

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM CHARLESTON COUNTY  
COURT OF COMMON PLEAS

THE HONORABLE R. MARKLEY DENNIS, JR., PRESIDING JUDGE

---

CASE NUMBER: 2010-CP-10-718

---

ROBERT GLENN GREENE,

APPELLANT,

vs.

STATE LAW ENFORCEMENT DIVISION, and SLED AGENT ROGER HEATON,

RESPONDENTS.

---

RECORD ON APPEAL

---

**RECEIVED**

JUL 24 2012

**SC Court of Appeals**

Mark V. Evans, Esquire  
147 Wappoo Creek Drive, Suite 202  
Charleston, South Carolina 29412  
Telephone: 843-762-6640  
Facsimile: 843-762-1500  
Attorney for Appellant

Robert H. Hood, Esquire  
Ellore A. Ganes, Esquire  
172 Meeting Street, PO Box 1508  
Charleston, South Carolina 29402  
Telephone: 843-577-4435  
Facsimile: 843-722-1630  
Attorneys for Respondents

Dated: 7.23.12  
Charleston, South Carolina

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

**APPEAL FROM CHARLESTON COUNTY  
COURT OF COMMON PLEAS**

**THE HONORABLE R. MARKLEY DENNIS, JR., PRESIDING JUDGE**

---

**CASE NUMBER: 2010-CP-10-718**

---

ROBERT GLENN GREENE,

APPELLANT,

vs.

STATE LAW ENFORCEMENT DIVISION, and SLED AGENT ROGER HEATON,

RESPONDENTS.

---

**RECORD ON APPEAL**

---

Mark V. Evans, Esquire  
147 Wappoo Creek Drive, Suite 202  
Charleston, South Carolina 29412  
Telephone: 843-762-6640  
Facsimile: 843-762-1500  
Attorney for Appellant

Robert H. Hood, Esquire  
Elloree A. Ganes, Esquire  
172 Meeting Street, PO Box 1508  
Charleston, South Carolina 29402  
Telephone: 843-577-4435  
Facsimile: 843-722-1630  
Attorneys for Respondents

Dated: 7.23.12  
Charleston, South Carolina

## INDEX TO RECORD ON APPEAL

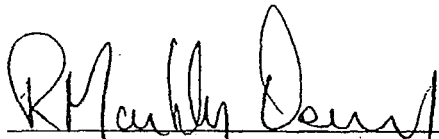
1.	Index.....	1
2.	Order Granting Defendants' Motion to Dismiss, Or in the Alternative, Motion for Summary Judgment.....	2
3.	Judgment in a Civil Case.....	3
4.	Complaint .....	4
5.	Defendants' Answer .....	9
6.	Transcript of Hearing on June 16, 2011.....	19
7.	Defendants' Motion to Dismiss, Or in the Alternative, Motion for Summary Judgment .....	31
8.	Defendants' Memorandum in Support of Their Motion to Dismiss, Or in the Alternative, Motion for Summary Judgment .....	33
9.	Defendant State Law Enforcement Division's Supplemental Answers to Plaintiff's First Interrogatories .....	57
10.	Answers to Plaintiff's First Set of Interrogatories .....	59
11.	FBI letter of August 2, 2006, to Plaintiff .....	82
12.	Plaintiff Deposition excerpts.....	85
13.	Plaintiff's Arrest Record dated February 13, 2008.....	93
14.	Plaintiff's Arrest Record Dated March 11, 2008.....	96
15.	Order of Dismissal as to SLED Agent Roger Heaton .....	98

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
 COUNTY OF CHARLESTON ) FOR NINTH JUDICIAL CIRCUIT  
 Robert Glenn Greene, ) C/A No. 10-CP-10-718  
 )  
 Plaintiff, ) **ORDER GRANTING DEFENDANTS'**  
 ) **MOTION TO DISMISS OR, IN THE**  
 Versus ) **ALTERNATIVE, MOTION FOR**  
 ) **SUMMARY JUDGMENT**  
 State Law Enforcement Division, and )  
 SLED Agent Roger Heaton, )  
 )  
 Defendants. )

FILED  
 2011 JUL -6 PM 12:58  
 JULIE J. ARMSTRONG  
 CLERK OF COURT  
 BY \_\_\_\_\_

This matter came before the court on the Defendants' Motion to dismiss or, in the alternative, Motion for Summary Judgment on June 16, 2011. After hearing arguments made on behalf of the Defendant State Law Enforcement Division<sup>1</sup> and the Plaintiff, the Court hereby grants the Defendants' Motion and enters summary judgment in favor of the Defendant State Law Enforcement Division.

IT IS SO ORDERED.

  
 Judge R. Markley Dennis, Jr.

June 29, 2011  
 Charleston, South Carolina  
 J:\docs\1.114\Order (MTD-MSJ).doc

<sup>1</sup> Plaintiff consented to the dismissal of SLED Agent Roger Heaton prior to the hearing.

COUNTY OF CHARLESTON  
IN THE COURT OF COMMON PLEAS

Case No.: 2010-CP-10-00718

Robert Glenn Greene

versus

State Law Enforcement Division etal

PLAINTIFF(S)

DEFENDANT(S)

**CHECK ONE:**

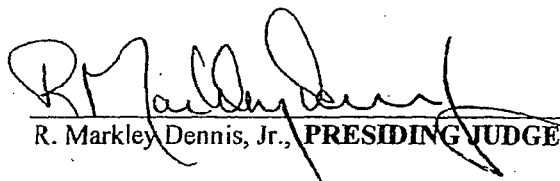
- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and the verdict has been rendered.
- DECISION BY COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. nonsuit)  
 Rule 43(k), SCRPC(Settled);  Other -
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding Arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX)**  
 Affirmed;  Reversed;  Remanded;  Other  
NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING THE LOWER COURT, TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

FILED  
 2011 JUN 30 AM 8:59  
 JULIE ARMSTRONG  
 CLERK OF COURT

**IT IS ORDERED AND ADJUDGED:**  See attached order. (Formal order to follow)  
 Statement of Judgment by the Court:

**Motion to Dismiss and for Summary Judgment granted.**

Dated at Charleston, South Carolina, this 16th day of June, 2011.

  
 R. Markley Dennis, Jr., **PRESIDING JUDGE**

This judgment was entered on the \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_, and a copy mailed first class this \_\_\_\_\_ Day  
 of \_\_\_\_\_, 20\_\_\_\_, to attorneys of record or to parties (when appearing pro-se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
  
Robert Glenn Greene, )  
 )  
Plaintiff, )  
vs. )  
 )  
State Law Enforcement Division, )  
and SLED Agent Roger Heaton, )  
 )  
Defendants. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR NINTH JUDICIAL CIRCUIT  
CASE NO: 2010-CP-10-

**COMPLAINT**  
(Defamation, Gross Negligence)

*Jury Trial Requested*

FILED  
2010 JAN 28 AM 9:53  
JULIE J. ARISTON  
CLERK OF COURT

TO THE ABOVE NAMED DEFENDANTS:

Plaintiff complaining of the defendants would show unto the Court as follows:

PARTIES AND JURISDICTION

1. Plaintiff Robert Glenn Greene (hereinafter Plaintiff) is a citizen and resident of Charleston County, South Carolina.
2. Defendant State Law Enforcement Division (hereinafter SLED), is a South Carolina state agency and the primary law enforcement agency in South Carolina.
3. Defendant Roger Heaton is an agent and employee of SLED.
4. As part of its duties and responsibilities, SLED maintains criminal records information for the state of South Carolina.
5. This Court has jurisdiction over the parties and subject matter of this Complaint and venue is proper in Charleston County.

FACTUAL ALLEGATIONS

6. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 5 herein-above as if reiterated verbatim.

7. During 2005 and 2006, Plaintiff had been romantically involved with a woman, who was the estranged wife of Defendant Heaton.

8. In early February 2006, Plaintiff attempted to purchase a firearm from a dealer.

9. The dealer refused to sell a firearm to the Plaintiff. Plaintiff later learned this denial was based on the fact that a criminal records check by SLED purportedly indicated there was a felony conviction on Plaintiff's criminal record.

10. According to the "Arrest Record" compiled and maintained by SLED, Plaintiff had previously been convicted for the offense of "Committing a Lewd Act Upon a Child Under 16" and had, in fact, served time in prison for the crime.

11. SLED's criminal records information regarding Plaintiff that he had been charged, convicted and sentenced to prison for committing a lewd act upon a child, was a total fabrication, as it never occurred.

12. Plaintiff made an inquiry into the denial to purchase a firearm and on August 2, 2006, the U.S. Department of Justice responded thereto. The letter indicated Plaintiff may or may not be the individual with the subject conviction so he assumed there had been a mistake or that the letter was referring to "another individual."

13. Plaintiff first learned that there was in fact untrue information contained in his criminal record during unrelated litigation in February 2008.

14. Plaintiff was ultimately able to get SLED to remove the false information from his records, in about March 2008

15. Upon information and belief, Defendant Heaton, a SLED employee, either intentionally placed or allowed another person to place the untrue information on the Plaintiff's criminal record in order to damage his reputation in the community.

16. During 2006 and 2007, Plaintiff lost business income, which he believes was a result of the untrue information contained in his criminal record.

17. The state of South Carolina and its citizens have placed a special trust in SLED to accurately, faithfully and responsibly discharge its duties in the proper maintenance and safekeeping of criminal records information for the state of South Carolina.

