

The Supreme Court of South Carolina

In the Matter of Gregory Marcus Kevan, Petitioner

Appellate Case No. 2016-002507

ORDER

Petitioner is currently admitted to practice law in South Carolina, and has now submitted a resignation under Rule 409 of the South Carolina Appellate Court Rules. The resignation is accepted.

If petitioner is currently representing any South Carolina clients, petitioner shall immediately notify those clients of the resignation by certified mail, return receipt requested. Further, if petitioner is currently counsel of record before any court of this State, petitioner shall immediately move to be relieved as counsel in that matter.

Within twenty (20) days of the date of this order, petitioner shall:

(1) surrender the certificate of admission to the Clerk of this Court. If petitioner cannot locate this certificate, petitioner shall provide the Clerk with an affidavit indicating this fact and indicating that the certificate will be immediately surrendered if it is subsequently located.

(2) provide an affidavit to the Clerk of this Court showing that petitioner has fully complied with the requirements of this order.

s/ Donald W. Beatty _____ C.J.

s/ John W. Kittredge _____ J.

s/ Kaye G. Hearn _____ J.

s/ John Cannon Few _____ J.

Columbia, South Carolina
January 12, 2017



OPINIONS
OF
THE SUPREME COURT
AND
COURT OF APPEALS
OF
SOUTH CAROLINA

ADVANCE SHEET NO. 4
January 25, 2017
Daniel E. Shearouse, Clerk
Columbia, South Carolina
www.sccourts.org

CONTENTS
THE SUPREME COURT OF SOUTH CAROLINA
PUBLISHED OPINIONS AND ORDERS

27699 - Tom Davis v. Hugh K. Leatherman	16
Order - In the Matter of Kathleen Devereaux Cauthen	20
Order - Re: Expansion of Electronic Filing Pilot Program - Court of Common Pleas	21

UNPUBLISHED OPINIONS

None

PETITIONS - UNITED STATES SUPREME COURT

26770 - The State v. Charles Christopher Williams	Pending
27654 - The State v. Bryan Rearick	Pending
2016-MO-025 - Gail M. Hutto v. South Carolina Retirement System	Pending

PETITIONS FOR REHEARING

27673 - Nathalie I. Davaut v. USC	Pending
27674 - Roosevelt Simmons v. Berkeley Electric	Pending
27675 - The State v. Nathaniel Witherspoon	Pending
27684 - Ex Parte: SCDDSN In re: State of South Carolina v. Rocky A. Linkhorn	Pending

27685 - Louis Michael Winkler v. The State	Pending
27692 - The State v. Walter M. Bash	Pending
27693 - The State v. Michael V. Beaty, Jr.	Pending
2017-MO-001 - Lloyd Wright v. The State	Pending

EXTENSION OF TIME TO FILE A PETITION FOR REHEARING

27698 - Harleysville Group, Inc. v. Heritage Communities	Granted until 2/10/2017
---	-------------------------

The South Carolina Court of Appeals

PUBLISHED OPINIONS

None

UNPUBLISHED OPINIONS

2017-UP-040-Jeffrey Kennedy v. Richland School District Two

2017-UP-044-State v. Shayla J. Bryan

2017-UP-045-Eugene Magwood v. J. Al Cannon, Jr.

2017-UP-046-Wells Fargo v. Delores Prescott

2017-UP-047-State v. Gary L. Rucker

2017-UP-048-State v. Vaughn Hilliard

2017-UP-049-State v. Nelapold Daniels

2017-UP-050-State v. Tracy Alston

2017-UP-051-State v. Annie V. Wilson

2017-UP-052-State v. Franklin E. Dennison

2017-UP-053-State v. Brice Driggers

2017-UP-054-Bernard McFadden v. SCDC

2017-UP-055-State v. Eric Lamont Owens

2017-UP-056-State v. Waymon E. Newton

2017-UP-057- S.C. Department of Social Services v. Rolando Refugio-Rubio
(Filed January 20, 2017)

2017-UP-058- S.C. Department of Social Services v. Germaria T. Jackson
(Filed January 20, 2017)

