Assistant of Counsel"

a. "Denied effective assistance by both plea and trial attorneys,

b. "Applicant initially entered a plea of guilty to one count of armed robbery and was informed by plea counsel that because of his plea, which was negotiated between Counsel and the Prosecutor's office that he would not have to face prosecution for any other armed robbery offenses. Applicant entered a plea with this in mind and likewise sentenced to a term of twelve years.

During the PCR hearing, the State noted that the prose application covers both the guilty plea in April 2008, as well as the trial of 2009. The STATE sought to dismiss the grounds related to the 2008 guilty plea as barred under the statute

Limitations.

The petitioner argues that there exist evidence of material facts that were previously presented but not fully heard that requires further examination whether or not vacation of conviction or sentence in the interest of justice.

The petitioner contends that he was represented by counsel Beattie Butler in a Plea Bargain in 2008, that counsel informed the petitioner in the presence of mother Lizzie Walker, and his sister Lakesia Washington that the solicitor offer was offering a Plea Bargain if ~~petitioner~~ accepted the sentence of 12 years all other charges pending would be dismissed (see Affidavit HMB). The petitioner accepted the deal believing he would not be prosecuted on the remaining three (3) armed robberies.

The petitioner did not appeal the 2008 Guilty Plea Agreement he and family were ~~virtually~~ ^{completely} satisfied. The petitioner was being housed at the Broad River Correctional Institution serving a 12 year sentence when he learned that he had a pending detainer for Possession of a Weapon # 260751 and Armed Robbery # 260750, both of Charleston County see exhibit-C.

In challenging this conviction the petitioner argues that he was denied effective assistance of Counsel by his former Counsel whom he had represented him on the Plea Agreement of 2008.

The petitioner argues that his Counsel Beatrix Butler on January 12-13 proceed to a Jury trial where the petitioner was found guilty of and 2007 Pizza Hut Armed Robbery, a charge which was suppose to have been resolved by the Plea Agreement of 2008.

The petitioner contends that trial counsel failed to engage in the adversarial process by allowing the State without challenge to switch cases to warrants Possession of a Weapon # K260764 and Armed Robbery # K260762. See Exhibit-D.

The petitioner argues that trial counsel from the outset should have maintained a meaningful defense by securing the Plea Hearing transcript when was advised that he would be representing the petitioner. Trial counsel should have least attempt to put on record that the State offered a "bargain" and negotiated for a particular plea in order to secure dismissal of more serious charges.

The petitioner contends that trial counsel representation fell below an objective standard of reasonableness by allowing a Jury trial to proceed against petitioner in violation of the Double
S.

Double Jeopardy Clause, applied to the states through the Fourteenth Amendment provides that no person may be tried more than once "for the same offense" in this particular case the petitioner had accepted a "global resolution" that if he pled his sentence would be 12 years and all other pending charges dismissed.

The petitioner contends that trial counsel performance was deficient and this deficiency prejudiced the petitioner. Strickland v. Washington, 466 U.S. 688, 687, 104 S.Ct 2952, 80 L.Ed 2d 674 (1984).

The petitioner contends that the record would demonstrate that there was in fact a Plea Agreement offered. PCR Trp 31 Line 25 to p. 32
Line 1-2

Beattie Butler - Direct by Mr. Murphy

Q. Now, did you have any communications with the prosecution about a global resolution?

A. Yes

The petitioner contends that the following colloquy under direct examination of Mr. Beattie Butler demonstrates proving that under no circumstances a jury trial should have proceeded. PCR Tr. p. 32 Line 19 thru 25

Beattie Butler - Direct by Mr. Murphy

Greg Voigt offered to let William plead to everything. William wasn't going to plead to anything. We were going to trial on the Piccadilly case. And I can't say it was the last minute, but it was only days or so before trial that William said, no, I will plead. Greg Voigt said he can still plead to everything.

The petitioner contends that the above narrative by Beattie Butler not only demonstrates that a Plea Bargain was on the table but the petitioner accepted the offer, which has been substantiated by Exhibits A + B.

The petitioner contends that trial counsel erred in failing to engage in an adversarial process by presenting such evidence of the Plea agreement or global resolution to the Court in order to avoid consecutive proceedings that triggered a Life without Parole sentence,

The petitioner contends that he has presented two (2) forms of evidence to this Court that simultaneously bears to his allegation that trial counsel's performance was not performed within the standards required under Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2050, 2064, 80 L.Ed.2d 674 (1984).