18. There were either insufficient safeguards in place to protect the interests of Plaintiff or SLED and its agents failed to properly carry out its duties and responsibilities toward the Plaintiff.

FOR A FIRST CAUSE OF ACTION  
(DEFAMATION/LIBEL)

19. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 18 herein-above as if reiterated verbatim.

20. The Defendants' actions, in maintaining and providing untrue criminal records information, constitute a false and defamatory statement concerning the Plaintiff.

21. Defendants possessed no privilege in the communication and, even if it did, it went further than its interests or duties required.

22. Defendants were at fault in the publication of the untrue statement.

23. The untrue statement published by Defendants that Plaintiff is a convicted child molester is defamatory per se.

24. As a direct result of Defendants' misconduct, Plaintiff suffered humiliation, wounded feelings, lost income and injury to his reputation, in an amount of reasonable compensatory and punitive damages to be determined by the trier of fact.

FOR A SECOND CAUSE OF ACTION  
(GROSS NEGLIGENCE)

25. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 24 herein-above as if reiterated verbatim.

26. Defendants have a duty to supervise their employees and agents, especially those with access to personal and potentially damaging information regarding the citizens of South Carolina.

27. SLED has a duty to create, maintain and review safeguards adequate to protect the citizens of South Carolina from any harm resulting from inaccurate and false criminal records information.

28. Defendants breached these duties owed to Plaintiff and were negligent, grossly negligent, willful, wanton and reckless in the performance of their duties.

29. As a direct result of Defendant's gross negligence, Plaintiff has suffered damages in an amount of reasonable compensatory and punitive damages to be determined by the trier of fact.

WHEREFORE, having fully complained of the Defendants herein, the Plaintiff seeks actual and punitive damages to be determined by the trier of fact.

Respectfully submitted,

QUERY, SAUTTER, GLISERMAN & PRICE, LLC

*Mark V. Evans*

---

O. Grady Query, Esquire  
Mark V. Evans, Esquire  
147 Wappoo Creek Drive, Suite 202  
Charleston, South Carolina 29412  
Telephone: 843-795-9500  
Facsimile: 843-762-1500  
Attorneys for Plaintiff

Dated: January 26, 2010  
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR NINTH JUDICIAL CIRCUIT
	)	
Robert Glenn Greene,	)	C/A No. 10-CP-10-718
	)	
Plaintiff,	)	
	)	
Versus	)	<b>DEFENDANTS' ANSWER TO</b>
	)	<b>PLAINTIFF'S COMPLAINT</b>
	)	
State Law Enforcement Division, and	)	
<del>SLED Agent Roger Heaton,</del>	)	
	)	
<u>Defendants.</u>	)	

The Defendants, State Law Enforcement Division and SLED Agent Roger Heaton (hereinafter "Defendants"), hereby respond to the allegations of the Plaintiff's Complaint, subject to any and all affirmative defenses, qualifications, motions and any other pleadings as follows:

1. The Defendants deny each and every allegation contained in the Plaintiff's Complaint which is not specifically admitted.

**AS TO PARTIES AND JURISDICTION**

2. The Defendants are without sufficient knowledge or information at this time to form a belief as the truth of the allegations contained in Paragraph 1 of the Plaintiff's Complaint and therefore those allegations are denied.

3. In response to the allegations contained in Paragraph 2 of the Plaintiff's Complaint, the Defendants admit only so much as alleges that Defendant State Law Enforcement Division is an agency of the State of South Carolina. All remaining and inconsistent allegations contained in Paragraph 2 of the Plaintiff's Complaint are denied.

4. In response to the allegations contained in Paragraph 3 of the Plaintiff's Complaint, the Defendants admit only so much as alleges that Roger

Heaton is an employee of SLED. Further responding, the remaining allegations contained in Paragraph 3 of the Plaintiff's Complaint state conclusions of law to which no response is required.

5. The Defendants admit the allegations contained in Paragraph 4 of Plaintiff's Complaint.

6. The allegations contained in Paragraph 5 of the Plaintiff's Complaint state conclusions of law to which no response is required. To the extent a response is required, the Defendants deny the allegations contained in Paragraph 5 of the Plaintiff's Complaint.

#### AS TO FACTUAL ALLEGATIONS

7. In response to the allegations contained in Paragraph 6 of the Plaintiff's Complaint, the Defendants repeat, reallege, and incorporate by reference all the responses in this answer as if fully set forth in their entirety in this Paragraph.

8. The Defendants are without sufficient knowledge or information at this time to form a belief as the truth of the allegations contained in Paragraph 7 of the Plaintiff's Complaint and therefore those allegations are denied.

9. The Defendants are without sufficient knowledge or information at this time to form a belief as the truth of the allegations contained in Paragraph 8 of the Plaintiff's Complaint and therefore those allegations are denied.

10. The Defendants are without sufficient knowledge or information at this time to form a belief as the truth of the allegations contained in Paragraph 9 of the Plaintiff's Complaint and therefore those allegations are denied.

11. The Defendants are without sufficient knowledge or information at this time to form a belief as the truth of the allegations contained in Paragraph 10 of the Plaintiff's Complaint and therefore those allegations are denied.

12. The allegations contained in Paragraph 11 of Plaintiff's Complaint are denied as written.

13. The Defendants are without sufficient knowledge or information at this time to form a belief as the truth of the allegations contained in Paragraphs 12 and 13 of the Plaintiff's Complaint and therefore those allegations are denied.

14. The allegations contained in Paragraph 14 of the Plaintiff's Complaint are denied as written.

15. The Defendants deny the allegations contained in Paragraphs 15 and 16 of Plaintiff's Complaint.

16. The Defendants are without sufficient knowledge or information at this time to form a belief as the truth of the allegations contained in Paragraph 17 of the Plaintiff's Complaint and therefore those allegations are denied.

17. The Defendants deny the allegations contained in Paragraph 18 of the Plaintiff's Complaint.

**AS TO THE FIRST CAUSE OF ACTION**  
**(Defamation/Libel)**

18. In response to the allegations contained in Paragraph 19 of the Plaintiff's Complaint, the Defendants repeat, reallege, and incorporate by reference all the responses in this answer as if fully set forth in their entirety in this Paragraph.

19. The Defendants deny the allegations contained in Paragraphs 20, 21, 22, 23, and 24 of the Plaintiff's.

**AS TO THE SECOND CAUSE OF ACTION**  
**(Gross Negligence)**

20. In response to the allegations contained in Paragraph 25 of the Plaintiffs Complaint, the Defendants repeats, realleges, and incorporates by reference all the responses in this answer as if fully set forth in their entirety in this Paragraph.

~~21. The allegations contained in Paragraph 26 of the Plaintiff's Complaint state conclusions of law to which no response is required.~~

22. The Defendants deny the allegations contained in Paragraphs 27, 28, and 29 of the Plaintiff's Complaint and the WHEREFORE paragraph, being the remaining allegations of Plaintiff's Complaint.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(No Proximate Cause)**

23. That, even if the Defendants were negligent, as alleged in the Complaint, which is specifically denied, the negligence of the Defendants is not the direct or proximate cause of any injury or damages alleged by the Plaintiff and therefore the Defendants are not liable for any damages allegedly sustained by the Plaintiff.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Failure to State a Claim)**

24. The Complaint fails in its entirety to state a claim upon which relief may be granted against the Defendants.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Governmental Immunity/South Carolina Tort Claims Act)**

25. This action is governed by the terms, provisions and affirmative defenses set forth in the South Carolina Tort Claims Act which inter alia provide a limit on the amount of actual damages that can be recovered, a prohibition on the recovery of punitive damages and the Defendants plead these limitations as a cap on actual damages and a bar to any punitive damages. S.C. Code Ann. §15-78-120.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Punitive Damages Unconstitutional)**

26. The Defendants would plead the requirements for an award of punitive damages as set forth by the Supreme Court of South Carolina in the case of State Farm Mut. Auto Ins. Co. v. Campbell, 538 U.S. 408 (2003) as defenses to this claim and would specifically assert that they are entitled to summary judgment on punitive damages and if denied to bifurcated trial.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(S.C. Tort Claims Act Limitations on Damages)**

27. No award for damages under Chapter 78 shall include punitive or exemplary damages or pre-judgment interest or exceed the statutory limits contained therein. South Carolina Code Ann. § 15-78-120. The Medical University of South Carolina is a governmental healthcare facility as defined by S.C. Code Ann. § 15-78-30 and pursuant to § 15-78-120 of the South Carolina Tort Claims Act, damages are limited to actual damages only, not to exceed one million two hundred thousand dollars as set forth in South Carolina Code Ann. §15-78-120.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Truth)**

28. That if the alleged defamatory statements were made, which is specifically denied, they were true and therefore the Plaintiff is barred from recovery against the Defendants.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Privilege)**

29. That if the alleged defamatory statements were made, which is specifically denied, they were communicated in good faith to parties with a legitimate interest in hearing them and therefore the Plaintiff is barred from recovery against the Defendants.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Opinion)**

30. That if the alleged defamatory statements were made, which is denied, they represented the opinions of the speaker and therefore the Plaintiff is barred from recovery against the Defendants.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(First Amendment/Fourteenth Amendment)**

31. The individuals who allegedly made the defamatory statements have a right to free speech as set forth in the First Amendment to the US Constitution and made applicable to the states through the Fourteenth Amendment of the US Constitution and that right bars the Plaintiff's claim.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Superseding/Intervening Cause)**

32. Whatever injuries and damages, if any, may have been sustained by the Plaintiff, were due to a superseding and/or intervening cause beyond the control of the Defendants.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Eleventh Amendment Immunity)**

33. Eleventh Amendment Immunity in accordance with the Constitution of the United States of America and the State of South Carolina bars Plaintiff's Claims in Totality against the Defendants.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Sovereign Immunity - Tort Claims Act)**

34. As to any alleged violation of common law or state law, the Defendants assert the provisions of the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-10, et seq, pertinent portions which include but are not limited to:

- a. "On or after January 1, 1989, a person when bringing an action against a governmental entity under the provisions of this chapter, shall name as a party defendant only the agency or political subdivision for which the employee was acting...in the event that the employee is individually named, the agency or political subdivision for which the employee was acting must be substituted as the party defendant." S.C. Code Ann. §15-78-70(c).
- b. "No award for damages under this chapter shall include punitive or exemplary damages or interest prior to judgment." S.C. Code Ann. §15-78-120(b).
- c. "The governmental entity is not liable for a loss resulting from:...(3) execution, enforcement, or implementation of the orders of any court or execution, enforcement or lawful implementation of any process; (4) adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation or written policies; (5) the exercise of discretion or judgment by the

governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee;..." S.C. Code Ann. §15-78-60(3) – (5).

