

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
[IN THE SUPREME COURT]

April 14, 2013

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS

Resident Judge C. Victor Pyle Jr. and Presiding Judge Thomas J. Ervin - Circuit Court Judges

Case No. Latimer vs. State

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APR 18 2013

S.C. SUPREME COURT

The State

Respondent

Randall E. Latimer

Appellant

NOTICE OF APPEAL

Randall E. Latimer appeals the order [judgment] of the Honorable C. Victor Pyle Jr. and Thomas J. Ervin dated April 15, 1986 - July 29, 1986. Appellate received written notice of entry of this [judgment] on July 29, 1986.

EXPLANATION REQUIRED

If the Lower Court has determined that the Post-Conviction relief action is barred as successive or being untimely under the Statute of limitations the petitioner must at the time the notice of appeal is filed provide an explanation as to why this determination is improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper. If the petitioner fails to make a sufficient showing, the notice of appeal may be dismissed.

~~H. W. Pat Paschal Jr.~~

EXPLANATION

I been on lockup since Feb. 20, 2013. I was denied my legal materials prior to coming to lock-up. I put in two request to go to the Law Library Computer and never went. I received a Jailhouse Lawyers manual and was denied that. I filed a grievance because the Property Inventory does not mention (books).

(The Determination of The Lower Court Was Improper)
The determination of the lower court is improper because the trial court did not have Subject Matter Jurisdiction to convict or sentence or revoke my Parole nor did Judge Larry R. Patterson or Judge John C. Few have jurisdiction over my PCR or Habeas Corpus cases. The Petitioner has discovered that Greenville/Pickens counties has been processing their PCR and Habeas Corpus cases by fraudulent means.
The PCR Application I filed was returned with another person name on the front cover Michael Evans (The only Michael Evans I know is on Good Times) they gave Michael Evans my case number.

The Habeas Corpus Petition I filed on January 15, 2009 in the Court of Common Pleas was dismissed without the signature of Judge Larry R. Patterson who's term was (1991-2003). In the signature block they referred to Judge Patterson as Chief Administrative Judge when there is no chief Administrative Judge for the Thirteenth Judicial Circuit.
On May 9, 2009 the Respondents motion for a return dismissing the petition claiming the petition failed to support the requested relief. On July 22, 2009, the Assistant Attorney General Karen C. Ratigan re-submitted the case to Judge John C. Few. Here's the letter she addressed to Judge Few. Dear Judge Few, it has come to my attention that Judge Patterson did not have time to sign several dismissals in various PCR and/or Habeas Corpus cases before his retirement, therefore, I am sending you copies of the dismissals for your review. The only change I made on the dismissals sent to Judge Patterson was to update your name in the signature block. I am advising the Applicants by this letter only of the re-submission to Judge Few. If you have any questions please let me know.

(Argument)

The Fifth (5th) Amendment Clause prohibits a second prosecution twice for the same case after a dismissal. In the other cases she claim she submitted to Judge Patterson in 2009 were all 2008 cases, the first cases. After conducting a background check on Judge John C. Few by the Supreme Court it was revealed that Judge John C. Few is a Court of Appeals Judge. Therefore, the Assistant Attorney General Karen C. Ratigan committed serious crimes which includes fraud, misrepresentation and violated my 5th Amendment right. Patterson, Larry R. Choppy (1991-2003) Thirteenth Judicial Circuit Court Judge. Few, John C. (2000-2006) Thirteenth Judicial Circuit.

to state concisely the grounds on which you base your allegation that you are being held in custody unlawfully.

(a) Ineffective Assistance of Trial Counsel

(b) Denial of a Fair Trial

(c) Applicant's Trial Counsel H.W. Pat Paschal Jr. was ineffective when he:

- Failed to object to evidence on the ground that there was no probable cause to arrest defendant
- Failed to object on the introducing of the statement into evidence.
- Failed to object to the Trial Judges instruction to the jury on whether a statement was voluntary or involuntary. Had the jury been instructed that a statement was either voluntary or involuntary it would have found the statement involuntary and would have acquitted applicant on both charges.
- Failed to request the trial court to instruct the jury that the evidence which was introduced of applicant's prior juvenile convictions was admissible only for impeachment purposes.