The petitioner contends it's clear from the affidavits submitted, from his own admission at the postconviction hearing and trial counsel's testimony that he should have actively pursued pre-trial motions to dismiss the case against the petitioner because in the first instance the State misled the defense as to the charges it had to answer or defend against. See Exhibit - C. Secondly trial counsel should have argued that proceeding with a trial the State would be violating the Double Jeopardy clause, applied to the States through the Fourteenth Amendment providing that "no person may be tried more than once" for the same offense."

The petitioner contends that counsel's performance was deficient when he failed to inform the Court of the global resolution of 2008, where petitioner accepted a plea bargain to a maximum of 12 years prison term and that all pending charges would be dismissed.

The petitioner contends that once the parties negotiated a plea agreement where the solicitor agreed to not prosecute petitioner for any other offenses as a matter of criminal jurisprudence, a plea bargain itself is contractual nature and subject to contract - Law Standards.

United States v. Krasa, 614 F.2d 1229, 6233 (9th Cir. 1980)

(quoting United States v. Amett, 628 F.2d 1162,

1164 (9th Cir. 1979) the terms of a plea agreement are interpreted according to "Objective Standard" and in the event of a dispute, the dispositive question is what the parties "reasonably understood", Amett,

628 F.2d at 1164. Plea Agreements are contracts of adhesion, and must be strictly construed against the Government, Standard Oil Co. of Cal. v Perkins,

347 F.2d 379, 383 n. 5 (9th Cir. 1965)

The petitioner contends where a defendant pleads guilty based on a promise by the prosecutor, "breach of that promise taints the voluntariness of his plea" and offends the Fifth Amendment U.S. v Andre McDaniels, 907 F.3d 366

The petitioner contends that the state claim that this allegation of ineffective assistance of trial counsel is time barred should not be accepted pursuant to Rowland v. State, 42 So. 3d 503, 508 (Miss. 2010), the Mississippi Supreme Court held that double jeopardy claims "are excepted from procedural bars" in the Uniform Postconviction Collateral Act. Pursuant to the South Carolina Postconviction Act 17-27-20 (a)(4) that the petitioner was entitled to have his allegations heard at the Postconviction Relief Hearing, December 5, 2016.

The petitioner contends that unless this Honorable Court accepts the evidence of material facts, not previously presented and heard the interest of justice would not be served.

The petitioner contends that this matter should have been heard in the lower court which have uniformly held that a prisoner is entitled to some relief when he shows that the state reneged on its sentencing agreement. Boykin v. Alabama, 395 U.S. 1709

The petitioner contends that it appears from the record that the state, PCR Counsel and trial Counsel had virtually agreed to abandon petitioner's claim leaving him without any recourse other than present the exhibits herein as a corroborative evidence.

The petitioner contends that the evidence he's submitted should be relevant and admissible. State v. Saltz, 346 S.C.

114, 551 S.E.2d 240 (2001); State v. Alex Kseif
343 S.E.2d 20, 538 S.E.2d 248 (2000);
State v. Adams, 354 S.C. 361, 580 S.E.2d 795
(Ct. App. 2003); Rule 402 SCRE "Relevant
evidence" is defined as evidence having
a tendency to make the existence
fact that is of consequence ~~material~~ to
the determination of the action more
probable or less probable than it would be
without the evidence. State v. Shuler,
352 S.C. 176, 577 S.E.2d 438 (2003); State
v. Braxton, 343 S.C. 629, 541 S.E.2d 833
(2001) State v. Hamilton, 344 S.C. 543 S.E.2d
526 (Ct. App. 2001); Rule 401, SCRE. Under Rule 401,
evidence is relevant if it has a direct bearing
upon and tends to establish or make more
or less probable the matter in controversy. In
re Carley, 353 S.C. 202, 577 S.E. 451 (2003);
Adams, 354 S.C. at 378, 580 S.E.2d at 794;
State v. King, 349 S.C. 112, 561 S.E.2d 640 (Ct. App. 2002).

15.

The petitioner contends that for trial counsel's errors as outlined above, a reasonable probability exists that petitioner would have not received an LWOP sentence.

CONCLUSION

Based on the foregoing argument, petitioner now request that this Court vacate this sentence and restore his original sentence of 12 years,


William Coxum, Pro Se

This — day of December, 2018

10.