- d. "The governmental entity is not liable for a loss resulting from:...(20) an act or omission of a person other than an employee including but not limited to the criminal actions of third persons;..." S.C. Code Ann. §15-78-60(20).
- e. "The governmental entity is not liable for a loss resulting from:...(25) responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate or client of any governmental entity, except when the responsibility or duty is exercised in a grossly negligent manner;..." S.C. Code Ann. §15-78-60(25).
- f. "No person shall recover in any action or claim brought hereunder a sum exceeding three hundred thousand dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved." S.C. Code Ann. §15-78-1209(a)(1).

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Comparative Negligence)**

35. The Defendants alleges that any injuries received by the Plaintiff, as alleged in the Complaint, if any, were due to and caused by and were the direct and proximate result of acts of negligence on the part of the Plaintiff or a third party, over whom the Defendants had no control, so as to bar the claims of the Plaintiff against the Defendants.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Lack of Foreseeability)**

36. That upon information and belief, even if the damages alleged in Plaintiff's Complaint, if any, were proximately caused by the acts and/or omissions of the Defendants, which is otherwise denied except for the purpose of these affirmative defenses, the Defendants did not and could not have foreseen that

Plaintiff's damages, if any, could have proximately resulted from the Defendants' acts or omissions.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Reasonableness and Good Faith)**

37. The Defendants alleges that they and their agents and employees acted reasonably and in good faith at all times material herein, based on all relevant facts and circumstances known by them at the time they so acted. Accordingly, Plaintiff is not entitled to the recovery of any damages whatsoever.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Statute of Limitations)**

38. The statutory of limit of time for the filing of this action has expired. Therefore, Plaintiff's claims are barred.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Qualified Immunity)**

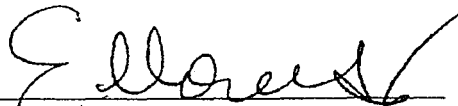
39. The Defendant Heaton was at all times acting within his official and discretionary capacities and as such, is entitled to qualified immunity.

**FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,**  
**THE DEFENDANTS ALLEGE:**  
**(Reservation and Non-Waiver)**

40. The Defendants reserve any additional and further defenses as may be revealed by additional information during the course of discovery and investigation, as is consistent with the South Carolina Rules of Civil Procedure.

WHEREFORE, having fully answered the Plaintiff's Complaint, and having asserted these affirmative defenses, the Defendants, State Law Enforcement Division and SLED Agent Roger Heaton, pray that the Plaintiff's Complaint be dismissed with prejudice and that the be awarded the costs and reasonable fees associated with this matter, and such other relief as the Court may deem just and proper.

HOOD LAW FIRM, LLC  
172 Meeting Street  
Post Office Box 1508  
Charleston, SC 29402  
Phone: (843) 577-4435  
Facsimile: (843) 722-1630  
Email: Info@hoodlaw.com



Robert H. Hood (SC #2599)  
Robert H. Hood, Jr. (SC #13491)  
Ellore A. Ganes (SC #70509)  
T. Happel Scurry (SC #76646)

Attorneys for the Defendants  
State Law Enforcement Division and SLED  
Agent Roger Heaton

4/2, 2010  
Charleston, South Carolina  
J:\docs\1.114\Answer.doc

**CERTIFICATE OF SERVICE**

I certify that on this date a copy of the foregoing was served on each party or counsel of record by  mailing,  e-mailing,  facsimile, or  hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 12 day of April, 2010.



STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
Robert Glenn Greene,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 10-CP-10-0718
	)	
South Carolina State Law Enforce-	)	
ment Division,	)	
	)	
Defendant.	)	

**TRANSCRIPT OF HEARING**

The within Hearing in the above-captioned action was held on June 16, 2011, before The Honorable R. Markley Dennis, Jr. in Courtroom 4B of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by Counsel, as follows:

APPEARANCES:

Mark V. Evans, Esq.  
 (Information not provided)  
 Appearing for Plaintiff

Elleree Ganes, Esq.  
 (Information not provided)  
 Appearing for Defendant

**DEBORAH GARRISON**  
*Circuit Court Reporter - 9<sup>th</sup> Judicial Circuit*  
 Post Office Box 901  
 Johns Island, South Carolina 29457  
[dGarrison@sccourts.org](mailto:dGarrison@sccourts.org)

1 THE COURT: The next one is Robert  
2 Greene vs State Law Enforcement Division.

3 If you would, identify yourselves, please, and  
4 the party that you are representing.

5 MS. GANES: Thank you, Your Honor.  
6 I am Elleree Ganes, here on behalf of Agent  
7 Roger Heaton and the State Law Enforcement  
8 Division.

9 THE COURT: Okay.

10 MR. EVANS: Thank you, Your Honor.  
11 Mark Evans on behalf of plaintiff, Robert  
12 Greene.

13 THE COURT: Thank you, Mr. Evans.

14 MS. GANES: Your Honor, I have a copy  
15 of our memo -- (tendering).

16 THE COURT: Thank you very much.

17 MS. GANES: Sorry, it's not stapled.

18 THE COURT: No problem.

19 MS. GANES: Your Honor, Mr. Evans has  
20 consented to the dismissal of Agent Heaton, so  
21 this Motion will just be on behalf SLED.

22 THE COURT: Okay.

23 MS. GANES: And, Your Honor, the --  
24 again, I am Elleree Ganes and I represent SLED in  
25 this case. This is our Motion to dismiss, or in

1 the alternative Motion for summary judgment.  
2 Plaintiff filed this case in January of 2010.  
3 The basis -- well, the allegations were that he  
4 had dated the estranged wife of Agent Roger  
5 Heaton and, uh, they broke up and then sometime  
6 later he found out that he had a charge on his  
7 record for committing a lewd act on a minor,  
8 though it wasn't his charge. So he filed this  
9 action alleging that Roger Heaton either  
10 maliciously placed that allegation on his  
11 criminal record or allowed someone to place that  
12 allegation on his criminal record.

13 The only discovery in this case has  
14 been my deposition -- well, the only deposition  
15 taken has been my deposition of Mr. Greene. Mr.  
16 Evans has served some written discovery and we  
17 have responded to all of it. There is a  
18 scheduling Order in the case closing discovery  
19 August 1<sup>st</sup> and setting it for trial September 1<sup>st</sup>.

20 Through discovery, we have produced  
21 evidence that the charge on Mr. Greene's record  
22 came from an inadvertent keying mistake in  
23 Charleston County. Mr. Robert Glenn Greene had  
24 a warrant for criminal domestic violence around  
25 the same time as a Robert Jerome Green, with a

1 similar birth date, had one for committing a  
2 lewd act on a minor. The warrants were keyed in  
3 here in Charleston County and sent to Court  
4 Administration. It was later fixed but no  
5 notice of that correction was sent to SLED.  
6 There was absolutely no notice that SLED ever  
7 knew that Mr. Greene shouldn't have that charge  
8 on his record until he called SLED in March of  
9 2008. Miss Bethany Sorensen received his call,  
10 and this is her job at SLED, apparently she is a  
11 pretty powerful lady in the state, she maintains  
12 all the criminal records of the state. She did  
13 her own research. We provided her affidavit  
14 with our Motion for summary judgment, with the  
15 records kept in the ordinary course of business.  
16 She explains how the error occurred and how SLED  
17 had no notice of it and how it was fixed.

18 This is a defamation action. In his  
19 deposition and his pleadings, Mr. Greene -- and  
20 his pleadings, Your Honor, -- I guess the most  
21 important element of our Motion is statute of  
22 limitations. South Carolina does not recognize  
23 the discovery rule for a defamation action. The  
24 statute runs from the moment of utterance.

25 So at the very best, Mr. Greene alleges

1 in his Complaint that he tried to purchase a  
2 firearm in 2006, which would have been shortly  
3 after the mistake was made, he was denied the  
4 purchase of that firearm. He knew that he  
5 shouldn't have been denied the purchase of the  
6 firearm but assumed that it was a mistake -- and  
7 this was at a gun show in Ladson.

8 So when you're denied the purchase of  
9 a firearm, the FBI automatically generates a  
10 letter to you telling you you're denied this  
11 purchase, you may or may not be -- it may or may  
12 not be correct and 'here is what you need to do  
13 about it.' He got that letter. He assumed it  
14 was a mistake. That's in his Complaint. That  
15 was in 2006. He did nothing.