• Failed to properly (investigate) himself with the current and correct law and facts surrounding Applicant's case and as a result Applicant's trial counsel made a prejudicial error in the assessment of both the law and facts concerning the admissibility of Applicant's prior juvenile records (convictions) as evidence during his trial. Had Mr. Pat Paschal Jr. properly prepared himself concerning the current and correct law as it relates to the admission of a defendant's prior juvenile convictions into an adult trial he would have known of the changes in the S.C. Code of Law Ann. §§ 20-7-8510 and 20-7-8515, which were the current, correct and relevant Sections of the S.C. Code of Law on April 14-15 1986 as it related to the admissibility of a defendant's prior juvenile records into an adult trial. Applicant's trial counsel was not aware of these changes in SC Code of Law and relied upon outdated and

repealed S.C. Code of Law to argue against the admissibility of Applicant's prior juvenile records, clearly demonstrating that applicants Trial Counsel failed to properly investigate and ~~prepare~~ adequately prepare to defend Applicant at trial. Such failure prejudiced the outcome of applicants trial.

- Failed to challenge the sufficiency of the indictment of Burglary First Degree or Att. CSC First Degree where in they changed the charge "Broken in the nighttime to, "Entered the residence in the nighttime in the indictment.

86-23-1138

Based on the foregoing grounds, Applicant's trial counsel's H.W. Pat Paschal Jr. representation fell below an objective standard of reasonableness, and ~~but for~~ but for Mr. Paschal's errors there is a reasonable probability that the results at applicants trial would have been different.

Facts In Support of Grounds

Applicant was Denied a Fair Trial when:

1. He was not indicted by the Grand Jury before standing trial for a crime.
2. Trial Judge allowed inadmissible evidence to be used as evidence by the prosecution.
3. Trial ~~did~~ ^{Judge} not instruct jury that a statement was either voluntary or involuntary.
4. Prosecutor did not refrain from trying a case where he knew there was no probable cause.
5. The Prosecutor used and presented ^{the} statements as evidence before the grand jury.
6. The Grand Jury's return of a split-verdict acquitting him of Att. CSC and convicting him of Burglary First Degree.
7. Trial Counsel gave wrong date of conviction to tribunal on Notice of Intent To Appeal Aug. 5, 1986. This caused false information to be placed in Prisoner's Parole File.

(1)

Randall Edwin Latimer SCDC #135007
Lieber Correctional Institution Smu/MB235
P.O. Box 205
Ridgeville SC 29472
Petitioner

vs.

State of South Carolina
County of Greenville
Court of General Sessions
Resident Judge C. Victor Pyle Jr.
Presiding Judge Thomas J. Ervin
Solicitor Joseph L. Watson
Trial Counsel H.W. Pat Paschal Jr.
Assistant Attorney General
Karen C. Ratigan

State of South Carolina
Department of Probation
Parole and Pardon Services
Parole Agent Leslie Dorn
Greenville City Police Dept.
Det. M.F. Banton
Officer Larry Drummond

Respondents

HABEAS CORPUS

Prisoners often seek release by filing a petition for writ of habeas corpus. AHC is a judicial mandate to a prison official ordering that an inmate be brought to the court so it can be determined whether or not that person is imprisoned lawfully and whether or not he should be released from custody. A habeas corpus petition is a petition filed with a court by a person who objects to his own or another's detention or imprisonment. The petition must show that the court ordering the detention or imprisonment made a legal or factual error. Habeas Corpus Petitions are usually filed by persons serving prison sentences.

PETITION OF EXTRAORDINARY WRIT OF HABEAS CORPUS

IN THE SUPREME COURT OF SOUTH CAROLINA.

S.C. CODE OF LAWS TITLE 17

CHAPTER 17 HABEAS CORPUS

WWW.SCSTATEHOUSE.NET-LPITS

TITLE 17 CRIMINAL PROCEDURES

CHAPTER 17 HABEAS CORPUS.

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina

Post Office Box 11330

Columbia, South Carolina 29211

Rule 229 Original Jurisdiction Of The Supreme Court.