2017-UP-059-Genaris Hamilton v. Henry Scott

2017-UP-060-State v. Kenny R. Harris

PETITIONS FOR REHEARING

5441-State v. David A. Land	Pending
5442-Otha Delaney v. First Financial	Pending
5446-State v. Ricky Mazique	Pending
5447-Rent-A-Center v. SCDOR	Denied 01/20/17
5449-Kenneth Bruning v. SCDHEC	Pending
5450-Tzvetelina Miteva v. Nicholas Robinson	Denied 01/20/17
5452-Frank Gordon, Jr. v. Donald W. Lancaster	Pending
5454-Todd Olds v. City of Goose Creek	Denied 01/20/17
5453-Karen Forman v. SCDLLR (3)	Pending
5455-William Montgomery v. Spartanburg County	Pending
5456-State v. Devin Johnson	Denied 01/06/17
5457-Richard A. Hartzell v. Palmetto Collision	Pending
5458-William Turner v. SAIIA Construction	Pending
5460-Frank Mead, III, v. Beaufort County Assessor	Pending
5462-In the matter of the estate of Eris Singletary Smith	Pending
2016-UP-413-SCDSS v. Salisha Hemphill	Pending
2016-UP-431-Benjamin Henderson v. Patricia Greer	Pending

2016-UP-452-Paula Rose v. Charles Homer Rose, II	Denied 01/20/17
2016-UP-454-Gene Gibbs v, Jill R. Gibbs	Denied 01/20/17
2016-UP-461-Melvin T. Roberts v. Mark Keel	Denied 01/20/17
2016-UP-470-Mark and Elizabeth Heil v. Stewart and Christina Hines	Pending
2016-UP-472-Wells Fargo Bank v. Dorothy Sistrunk	Denied 01/20/17
2016-UP-475-Melissa Spalt v. SCDMV	Pending
2016-UP-479-State v. Abdul Furquan	Denied 01/20/17
2016-UP-482-SCDSS v. Carley Jason Walls	Denied 01/20/17
2016-UP-483-SCDSS v. Mattie Walls	Denied 01/20/17
2016-UP-485-Johnson Koola v. Cambridge Two (2)	Pending
2016-UP-486-State v. Kathy Revan	Pending
2016-UP-487-Mare Baracco v. Beaufort County	Pending
2016-UP-489-State v. Johnny J. Boyd	Pending
2016-UP-490-Clark D. Thomas v. Evening Post Publishing	Pending
2016-UP-496-Wells Fargo Bank v. Gisela Moore	Pending
2016-UP-506-George Cleveland, III v. S.C. Dep't of Corrections	Pending
2016-UP-515-Tommy S. Adams v. State	Pending
2016-UP-517-SCDSS v. Andrew J. Myers	Pending
2016-UP-520-James W. Trexler v. The Humane Society	Pending
2016-UP-524-Palmetto Residential v. Michael Cox	Pending
2016-UP-525-JMT Capital v. VDMT (Daufuskie Island)	Pending

2016-UP-527-Grange S. Lucas v. Karen A. Sickinger	Pending
2016-UP-528-Betty Fisher v. Bessie Huckabee	Pending
2016-UP-529-Kimberly Walker v. Sunbelt	Pending
2017-UP-008--SCDSS v. Renauda Brunson	Pending

PETITIONS-SOUTH CAROLINA SUPREME COURT

5253-Sierra Club v. Chem-Nuclear	Pending
5301-State v. Andrew T. Looper	Pending
5326-Denise Wright v. PRG	Pending
5328-Matthew McAlhaney v. Richard McElveen	Pending
5345-Jacklyn Donevant v. Town of Surfside Beach	Pending
5355-State v. Lamar Sequan Brown	Pending
5359-Bobby Joe Reeves v. State	Pending
5366-David Gooldy v. The Storage Center	Pending
5368-SCDOT v. David Powell	Pending
5369-Boisha Wofford v. City of Spartanburg	Pending
5371-Betty Fisher v. Bessie Huckabee	Granted 01/13/17
5374-David M. Repko v. County of Georgetown	Pending
5375-Mark Kelley v. David Wren	Pending
5378-Stephen Smalls v. State	Pending
5382-State v. Marc A. Palmer	Pending
5387-Richard Wilson v. Laura B. Willis	Pending
5388-Vivian Atkins v. James R. Wilson, Jr.	Pending