16 In 2007 he was the victim of a crime  
17 and they ran his record in Berkeley County and  
18 he alleges that in 2007 a Berkeley County deputy  
19 told his then ex-girlfriend that he had a charge  
20 on his record, so she needed to watch him around  
21 her teenage daughter.

22 So then early 2008 -- and I don't think  
23 he ever says in his deposition what prompted him  
24 to make this change, this call in 2008 because  
25 it was 2007 -- oh, I know. Sorry, Your Honor.

1 She didn't tell him. The ex-girlfriend didn't  
2 tell him, 'Hey, they said that you have a charge  
3 for committing a lewd act on a minor.' She did  
4 not tell him until some months later, in 2008.

5 Your Honor, I don't think -- the  
6 defendant's position is that it just doesn't  
7 meet the elements of a defamation case in South  
8 Carolina. Even if there was publication -- and  
9 in the records attached to Bethany Sorensen's  
10 deposition, uh, Mr. Evans asked for and we  
11 provided all the times that SLED ever produced  
12 his criminal record to anyone.

13 So, number one, they didn't put the  
14 false information there. They didn't have any  
15 notice that it was false. But even taking the  
16 evidence in the light most favorable to Mr.  
17 Greene, if you recognize -- if the court were  
18 to recognize that providing that information to  
19 another law enforcement agency is actionable,  
20 qualified privilege, I think, protects and  
21 mandates the grant of summary judgment; because  
22 every time that they provide that information it  
23 was to a law enforcement agency. There is just  
24 no publication. The statute of limitations  
25 tolled long before the action and we would ask

1 for summary judgment on these grounds.

2 THE COURT: Response?

3 MR. EVANS: Thank you, Your Honor.

4 Our Complaint alleged both defamation and gross  
5 negligence by SLED in the malperformance of its  
6 duties. We would like to rely heavily on the  
7 one to two cases that the defendant cited in the  
8 brief.

9 The *Austin* case, we think the facts are  
10 very analogous to our case. In that case were  
11 two causes of action, for defamation and for the  
12 black listing of an employee by the employer.  
13 The District Court in South Carolina noted that  
14 there were two different statutes of  
15 limitations, but -- excuse me, Your Honor -- the  
16 facts were so intertwined that they could not  
17 separate them out. Even as to the defamation,  
18 the South Carolina District Court found that the  
19 two-year statute of limitations did not apply  
20 under the facts of that case. The two-year  
21 statute of limitations was intended, the Court  
22 found, applied to the typical defamation case;  
23 for example, where the plaintiff was defamed on  
24 TV or in newspaper article(s) and then tries to  
25 claim that he did not discover it until much

1 later. So that was the reason that the Court  
2 felt that the discovery rule should not apply in  
3 this type of case.

4 The Court found that the two-year  
5 statute should not apply where the defamatory  
6 info, information, is hidden from the plaintiff,  
7 such as in cases where the defamatory  
8 information was contained in a credit report,  
9 where it is hidden, it is not something that is  
10 not published out in a newspaper or somewhere  
11 where somebody should know about it. It was  
12 very analogous to our case.

13 The Court also found that the purpose  
14 of the statute of limitations was not to shield  
15 a wrongdoer but to discover the presentation of  
16 stale claims.

17 The gross negligence cause of action  
18 would have a three-year statute of limitations  
19 with the discovery rule applying.

20 In this case, the Plaintiff testified  
21 in his deposition that after he was the victim  
22 of an assault in September of '07 he consulted  
23 an attorney about a civil case. That attorney  
24 pulled his criminal record in February of 2008  
25 and showed it to the Plaintiff in early March of

1 2008. He immediately called SLED and was told  
2 three times that they could not change his  
3 record without a court Order. Then suddenly,  
4 three days later, a corrected record arrives in  
5 the mail, with no cover letter.

6 As to the gross negligence in the  
7 performance of duties by SLED, we -- it is our  
8 belief, Your Honor, that SLED failed to follow  
9 its own policies and procedures to review the  
10 criminal record; quote, "to ensure accuracy and  
11 prevent unnecessary liability" of information  
12 disseminated about an individual.

13 In this case, Your Honor, what happened  
14 was that you have a situation where my client,  
15 who has a different name, different birth date,  
16 different social security number and different  
17 race, a charge, a conviction was allowed to be  
18 put on his record when none of the identifiers  
19 matched up. So, you know, there was no  
20 verification by SLED for accuracy, which it says  
21 repeatedly in its policies and procedures -- if  
22 I may this up to the court.

23 THE COURT: You don't need to.

24 MR. EVANS: Okay. Now, and the other  
25 thing about the record is, Your Honor, that

1 whenever a person has a criminal record, they  
2 get ---

3 THE COURT: Why didn't you sue  
4 Charleston?

5 MR. EVANS: Excuse me?

6 THE COURT: Why didn't you sue  
7 Charleston County, that made the mistake?

8 MR. EVANS: Well, we didn't find out  
9 about that until much later, Your Honor. But  
10 what happened in this case was that Mr. Greene  
11 -- on his record, all of a sudden a conviction  
12 for a sex charge pops up on his record and there  
13 is no corresponding arrest or anything to link  
14 it back to. No charge. So under policies and  
15 procedures, that should have been a red flag  
16 that this -- you know, that they're not doing  
17 their job.

18 THE COURT: Okay, you can -- maybe  
19 Columbia will change this, but I am not. There  
20 is no way on God's earth that SLED is -- all  
21 they do is maintain and keep the record. They  
22 can't be saddled with the responsibility of  
23 checking everything that comes into their  
24 office, there is just no way that they could do  
25 that. They have a right to rely on something

1 received from an agency that had the right to  
2 send to them. They did exactly what they should  
3 have done. With respect to this case, there may  
4 be -- there's nothing negligent about that.

5 Charleston, I don't know whether they  
6 -- but you didn't sue them.

7 Defendant is entitled to summary  
8 judgment on multiple grounds. Thank you.

9 (HEARING CONCLUDED)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2

3

4

5

6

7

8

9

I, the undersigned, Deborah Garrison,  
official court reporter for the 9<sup>th</sup> Judicial  
Circuit of the State of South Carolina, do  
hereby certify that the foregoing is a true,  
accurate and complete transcript of the hearing  
held before The Honorable R. Markley Dennis,  
Jr., on June 16, 2011;

10

11

12

13

14

15

16

17

18

19

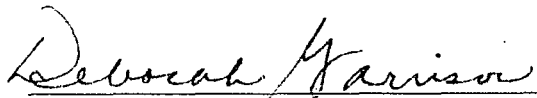
20

21

22

23

I further certify that I am neither kin nor  
counsel to any of the parties and have no  
interest in the outcome of this action.



Deborah Garrison

Circuit Court Reporter

9<sup>th</sup> Judicial Circuit

Charleston, South Carolina

November 4, 2011

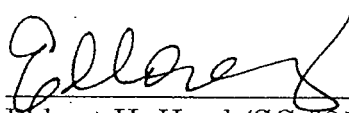
STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR NINTH JUDICIAL CIRCUIT
Robert Glenn Greene,	)	C/A No. 10-CP-10-718
	)	
	)	<b>DEFENDANTS' MOTION TO</b>
	)	<b>DISMISS OR, IN THE</b>
Versus	)	<b>ALTERNATIVE, MOTION FOR</b>
	)	<b>SUMMARY JUDGMENT</b>
State Law Enforcement Division, and	)	
SLED Agent Roger Heaton,	)	
	)	
<u>Defendants.</u>	)	

TO: O. GRADY QUERY AND MARK V. EVANS, ATTORNEYS FOR THE PLAINTIFF:

PLEASE TAKE NOTICE that the Defendants, State Law Enforcement Division and SLED Agent Roger Heaton (hereinafter "Defendants"), by and through their undersigned attorneys, will move before this Honorable Court, at a time and place set by the Court, pursuant to Rules 12(b)(6) and 56 of the South Carolina Rules of Civil Procedure, for an Order dismissing the Plaintiff's Complaint on the grounds the Plaintiff's Complaint fails to state a claim for which relief may be granted against the Defendants. The Defendants will, in the alternative, move the Court for an Order granting summary judgment to the Defendants on the grounds no genuine issue of material fact exists in this case, and the Defendants are entitled to judgment as a matter of law.

Further, the Defendants pray for all other relief this Honorable Court deems just and proper. The South Carolina Rules of Civil Procedure and all applicable authority, including memoranda or affidavits, or other supporting documentation which the Defendants may file with the Court prior to the Court's hearing of this matter support this Motion.

HOOD LAW FIRM, LLC  
172 Meeting Street  
Post Office Box 1508  
Charleston, SC 29402  
Phone: (843) 577-4435  
Facsimile: (843) 722-1630  
Email: Info@hoodlaw.com



Robert H. Hood (SC #2599)  
Robert H. Hood, Jr. (SC #13491)  
Ellore A. Ganes (SC #70509)

Attorneys for the Defendants  
State Law Enforcement Division and SLED  
Agent Roger Heaton

1128, 2011  
Charleston, South Carolina  
J:\docs\1.114\MTD-MSJ.doc

### **CERTIFICATE OF SERVICE**

I certify that on this date a copy of the foregoing was served on each party or counsel of record by  mailing,  e-mailing,  facsimile, or  hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 28 day of January, 2011.

