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Jun 21 2022

South Carolina Court of Appeals

SC Court of Appeals

Robert Samuel Pimentel

Vs

Town of Summerville

Case _____

Appeal of the First Judicial Circuit, Dorchester County Court of Common Pleas

Judgement of Case 2022-CP-18-00473 , Summerville Municipal Court # 20212690222355

COMES NOW Appellant Robert Samuel Pimentel for an Appeal of the above cited cases.

BRIEF

Municipal Court erred at law by finding Appellant guilty , and by denying his appeal.

Common Pleas Court erred at law and dismissed Plaintiff's criminal appeal.

FACTS

1. 4 March 2021 Appellant drove his moped up a private road where vehicles were stopped, slowed and shifted away from them, and continued to the connected parking lot.
2. The private road and parking lot are private property absent jurisdiction signs.
3. Appellant was cited by Tomlinson for an alleged traffic violation of §56-5-1538.
4. 13 May 2021 Appellant Motioned to dismiss for lack of jurisdiction, which was denied.
5. 10 June 2021 Tomlinson was Summoned and failed to appear for court.
6. Appellant presented a motion to dismiss , which was denied.
7. Appellant presented a motion to dismiss for lack of jurisdiction , which was denied.
8. 8 July 2021 Appellant presented the case pro se and was found guilty.
9. Appellant denies the municipal return as disputed on the next page.
10. Appelant was never informed he could retain counsel for an appeal.
11. 31 January 2022 Rule 60 SCRCPP Notice and Motion for Relief from Judgment was filed.
12. 8 February 2022 Appellant received a copy of a handwritten memo from the Clerk
"denied February 1, 2022. Jameson"
13. 9 February 2022 Appellant filed a Common Pleas criminal appeal.
14. 10 June 2022 Common Pleas dismissed Appellant's criminal appeal.

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DISPUTED FACTS

The Municipal Return entered during the Common Pleas appeal is denied in part.
Affidavit supplied pursuant to Code of Laws §18-7-180.

LEGAL ARGUMENT TO COMMON PLEAS COURT

1. The Court of Common Pleas erred at law by dismissing the criminal appeal for a technical error which did not affect the merits of the case.
2. The Criminal Appeal was filed within 1 year of the finding of guilt.
3. The Common Pleas and Municipal Court dismissals constitute cruel and unusual punishment as the pro se litigant was not notified of his right to counsel for appeal , and also should not be held to the same standard as a licensed attorney for actions made pro se.

LEGAL ARGUMENT TO MUNICIPAL COURT

1. All alleged conduct occurred on private property S.C. Code of Laws §23-1-15.
2. Speeds were reduced then legal pass made §56-5-1538(F)(G)(1)(2).
3. This is a medical statute and does not apply to this traffic stop §56-5-1538(A)(C)(I)(1)(2)
4. The Court should have granted the Motion to discredit Tomlinson's testimony . Affidavit
5. The Court should have granted the Motion to dismiss for Entrapment . Affidavit
6. Pro se party should have been notified of the right to counsel for appeal.
7. The 10 days for appeal should have been waived for the pro se party.
8. The Court should have granted Appellant's Appeal of Municipal Judgement. §23-1-15

LEGAL STANDARD

§18-1-140. Judgment on appeal.

Upon an appeal from a judgment or order the appellate court may reverse, affirm or modify the judgment or order appealed from as to any or all of the parties and may, if necessary or proper, order a new trial. When the judgment is reversed or modified the appellate court may make complete restitution of all property and rights lost by the erroneous judgment.

§18-7-170. Judgment on appeal.

Upon hearing the appeal the appellate court shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits. In giving judgment the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for errors of law or fact.

SO : APPELLANT PRAYS HIS APPEAL BE AWARDED FOR ALL JUST RELIEF AND REVERSAL OF THE JUDGEMENTS OF THE CIRCUIT AND MUNICIPAL COURTS.

I REMAIN,

/s/ Robert Samuel Pimentel

Robert Samuel Pimentel

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21 June 2022

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