

IN THE SUPREME COURT S.C.

SPENCER UTSEY #192660  
PETITIONER

v.

S.C. Dept. of  
CORR.  
Respondents

RECEIVED

AUG 29 2019

S.C. SUPREME COURT

CASE # 2019-001302

WRIT OF CERTIORARI

SPENCER UTSEY #192660  
#2-B-139  
KIRKLAND CORR. INST.  
4344 BROAD RIVER RD.  
COLUMBIA, S.C. 29210

CLERK  
DANIEL E. SHEAROWSE  
P.O. BOX 11330  
COLUMBIA, S.C.  
29211

General Counsel  
4444 BROAD RIVER RD.  
COLUMBIA, S.C.  
29221

LEGAL  
MAIL  
ONLY

QUESTION PRESENTED

DID THE LEGISLATURE INTENT TO AMEND SECTION 24-13-200 ~~BY~~ BY CHANGING THE LAW OF METHAMPHETAMINE DISTRIBUTION, POSSESSION TO NON-VIOLENT IN DECISION IN BOLIN V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, 415 S.C. 276, 781 S.E. 2D 944 (C.T. APP. 2016), REHEARING DENIED (FEB. 24, 2016)

LEGAL MAIL ONLY

# Table of Authorities

p91, question presented

p92, Table of Authorities

p93... § 24-13-100; Bolin v. South Carolina Department of Corrections, 415 S.C. 276, 781 S.E.2d 914 (Ct. App. 2016), rehearing denied (Feb. 24, 2016); Statement of Case

p94... Rule 242(d) and (e) of South Carolina Appellate Court Rules.

p95... Argument; Gatewood v. South Carolina Dept. of Corrections, Court of Appeals of South Carolina, March 9, 2016, 416 S.C. 304, 785 S.E.2d 600; Bolin v. South Carolina Department of Corrections, 415 S.C. 276, 781 S.E.2d 914 (Ct. App. 2016), rehearing denied (Feb. 24, 2016); § 24-13-100; § 16-1-60.

## Appendix

1. letter dated March 22, 2019, about notice of Appeal
2. order dated 5/3/19
3. order dated Aug 7, 2019
4. letter dated March 22, 2019
5. order dated July 30, 2019
6. order dated August 15, 2019

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# STATEMENT OF CASE

the Legislature intent to Amend § 24-13-100 by changing the law of methamphetamine distribution, possession to non-violent in decision in *Bolin v. South Carolina Department of Corrections*, 415 S.C. 276, 781 S.E.2d 914 (Ct. App. 2016), rehearing denied (Feb. 24, 2016).

Petitioner filed step 1 and 2 Grievances with the DOC and they were denied, then appealed to Administrative Law Court which they denied petitioner and then appealed to the S.C. Court of Appeals and on or about letter dated March 22, 2019 from Court of Appeals signed by Deputy Clerk Claire Allen to perfect the appeal with name of Judge et al; and then after a order dated 5-3-19 dismiss appeal, then thereafter petitioner filed a motion to reinstate the appeal and the Court of Appeals of S.C. by order dated July 30, 2019 denied in ~~case~~ Appellate case # 2019-000434, then petitioner appealed to the S.C. Supreme Court and by order signed by Clerk parrel E. Shearouse dated August 7, 2019 dismissed the

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WRIT OF CERTIORARI failed to put all  
CONTENTS within and file two copies of  
Appendix, then lastly by order dated 8-13-19  
chief justice Beatty signed and to reinstate  
the appeal with requirements of rule 242  
(d) and (e) of South Carolina Appellate Court  
Rules.

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## 1.) QUESTION PRESENTED

Did the Legislature INTENT TO Amend §24-13-100 by changing the law of methamphetamine distribution possession to non-violent in decision IN BOLIN V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, 415 S.C. 276, 781 S.E. 2d 914 (CT. APP. 2016), rehearing denied.