Heather Chavis

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR NINTH JUDICIAL CIRCUIT
Robert Glenn Greene,	)	C/A No. 10-CP-10-718
	)	
Plaintiff,	)	<b>DEFENDANTS' MEMORANDUM IN</b>
	)	<b>SUPPORT OF THEIR MOTION TO</b>
Versus	)	<b>DISMISS, OR IN THE</b>
	)	<b>ALTERNATIVE, MOTION FOR</b>
State Law Enforcement Division, and	)	<b>SUMMARY JUDGMENT</b>
SLED Agent Roger Heaton,	)	
	)	
Defendants.	)	

The Defendants, State Law Enforcement Division and SLED Agent Roger Heaton (hereinafter "Defendants"), pursuant to Rules 12 and 56 of the South Carolina Rules of Civil Procedure and other applicable authority. The Defendants respectfully request that the Court enter summary judgment in their favor, based on the following:

**FACTS AND ALLEGATIONS**

The Plaintiff Robert Glenn Greene alleges in this case that the Defendants defamed him by intentionally placing a charge of Committing a Lewd Act on a Minor on his criminal record. In his Complaint, which was filed on January 28, 2010, Mr. Greene alleges causes of action for Libel / Slander and Gross Negligence against the Defendants. He claims that because he dated Agent Heaton's ex-wife, Agent Heaton either intentionally placed or allowed another person to place the untrue information on the Plaintiff's criminal record in order to cause damage to his reputation. The Plaintiff admits in his Complaint that in February 2006, he attempted to purchase a firearm from a dealer and was denied the right to purchase due to his criminal record. He further admits that in August 2006, the Department of Justice wrote to him and notified him that he may or may not be the individual

with the subject conviction. Plaintiff *assumed* there was a mistake and did not make further inquiry. In 2007, Plaintiff was the victim of a crime and when his record was pulled by Berkeley County, his ex-girlfriend was allegedly told by a Berkeley County deputy that he had a sex crime in his past. Plaintiff asserts that his girlfriend did not share that information with him until 2008.

In March of 2008, Plaintiff contacted SLED and it was verified that the information on his record was input by Charleston County in 2006 when another individual named Robert *Jerome* Green was charged with Committing a Lewd Act on a Minor. Charleston County Clerk of Court submitted the information to the South Carolina Court Administration. The record was subsequently corrected by Charleston County with no notice of the correction provided to SLED. The charge was removed from Plaintiff's record in March of 2008..

#### SUMMARY JUDGMENT STANDARD

Rule 56(c) of the South Carolina Rules of Civil Procedure mandates summary judgment when the movant shows "that there is no genuine issue as to any material fact and that the movant is entitled to summary judgment as a matter of law." Rule 56(c) SCRCPP. When ruling on a motion for summary judgment or directed verdict in a defamation action, the court must review the evidence using the same substantive evidentiary standard of proof the jury is required to use in a particular case." Erickson v. Jones Street Publishers, L.L.C., 368 S.C. at 464, 629 S.E.2d at 66 (2006). When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. Fleming v. Rose, 350 S.C. 488, 493-494, 567 S.E.2d 857, 860 (S.C. 2002).

## APPLICABLE LAW

South Carolina has a two year statute of limitations for defamation actions. S.C. Code Ann. § 15-3-550. A cause of action accrues at the moment when a Plaintiff has a legal right to sue on it and for libel / slander cases in our state, that is at the moment of utterance, not at the time when Plaintiff makes discovery on any alleged defamation. Jones v. City of Folly Beach, 326 S.C. 360, 483 S.E.2d 770 (Ct.App.1997).

Defamatory communications take two forms: libel and slander. Slander is a spoken defamation while libel is a written defamation or one accomplished by actions or conduct. Erickson v. Jones Street Publishers, L.L.C., 368 S.C. 444, 465, 629 S.E.2d 653, 664 (2006). To prove defamation, the plaintiff must show (1) a false and defamatory statement was made; (2) the unprivileged publication was made to a third party; (3) the publisher was at fault; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. Fleming v. Rose, 350 S.C. 488, 493-494, 567 S.E.2d 857, 860 (S.C. 2002).

A statement is [defamatory] per se when its defamatory meaning is evident from the language alone. Capps v. Watts, 271 S.C. 276, 246 S.E.2d 606 (1978). If the defamatory meaning of a message or statement is obvious on the face of the statement, the statement is defamatory per se. Parrish v. Allison, 656 S.E.2d 382 (Ct. App. 2007). If the defamatory meaning is not clear unless the hearer knows the facts or circumstances not contained in the statement itself, then the statement is defamatory per quod. Id. In cases involving defamation per quod, the plaintiff must introduce facts extrinsic to the statement itself in order to prove a defamatory meaning. Id.

Defamation is actionable per se only when the defendant's alleged defamatory statements charge the plaintiff with one of five types of acts or characteristics: (1) commission of a crime of moral turpitude; (2) contraction of a loathsome disease; (3) adultery; (4) unchastity; or (5) unfitness in one's business or profession. Holtzscheiter v. Thomson Newspapers, Inc., 332 S.C. 502, 511, 506 S.E.2d 497, 502 (1998). Goodwin v. Kennedy, 347 S.C. 30, 36, 552 S.E.2d 319, 322 - 323 (Ct. App. 2001).

Even if the defamation is actionable per se, if the communication is privileged, the plaintiff must prove actual malice. Murray v. Holnam, Inc., 344 S.C. 129, 142, 542 S.E.2d 743, 750 (Ct. App. 2001), *citing* Bell v. Bank of Abbeville, 208 S.C. 490, 38 S.E.2d 641 (1946) (privileged communication is exception to rule that malice will be presumed where offending statement is actionable per se). Common law actual malice means the defendant acted with ill will toward the plaintiff or acted recklessly or wantonly, meaning with conscious indifference toward the plaintiff's rights. Padgett v. Sun News, 278 S.C. 26, 292 S.E.2d 30 (1982).

### LEGAL ARGUMENT

#### **I. The Plaintiff's claims are barred by the Statute of Limitations.**

The Defendants maintain that there was never an unprivileged communication of the incorrect information by SLED. All communications of the Plaintiff's record were privileged, and the privilege was not abused. However, taking the evidence in the light most favorable to the Plaintiff, even if there was an unprivileged communication, it would have occurred in 2007, and the Plaintiff did not file this lawsuit until 2010. Thus, the Plaintiff's claims are barred by the statute of limitations and the Defendants are entitled to summary judgment.

In his pleadings, the Plaintiff admits that he first knew of a potential erroneous charge on his criminal record in 2006. In his deposition, he testified that in 2007, a deputy with the Berkeley County Sheriff's Office told his then ex-girlfriend that he had a charge for Committing a Lewd Act on a Minor on his criminal record. (See Exhibit 1 at page 36: line 9). Because South Carolina does not recognize the discovery rule for defamation actions, Plaintiff had only two years from the "moment of utterance" of any defamatory statement in which to file this action. Jones, 326 S.C. 360, 483 S.E.2d 770 (Ct.App.1997). Thus, the statute of limitations expired for Plaintiff to bring this action in 2008 or 2009 at the very latest. Plaintiff did not file his Complaint until January 28, 2010. As such, the Defendants are entitled to Summary Judgment.

**II. The Plaintiff's criminal record containing the alleged defamatory statement is protected under the qualified privilege and the Defendants did not exceed the scope of the privilege.**

Even if the error on Plaintiff's record is found to be defamatory as to SLED despite the fact that SLED did not originally input the information and the fact that the occurrence which seems to be at issue in this case (the spoken information by the Berkeley County deputy to the ex-girlfriend) was not made by SLED, the statement is protected under the qualified privilege. Thus, there is an issue ripe for the grant of summary judgment.

In general, the question whether an occasion gives rise to a qualified or conditional privilege is one of law for the court. Murray v. Holnam, Inc., 344 S.C. 129, 140, 542 S.E.2d 743, 749 (Ct. App. 2001). A communication made in good faith on any subject matter in which the person communicating has an interest or duty is qualifiedly privileged if made to a person with a corresponding interest or duty even though it contains matter which, without this privilege, would be actionable.

Constant v. Spartanburg Steel Prods., Inc., 316 S.C. 86, 447 S.E.2d 194 (1994);

Prentiss v. Nationwide Mut. Ins. Co., 256 S.C. 141, 181 S.E.2d 325 (1971).

Communications between officers and employees of a corporation are qualifiedly privileged if made in good faith and in the usual course of business. Conwell v. Spur Oil Co., 240 S.C. 170, 125 S.E.2d 270 (1962). In determining whether a qualified privilege exists, due regard must be given for the occasion and relationship of the parties. Id. Therefore, the elements of a conditionally privileged statement are: (1) good faith; (2) interest to be upheld; (3) statement limited in its scope to this purpose; (4) a proper occasion; and (5) publication in a proper manner and to proper parties only. Id.

In this case, the only communication of the erroneous charge on Plaintiff's record occurred between law enforcement agencies and potentially a seller of firearms. The Defendants assert that all of these communications were privileged. In addition, the information was not placed on the Plaintiff's record by SLED. Therefore, Plaintiff cannot prove fault as to SLED, which is a necessary element to his claim. Each and every time Plaintiff's record was provided by SLED to an interested agency, it was provided in good faith and without any knowledge of the error.