5389-Fred Gatewood v. SCDC (2)	Pending
5390-State v. Tyrone King	Pending
5391-Paggy D. Conits v. Spiro E. Conits	Pending
5393-SC Ins. Reserve Fund v. East Richland	Pending
5395-State v. Gerald Barrett, Jr.	Pending
5398-Claude W. Graham v. Town of Latta	Pending
5402-Palmetto Mortuary Transport v. Knight Systems	Pending
5403-Virginia Marshall v. Kenneth Dodds	Pending
5406-Charles Gary v. Hattie M. Askew	Pending
5408-Martina R. Putnam v. The State	Pending
5410-Protection and Advocacy v. Beverly Buscemi	Pending
5411-John Doe v. City of Duncan	Pending
5414-In the matter of the estate of Marion M. Kay	Pending
5415-Timothy McMahan v. SC Department of Education	Pending
5416-Allen Patterson v. Herb Witter	Pending
5417-Meredith Huffman v. Sunshine Recycling	Pending
5418-Gary G. Harris v. Tietex International, Ltd.	Pending
5419-Arkay, LLC v. City of Charleston	Pending
5420-Darryl Frierson v. State	Pending
5421-Coastal Federal Credit v. Angel Latoria Brown	Pending
5424-Janette Buchanan v. S.C. Property and Casualty Ins.	Pending

5428-State v. Roy L. Jones	Pending
5430-Wilfred Allen Woods v. Etta Catherine Woods	Pending
5431-Lori Stoney v. Richard Stoney	Pending
5432-Daniel Dorn v. Paul Cohen	Pending
5433-The Winthrop University Trustees v. Pickens Roofing	Pending
5434-The Callawassie Island v. Ronnie Dennis	Pending
5435-State v. Joshua W. Porch	Pending
5436-Lynne Vicary v. Town of Awendaw	Pending
5438-The Gates at Williams-Brice v. DDC Construction Inc.	Pending
5443-State v. Steven Hoss Walters, Jr.	Pending
5448-Shanna Kranchick v. State	Pending
2015-UP-010-Latonya Footman v. Johnson Food Services	Pending
2015-UP-091-U.S. Bank v. Kelley Burr	Pending
2015-UP-266-State v. Gary Eugene Lott	Pending
2015-UP-303-Charleston County Assessor v. LMP Properties	Pending
2015-UP-304-Robert K. Marshall, Jr. v. City of Rock Hill	Pending
2015-UP-330-Bigford Enterprises v. D. C. Development	Pending
2015-UP-376-Ron Orlosky v. Law Office of Jay Mullinax	Pending
2015-UP-377-Long Grove at Seaside v. Long Grove Property Owners (James, Harwick & Partners)	Pending
2015-UP-414-Christopher A. Wellborn v. City of Rock Hill	Granted 01/17/17
2015-UP-466-State v. Harold Cartwright, III	Pending

2015-UP-505-Charles Carter v. S.C. Dep't of Corr. (3)	Pending
2015-UP-547-Evalena Catoe v. The City of Columbia	Pending
2015-UP-574-State v. Brett D. Parker	Pending
2016-UP-010-State v. James Clyde Dill, Jr.	Pending
2016-UP-013-Ex parte State of South Carolina In re: Cathy J. Swicegood v. Polly A. Thompson	Pending
2016-UP-015-Onrae Williams v. State	Pending
2016-UP-023-Frankie Lee Bryant, III, v. State	Pending
2016-UP-028-Arthur Washington v. Resort Services	Pending
2016-UP-039-State v. Fritz Allen Timmons	Denied 01/13/17
2016-UP-052-Randall Green v. Wayne Bauerle	Pending
2016-UP-054-Ex Parte: S.C. Coastal Conservation League v. Duke Energy	Pending
2016-UP-056-Gwendolyn Sellers v. Cleveland Sellers, Jr.	Pending
2016-UP-068-State v. Marcus Bailey	Pending
2016-UP-069-John Frick v. Keith Fulmer	Denied 01/13/17
2016-UP-073-State v. Mandy L. Smith	Pending
2016-UP-074-State v. Sammy Lee Scarborough	Pending
2016-UP-084-Esvin Perez v. Gino's The King of Pizza	Pending
2016-UP-089-William Breland v. SCDOT	Pending
2016-UP-091-Kyle Pertuis v. Front Roe Restaurants, Inc.	Pending
2016-UP-109-Brook Waddle v. SCDHHS	Pending
2016-UP-118-State v. Lywone S. Capers	Pending