STATE OF SOUTH CAROLINA
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Certiorari to Charleston County
Honorable G. Thomas Cooper, Jr., Circuit Court Judge

WILLIAM COAXUM,

PETITIONER


v.

STATE OF SOUTH CAROLINA,


RESPONDENT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Petitioner's petition for writ of Certiorari has been mailed to Wanda H. Carter, Division of Appellate Defense, POBOX 11579 Columbia, SC 29211-5579, and Megan H. Jamison, Esquire, Rembert Dennis Building, 1000 Assembly Street, ROOM 519, Columbia, SC 29201 through the Broad River Correctional Institution MAIL ROOM.


William Coaxum, pro se
Broad River Correctional Institution

SWORN AND SUBSCRIBED BEFORE
ME THIS 16th day of December 2018


Notary Public for South Carolina

My Commission Expires May 23, 2028



APPENDIX

JIAN JAGEL

The State of South Carolina
County of Charleston

AFFIDAVIT

The undersigned deponent, Lizzie Waker personally appeared before me,
deposes and says the following:

That on April 9, 2008, while in the presence of my Son William Coaxum #327616,
daughter Lakesia Washington, Mr. Beattie Butler of the Charleston County Public
Defender's Office informed us that the Solicitors Office was offering William a plea
bargain that if he would plead to the armed robbery of the Piccadilly Cafeteria he would
get a 12 years sentence, and he wouldn't be tried on the other charges.

There wasn't much discussions because I knew the Lord Jesus had answered my
prayers. My son told Mr. Butler that he accepted the plea bargain. My son stood before
the Judge and plead as was instructed by Mr. Butler with the belief that all other
charges would have been dismissed.

The given narrative is true and given under the penalty of perjury.

Lizzie Waker

Lizzie Waker

Sworn and subscribed before me this _____ day of NOV 26 2018, 2018.

Lori R. Beier

Notary Public of South Carolina

My commission expires:

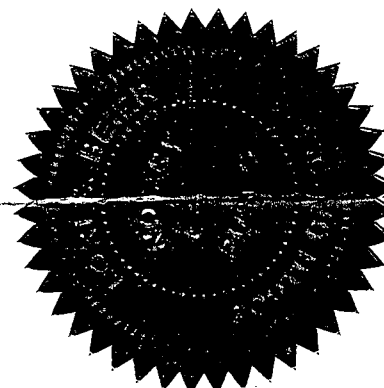
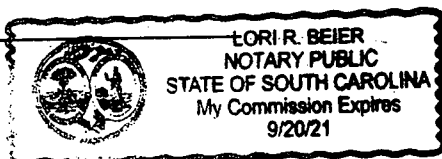


Exhibit - B

The State of South Carolina
County of Charleston

AFFIDAVIT

Personally appeared before me, Lakesia Washington whom deposes and says that the following occurred.

In the company of my mother, Mrs. Lizzie Waker we sat in a meeting with my brother William Coaxum #327616 and his court appointed Attorney Mr. Beattie Butler to discuss a matter of great importance.

Mr. Butler informed those of us present which to our great relief that the Solicitor was offering William a plea deal. The way Mr. Butler explained it on that 9th day of April 2008, that if he would plead to the Cafeteria robbery he would get 12 years and the other charges would be dismissed.

I heard William inform Mr. Butler that he accepted the deal. Subsequently, William stood before the Judge, made the plea, was sentenced to the 12 years as offered. My mother and I returned to the family with much relief that he would be home at some point, not having to remain in prison for the rest of his life if the deal wasn't accepted as Mr. Butler had explained.

The above is given to the best of my knowledge under the penalty of perjury.

Lakesia Washington

Lakesia Washington

NOV 26 2018

Sworn and subscribed before me this _____ day of _____, 2018.

Lori R. Beier

Notary Public of South Carolina

My commission expires: _____

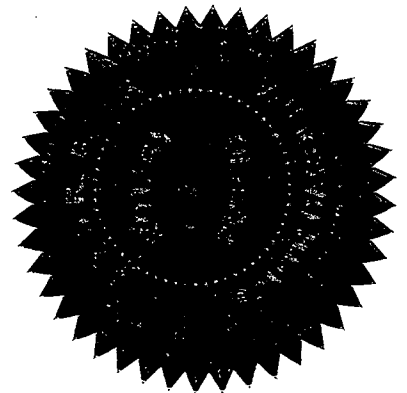
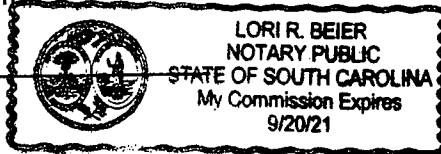