The Plaintiff appears to assert that the erroneous charge was placed on his criminal record with malice by Agent Roger Heaton or his ex-wife, Robyn Heaton. Agent Heaton did not enter any information on Plaintiff's record and has never possessed any passwords or access for him to have allowed Robyn Heaton or anyone else to enter information on Plaintiff's record. (See the Affidavit of Roger Heaton attached hereto as Exhibit 2). In addition, the evidence is clear that the

information was entered by Charleston County Clerk of Court. (See the Affidavit of Bethany Sorenson attached hereto as Exhibit 3). Plaintiff has presented no evidence that the information was entered with malice, ill will, or reckless disregard for his rights. On the contrary, the information was entered by Charleston County Clerk of Court when, ironically, the Plaintiff had a warrant for an offense that was entered around the same time as a *Robert Jerome Green* had a warrant for Committing a Lewd Act on a Minor. Additionally, any communication of the information was to local law enforcement agencies and thus, regardless of whether the statements are actionable, they are properly protected under the qualified privilege. As such, summary judgment is appropriate.

### **III. The Defendants are immune from liability under the South Carolina Tort Claims Act.**

Defendant SLED is an agency of the State. Therefore, Defendant SLED and Defendant Heaton, as an employee of SLED, are protected by the South Carolina Tort Claims Act. S.C. Code Ann. §15-78-30(a),(c),(d)&(h) (1986) (defining "agency," "employee," "governmental entity," and "political subdivision" for purposes of the South Carolina Tort Claims Act). "The remedy provided by [the South Carolina Tort Claims Act] is the exclusive civil remedy available for any tort committed by a governmental entity, its employees, or its agents except as provided in §15-78-70(b)." S.C. Code Ann. §15-78-20(b) (1986). The South Carolina Tort Claims Act provides "[t]he provisions of this chapter establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting within the scope of official duty, must be liberally construed in favor of limiting the liability of the State." S.C. Code Ann. §15-78-20(f).

When a plaintiff alleges an employee of a governmental entity has committed a tort while acting within the scope of his official duty, § 15-78-70(c) generally provides that a plaintiff can only name as a defendant the governmental entity for which the employee was acting. The governmental employee cannot be sued directly, except as expressly provided for in subsection (b), based upon particular conduct of the employee. S.C. Code Ann. § 15-78-70(b). Similarly, the governmental agency is not liable unless the responsibility or duty was exercised in a grossly negligent manner S.C. Code Ann § 15-78-60.

In order to withstand summary judgment, the Plaintiff must provide facts which are susceptible to more than one inference. R.J. Hendricks v. Clemson University, 339 S.C. 552, at 560 (S.C.App. 2000) *reversed on other grounds by R.J. Hendricks v. Clemson University*, 353 S.C. 449, 578 S.E.2d 711 (S.C. 2003). No such facts have been put forth by the Plaintiff in this case which would suggest either Defendant was grossly negligent. Gross negligence is the intentional, conscious failure to do something which one ought to do or the doing of something one ought not to do. Hollins v. Richland County Sch. Dist. One, 310 S.C. 486, 427 S.E.2d 654 (1993). It is the failure to exercise slight care. Clyburn v. Sumter County Sch. Dist. # 17, 317 S.C. 50, 451 S.E.2d 885 (1994). Where a person is so indifferent to the consequences of his conduct as not to give slight care to what he is doing, he is guilty of gross negligence. Jackson v. South Carolina Dep't of Corrections, 301 S.C. 125, 390 S.E.2d 467 (Ct.App.1989), *aff'd*, 302 S.C. 519, 397 S.E.2d 377 (1990). Gross negligence is a mixed question of law and fact and should be presented to the jury unless the evidence supports only one reasonable inference. Clyburn, 317 S.C. 50, 451 S.E.2d 885. In this case, even if the Defendants were negligent, which is

expressly denied, any such negligence does not rise to the level of gross negligence.

Therefore, summary judgment is appropriate.

Further, the Tort Claims Act specifically absolves the state from liability when the injury complained of is the result of the actions of third parties. S.C. Code Ann. § 15-78-60 (20). The limited discovery conducted by the Plaintiff in this case yielded the production of what is attached hereto as Exhibit A to the Affidavit of Bethany Sorenson, SLED documentation clearly depicting when and where the incorrect information was provided and the person or entity receiving the information. (See Exhibit 3). SLED was never on notice of the correction to the Plaintiff's arrest record, and once it was provided information of the correction, the matter was corrected. The documentation provided indicates that Charleston County Clerk of Court entered the warrant for the wrong *Robert Greene*. (Exhibit 3). As such, the Tort Claims Act bars this claim and summary judgment is appropriate.

**IV. Even if the Plaintiff's allegations create a question of fact for the jury, pursuant to the South Carolina Tort Claims Act, Agent Roger Heaton should be dismissed from the action and summary judgment as to Punitive Damages should be granted.**

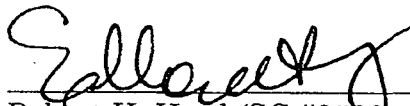
As stated above, Defendant Heaton is an employee of SLED and pursuant to the South Carolina Tort Claims Act, should be dismissed from this action. See S.C. Code Ann § 15-78-70. In addition, the Tort Claims Act, being the exclusive remedy in any action against a governmental entity, expressly limits a Plaintiff's recovery and excludes awards of punitive damages. See S.C. Code Ann § 15-78-200.

Accordingly, the Defendants request the dismissal of Agent Heaton and the grant of Summary Judgment in their favor on the issue of punitive damages.

CONCLUSION

For the foregoing reasons, the Defendants hereby request that this Honorable Court dismiss this action, or in the alternative, enter summary judgment in their favor with respect to all of the Plaintiff's claims.

HOOD LAW FIRM, LLC  
172 Meeting Street  
Post Office Box 1508  
Charleston, SC 29402  
Phone: (843) 577-4435  
Facsimile: (843) 722-1630  
Email: Info@hoodlaw.com

  
Robert H. Hood (SC #2599)  
Robert H. Hood, Jr. (SC #13491)  
Elloree A. Ganes (SC #70509)  
T. Happel Scurry (SC #76646)

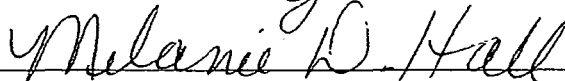
Attorneys for the Defendants  
State Law Enforcement Division and SLED  
Agent Roger Heaton

6/15, 2011  
Charleston, South Carolina  
J:\docs\1.114\MIS MSJ.doc

**CERTIFICATE OF SERVICE**

I certify that on this date a copy of the foregoing was served on each party or counsel of record by  mailing,  e-mailing,  facsimile, or  hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 15 day of June, 2011.

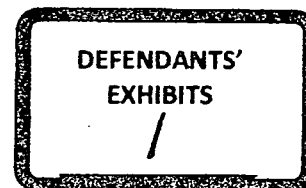
  
\_\_\_\_\_  
Melanie D. Hall

STATE OF SOUTH CAROLINA      IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON      CASE NO.    2010-CP-10-718

ROBERT GLENN GREENE,	)
	)
Plaintiff,	)
	)
-vs-	)
	)
STATE LAW ENFORCEMENT	)
DIVISION AND SLED AGENT ROGER	)
HEATON,	)
	)
Defendants.	)

The deposition of Robert Glenn Greene, given before Vicki Small, Court Reporter and Notary Public, at the Law Office of Mark V. Evans, 147 Wappoo Creek Drive, Suite 102, Charleston, South Carolina, on Thursday, October 21, 2010, commencing at 10:09 a.m.



RAY SWARTZ & ASSOCIATES OF SOUTH CAROLINA  
 -Professional Court Reporters-  
 Serving the Legal Community Since 1957  
 1-800-822-8711

Beaufort	Camden	Charleston	Columbia
Florence	Greenville	Greenwood	Hilton Head
Lexington	Myrtle Beach	Newberry	Orangeburg

- 1 Q. What people in Berkeley County?
- 2 A. The detectives, the solicitor, even the judge, the  
3 victim's advocate of violent crimes.
- 4 Q. This is related to the incident in 2007?
- 5 A. That's correct. They treated me the way you would  
6 treat a sex offender.
- 7 Q. Did any of those people in Berkeley County ever  
8 say to you, "We saw this on the record"?
- 9 A. They called my ex-girlfriend and told her that  
10 that was on my record.
- 11 Q. That's Patty Hesselstine?
- 12 A. That's correct.
- 13 Q. Do you have a girlfriend now?
- 14 A. No.
- 15 Q. Is that Detective Maggie Carver who told Patty  
16 Hesselstine?
- 17 A. That's correct.
- 18 Q. You've given me that discovery, but I need you to  
19 tell me here in your deposition -- and we won't  
20 belabor it. But tell me a little bit about that  
21 circumstance of Maggie Carver telling Patty  
22 Hesselstine that this was on your record.
- 23 A. She called her. Patty's brother had been in that  
24 the department and was her partner.
- 25 Q. What is his name?

1 STATE OF SOUTH CAROLINA )  
 2 : C-E-R-T-I-F-I-C-A-T-E  
 3 COUNTY OF CHARLESTON )  
 4

5 I, Vicki Small, Court Reporter and Notary Public,  
 6 certify that I did have Robert Glenn Greene to appear  
 7 before me 10:09 a.m. on Thursday, October 21, 2010, at  
 8 the Law Office of Mark V. Evans, 147 Wappoo Creek Drive,  
 9 Suite 102, Charleston, South Carolina; that the witness  
 10 was sworn and cautioned to tell the truth; these pages  
 11 constitute a true and accurate transcript of the  
 12 testimony given at that time and place.