The Supreme Court will not entertain matters in its original jurisdiction when the matter can be determined in a lower court in the first instance without material prejudice to the rights of the parties. If the public interest is involved or if special grounds of emergency exist why the original jurisdiction of the Supreme Court should be exercised the facts showing the reasons must be stated in the petition with supporting affidavits.

Caution This Petition contains several "violations" which in the setting constitutes a denial of fundamental fairness shocking to the universal system of justice. State v. Torrence 406 S.E. 2d 315.

<http://www.SCStatehouse.net/Code/t17c017.htm>

8/8/2006

(1)

? Why The Supreme Court Should Exercise Its original Jurisdiction.

* Reason Newly Discovered Evidence

* Facts In 1993 the General Assembly passed a Crime Classification Act which amended the creation of Defined Violent Crimes of 1986. Because 16-1-60 was not passed until 1986 any crimes committed before that date will no longer be classified as violent offenses.

This Crime Classification Act applies to me because my crime was committed on or about 10-20-85 According to the B-439900 Affidavit for Burglary First Degree.

Also my indictment for Burglary First degree shows, At a Court of General Sessions convened on the 27th day of February 1986. The Grand Jurors of Greenville County present upon their oath that Randall Edwin Latimer did in Greenville County on or about the 20th day of October 1985.

I have served 20 years on a 10-year life sentence for Burglary First Degree. I am asking that my crime be no longer classified as violent and be given time served and released.

* More Newly Discovered Evidence

On June 25, 2012 the United States Supreme Court Ruled on LWOP For Juveniles. It has wider implications it applies to all who's crimes were committed before they became adults.

This also applies to me because my crime was committed in 1985 under the old state laws. Also my date of birth was 9/7/1967. I was declared to be at least (17) seventeen at my date of conviction by the Court of General Sessions on April 15, 1986.

* Justice Elena Kagan Supreme Courts Rules on LWOP for Juveniles. We... hold that life with the possibility of Parole for persons under age 18 at the time of their crime violates 8th Amendment's prohibition to Cruel and Unusual Punishments.

* Reason

Evidence show that I have already served 20 years under the wrong date of conviction and was sentenced twice for Burglary First degree after a conviction which is a violation of the 5th Amendment Double Jeopardy Clause.

* Facts Notice of Intent To Appeal

If you will please take notice the above named defendant through his attorney does hereby intend to appeal to the Supreme Court of South Carolina from a conviction on July 29, 1986 by the Honorable Thomas J. Ervin and C. Victor Pyle Jr. signed and dated H.W. Pat Paschal Jr. Trial Counsel

* Facts United States District Court's Report and Recommendation.

Petitioner is currently incarcerated at Perry Correctional Institution serving a life sentence on Burglary First Degree conviction and sentence which were entered in Greenville County on April 15, 1986.

* Facts See Pre-Sentence Investigation Commitment Youthful Offender Act Section 5B. The Court finds the defendant was at least (17) seventeen years of age at his date of conviction and is suitable for handling under the Youthful Offender Act. This 15th day of April 1986 Judge C. Victor Pyle Jr.

* Facts See Pre-Sentence Investigation Commitment Youthful Offender Act Section 5B. This commitment was a sham legal process for the following reasons: 1. The commitment did not contain a county designation in the caption nor was it signed by the Clerk of Court Caroline W. Mattos.

It was also contrary to Section 24-19-50 Powers of Court Upon

Conviction of Youthful Offenders.

* Facts Pre-Sentence Investigation Commitment.

The Court finds the defendant was at least (17) seventeen years of age at his date of conviction and is suitable for handling under the Youthful Offender Act.

* It is ordered that the Defendant be committed to the Department of Corrections Youthful Offender Division for observation and evaluation pursuant to Section 5B of the Youthful Offender Act. The results of such evaluation and recommendations are to be reported to the court by the Youthful Offender Division within sixty (60) days of the date of commitment. The Defendant shall be returned to the committing county upon completion of evaluation.

For imposition of such sentence as the court may find appropriate.

