



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

August 13, 2001

ADVANCE SHEET NO. 29

Daniel E. Shearouse, Clerk
Columbia, South Carolina

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THE SOUTH CAROLINA COURT OF APPEALS

PUBLISHED OPINIONS

	<u>Page</u>
3377 - First Union National Bank v. First Citizens Bank and Trust	29
3378 - Haselden v. Haselden	38
3379 - Goodwin v. Kennedy	56
3380 - The State v. Claude and Phil Humphries	72

UNPUBLISHED OPINIONS

2001-UP-381	Smith v. Smith (Lexington, Judge C. David Sawyer, Jr.)
2001-UP-382	Prouse v. Jim Hudson Auto Mall, Inc. (Richland, Judge L. Henry McKellar)

PETITIONS FOR REHEARING

3282 - SCDSS v. Basnight	Pending
3343 - Langehans v. Smith	Pending
3344 - Henkel v. Winn	Pending
3346 - The State v. Thomas Ray Ballington	Pending
3348 - Angela Thomas v. Kevin Thomas	Pending
3351 - Chewning v. Ford Motor Company	Pending
3352 - Ex Parte Moore: Branham v. Fairfield	Pending
3353 - Green v. Cottrell	Pending

3354 - Murphy v. Owens-Corning	Pending
3355 - The State v. Leroy Wilkes	Pending
3356 - Kenney's Metal v. Palmieri	Pending
3357 - The State v. Richmond Truesdale, Jr.	Pending
3358 - S. C. Coastal Cons. V. SCDHEC	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 - The State v. Laterrance Ramone Dunlap	Pending
3366 - Crafton v. Brown	Pending
3367 - The State v. James Henderson, III	Pending
3369 - The State v. Don L. Hughes	Pending
3370 - Bailey v. Segars	Pending
3371 - The State v. Curtis Gibbs	Pending
3372 - Dukes v. Rural Metro, et al.	Pending
3374 - Heilker v. Zoning Board of Appeals	Pending
3375 - The State v. Otis Williams	Pending
2001-UP-016 - Stanley v. Kirkpatrick	(2) Pending
2001-UP-123 - SC Farm Bureau v. Cynthia Rabon	Pending
2001-UP-160 - The State v. Elijah Price, Jr.	Pending

2001-UP-212 - Singletary v. La-Z-Boy	Pending
2001-UP-235 - The 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 - The 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-324 - The State v. John Williams, III	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-337 - The State v. Leonard Carter	Pending
2001-UP-338 - Ladd v. Rainey	Pending
2001-UP-344 - NBSC v. Renaissance	Pending
2001-UP-350 - SCDSS v. Maddox	Pending
2001-UP-355 - The State v. Gavin Jones	Pending
2001-UP-358 - McCleskey v. McCleskey	Pending

2001-UP-360 - Davis v. Davis	Pending
2001-UP-363 - King v. Island Club Apartments	Pending
2001-UP-364 - Clark v. Greenville County	Pending
2001-UP-365 - Gaither v. Blue Cross Blue Shield	Pending
2001-UP-371 - SCDHEC v. Paris Mountain Utilities	Pending
2001-UP-374 - Boudreaux v. Marina Villas Association	Pending
2001-UP-375 - Sutton v. Sutton	Pending
2001-UP-376 - Eastwood v. Barnwell County	Pending
2001-UP-377 - Miller v. The Ward Law Firm	Pending