13 I further certify that I am not of counsel or kin to  
 14 any of the parties to this cause of action, nor am I  
 15 interested in any manner in its outcome.

16 IN WITNESS WHEREOF, I have hereunto set my hand and  
 17 seal this the 16th day of November, 2010.

18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

---

Vicki Small, CVR  
 Notary Public for South Carolina  
 My Commission Expires: 07/24/11

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR NINTH JUDICIAL CIRCUIT
Robert Glenn Greene,	)	C/A No. 10-CP-10-718
	)	
Plaintiff,	)	<b>AFFIDAVIT OF ROGER HEATON</b>
	)	
Versus	)	
	)	
State Law Enforcement Division, and	)	
SLED Agent Roger Heaton,	)	
	)	
Defendants.	)	

PERSONALLY APPEARED before me, Roger Heaton, who, after being duly sworn, deposes and says:

1. My name is Roger Heaton.
2. I am over the age of eighteen and I have personal knowledge of the matters stated herein.
3. I am currently employed by the South Carolina Law Enforcement Division (hereinafter "SLED"). I have been employed by SLED since 1999.
4. I have never met Robert Glenn Greene.
5. I have never placed any information on Robert Glenn Greene's criminal record.
6. I have never had access or authority in my employment with SLED to enter, delete or alter information on any individual's criminal record.
7. I have never possessed any passwords that would allow any individual to enter, delete or alter information on criminal records in South Carolina.

DEFENDANTS'  
EXHIBITS  
**2**

FURTHER THE AFFLIANT SAYETH NOT.



Roger Heaton

SWORN TO AND SUBSCRIBED before me

this 13<sup>th</sup> day of June, 2011.



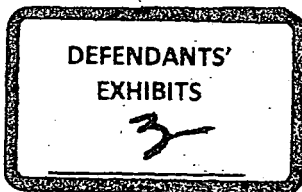
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: My Commission Expires July 5, 2015  
J:\docs\1.114\Affidavit (Heaton).doc

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR NINTH JUDICIAL CIRCUIT
Robert Glenn Greene,	)	C/A No. 10-CP-10-718
	)	
Plaintiff,	)	
	)	
Versus	)	<b>AFFIDAVIT OF BETHANY</b>
	)	<b>SORENSEN</b>
State Law Enforcement Division, and	)	
SLED Agent Roger Heaton,	)	
	)	
Defendants.	)	

PERSONALLY APPEARED before me, Bethany Sorenson, who, after being duly sworn, deposes and says:

1. My name is Bethany Sorenson.
2. I am over the age of eighteen and I have personal knowledge of the matters stated herein.
3. I am currently employed by the South Carolina Law Enforcement Division (hereinafter "SLED"). I have been employed by SLED for 14 years.
4. As part of my official duties, I maintain criminal records for SLED.
5. I have never met Robert Glenn Greene.
6. I have reviewed Robert Glenn Greene's Complaint and the documents attached hereto, marked as Exhibit A. Exhibit contains a print out of the occasions on which the Plaintiff's criminal record was accessed between the dates of January 1, 2006 and March 31, 2008. This document is kept in the ordinary course of business by SLED.



7. I have reviewed the Plaintiff's Complaint in this matter and I have personal knowledge of the correction of the charge of Committing a Lewd Act on a Minor, which was placed on the Plaintiff's record in 2006.

8. I have personally researched the matter and corrected the record of the Plaintiff by deleting the charge of Committing a Lewd Act on a Minor.

9. In my research as to the origin of the charge, I confirmed that the charge was provided to SLED by the State Court Administration whom received the charge from Charleston County Clerk of Court on or about February 10, 2006. The charge was later changed by Charleston County, but no notice was provided to SLED of the change.

10. In 2006, Agent Roger Heaton did not have access or authority to enter, delete or alter any information on criminal records and he still does not.

11. I have personally reviewed the Plaintiff's criminal record and there is no indication that any information was entered, deleted or altered by any person, including but not limited to Roger Heaton, other than authorized individuals or entities.

FURTHER THE AFFLIANT SAYETH NOT.

  
Bethany Strenson

SWORN TO AND SUBSCRIBED before me  
this 13<sup>th</sup> day of June, 2011.

  
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: August 29, 2015  
J:\docs\114\Affidavit (Strenson).doc

galloway-greene

IND1000X  
DCFEIWA08

TITLE: 2011

ROUTE TO: MCCULLEY

ADDRESS: WYF3/IOAU

EXTENSION: 304 825-3000

COMMENTS: GALLOWAY

TYPE: HYP NEED: FILE:

BEGIN DATE: 20080101 END DATE: 20080331 LIST TYPE:

LST

FILE SIZE: 00000000 COUNT: 000000 RANDOM NUMBER

LIST:

IMAGE INDICATOR:  
FIELDS SEARCHED: NAM/GREENE, R019610508, SOC/

FIELDS OUTPUT:

0  
7A 2008-03-11-14.51.21.161513  
IND10C56000EEB20W .CW.SCLE0000.NAM/GREENE, ROBERT GLENN  
.SOC/90024DAS.FBI/90024DAS  
ORI IS SC LAW ENF DIV COLUMBIA 803 896-7111

7A 2008-05-11-14.50.33.939163  
IND10C56000EEB20W .CW.SCLE0000.NAM/GREENE, ROBERT GLENN  
.SOC/90024DAS.FBI/90024DAS  
ORI IS SC LAW ENF DIV COLUMBIA 803 896-7111

7A 2008-02-13-13.02.49.742403  
IND109330078ED20W .CW.SCLE0000.NAM/GREENE, ROBERT GLENN  
.SOC/90024DAS.FBI/90024DAS  
ORI IS SC LAW ENF DIV COLUMBIA 803 896-7111

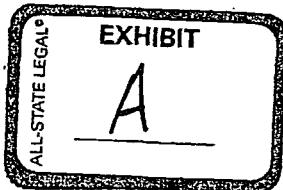
7A 2007-10-25-11.17.25.560430  
IND11DC0000EC220W .CW.SC0080300.NAM/GREENE, ROBERT GLENN  
.SOC/90024DAS.FBI/90024DAS  
ORI IS GOOSE CREEK PD 843 572-4300

7A 2007-09-27-13.45.20.363833  
IND11DC0000EC220W .CW.SC0080300.NAM/GREENE, ROBERT GLENN  
.SOC/90024DAS.FBI/90024DAS  
ORI IS GOOSE CREEK PD 843 572-4300

7A 2007-09-22-15.29.40.995825  
IND101000158F220WA .CWA.SC0080300.NAM/GREENE, ROBERT G.DOB/19610508.SEX/M.RAC/U  
ORI IS GOOSE CREEK PD 843 572-4300

7A 2006-05-12-22.30.15.108419

Page 1



Res [1st Supp] RFP 0001

021104ay-greena  
1N01008900595020W .QY.SC0100300.NAM/GREENE, ROBERT GLENN.DOB/19610308  
ORI IS MT PLEASANT PD 843 884-4176

7A 2006-04-30-21.15.35.064387  
1N011F4E00464120W .QY.SC0100000.NAM/GREENE, ROBERT.DOB/19610508.SEX/M.RAC/U  
ORI IS CHARLESTON CO SO CHARLESTON 843 202-1700

THE DATA PROVIDED IS FROM THE SDAT THROUGH THE FOLLOWING DATE: 03-31-2008

\*\*\*END OF REPORT\*\*\*  
TOTAL RECORDS REPORTED: 8

REPORT DATE: 03-02-2011  
TOTAL RECORDS PROCESSED: 1

52

\_VARIABLES FIXEDCASE, 15RNAM, 24ADDRESS, 24CITY, 13STATE, 28ZIP, 98DOB, 8RACE, 105  
EX, 14SSN, 9DLIC, 20DL\_ST, 20FILE\_DATE, 20DISP\_DATE, 8DISP, 10JUDGE, 30ARREST\_DATE, 80  
EMP, 30F\_CNT, 20F\_CODE, 40SN\_CNT, 28SN\_CODE, 48SN\_LIT, 70DL\_SUSP, 100L\_DAYS\_SUSP, 30W  
ARRANT\_TICKET, 10ACT\_CODE, 10RESTORE\_DATE, 80SIN\_JUDGE, 3

Res [fst Supp] RFP 0003

attn:  
Bethany  
896-7022





Common Pleas Family Court General Sessions Email File Log Judge Offense Code Reports

Current Database  Historical Database

1 records found - Record 1 of 1

<< First Record << Previous Record >> Next Record >> Last Record

Period: EB Family: 10 Year; PID Entry Date: 1/29/2003 Last Date: 6/30/2005

Case No: 00004310 Trans/Ticket: 0818385 In Judge: 884

File Date: 1/29/2003 Register Date: 4/7/2003 Transfer Date: Arrest Date: 10/13/2005

Offense Code: 2308 Domestic DV with a/le & prohibited AG Date:

Name: GREENE, ROBERT GLENN Address: 11111111111111111111 City: 111111111111

State: SC Zip Code: Sex: M Race: W SSN: DOB: 01/15/1981

DL State: SC DLIC: 0000000000 Atty:

Disp Date: 4/15/2003 Disp: 4 Municipal Pre/Post Ended

Judge: BT Mackey-Evans/SC/HR Sent Code:

Court Reporter:

Sentence: DL Susp Days:

Comments:

Common Pleas Family Court General Sessions Email File Log Judge Offense Code Reports