Exhibit - C

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DIVISION OF CLASSIFICATION & INMATE RECORDS
CUSTODY AND PRIVILEGES

Inmate Name William Coakum Inmate Number 327616
Assigned/Recommended Custody ML3

	MINIMUM OUT (MO)	MINIMUM OUT RESTRICTED (MOR)	MINIMUM IN (MI)	MEDIUM (ME)	SMU (SD, DD, PC, PHD)
ACCESS TO PROGRAMS & ACTIVITIES	Outside the perimeter off institutional property	Inside the perimeter or Outside the perimeter on institutional property	Inside the perimeter	Inside the perimeter	Selected cell activity only
ACCESS TO JOBS	Outside the perimeter off SCDC property	Inside the perimeter or Outside the perimeter on institutional property	All inside the perimeter Under armed supervision outside the perimeter	All inside the perimeter Under armed supervision outside the perimeter	None except job assignments within unit for Statewide PC which is closely supervised (none the 1 st 90 days)
WORK/EDUCATION CREDITS	2	2	3 until meets behavior & time requirements to MOR, then automatically to 2	5	None, except 7 for Statewide PC (none the 1 st 90 days)
ACCESS TO CANTEEN	\$100 week limit	\$100 week limit	\$100 week limit	\$30 week limit	Refer to OP-22.16 for Death Row, OP-22.12 for SMU, OP-22.32 for Statewide PC. Pre-Trial SK inmates are eligible for canteen privileges.
ACCESS TO VISITS	See SCDC Policy/Procedure OP-22.09, Inmate Visitation, OP-22.12, Special Management Unit, OP-22.11, Maximum Security Unit, or OP-22.32, Statewide Protective Custody for information on visitation privileges.				
*ACCESS TO TELEPHONE	Normal	Normal	Normal	4 calls per month	Up to 1 call per month (depending upon Security Detention level designation) Statewide PC - 1 per day

*This does not affect access to legal telephone calls.

Projected Release Date as of: 5-6-08
Max-out 3/10/2019 Parole Eligibility None SFII-A N/A
Labor Crew Eligibility N/A
Sentence Start Date 4/9/2008 Sentence Length 12YRS
Detainers Possession of weapon & 2607514, Armed Robbery & 2607504 (Charleston)

GKV20071212020

WITNESSES

SHAWN PATRICK

North Charleston Police Department

AGENCY CASE NUMBER

2007050185

ARREST WARRANT NUMBER

K260764

DATE OF ARREST

2007-11-27

ACTION OF GRAND JURY

TRUE BILL

Eddie Cochran

Foreperson of Grand Jury

Date:

APR 08 2008

VERDICT

Guilty

Patricia J. [Signature] Jan 13 09

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2008GS1002630

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

April Term 2008

THE STATE

vs.

WILLIAM COAXUM SR

DOB: 1981-09-21

B/M

Indictment for

Possession of a Firearm During the
Commission of a Violent Crime

Exhibit - D

BY
CLERK OF COURT
2008 APR 11 PM 4:09

07-7655-3

GKV20071212020

WITNESSES

SHAWN PATRICK

North Charleston Police Department

AGENCY CASE NUMBER

2007050185

ARREST WARRANT NUMBER

K260762

DATE OF ARREST

2007-11-27

ACTION OF GRAND JURY

TRUE BILL

Eddie Cochran

Foreperson of Grand Jury

APR 08 2008

Date:

VERDICT

Guilty

Patricia J. Palander Jan '13 '09

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2008GS1002629

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

April Term 2008

THE STATE

vs.

