THE SOUTH CAROLINA COURT OF APPEALS

PUBLISHED OPINIONS

UNPUBLISHED OPINIONS

PETITIONS FOR REHEARING

3354 - Murphy v. Owens-Corning	Pending
3355 - The State v. Leroy Wilkes	Pending
3360 - Beaufort Realty v. Beaufort County	Pending
3361 - The State v. Tommy Lee James	Pending
3362 - Johnson v. Arabi	Pending
3363 - Watts v. Metro Security Agency	Pending
3364 - SCDSS v. Mrs. H. and Mr. H.	Pending
3365 - State v. Laterrance Ramone Dunlap	Pending
3366 - Crafton v. Brown	Pending
3367 - State v. James Henderson, III	Pending
3369 - State v. Don L. Hughes	Pending
3371 - State v. Curtis Gibbs	Pending
2001-UP-123 - SC Farm Bureau v. Cynthia Rabon	Pending
2001-UP-199 - Summerford v. Collins Properties	Pending
2001-UP-212 - Singletary v. La-Z-Boy	Pending
2001-UP-235 - State v. Robert McCrorey, III and Robert Dimitry McCrorey	Pending
2001-UP-248 - Thomason v. Barrett	(2) Pending
2001-UP-282 - Holland v. Gunn	Pending
2001-UP-292 - Frazello v. Bankhead	Pending
2001-UP-300 - Robert L. Mathis, Jr. v. The State	Pending
2001-UP-304 - Jack McIntyre v. The State	Pending
2001-UP-307 - State of SC v. Joseph McQuatters	Pending

2001-UP-315 - Joytime v. Orr	(2) Pending
2001-UP-321 - The State v. Randall Scott Foster	Pending
2001-UP-322 - Edisto Island v. Gregory	Pending
2001-UP-323 - Goodwin v. Johnson	Pending
2001-UP-325 - Hessenthater v. Tri-County SisterCare	Pending
2001-UP-328 - S&R Services v. Thompson	Pending
2001-UP-335 - The State v. Andchine Vance	Pending
2001-UP-338 - Ladd v. Rainey	Pending
2001-UP-344 - NBSC v. Renaissance	Pending
2001-UP-355 - The State v. Gavin Jones	Pending
2001-UP-358 - McCleskey v. McCleskey	Penidng

PETITIONS - SOUTH CAROLINA SUPREME COURT

3069 - State v. Edward M. Clarkson	Pending
3231 - Hawkins v. Bruno Yacht Sales	Pending
3254 - Carolina First v. Whittle	Pending
3267 - Jeffords v. Lesesne	Pending
3270 - Boddie-Noell v. 42 Magnolia Partnership	Pending
3271 - Gaskins v. Souther Farm Bureau	Pending
3273 - Duke Power v. Laurens Elec. Coop	Pending
3274 - Pressley v. Lancaster County	Pending
3276 - State v. Florence Evans	Pending

3280 - Pee v. AVM, Inc.	Pending
3284 - Bale v. SCDOT	Pending
3289 - Olson v. Faculty House	(2) Pending
3292 - Davis v. O-C Law Enforcement Comm.	Pending
3293 - Wiedemann v. Town of Hilton Head	Pending
3294 - State v. Nathaniel Williams	Pending
3297 - Silvester .v Spring Valley Country Club	Pending
3298 - Lockridge v. Santens of America, Inc.	Pending
3299 - SC Properties & Casualty Guaranty Assn. v. Yensen	Pending
3300 - Ferguson v. Charleston/Lincoln	Pending
3301 - Horry County v. The Insurance Reserve	Pending
3307 - Curcio v. Caterpillar	Pending
3310 - Dawkins & Chishold v. Fields, et al.	Pending
3311 - SC Farm Bureau v. Wilson	Pending
3312 - Eady v. Oliver	Pending
3314 - State v. Minyard Lee Woody	Pending
3315 - State v. Ronald L. Woodruff	Pending
3319 - Breeden v. TCW, Inc.	(2) Pending
3321 - Andrade v. SCE&G	Pending
3324 - Schurlknight v. City of N. Charleston	Pending
3325 - The Father v. SCDSS	Pending
3327 - The State v. John Peake	Pending
3330 - Richard Bowen v. Ann Bowen	Pending

