



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

**ADVANCE SHEET NO. 48
December 5, 2018
Daniel E. Shearouse, Clerk
Columbia, South Carolina
www.sccourts.org**

CONTENTS
THE SUPREME COURT OF SOUTH CAROLINA
PUBLISHED OPINIONS AND ORDERS

| | |
|---|----|
| 27852 - In the Matter of Michael Demorris Brown | 9 |
| 27853 - First Citizens Bank v. Park at Durbin Creek | 11 |
| Order - In the Matter of Jarrett Skipper Calder | 13 |

UNPUBLISHED OPINIONS

| | |
|--|--|
| 2018-MO-037 - Dan L. Temple v. State (Oconee County, Judge Scott Sprouse) | |
| 2018-MO-038 - Piedmont Natural Gas v. Richeous Smith (Greenville County, Master-in-Equity, Charles B. Simmons, Jr.) | |

PETITIONS - UNITED STATES SUPREME COURT

| | |
|--|---------|
| 27768 - The State v. Lamont Samuel | Pending |
| 2017-002631 - Juan C. Vasquez v. State | Pending |
| 2016-002541 - In the Matter of Marie Therese Assa'ad-Faltas, M.D., MPH | Pending |
| 27802 - The State v. Stephanie I. Greene | Pending |

**EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI
IN THE UNITED STATES SUPREME COURT**

| | |
|--|--------------------------|
| 2018-000487 - George Cleveland, III v. State | Granted until 11/23/2018 |
|--|--------------------------|

PETITIONS FOR REHEARING

2018-001068 - Allstate Vehicle and Property Insurance Company
v. Rose Wadford Hunter, et al.

Pending

The South Carolina Court of Appeals

PUBLISHED OPINIONS

None

UNPUBLISHED OPINIONS

2018-UP-431-Josh Hammond v. Richard Todd Hammond

2018-UP-433-Robert DeCiero v. Horry County

2018-UP-434-Jane and John Doe v. Steven Waddell
(Filed November 28, 2018)

2018-UP-435-State v. Kevin T. Bryant

2018-UP-436-State v. James John Abernathy

2018-UP-437-State v. Marcus C. Johnson

2018-UP-438-State v. Kevin D. Driggers

2018-UP-439-State v. Theia D. McArdle

2018-UP-440-State v. Ronald D. Michaux, Jr.

2018-UP-441-State v. Quasean Marshall

2018-UP-442-State v. Joshua Maiden

2018-UP-443-State v. Marvin L. Myers, Jr.

2018-UP-444-State v. Deshon J. Norman

2018-UP-445-State v. Eugene Hardy

2018-UP-446-State v. Cassidy Lynn Lewis

2018-UP-447-Bernard Johnson v. Jonquiel Johnson

2018-UP-448-Duke Energy Carolinas, LLC v. Caleb Walker

2018-UP-449-In the Interest of Eric D.

2018-UP-450-Clarence Jenkins v. SCWCC

PETITIONS FOR REHEARING

| | |
|---|---------------------------|
| 5588-Brad Walbeck v. The I'On Company | Pending |
| 5590-State v. Michael L. Mealor | Pending |
| 5596-James B. Williams v. Merle S. Tamsberg | Pending |
| 5598-Emily S. Brown v. Grady C. Odom | Pending |
| 5600-Stoneledge v. IMK Development (Marick/Thoennes) | Pending |
| 5601-Stoneledge v. IMK Development (Bostic Brothers) | Pending |
| 5602-John McIntyre v. Securities Commissioner of South Carolina | Pending |
| 5603-State v. David A. White | Pending |
| 5604-Hazel v. Blitz U.S.A., Inc. | Pending |
| 2018-UP-178-Callawassie Island Members Club v. Gregory Martin | Granted 11/30/18 |
| 2018-UP-179-Callawassie Island Members Club v. Michael Frey | Granted 11/30/18 |
| 2018-UP-180-Callawassie Island Members Club v. Mark Quinn | Granted 11/30/18 |
| 2018-UP-255-Florida Citizens Bank v. Sustainable Building Solutions | Pending |
| 2018-UP-327-State v. Joe Ross Worley | Pending |
| 2018-UP-340-Madel Rivero v. Sheriff Steve Loftis | Pending |
| 2018-UP-343-State v. Benjamin C. Hernandez | Pending |
| 2018-UP-365-In re Estate of Norman Robert Knight, Jr. | Pending |
| 2018-UP-368-Laurent Britton v. Charleston County | Held In Abeyance 11/15/18 |
| 2018-UP-383-State v. Ardon P. Cato, II | Pending |

| | |
|---|---------|
| 2018-UP-385-Dennis Davis v. SCDPPPS | Pending |
| 2018-UP-389-Gloria Terry v. Robert Terry, Sr. | Pending |
| 2018-UP-391-State v. Corey A. Brown | Pending |
| 2018-UP-412-Lahitsha Hampton v. George Willoughby | Pending |
| 2018-UP-414-James Thorpe v. Town of Bowman | Pending |
| 2018-UP-417-State v. Dajlia S.Torbit | Pending |

