

The Supreme Court of South Carolina

RE: Amendments to the South Carolina Rules of Criminal Procedure

O R D E R

Pursuant to Article V, § 4 of the South Carolina Constitution, the South Carolina Rules of Criminal Procedure (SCRCrimP) are amended as shown in the attachment to this order. These amendments shall be submitted to the General Assembly as provided by Article V, § 4A of the South Carolina Constitution.

IT IS SO ORDERED.

s/ Jean H. Toal _____ C.J.

s/ Costa M. Pleicones _____ J.

s/ Donald W. Beatty _____ J.

s/ John W. Kittredge _____ J.

s/ Kaye G. Hearn _____ J.

Columbia, South Carolina
January 27, 2011

**Amendments to South Carolina Rules of Criminal Procedure
(SCRCrimP)**

- (1) Rule 29, SCRCrimP, is amended to read as follows:

**RULE 29
POST-TRIAL MOTIONS**

(a) Generally. Except for motions for new trials based on after-discovered evidence, post-trial motions shall be made within ten (10) days after the imposition of the sentence. In cases involving appeals from convictions in magistrate's or municipal court, post-trial motions shall be made within ten (10) days after receipt of written notice of entry of the order or judgment disposing of the appeal. The time for appeal for all parties shall be stayed by a timely post-trial motion and shall run from the receipt of written notice of entry of the order granting or denying such motion. The time within which to make the motion shall not be affected by the ending of a term of court or departure of the judge from the circuit, and the circuit judge shall retain jurisdiction of the action for the purpose of hearing and disposing of the motion if not heard and disposed of during the term. Except by consent of the parties, argument on the motion shall be heard in the circuit where the trial or hearing was held. The motion may, in the discretion of the court, be determined on briefs filed by the parties without oral argument.

(b) New Trials Based on After-Discovered Evidence. A motion for a new trial based on after-discovered evidence must be made within one (1) year after the date of actual discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the exercise of reasonable diligence. A motion for a new trial based on after-discovered evidence may not be made while the case is on appeal unless the appellate court, upon motion, has suspended the appeal and granted leave to make the motion. Leave of

the appellate court is not required if no appeal has been taken or if the appeal has been finally decided in the appellate court.

- (2) The following note is added to the end of Rule 29, SCRCrimP:

Note to 2011 Amendment:

This amendment places a one year limit on the time to make a motion for a new trial based on after-discovered evidence.

RULE CHANGE SUBMITTED TO THE GENERAL ASSEMBLY