2016-UP-119-State v. Bilal Sincere Haynesworth	Pending
2016-UP-132-Willis Weary v. State	Pending
2016-UP-135-State v. Ernest M. Allen	Pending
2016-UP-137-Glenda R. Couram v. Christopher Hooker	Pending
2016-UP-138-McGuinn Construction v. Saul Espino	Pending
2016-UP-139-Hector Fragosa v. Kade Construction	Pending
2016-UP-141-Plantation Federal v. J. Charles Gray	Pending
2016-UP-151-Randy Horton v. Jasper County School	Pending
2016-UP-158-Raymond Carter v. Donnie Myers	Pending
2016-UP-160-Mariam R. Noorai v. School Dist. of Pickens Cty.	Pending
2016-UP-162-State v. Shawn L. Wyatt	Pending
2016-UP-168-Nationwide Mutual v. Eagle Windows	Pending
2016-UP-171-Nakia Jones v. State	Pending
2016-UP-174-Jerome Curtis Buckson v. State	Pending
2016-UP-182-State v. James Simmons, Jr.	Pending
2016-UP-184-D&C Builders v. Richard Buckley	Pending
2016-UP-187-Nationstar Mortgage, LLC v. Rhonda L. Meisner	Pending
2016-UP-189-Jennifer Middleton v. Orangeburg Consolidated	Pending
2016-UP-193-State v. Jeffrey Davis	Pending
2016-UP-198-In the matter of Kenneth Campbell	Pending
2016-UP-199-Ryan Powell v. Amy Boheler	Pending

2016-UP-206-State v. Devatee Tymar Clinton	Pending
2016-UP-239-State v. Kurtino Weathersbee	Pending
2016-UP-245-State v. Rodney L. Rogers, Sr.	Pending
2016-UP-247-Pankaj Patel v. Krish Patel	Pending
2016-UP-261-Samuel T. Brick v. Richland Cty. Planning Comm'n	Pending
2016-UP-263-Wells Fargo Bank v. Ronald Pappas	Pending
2016-UP-268-SCDSS v. David and Kimberly Wicker	Pending
2016-UP-274-Bayview Loan Servicing v. Scott Schledwitz	Pending
2016-UP-276-Hubert Bethune v. Waffle House	Pending
2016-UP-280-Juan Ramirez v. Progressive Northern	Pending
2016-UP-299-State v. Donna Boyd	Pending
2016-UP-314-State v. Frank Muns	Pending
2016-UP-315-State v. Marco S. Sanders	Pending
2016-UP-318-SunTrust Mortgage v. Mark Ostendorff	Pending
2016-UP-320-State v. Emmanuel M. Rodriguez	Pending
2016-UP-325-National Bank of SC v. Thaddeus F. Segars	Pending
2016-UP-328-SCDSS v. Holly M. Smith	Pending
2016-UP-330-State v. William T. Calvert	Pending
2016-UP-331-Claude Graham v. Town of Latta (2)	Pending
2016-UP-336-Dickie Shults v. Angela G. Miller	Pending
2016-UP-338-HHH Ltd. of Greenville v. Randall S. Hiller	Pending
2016-UP-340-State v. James Richard Bartee, Jr.	Pending