## 1.) ARGUMENT

A statute is remedial, and thus is to be construed retroactively where it creates new remedies for existing rights, unless it violates a contractual obligation, creates a new right, or divests a vested right. *Gatewood v. South Carolina Dept. of Corrections*, Court of Appeals of South Carolina, March 9, 2016, 416 S.C. 304, 785 S.E.2d 600.

The decision in *Bolin v. South Carolina Department of Corrections*, 415 S.C. 276, 781 S.E.2d 914 (Ct. App. 2016), rehearing denied (Feb. 24, 2016), legislature showed its intent to amend 24-13-100 by changing the law of methamphetamine distribution, possession, to non-violent and taking this offense from under § 6-1-60 and the synonym for meth is crank.

Grant the case for above and change the statute § 24-13-100 from violent to non-violent and see entire case in case above.

Spencer Utsey  
5 | Spencer Utsey #192660  
LEGAL MAIL ONLY

SPENCER UTSEY  
192660  
PETITIONER  
V.  
S.C. Dept. of  
CORRECTIONS  
Respondents

IN THE SUPREME COURT  
CERTIFICATE OF  
SERVICE  
8/26/19

RE: case # 2019-  
001302

RECEIVED  
AUG 29 2019  
S.C. SUPREME COURT

I do hereby aver that I, Spencer  
Utsey did serve a copy of the writ of  
certiorari on the S.C. Supreme Court,  
Clerk Daniel Shearouse and the Attorney  
General offices P.O. Box 11549, Columbia,  
S.C. on about 8/26/19 and placed copies  
in the Kirkland CT mail system on about  
8/26/19

CLERK  
DANIEL E. SHEAROUSE  
P.O. Box 11330  
Columbia, S.C.  
29211

GENERAL COUNSEL  
444 BROAD RIVER RD.  
COLUMBIA, S.C.

Spencer Utsey

LEGAL  
MAIL  
ONLY



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

March 22, 2019

Spencer Utsey, 192660  
MacDougall Correctional Institution  
1516 Old Gilliard Road  
Ridgeville SC 29472

Re: Spencer Utsey v. SCDC  
Appellate Case No. 2019-000434

Dear Mr. Utsey:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at [www.sccourts.org/courtreg](http://www.sccourts.org/courtreg). Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at [www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02](http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02). Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review

filings for redaction or to determine if materials should be sealed.

This is to advise that the title in the above matter has been changed to read as follows:

Spencer Utsey, #192660, Appellant,

v.

South Carolina Department of Corrections, Respondent.

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Christina Catoe Bigelow, Esquire  
Jana E. Shealy

# The South Carolina Court of Appeals

Spencer Utsey, #192660, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2019-000434

## ORDER

Because Appellant failed to provide proof he timely served the Administrative Law Court with the notice of appeal, this appeal is dismissed. *See* Rule 203(b)(6), SCACR ("When a statute allows a decision of the administrative law court or agency (administrative tribunal) to be appealed directly to the Supreme Court or the Court of Appeals, the notice of appeal shall be served on the agency, the administrative law court (if it has been involved in the case) and all parties of record within thirty (30) days after receipt of the decision.").<sup>1</sup> The remittitur will be sent as required by Rule 221(b), SCACR.



FOR THE COURT

Columbia, South Carolina

cc:

Spencer Utsey, 192660  
Christina Catoe Bigelow, Esquire

**FILED**

5/3/19

<sup>1</sup> Because this appeal is dismissed, this court will take no action on Appellant's pending motions.

# The Supreme Court of South Carolina

Spencer Utsey, #192660, Petitioner,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2019-001302

Lower Court/Tribunal No. 2018ALJ040259AP

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## ORDER

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Petitioner has filed documents seeking review of the decision of the South Carolina Court of Appeals in Appellate Court Case Number 2019-000434. Since the review of a decision of the Court of Appeals is sought by serving and filing a petition for a writ of certiorari under Rule 242 of the South Carolina Appellate Court Rules (SCACR), these documents have been construed as a petition for a writ of certiorari.