PETITIONS-SOUTH CAROLINA SUPREME COURT

| | |
|--|------------------|
| 5556-BLH by parents v. SCDSS | Granted 11/09/18 |
| 5559-Commissioners v. City of Fountain Inn | Granted 11/28/18 |
| 5561-Innovative Waste v. Crest Energy | Pending |
| 5563-Angel Gary v. Lowcountry Medical | Pending |
| 5564-J. Scott Kunst v. David Loree | Pending |
| 5566-Tyrone York v. Longlands Plantation | Pending |
| 5567-Karl Jobst v. Bryan Jobst (Brittany Martin) | Pending |
| 5568-Amisub of South Carolina, Inc. v. SCDHEC | Pending |
| 5571-William Crenshaw v. Erskine College | Pending |
| 5572-State v. Steven Otts | Pending |
| 5573-Skydive Myrtle Beach v. Horry County | Pending |
| 5574-State v. Jeffrey D. Andrews | Pending |
| 5579-State v. Nathaniel Wright | Pending |
| 5581-Nathan Bluestein v. Town of Sullivan's Island | Pending |

| | |
|--|------------------|
| 5583-Leisel Paradis v. Charleston County | Pending |
| 5586-State v. Sha'quille Washington | Pending |
| 5587-In the matter of Tynslee Elizabeth Fields | Pending |
| 5589-State v. Archie M. Hardin | Pending |
| 5592-State v. Aaron S. Young, Jr. | Pending |
| 5593-Lori Stoney v. Richard Stoney | Pending |
| 2017-UP-338-Clarence Winfrey v. Archway Services, Inc. (3) | Pending |
| 2018-UP-011-Charles Hobbs v. Fairway Oaks | Pending |
| 2018-UP-078-David Wilson v. John Gandis | Granted 11/09/18 |
| 2018-UP-080-Kay Paschal v. Leon Lott | Pending |
| 2018-UP-085-Danny B. Crane v. Raber's Discount Tire Rack | Pending |
| 2018-UP-087-David Rose v. SCDOT | Granted 11/09/18 |
| 2018-UP-099-Shaul Levy v. Carolinian, LLC | Denied 09/21/18 |
| 2018-UP-111-State v. Mark Lorenzo Blake, Jr. | Denied 11/09/18 |
| 2018-UP-169-State v. Marquez Glenn | Granted 11/28/18 |
| 2018-UP-183-S.C. Community Bank v. Carolina Procurement | Denied 11/28/18 |
| 2018-UP-185-Peggy D. Conits v. Spiro E. Conits | Granted 11/09/18 |
| 2018-UP-187-State v. Rodney R. Green | Denied 11/28/18 |
| 2018-UP-191-Cokers Commons v. Park Investors | Pending |
| 2018-UP-211-Hamilton Duncan v. Roy Drasites | Denied 11/28/18 |
| 2018-UP-214-State v. Tavarious Settles | Granted 11/28/18 |
| 2018-UP-216-Nicholas Geer v. SCDPPPS | Denied 11/09/18 |

| | |
|--|-----------------|
| 2018-UP-221-Rebecca Delaney v. CasePro, Inc. | Denied 11/28/18 |
| 2018-UP-231-Cheryl DiMarco v. Brian A. DiMarco | Pending |
| 2018-UP-237-Harold F. Jones v. State Farm Mutual | Pending |
| 2018-UP-242-Linda Estrada v. Andrew Marshall | Pending |
| 2018-UP-244-Albert Henson v. Julian Henson | Pending |
| 2018-UP-250-Morningstar v. York County | Pending |
| 2018-UP-260-Kenneth Shufelt v. Janet Shufelt | Pending |
| 2018-UP-268-Holly Lawrence v. Jennifer Brown | Denied 11/28/18 |
| 2018-UP-269-Carleton Cantrell v. Aiken County | Pending |
| 2018-UP-273-State v. Maurice A. Odom | Pending |
| 2018-UP-275-Ronald Jarmuth v. The International Club | Pending |
| 2018-UP-280-Scott Ledford v. Department of Public Safety | Pending |
| 2018-UP-281-Philip Ethier v. Fairfield Memorial | Pending |
| 2018-UP-287-S.C. Farm Bureau v. Michael Harrelson | Pending |
| 2018-UP-317-Levi Thomas Brown v. State Farm | Pending |
| 2018-UP-318-Theresa Catalano v. Jack Catalano | Pending |
| 2018-UP-333-Roosevelt Simmons v. Mase and Company | Pending |
| 2018-UP-335-State v. Samuel E. Alexander, Jr. | Pending |
| 2018-UP-339-State v. James Crews | Pending |
| 2018-UP-349-Verma Tedder v. Darlington County | Pending |
| 2018-UP-352-Decidora Lazaro v. Burriss Electrical | Pending |

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

In the Matter of Michael Demorris Brown, Respondent.

