

Robert Samuel Pimentel

South Carolina Court of Appeals

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

RECEIVED

Jun 21 2022

SC Court of Appeals

AFFIDAVIT

AFFIANT SWEARS TO THE FOLLOWING:

The Judge's Return shows that his recollection of the trial was inaccurate , his perception of the video was wrong , and that he erred to decide the case upon the merits.

He wrote that his perception of the video was that the moped made no attempt to pass the vehicles . He then wrote in the same sentence - that moped had enough space between the vehicles to "move closer". The moped made a clean pass.

Paragraph 3 - Agree and Disagree with certain particulars:

Tomlinson's testimony was reading his incident report verbatim - as well as a legal pad from which he read the other arguments. That I "made no attempt to slow down at all, made no attempt to move over at all, and purposefully attempted to hit the parked vehicles." (paraphrase)

I never testified that I could not make the pass safely. I Motioned for the Court to discredit Tomlinson's testimony because I clearly slowed down and passed the vehicles without collision - therefore his testimony was contrary to the video evidence - and the Judge went "I wouldn't dare consider a Motion like that against one of my officer's, I wouldn't even hear it."

I would argue this was improper and an abuse of power.

Motioned to dismiss based upon the fact this is a medical statute and therefore did not apply to this traffic stop. The Judge erred at law and denied my Motion. §56-5-1538(A)(C)(I)(1)(2).

Motioned to dismiss based upon lack of jurisdiction the fact this was a private parking lot absent signs posted. We then began to review Exhibit A - 5 Minutes video of me driving my moped from 78 - past the area of this pass - around the entire parking lot - and back to the start showing

there were no signs posted. Approximately 5 seconds later the Judge went "alright, I'm not watching this, we don't disagree that there are no signs posted, but the pass occurred on the street attaching 78 to the parking lot, so we have jurisdiction here." (paraphrase) and then erred at law and denied my Motion.

Motioned to dismiss based upon Entrapment as if this was a street within jurisdiction of the Town of Summerville - they had created a hazard for me by not maintaining the pothole - which was explained that it blocked the extreme far left lane so I had to pass in the mid/far left lane then make a right turn. Also, by Flynn leaving his door open - it was the Town's own fault that my pass seemed close. The Judge replied with "well then you should have went a different way if my officer's had the road blocked. You should have done anything else besides put my officer's in danger. I would have rather seen you crash into the pothole then pass so close. The pothole wasn't even close enough to constitute a hazard for you. And Flynn didn't even have time to close his door by the time you went flying by." (paraphrase) and denied my Motion.

Judge erred to decide the case upon the merits as even Tomlinson walked back to his car and shut the door by the time the pass occurred.

Motioned to dismiss based upon the fact that the traffic stop in which Flynn was conducting which was passed by me was void from inception - because he was parked in a private parking lot then conducted a traffic stop. The Judge erred at law and denied my Motion.

Paragraph 4 Agree and Disagree with certain particulars:

We reviewed the map entered into evidence and I again Motioned to dismiss pursuant to §23-1-15. I argued that this was not a street, this was a private parking lot. That the statute only gives jurisdiction to the traffic preparing to merge onto Highway 78 from the parking lot - by virtue of a stop sign, not the vehicles driving from 78 and are now on a private road / private parking lot. The Judge read the statute and went "it seems like you're right, but I'm going to stay that this is a street and we have jurisdiction here" and erred at law and denied my Motion.

FURTHER AFFIANT SWEARS NOT.

/s/ Robert Samuel Pimentel

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The 21st Day of June , 2022