3331 - Wade Jenkins v. Janna Jenkins		Pending
3332 - SC Farm Bureau Mutual Ins. Co. v. Kelly		Pending
3335 - Joye v. Yon		Pending
2000-UP-601 - Johnson v. Williams		Pending
2000-UP-607 - State v. Lawrence Barron		Pending
2000-UP-656 - Martin v. SCDC		Pending
2000-UP-677 - Chamberlain, et al. v. TIC		Pending
2000-UP-783 - State v. Clayton Benjamin		Pending
2001-UP-015 - Milton v. A-1 Financial Services		Pending
2001-UP-019 - Baker v. Baker		Pending
2001-UP-038 - Gary v. American Fiber		Pending
2001-UP-049 - Johnson v. Palmetto Eye		Pending
2001-UP-050 - Robinson v. Venture Capital		Pending
2001-UP-054 - State v. Ae Khingratsaiphon		Pending
2001-UP-058 - State v. Brian Keith Nesbitt		Pending
2001-UP-069 - SCDSS v. Taylor		Pending
2001-UP-076 - McDowell v. McDowell		Pending
2001-UP-078 - State v. James Mercer		Pending
2001-UP-091 - Boulevard Dev. V. City of Myrtle Beach		Pending
2001-UP-092 - State v. Robert Dean Whitt		Pending
2001-UP-114 - McAbee v. McAbee		Pending
2001-UP-122 - State v. Robert Brooks Johnston		Pending
2001-UP-124 - State v. Darren S. Simmons	(2)	Pending

2001-UP-125 - Spade v. Berdish	Pending
2001-UP-126 - Ewing v. Mundy	Pending
2001-UP-156 - Employer’s Insurance of Wausau v. Whitaker’s Inc., of Sumter	Pending
2001-UP-161 - Meetze v. Forsthoefel	Pending
2001-UP-167 - Keels v. Richland County	Pending
2001-UP-186 - The State v. Coy L. Thompson	Pending
2001-UP-193 - Cabaniss v. Pizza Hut of America, Inc.	Pending
2001-UP-199 - Summerford v. Collins Properties	Pending
2001-UP-200 - Cooper v. Parsons	Pending
2001-UP-201 - Pittman v. MasTec, Inc.	Pending
2001-UP-239 - State v. Billy Ray Jackson	Pending
2001-UP-249 - Hinkle v. National Casualty	Pending
2001-UP-261 - San Souci Association v. Miller	Pending
2001-UP-269 - Wheeler v. Revco	Pending

After the jury returned its verdict, Brouwer, pursuant to Davis v. State, 336 S.C. 329, 520 S.E.2d 801 (1999), asked the court to impose a sentence comparable to that given Wendy Kaplan, his co-worker and co-defendant who pled guilty immediately before trial. Because the two were similarly situated in that both were newly hired and trained store clerks with no prior criminal record, and both were convicted of disseminating the exact same material, Brouwer argued for a proportionate sentence. The trial court declined the request, explaining that Kaplan received a more lenient sentence because she admitted guilt:

> I'm a judge that gives serious consideration for someone admitting their guilt. I think that's important. . . . I believe that's the first step towards rehabilitation. . . . [T]here is no way in rhyme or reason for us to ever give a sentence for someone pleading guilty the same sentence for a jury trial. Then we have ignored the fact that a person has admitted their guilt. . . . And . . . I will take [that] into consideration in imposing this sentence, because it is not an admission of guilt.

In Davis, our supreme court found an attorney rendered ineffective assistance of counsel when he failed to object to nearly identical comments by the trial court. In response to the defendant's request for a sentence comparable to two co-defendants who pled guilty, the court there stated:

> Yes, ma'am, but [Davis] didn't plead guilty. Those other two people, they pled guilty. They admitted what they had done and to me that's the first step towards rehabilitation . . . .

Davis, 336 S.C. at 332, 520 S.E.2d at 802. In granting Davis post-conviction relief, the supreme court held:

> In response to [Davis'] argument, the trial judge