Section 24-19-50 Powers of Court Upon Conviction of Youthful Offenders

* Facts

In the event of a conviction of a Youthful Offender the court may: 1. Suspend the sentence and place the Youthful Offender on probation.
2. release the Youthful Offender to the custody of the division before sentencing for an observation and evaluation period of not more than 60 days.
The observation and evaluation must be conducted by the Reception and Evaluation Centers operating under joint agreement between Vocational Rehabilitation and the Department of Corrections and the findings and recommendations must be conducted returned with

(3) The Youthful Offender to the Court for sentencing.

Argument

* The commitment by Judge C. Victor Pyle Jr. on April 15, 1986 for observation and evaluation to the Youthful Offender Division was contrary to Section 24-19-50 because it specifically stated for the observation and evaluation to be conducted by the Youthful Offender Division and for the results of such evaluation and recommendations to be reported to the court by the Youthful Offender Division, but Section 24-19-50 states: the observation and evaluation must be conducted by the Reception and Evaluation Centers.

* And now the petitioner will show that he was never indicted by the Greenville County Grand Jurors. But first, I will show that Greenville County is guilty although the fine was rescinded they committed fraud and misrepresentation by not including the day or year the Prosecutor was fined.

* Facts

* CHIEF JUSTICE LOOKS AT CASE BACKLOG September 27, 2000

In August the Prosecutor for Robert Arians for Greenville/Pickens Counties was fined \$1,000 after he admitted his office often violated a rule limiting the time a suspect can be held without a hearing or grand jury appearance. Arians Office left a suspect in jail 5 months before a hearing or grand jury appearance. The fine was later rescinded.

* The State Supreme says a defendant must get a preliminary hearing within 10 days of his request and have his

* Case brought before a grand jury within 90 days. (4)
S.C. Rules of Criminal Procedures / Pre-Trial Matters
Delay. If there is a delay in the holding of a preliminary hearing shall not be grounds for a delay in the prosecution of the case in the Court of General Sessions.
S.C. Rules of Criminal Procedures / Pre-Trial Matters
Action on Warrant.

* According To the Checklist For Magistrates and Municipal Judges To Be Used In Criminal Cases In Which An Arrest Warrant Has Been Issued (Including traffic cases) the Petitioner is being held unlawfully because there was no checklist for B-439900 Burglary First Degree. Arrest Warrant. Did not sign waiver to understand charges.

* This checklist should be used in all criminal cases on which action is taken pursuant to an arrest warrant (including traffic cases) whether triable in Municipal Magistrates or General Sessions Court. The checklist should be used in compliance with the Orders of Chief Justice Woodrow Lewis. The checklist should be used only in those cases where an arrest warrant is issued, not in traffic cases where a Uniform Traffic ticket is used. The checklist should be attached to every arrest warrant at the time of the bail proceeding or first appearance of the defendant before a magistrate or municipal Judge.

The checklist should be retained in the office of the Judge for three (3) years at the end of which time it may be detached from the warrant and disposed of. It should be transmitted to the Clerk of Court

in cases for trial in the circuit court. It should be transmitted to the Clerk of Court in appeals.

* The petitioner is appealing the fact that he has served 20 years unlawfully because there was no checklist for ~~warrant~~ arrest warrant No. B-439900 Burglary First Degree. (4)

* The B-439900 Affidavit for Burglary First Degree failed to aver the time of crime or time of entry. The B-439900 Affidavit charged "Broken into in the night time" but they changed it to "Entered the residence in the night time in the indictment. There was no evidence of the term nighttime.

* The Petitioner Randall Edwin Latimer was held in the Greenville County Detention Center for 6 months without a hearing or grand jury appearance for the purpose of an interrogation by Police. This violated the Petitioner's Pre-Trial Detainee Rights. People who have not been convicted of crimes cannot be punished at all. Therefore, jail or prison conditions violate if they are intended to punish Pre-Trial Detainees.

* NO INDICTMENT BY GRAND JURY BEFORE TRIAL ON APRIL 14-15, 1986
Petitioner has served 20 years unlawfully no indictment.

The indictments 86-23-1137 and 86-23-1138 alleged: At a Court of General Sessions convened on the 27th day of February 1986. The Grand Jurors of Greenville County present upon their oath.