2016-UP-344-State v. William Anthony Wallace	Pending
2016-UP-348-Basil Akbar v. SCDC	Pending
2016-UP-351-Tipperary Sales v. S.C. Dep't of Transp.	Pending
2016-UP-352-State v. Daniel W. Spade	Pending
2016-UP-366-In Re: Estate of Valerie D'Agostino	Pending
2016-UP-367-State v. Christopher D. Campbell	Pending
2016-UP-368-Overland, Inc. v. Lara Nance	Pending
2016-UP-382-Darrell L. Goss v. State	Pending
2016-UP-392-Joshua Cramer v. SCDC (2)	Pending
2016-UP-395-Darrell Efird v. The State	Pending
2016-UP-397-Carlton Cantrell v. Aiken County	Denied 01/13/17
2016-UP-402-Coves Darden v. Francisco Ibanez	Pending
2016-UP-403-State v. Arthur Moseley	Pending
2016-UP-404-George Glassmeyer v. City of Columbia (2)	Pending
2016-UP-405-Edward A. Dalsing v. David Hudson	Pending
2016-UP-406-State v. Darryl Wayne Moran	Pending
2016-UP-408-Rebecca Jackson v. OSI Restaurant Partners	Pending
2016-UP-411-State v. Jimmy Turner	Pending
2016-UP-421-Mark Ostendorff v. School District of Pickens	Pending
2016-UP-430-State v. Thomas James	Pending
2016-UP-448-State v. Corey J. Williams	Pending

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

Tom Davis, individually, and as a Citizen, Resident,
Taxpayer, Qualified Elector and State Senator of South
Carolina, Petitioner,

v.

Hugh K. Leatherman, Sr., in his capacity as President Pro
Tempore of the South Carolina Senate; James H. Lucas,
in his capacity as Speaker of the South Carolina House of
Representatives and as a member of the Legislative
Council; Henry D. McMaster, in his capacity as
Lieutenant Governor and President of the South Carolina
Senate and as a member of the Legislative Council; Nikki
R. Haley, in her capacity as Governor of South Carolina;
Alan M. Wilson, in his capacity as Attorney General of
the State of South Carolina; Luke A. Rankin, in his
capacity as a member of the Legislative Council; F.
Gregory Delleney, Jr., in his capacity as a member of the
Legislative Council; Mark Hammond, in his capacity as a
member of the Legislative Council; and the State of
South Carolina, Respondents.

Appellate Case No. 2016-002473

ORIGINAL JURISDICTION

Opinion No. 27699

Submitted January 17, 2017 – Filed January 18, 2017

Petitioner Tom Davis, of Beaufort, *pro se*, Petitioner.

William W. Wilkins, Andrew A. Mathias, and Konstantine P. Diamaduros, all of Greenville and Richard L. Tapp, Jr., of Charleston, all for Respondents Hugh K. Leatherman, Sr., and Luke A. Rankin.

Patrick G. Dennis, Charles F. Reid, Emma T. Dean, Richard L. Pearce, James H. Goldin, and Roland M. Franklin, Jr., all of Columbia, for Respondents James H. Lucas and Francis G. Delleney, Jr.

Henry D. McMaster, of Columbia, *pro se*, Respondent.

Karl S. Bowers, Jr., and Richele K. Taylor, both of Columbia, for Respondent Nikki R. Haley.

Attorney General Alan M. Wilson, Solicitor General Robert D. Cook, and Deputy Solicitor General J. Emory Smith, Jr., all of Columbia, for Respondents Alan M. Wilson and the State of South Carolina.

Eugene H. Matthews and Melissa B. Manning, both of Columbia, for Respondent Mark Hammond.

Larry A. Martin, of Pickens, *pro se*, as Amicus Curiae.

PER CURIAM: We granted the petition for original jurisdiction in this declaratory judgment matter to consider the questions posed by petitioner of whether "the provisions of Article III and Article IV of the South Carolina Constitution have been amended by virtue of" Act 289 of 2012 and Act 214 of 2014, as well as the vote of the general electorate in the 2012 general election, and if the articles have been amended, "what is the text of those amendments." Petitioner also requests that this Court, upon answering those questions, direct the Legislative Council to take action as necessary to ensure the text of the South Carolina Constitution, as published and made publicly available, conforms with this Court's decision.

At the core of these questions is whether the amendments become effective "following the general election of 2018," as specifically stated in Act 289 and similarly stated in the ballot text presented to and approved by the general electorate in 2012,¹ or May 29, 2014, the date of ratification of Act 214, as published by the Legislative Council.

