

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

**APPEAL FROM CHARLESTON COUNTY
Trial Court Case Nos. 2004-GS-12-00571
and 2004-GS-12-00572
The Honorable Daniel F. Pieper**

The State of South Carolina, Respondent

v.

Christopher Frank Pittman, Appellant

EMERGENCY MOTION TO DELAY TRANSFER TO SCDC CUSTODY

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Appellant Christopher Frank Pittman hereby moves this Court to issue the enclosed Order requiring the South Carolina Department of Juvenile Justice (DJJ) to delay transfer of Appellant to the South Carolina Department of Corrections (SCDC) custody, until 30 days after this Court has issued its final ruling in this case and that ruling has been effectuated. In support of this Motion, Pittman would show the Court the following:

Appellant reached the age of seventeen (17) on April 9, 2006. By informal agreement, DJJ retained custody for an additional six (6) months. That extension expires on October 12, 2006. Appellant has been in nearly continuous custody since he was twelve (12) years old. During that time he has not been a discipline problem. Indeed, he has recently received his GED certificate and is a well-behaved inmate.

Pittman's appeal was expedited by this Court. Oral arguments were heard in this Court on October 5, 2006. According to statistics maintained by the Juveniles in Adult Prisons organization, "children in adult prisons are 5 times as likely to be sexually assaulted, twice as likely to be beaten by staff, and 8 times as likely to commit suicide as children in juvenile facilities." [Www.phrusa.org/campaigns/juv_justice.adult.html](http://www.phrusa.org/campaigns/juv_justice.adult.html). Moreover, Pittman has had regular contact with the social worker and other mental health professionals in the Department of Juvenile Justice, and has an excellent therapeutic alliance with them.

Eleven different issues are raised in Pittman's appeal. If he prevails, two would result in a remedy of outright dismissal of charges, and others might result in a remedy of retrial in family court. However, if he has already been transferred to adult prison, this may well be "too little/too late."

Under these circumstances, an injunctive order, or other appropriate writ, prohibiting Pittman's transfer, until this Court has had a reasonable opportunity to rule on the merits of his case, is appropriate to maintain the status quo.

On August 29, 2005, pursuant to Rule 204(b), SCACR, this Court certified this case for its review. Accordingly, jurisdiction over this case for all purposes has been transferred to this Court. The Court's jurisdiction is plenary. *E.g. Green v. Green*, 50 S.C. 514, 27 S.E. 952 (S.C. 1897); see *Paslay v. Martin*, 5 Rich.Eq. 351, 1853 WL 2956 (S.C.App.Eq. 1853). Although there is no South Carolina analog to the federal "All

Writs” Act, this Court’s plenary jurisdiction clearly includes the inherent power to protect its own jurisdiction and the efficacy of its remedies. *See e.g. Little v. Southern Cotton Oil Co.*, 156 S.C. 480, 153 S.E. 462 (S.C. 1930); *see also Woodward v. Elliott*, 27 S.C. 368, 3 S.E. 477 (S.C. 1887).

Certificate of Conference

The undersigned has discussed this matter with counsel for the DJJ and for the Attorney General’s Office. It is our understanding that the State will take no position, one way or the other, with regard to the requested relief.

Appellant respectfully asks that he not be transferred to SCDC before such time as this Court has rendered its decision on his appeal, as set forth in the enclosed proposed Order.

I SO MOVE:

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Certificate of Service

The undersigned hereby certifies that the Motion to Delay Transfer to SCDC Custody was served, this 6th date of October, 2006, to the following:

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