Petitioner has failed to file a petition for a writ of certiorari having the content specified by Rule 242(d), SCACR. Further, petitioner has failed to file two copies of an appendix having the content specified by Rule 242(e), SCACR. Accordingly, the petition for a writ of certiorari is dismissed.

FOR THE COURT

BY



CLERK

Columbia, South Carolina  
August 7, 2019

cc: Christina Catoe Bigelow, Esquire  
Mr. Spencer Utsey, 192660  
The Honorable Jenny Abbott Kitchings



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
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March 22, 2019

Spencer Utsey, 192660  
MacDougall Correctional Institution  
1516 Old Gilliard Road  
Ridgeville SC 29472

Re: Spencer Utsey v. SCDC  
Appellate Case No. 2019-000434

Dear Mr. Utsey:

Upon reviewing your notice of appeal, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- The judge is not listed and counsel for the respondent is not listed. See Rules 203(e)(2)(A) and 203(e)(2)(E), SCACR.
- The notice of appeal fails to include a statement of when you received written notice of entry of the order or judgment from which this appeal is taken. See Rule 203(e)(2)(C), SCACR.
- A proof of service showing that a copy has been served on the agency and/or the Administrative Law Court has not been provided as required by Rule 203(b)(6), SCACR.
- If you wish to proceed in forma pauperis, a motion will need to be made. Otherwise, the filing fee for filing a notice of appeal will need to be provided in the amount of \$250.00.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Christina Catoe Bigelow, Esquire

# The South Carolina Court of Appeals

Spencer Utsey, #192660, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2019-000434

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## ORDER

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This court construes Appellant's petition to reinstate as a petition to rehear the dismissal of this appeal. After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

*Thomas C. Hill*

J.

*Paul W. Thomas*

J.

*A. Ke*

J.

Columbia, South Carolina

cc:

Spencer Utsey, 192660

Christina Catoe Bigelow, Esquire

**FILED**

*July 30, 2019*

# The Supreme Court of South Carolina

Spencer Utsey, #192660, Petitioner,

v.

South Carolina Department of Corrections, Respondent.

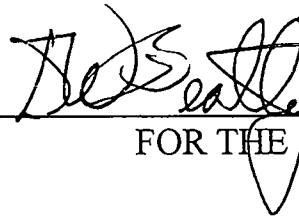
Appellate Case No. 2019-001302

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## ORDER

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The motion to reinstate is granted. Within twenty (20) days of the date of this order, petitioner shall serve and file a petition for a writ of certiorari and appendix that fully complies with the requirements of Rule 242(d) and (e) of the South Carolina Appellate Court Rules. Petitioner need only file one copy of the appendix with this Court.



C.J.

FOR THE COURT

Columbia, South Carolina  
August 15, 2019

cc: Christina Catoe Bigelow, Esquire  
Mr. Spencer Utsey  
The Honorable Jenny Abbott Kitchings

8/26/19

Affidavit

RE: case # 2019-  
001302

I do hereby swear that the following is true and accurate to petitioner's knowledge, that I am indigent and petitioner's liberty interest was violated by the wording in writ of certiorari.

RECEIVED

AUG 29 2019

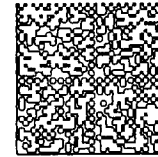
S.C. SUPREME COURT

Spencer Utsey  
5/Spencer Utsey #192660

Spencer W. Smith # 292660

Mailroom R2-B-39

Kirkland Correctional Institution  
4344 Broad River Road  
Columbia, S.C. 29210



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Clerk  
S.C. Supreme Court  
Daniel E. Shearouse  
P.O. Box 11330  
Columbia, S.C. 29211

RECEIVED  
MAIL ONLY  
AUG 26 2019

KIRKLAND R&E CENTER  
MAILROOM



QUALITY PARK  
9 x 12

THE DEPARTMENT OF CORRECTIONS HAS NOT  
INSPECTED OR CENSORED THIS ITEM, THEREFORE, THE  
DEPARTMENT DOES NOT ASSUME RESPONSIBILITY FOR  
ITS CONTENTS.