All of the parties who filed memoranda of law in this matter agree that the amendments at issue become effective beginning with or upon the general election of 2018. We likewise agree that this is evident from the language of the Acts and the ballot text. We therefore declare that Articles III and IV of the South Carolina Constitution have been amended by, and as set forth in, Acts 289 and 214, and that the text of those Acts, along with the text of the ballot presented to and approved by the voters in the 2012 general election, states the amendments shall become effective "[b]eginning with the general election of 2018" and "upon the joint election" of the Governor and Lieutenant Governor.

As to petitioner's request that we direct the Legislative Council to take action to correct the effective dates as published in the Code of Laws of South Carolina, our ruling in this matter establishes the effective date of these amendments regardless of what is published in the Code of Laws. However, we trust, and certain members of the Legislative Council named as parties to this action have indicated, that the Legislative Council will take measures to publish the correct effective date of the amendments without direction from this Court.

Finally, the Attorney General urges this Court to take this opportunity to interpret the provisions of the current version of Section 9 of Article IV of the South Carolina Constitution addressing the duties of the President Pro Tempore of the South Carolina Senate in the absence of the Lieutenant

¹ The ballot text specifically stated that the amendments to Section 8 of Article IV, providing for the joint election of the Governor and Lieutenant Governor, would take effect "[b]eginning with the general election of 2018," and the remaining amendments to Articles III and IV would take effect "upon the joint election."

Governor. This issue is not properly before us; therefore, we decline to address it. *West v. West*, 263 S.C. 146, 208 S.E.2d 530 (1974).

DECLARATORY JUDGMENT ISSUED.

BEATTY, C.J., KITTREDGE, HEARN and FEW, JJ., concur.

The Supreme Court of South Carolina

In the Matter of Kathleen Devereaux Cauthen,
Respondent.

Appellate Case No. 2016-002472

ORDER

Respondent has submitted a Motion to Resign in lieu of Discipline pursuant to Rule 35 of the Rules for Lawyer Disciplinary Enforcement (RLDE) contained in Rule 413 of the South Carolina Appellate Court Rules. We grant the Motion to Resign in Lieu of Discipline. In accordance with the provisions of Rule 35, RLDE, respondent's resignation shall be permanent.

Within fifteen (15) days of the date of this order, respondent shall file an affidavit with the Clerk of Court showing that she has complied with Rule 30, RLDE, and shall also surrender her Certificate of Admission to Practice Law to the Clerk of Court.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ Kaye G. Hearn J.

s/ John Cannon Few J.

Columbia, South Carolina
January 12, 2017

The Supreme Court of South Carolina

Re: Expansion of Electronic Filing Pilot Program - Court of
Common Pleas

Appellate Case No. 2015-002439

ORDER

Pursuant to the provisions of Article V, Section 4 of the South Carolina Constitution,

IT IS ORDERED that the Pilot Program for the Electronic Filing (E-Filing) of documents in the Court of Common Pleas, which was established by Order dated December 1, 2015, is expanded to include Colleton County. Effective February 7, 2017, all filings in all common pleas cases commenced or pending in Colleton County must be E-Filed if the party is represented by an attorney, unless the type of case or the type of filing is excluded from the Pilot Program. The counties currently designated for mandatory E-Filing are as follows:

Allendale	Anderson	Beaufort	Cherokee
Clarendon	Hampton	Greenville	Jasper
Lee	Oconee	Pickens	Spartanburg
Sumter	Williamsburg		

Colleton—Effective February 7, 2017

Attorneys should refer to the South Carolina Electronic Filing Policies and Guidelines, which were adopted by the Supreme Court on October 28, 2015, and the training materials available at <http://www.sccourts.org/efiling/> to determine whether any specific filings are exempted from the requirement that they be E-Filed. Attorneys who have cases pending in Pilot Counties are strongly encouraged to review, and to instruct their staff to review, the training materials available on the E-Filing Portal.

s/Donald W. Beatty

Donald W. Beatty
Chief Justice of South Carolina

Columbia, South Carolina
January 17, 2017