* According to the Court Term Calendar for Greenville County The Court of General Sessions did not convene at all with the Grand Jurors of Greenville County ~~at all~~ at all in February 1986.
S.C. Code of Laws Title 14 Chapter 5 Circuit Courts Section 14-5-790 Terms of Court In Thirteenth Circuit. The terms of the court in the thirteenth circuit shall

(5)

be held as here in after provided.
The Court of General Sessions for the County shall be held at Greenville on the second Monday in January for two weeks, on the second Monday in March for two weeks.
(S.C. Constitution and S.C. Const. Art. 1, § 11)

* STATE'S CONVICTION / Reason

The States conviction was obtained by a statement by the defendant which police obtained by interrogation. I am being held unlawfully on the ground that the Prosecutor used and presented a statement made by defendant by interrogation which the Trial Judge allowed into evidence, in which my Trial Counsel did not object to.

Facts The Self-Incrimination Clause of the Fifth Amendment prohibits the use both the use or derivative use of statements compelled by someone with prosecutorial immunity. The 5th Amendment Self-Incrimination Clause requires prosecutors of carrying the heavy burden of proving their cases without relying on the compelled testimony.

Reason

THE RETURN OF A SPLIT-VERDICT BY THE GRAND JURY
I am being held unlawfully on the ground that the Trial Judge who allowed the statement to be admitted as evidence then erroneously instructed the jury as to whether a statement is voluntary or involuntary.

Facts In the case *Riverra v. State* as in *Latimer v. State*. Had the jury been properly instructed that a statement is either voluntary or involuntary or ~~involuntary~~ it would have found the statement involuntary and acquitted defendant on both charges.

Facts CORPUS DELICTI RULE

However, because the statement was the States only evidence or proof of the crime but does not prove the elements of the crime the trial judge made the right call in dismissing the charges.

I petitioner Randall Edwin Latimer is providing an affidavit for each reason and fact alleged in this petition. I declare under penalty of perjury every fact or allegation alleged in this petition is true.

Randall Edwin Latimer

(5)

HABEAS CORPUS www.statehouse.net-LPITS

Prisoners often seek release by filing a Petition for ~~w~~ writ of habeas corpus. A writ of habeas corpus is a judicial mandate to a prison official ordering that an inmate be brought to the court so it can be determined whether or not that person is imprisoned lawfully and whether or not he should be released from custody. A habeas corpus petition is a petition filed with a court by a person who objects to his own or another's detention or imprisonment.

The Petition must show that the court ordering the detention or imprisonment made a legal or factual error.

Habeas Corpus petitions are usually filed by person's serving prison sentences.

Section 17-17-10 Persons entitled to writ of habeas corpus.
If any person shall be or stand committed or detained for any crime.

Section 17-17-30 Authority of Judges to grant writs of habeas Corpus. Any of the judges of this state, in vacation time and out of term upon review of the copy of the warrant of commitment and detainer or otherwise and upon oath made that such copy was denied to be given by the person in whose custody the prisoner is detained shall upon request made in writing by such person as is committed as aforesaid or any on his behalf, attested and subscribed by two witnesses who were present at the delivery of the request award and grant a writ of habeas corpus under the seal of such court, where of he shall be one of the judges.

Section 17-17-100 Transfer of matter for hearing to judge of court in county where prisoner was convicted.

Any judge before whom a petition for a writ of habeas corpus is made by any person confined by the State Board of Corrections in any of its places of confinement who has been tried and convicted by a court of competent jurisdiction shall upon issuance of the writ of habeas corpus transfer the matter for hearing to any judge of any court of competent jurisdiction in the county where the person was convicted.

Section 17-17-130 Proceedings upon hearing of return.

If upon a hearing, the prisoner shall be entitled to his discharge then the judge before whom he is brought shall within two days after the prisoner shall be brought before him discharge the prisoner from his imprisonment taking his recognizance with one or more surety or sureties in any sum, according to the judges discretion having regard to the nature of the offense, for his appearance the term following in the court of general sessions for the county in which the offense is alleged to have been committed or in the court of such other county in which the alleged offense is properly cognizable as the case shall require. And the judge shall then certify the writ with the return thereof and the recognizance into the court in which such appearance is to be made. But if no legal cause be shown for the imprisonment or restraint the prisoner shall be discharged therefrom.