WILLIAM COAXUM SR

DOB: 1981-09-21

B/M

Indictment for

Armed Robbery

Exhibit - D

BY

CLERK OF COURT

2008 APR 11 PM 4:05

07-7655-1

* Final Report *

*** Final Report *****Date of Admission:** 11/30/18**Date of Discharge:** 12/06/18**Attending:** Dr. Pancholi**Resident:** Dr. Arjun Jadhav**Discharge Diagnosis:** Sepsis secondary to Permacath infection**Consults:**

Nephrology

General Surgery

Interventional Radiology

Procedures:

Hemodialysis on home schedule

Exchange of Permacath

Echocardiogram

Admission History:

Mr. Coaxum Sr. is a 37 year old AA male who presents to the ED today from a correctional facility. He has a complex past medical history of ESRD secondary to Alport syndrome. He states he does not make urine, has a PermaCath, and undergoes dialysis M, W and F. Earlier in the day, Mr. Coaxum was undergoing dialysis when experienced a fever of 103.3. In fact, this patient has been experiencing not only fevers but also chills, body aches and unspecified weight loss for at least a week. He has cough, night sweats, abdominal pain, changes in bowel movements, chest pain, shortness of breath or leg swelling. He has no swelling or induration at the site of a previously-operated on fistula. He has no swelling, erythema or warmth at the site of the PermaCath. The patient denies areas of swelling, induration or warmth generally on his skin or joints. He states he has mild swelling in the left ankle which he states is secondary to a prior orthopedic surgery and is normal for him. He feels generally well except for the stated symptoms, is not acutely distressed at this time, and asks for a meal and a drink.

For historical context- the patient has a complex medical history. In addition to his chronic ESRD, he also has a long-standing history of seizures. One year ago in December 2017, the patient was admitted to this hospital and diagnosed with a MRSA bacteremia secondary pneumonia. Then, in January 2018, the patient was again admitted and diagnosed with a MRSA bacteremia secondary to an infected AV fistula. He was prescribed six weeks of vancomycin and rifampin therapy, and had a procedure to reduce the bulk of the fistula.

Hospital Course:**Sepsis secondary to Permacath infection**

Patient was admitted to general medicine floor. Blood cultures were obtained from arm and permacath. He was started on empiric coverage with Vancomycin and Zosyn. HIV, influenza were negative. On hospital day two, blood culture from permacath were growing gram positive cocci and blood cx from arm were growing gram positive rods. There was high suspicion for contamination given that the two organisms were different. Vancomycin was continued and Zosyn was discontinued. Venous doppler of lower extremities demonstrated no thrombus. Echocardiogram findings: EF 60%, PA Pressure: 30mmHg, Concentric left ventricular hypertrophy, no masses, thrombi, or vegetations. On hospital day 3, Ultrasound of AV Graft in RUE was significant for possible abscess. General Surgery was consulted and recommended no intervention. Patient underwent hemodialysis on this day while being treated with vancomycin. On hospital day 4, blood cultures from permacath were growing staph epidermidis and blood cultures from arm were growing corynebacterium. This further confirmed that the cultures were contaminated as the two organisms were different. Vancomycin was discontinued, started on ancef. Patient's hgb was 6.7, he was transfused 1 unit of blood. On hospital day 5, the patient had permacath exchanged and went for dialysis. His hemoglobin had decreased to 6.8 and he was given 1 unit of blood during dialysis. Patient's blood pressure was elevated, started home lisinopril. This was being held in the setting of sepsis when admitted. On hospital day 6, repeat hemoglobin was 8.4. Patient is to follow up with Nephrology. Patient is to continue Ancef IV, this can be given to him at dialysis via permacath. He is to receive 2g on Mon and Wed, and 3g on Friday. He will also need to follow up with general Physician at Correctional Facility to monitor Hgb and electrolytes.

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

AFFIDAVIT

The undersigned, William Coxum #327616 personally appeared before me, deposes and says of the following event's

That on November 30, 2018, approximately at 11.00am I was being treated at the Dialysis Clinic when my blood pressure dropped and I was rushed to the Hospital.

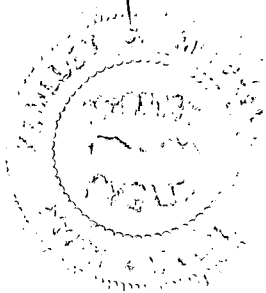
I was supposed to have mailed out my Petitioner's Petition to the S.C. Supreme Court, the deadline was December 5, 2018. I just returned to the Institution today December 6, 2018.

William Coxum Jr.
William Coxum #327616

sworn and subscribed before me
this 1st day of December, 2018

Kenneth S. McLeh
Notary Public

by Commissioner Expires May 23, 2028



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SC Court of Appeals

S.C. SUPREME COURT

Mount #2049
9160 Broad River Road
Columbia, SC 29210

The Honorable Donnel Shearhouse
Clerk of South Carolina Supreme Court
Supreme Court Building
Post Office Box 11330
Columbia, SC 29211

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BRCI
MAILROOM