Appellate Case No. 2018-001657

Opinion No. 27852

Submitted November 13, 2018 – Filed December 5, 2018

PUBLIC REPRIMAND

John S. Nichols, Disciplinary Counsel, and William C.
Campbell, Senior Assistant Disciplinary Counsel, of
Columbia, for Office of Disciplinary Counsel.

Michael Demorris Brown, of Spartanburg, Pro Se.

PER CURIAM: In this attorney disciplinary matter, respondent and the Office of Disciplinary Counsel (ODC) have entered into an Agreement for Discipline by Consent (Agreement) pursuant to Rule 21 of the Rules for Lawyer Disciplinary Enforcement (RLDE) contained in Rule 413 of the South Carolina Appellate Court Rules (SCACR). In the Agreement, respondent admits misconduct and consents to the imposition of a confidential admonition or a public reprimand. We accept the Agreement and issue a public reprimand.

Facts

The complaint against respondent stems from respondent's late responses to initial inquiries in ten disciplinary investigations. Respondent asserts his late responses to the investigations were due to internal mail delivery problems in the business center where he is located. Respondent contends the mail delivery problems resulted in delays in receiving mail from ODC. ODC notes respondent has

previously received a confidential admonition for similar conduct and took remedial steps to ensure the internal mail problems did not occur again. However, the problems resurfaced. Respondent acknowledges it is his responsibility to make sure he receives his mail in a timely manner. Accordingly, respondent notes he has obtained a post office box and will check the post office box in a timely manner in order to ensure these issues do not arise again.

Additionally, respondent admits he failed to communicate with his clients in a timely manner because of staffing issues. However, he asserts he has corrected these issues. ODC notes its investigation has not shown any additional misconduct relating to the underlying matters.

Law

Respondent admits that by his conduct he has violated the following provisions of the Rules of Professional Conduct, Rule 407, SCACR: Rule 1.4 (communication) and Rule 8.1(b) (knowingly failing to respond to a lawful demand for information from a disciplinary authority).

Respondent also admits he has violated Rule 7(a), RLDE, Rule 413, SCACR (a violation of the Rules of Professional Conduct constitutes a ground for discipline).

Conclusion

We find respondent's misconduct warrants a public reprimand. Accordingly, we accept the Agreement and publicly reprimand respondent for his misconduct. Respondent shall complete the Legal Ethics and Practice Program Ethics School within one year of the date of this opinion. Additionally, within thirty days of the date of this opinion, respondent shall pay the costs incurred in the investigation and prosecution of this matter by ODC and the Commission on Lawyer Conduct.

PUBLIC REPRIMAND.

**KITTREDGE, Acting Chief Justice, HEARN, FEW and JAMES, JJ., concur.
BEATTY, C.J., not participating.**

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

First Citizens Bank and Trust Company, Inc.,
Respondent,

v.

Park at Durbin Creek, LLC; Kenneth E. Clifton; and
Linda G. Whiteman; Defendants,

Of whom Park at Durbin Creek, LLC and Kenneth E.
Clifton are the Petitioners.

Appellate Case No. 2017-000979

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal From Laurens County
Eugene C. Griffith, Jr., Circuit Court Judge

Opinion No. 27853
Heard November 28, 2018 – Filed December 5, 2018

**CERTIORARI DISMISSED AS IMPROVIDENTLY
GRANTED**

James Calhoun Pruitt, Jr. and Joshua Brent Raffini, both
of Pruitt & Pruitt, of Anderson, for Petitioners.

James H. Cassidy, Ella S. Barbery, and Joseph O. Smith,
all of Roe Cassidy Coates & Price, PA, of Greenville, for
Respondent.

PER CURIAM: We granted petitioners' joint petition for a writ of certiorari to review the decision of the Court of Appeals in *First Citizens Bank and Trust Company v. Park at Durbin Creek, LLC*, 419 S.C. 333, 797 S.E.2d 409 (Ct. App. 2017). We now dismiss the writ as improvidently granted.

DISMISSED AS IMPROVIDENTLY GRANTED.

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

The Supreme Court of South Carolina

In the Matter of Jarrett Skipper Calder, Respondent.

Appellate Case No. 2018-001670

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. In light of Respondent's serious misconduct which demonstrates an unfitness to practice law, we grant the Motion to Resign in Lieu of Discipline. In accordance with the provisions of Rule 35, RLDE, Respondent "acknowledges that disciplinary counsel can prove" the allegations of misconduct. Moreover, Rule 35 provides Respondent's resignation shall be *permanent*, and he will never be eligible to apply, and will not be considered, for admission or reinstatement to the practice of law or for any limited practice of law in South Carolina.

Within fifteen (15) days of the date of this order, Respondent shall file an affidavit with the Clerk of Court showing that he has complied with Rule 30, RLDE, and shall also surrender his 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.

s/ George C. James, Jr. J.

Columbia, South Carolina
November 29, 2018