PETITIONS - SOUTH CAROLINA SUPREME COURT

3069 - The State v. Edward M. Clarkson	Pending
3231 - Hawkins v. Bruno Yacht Sales	Pending
3248 - Rogers v. Norfolk Southern	Pending
3254 - Carolina First v. Whittle	Pending
3267 - Jeffords v. Lesesne	Pending
3270 - Boddie-Noell v. 42 Magnolia Partnership	Granted
3271 - Gaskins v. Southern Farm Bureau	Pending
3273 - Duke Power v. Laurens Elec. Coop	Pending
3274 - Pressley v. Lancaster County	Pending
3276 - The State v. Florence Evans	Pending
3280 - Pee v. AVM, Inc.	Granted
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	Denied
3294 - The 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	(2) 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 - The State v. Minyard Lee Woody	Pending
3315 - The 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
3329 - S. C. Dept. of Consumer Affairs v. Rent-A-Center	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
3337 - Brunson v. SLED	Pending
3345 - Cunningham v. Helping Hands	Pending
2000-UP-601 - Johnson v. Williams	Denied
2000-UP-607 - The State v. Lawrence Barron	Denied
2000-UP-656 - Martin v. SCDC	Pending
2000-UP-677 - Chamberlain, et al. v. TIC	Pending
2000-UP-783 - The State v. Clayton Benjamin	Pending
2001-UP-015 - Milton v. A-1 Financial Services	Pending
2001-UP-019 - Baker v. Baker	(2) Denied
2001-UP-022 - Thomas v. Peacock	Pending
2001-UP-038 - Gary v. American Fiber	Pending
2001-UP-049 - Johnson v. Palmetto Eye	Pending
2001-UP-050 - Robinson v. Venture Capital	Granted
2001-UP-054 - The State v. Ae Khingratsaiphon	Pending
2001-UP-058 - The State v. Brian Keith Nesbitt	Pending
2001-UP-069 - SCDSS v. Taylor	Pending
2001-UP-076 - McDowell v. McDowell	Pending
2001-UP-078 - The State v. James Mercer	Pending
2001-UP-091 - Boulevard Dev. V. City of Myrtle Beach	Pending
2001-UP-092 - The State v. Robert Dean Whitt	Pending
2001-UP-114 - McAbee v. McAbee	Pending

2001-UP-122 - The State v. Robert Brooks Johnston	Pending
2001-UP-124 - The 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-238 - The State v. Michael Preston	Pending
2001-UP-239 - The 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

REVERSED.

TOAL, C.J., WALLER, BURNETT and PLEICONES, JJ., concur.

adequacy of his representation need not demonstrate prejudice to obtain relief)).

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Daughter Doe, Jim Doe,
and Richard Doe, minor
children, by Paulette
Jolly as Guardian ad
Litem, Respondents,

v.

John Doe, Appellant.

Appeal From Lexington County
Marc H. Westbrook, Circuit Court Judge

Opinion No. 25341
Submitted May 24, 2001 - Filed August 13, 2001

AFFIRMED IN PART; REVERSED IN PART.

John Doe, of Kershaw, pro se appellant.

James K. Lehman, Jason B. Sprenkle, and Patrick K.
McCarthy, of Nelson Mullins Riley & Scarborough,
L.L.P., of Columbia, for respondents.

There is no legal connection between these two purchases sufficient to come within the framework of the common scheme or plan exception. Indeed, the purpose of the State's use of the evidence appears . . . [to have been] to convince the jury that because Carter sold crack cocaine to [the informant] on January 14th, he was selling crack cocaine on January 18th. This is the precise type of inference prohibited by Lyle.

Id. at 468, 476 S.E.2d at 918. The court further stated that if the trial court “does not clearly perceive the connection between the extraneous criminal transaction and the crime charged, that is, its logical relevancy, *the accused should be given the benefit of the doubt, and the evidence should be rejected.*” Id. at 469, 476 S.E.2d at 919 (quoting State v. Lyle, 125 S.C. 406, 417, 118 S.E. 803, 807 (1923)).

Carter relied heavily on State v. Campbell, 317 S.C. 449, 454 S.E.2d 899 (Ct. App. 1994). In Campbell, the defendant was charged with distributing crack cocaine. The defendant was arrested at the home of an informant who, in cooperation with the police, had summoned the defendant by “beeping” him. Id. The defendant arrived at the informant's home with three yellow rocks which appeared to be crack cocaine; however, the substance was never positively identified because the defendant retrieved the rocks from the police during the arrest and swallowed them. Id. At trial, the informant testified he originally purchased crack from the defendant on the street, but that the defendant had given him a beeper number to facilitate subsequent transactions. Id. The informant claimed that prior to the arrest, he had used the same beeper number on several occasions to summon the defendant who would then arrive at his home and sell him crack. Id. This court held “testimony . . . of prior drug sales utilizing a similar sales technique” was insufficient to meet the common plan or scheme exception. Id. at 451, 454 S.E.2d at 901. Specifically, the court stated:

The methodology of prior sales is not relevant to prove this transaction. . . . By introducing the prior bad acts,