STATEMENT OF THE CASE www.scstatehouse.net -LPITS

Randall Edwin Latimer, Petitioner, is presently confined in the South Carolina Department of Corrections at the Lieber Correctional Institution serving a Life sentence on a Burglary First Degree conviction and sentence which were entered in Greenville County on April 15, 1986 by Judge C. Victor Pyle Jr. and Judge Thomas J. Ervin. The Petitioner is presently incarcerated on a Community Supervision Revocation for Failure To Successfully Complete A Community Supervision Program.

The Petitioner was ~~at~~ at least 17 years old when he was convicted on April 15, 1986. The Petitioner served 20 years and was paroled, then released on October 27, 2005. he was arrested on March 27, 2007 and his Parole was revoked on June 6, 2007. Petitioner says that he was not convicted for any felony during his Preliminary Hearing but his Parole Agent stated at the Preliminary Hearing, "My Supervisor Recommended that you be sent back to prison." During Petitioner's parole he sued a member of the Parole Board of the S. C. Board of Probation, Parole and Pardon Services by the name Mr. John McCarroll who worked for the Greenville/Metro Cab Co., Gateway, located ~~at~~ off Wade Hampton Blvd. in Greenville. Petitioner was hospitalized after he was hit (run over) by a cab driven by Mr. John McCarroll who tried to leave the scene of the accident across from Beck Middle School and Quick as a Wink Laundymat. The Petitioner's did not pay for his own hospital bill which was \$2001.00. Petitioner claims that the Parole Board violated their own S. C. Codes of Laws and Criteria for Parole Consideration by not considering the most important factors. Factor # 10. The inmates overall Parole Plan. who he will live with. The Character of those who the inmate will encounter in his work and off works hours. Factor # 1 The risk the inmate poses to the ^{both} community. The Board or Panel aims at protecting the interest of society and the person being considered for parole.

<http://www.scstatehouse.net/code/t17c017.htm>

8/8/2006

STATEMENT OF CASE CONTINUED WWW.SCSTATEHOUSE.NET-LPITS

The Board could not have considered factor number 10 because the Petitioner's job was unlawful because he received cash money instead of checks. This violated the Petitioner's Conditions of his Supervision which state, "I will work diligently at a lawful occupation and notify my Agent if I ever become unemployed." S.C. Code of Laws Section 24-21-640/ And suitable employment will be secured for him.

The Petitioner's residence was unlawful because of a past family crisis and because of the dispute about my not getting baptized at church. And because my Parole Agent kept telling the Petitioner that she was trying to find him a place to live on his own for people who had been locked up a long time.

The Petitioner was not placed on active monitoring device after the service of 20 years in prison. The Petitioner was instructed by his Parole Agent that he was being placed on a curfew from 8 AM to 9 PM and to visit his parole agent. The Petitioner's agent instructed the Petitioner to just be at the residence whenever she made a home visit and to just answer the telephone whenever she called the residence.

The Petitioner was constantly stopped, questioned and searched by police and accused of crimes in the community and did not have no alibi because he was not placed on active monitoring. S.C. Codes of Laws Section 23-3-540

The Petitioner's Parole Agent, Leslie Dorn finally called the Petitioner at his job and told him that his family no longer wanted him living in the residence and for him to pack up after work and move out. This caused an argument on the job between his boss and co-workers because my boss said I was talking too loud over the phone. I asked my Boss, Nick how would he felt if someone had called him on the job and told him that, Nick said he didn't like how I talked to his Dad (Bill) and that I already got 2 strikes against me.

Upon Petitioner's Final Hearing my Parole Agent Leslie Dorn was late arriving at the Greenville County Detention Center. The hearing was scheduled for 8:00 AM June 6, 2007 at the Perry Correctional Institution we arrived at 9:20 AM June 6, 2007. I was prevented from going back before the board because of an argument with my Parole Agent about why I was put out without an eviction notice. When we arrived for the hearing most of the Board members left.

<http://WWW.SCSTATEHOUSE.NET/Code/H17c017.htm> 8/8/2006

Randall E. Latimer #135007
Lieber Correctional Institution MD 235
P.O. Box 205
Ridgeville SC 29472

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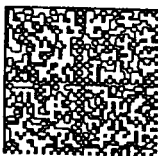
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The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211



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