Current Database
  Historical Database

1 records found - Record 1 of 1

Case No: 
 Warrant/Ticket: 
 Judge:

File Date: 
 Restore Date: 
 Transfer Date: 
 Arrest Date:

Offense Code: 
 Sent. and Ad. serv./min. term this: 
 AG Date:

Name: 
 Address: 
 City:

State: 
 Zip Code: 
 Sex: 
 Race: 
 BSN: 
 DOB:

DL State: 
 DLJC: 
 Alt:

Disp Date: 
 Disp: 
 Daily Fee:

Judge: 
 Name: 
 Sent Code: 
 Sent. and Ad. serv./min. term this:

Court Reporter:

Sentence: 
 DL Supp Days:

Comments:

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR NINTH JUDICIAL CIRCUIT
Robert Glenn Greene,	)	C/A No. 10-CP-10-718
	)	
Plaintiff,	)	
	)	
Versus	)	DEFENDANT STATE LAW
	)	ENFORCEMENT DIVISION'S
State Law Enforcement Division, and	)	SUPPLEMENTAL ANSWERS TO
SLED Agent Roger Heaton,	)	PLAINTIFF'S FIRST
	)	INTERROGATORIES
Defendants.	)	

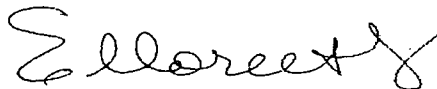
TO: O. GRADY QUERY AND MARK V. EVANS, ATTORNEYS FOR THE PLAINTIFF:

The Defendant, State Law Enforcement Division (hereinafter "this Defendant"), supplements its answers the Plaintiff's First Interrogatories, as follows:

7. Explain the origin and all known details regarding how the subject conviction was placed on Plaintiffs criminal record.

ANSWER: This Defendant asserts that, upon information and belief, the information at issue in this suit was entered by Charleston County Sheriff's Office. The individual upon whose record the information should have been entered had the same name and date of birth as the Plaintiff. When the error was brought to the attention of this Defendant, procedures were undertaken to remove the information from the Plaintiff's record.

HOOD LAW FIRM, LLC  
172 Meeting Street / Post Office Box 1508  
Charleston, SC 29402  
Phone: (843) 577-4435 / Fax: (843) 722-1630  
Email: Info@hoodlaw.com



---

Robert H. Hood (SC #2599)  
Robert H. Hood, Jr. (SC #13491)  
Ellore A. Ganes (SC #70509)

Attorneys for the Defendants  
State Law Enforcement Division and SLED  
Agent Roger Heaton

January 18, 2011

Charleston, South Carolina

J:\docs\1.114\ATIs [Supp] [SLED].doc

***CERTIFICATE OF SERVICE***

I certify that on this date a copy of the foregoing was served on each party or counsel of record by  mailing,  e-mailing,  facsimile, or  hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 18 day of January, 2011.

Ashley Karst

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR NINTH JUDICIAL CIRCUIT.
Robert Glenn Greene,	)	C/A No. 10-CP-10-718
	)	
	)	Plaintiff.
	)	<b>ANSWERS TO PLAINTIFF'S FIRST</b>
	)	<b>SET OF INTERROGATORIES</b>
Versus	)	
	)	
State Law Enforcement Division, and	)	
SLED Agent Roger Heaton,	)	
	)	
	)	Defendants.

TO: O. GRADY QUERY AND MARK V. EVANS, ATTORNEYS FOR THE PLAINTIFF:

The Defendants, State Law Enforcement Division and SLED Agent Roger Heaton (hereinafter "Defendants"), answers Plaintiff's First Supplemental Interrogatories to Defendants as follows:

1. How many times was Plaintiff's criminal record checked during the time period of February 1, 2006, through March 12, 2008? Please list the dates of each request to check Plaintiff's criminal record.

**ANSWER:** Please see the attached documents, marked for production as Res[1<sup>st</sup> Supp]RFP 0001-0002.

2. Please list the names and addresses of each party that checked Plaintiff's criminal record from February 1, 2006, through March 12, 2008.

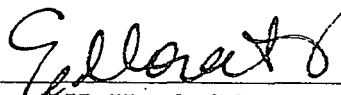
**ANSWER:** Please see the attached documents, marked for production as Res[1<sup>st</sup> Supp]RFP 0001-0002.

3. Please identify the person at SLED who mailed a corrected copy of Plaintiff's criminal record to Plaintiff in March 2008.

**ANSWER:** Bethany Sorenson.

ANSWER: Bethany Sorenson made the decision after verifying Mr. Greene's assertion that the arrest noted on his record was not applicable to him.

HOOD LAW FIRM, LLC  
172 Meeting Street  
Post Office Box 1508  
Charleston, SC 29402  
Phone: (843) 577-4435  
Facsimile: (843) 722-1630  
Email: Info@hoodlaw.com

  
\_\_\_\_\_  
Robert H. Hood (SC #2599)  
Robert H. Hood, Jr. (SC #13491)  
Ellore A. Ganes (SC #70509)

Attorneys for the Defendants  
State Law Enforcement Division and SLED  
Agent Roger Heaton

4/12, 2011  
Charleston, South Carolina  
J:\docs\1.114\AT[1st Supp]ls.doc

**CERTIFICATE OF SERVICE**

I certify that on this date a copy of the foregoing was served on each party or counsel of record by  mailing,  e-mailing,  facsimile, or  hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 12 day of April, 2011.

Ashley Karst  
\_\_\_\_\_

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR NINTH JUDICIAL CIRCUIT
Robert Glenn Greene,	)	C/A No. 10-CP-10-718
	)	
	)	<b>RESPONSES TO PLAINTIFF'S</b>
Plaintiff,	)	<b>FIRST SUPPLEMENTAL REQUEST</b>
	)	<b>FOR PRODUCTION</b>
Versus	)	
	)	
State Law Enforcement Division, and	)	
SLED Agent Roger Heaton,	)	
	)	
	)	
Defendants.	)	

TO: O. GRADY QUERY AND MARK V. EVANS, ATTORNEYS FOR THE PLAINTIFF:

The Defendants, State Law Enforcement Division and SLED Agent Roger Heaton (hereinafter "Defendants"), respond to Plaintiff's First Supplemental Request for Production as follows:

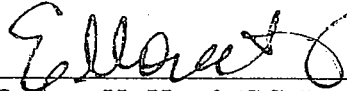
1. Please produce all documents referenced by SLED in responding to Plaintiff's First Supplemental Interrogatories to Defendants.

**RESPONSE:** Please see the attached documents, marked for production as Res[1<sup>st</sup> Supp]RFP 0001-0007.

2. Please produce all documents relating to Plaintiff's First Supplemental Interrogatories and the decision to correct Plaintiff's criminal record in March 2008.

**RESPONSE:** Please see the attached documents, marked for production as Res[1<sup>st</sup> Supp]RFP 0001-0007.

HOOD LAW FIRM, LLC  
172 Meeting Street  
Post Office Box 1508  
Charleston, SC 29402  
Phone: (843) 577-4435  
Facsimile: (843) 722-1630  
Email: Info@hoodlaw.com



Robert H. Hood (SC #2599)  
Robert H. Hood, Jr. (SC #13491)  
Elloree A. Ganes (SC #70509)

Attorneys for the Defendants  
State Law Enforcement Division and SLED  
Agent Roger Heaton

4/12, 2011  
Charleston, South Carolina  
J:\docs\1.114\Res-{1st Supp}RFP.doc

**CERTIFICATE OF SERVICE**

I certify that on this date a copy of the foregoing was served on each party or counsel of record by  mailing,  e-mailing,  facsimile, or  hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 12 day of April, 2011.



galloway-green

1N01XXXXX  
DCFBIWAQ8

TITLE: 2011

ROUTE TO: MCCULLEY

ADDRESS: WVE3/IOAU

EXTENSION: 304 625-3000

COMMENTS: GALLOWAY

TYPE: HYP

NEED:

FILE:

BEGIN DATE: 20060101

END DATE: 20080331

LIST TYPE:

LST

FILE SIZE: 000000000

COUNT: 000000

RANDOM NUMBER

LIST:

IMAGE INDICATOR:

FIELDS SEARCHED: NAM/GREENE, R@19610508.SOC/[REDACTED]

FIELDS OUTPUT:

D

7A 2008-03-11-14.51.21.161513  
1N010C56000FF82QW .QW.SCLE0000.NAM/GREENE, ROBERT GLENN  
.SOC/[REDACTED].FBI/90024DA8  
ORI IS SC LAW ENF DIV COLUMBIA 803 896-7111

7A 2008-03-11-14.50.33.939163  
1N010C56000FF72QW .QW.SCLE0000.NAM/GREENE, ROBERT GLENN  
.SOC/[REDACTED].FBI/90024DA8  
ORI IS SC LAW ENF DIV COLUMBIA 803 896-7111

7A 2008-02-13-13.02.49.742403  
1N01093300785D2QW .QW.SCLE0000.NAM/GREENE, ROBERT GLENN  
.SOC/[REDACTED].FBI/90024DA8  
ORI IS SC LAW ENF DIV COLUMBIA 803 896-7111

7A 2007-10-25-11.17.25.560430  
1N011DCC0008C22QW .QW.SCO080300.NAM/GREENE, ROBERT GLENN  
.SOC/[REDACTED].FBI/90024DA8  
ORI IS GOOSE CREEK PD 843 572-4300

7A 2007-09-27-13.45.20.363833  
1N011DCC0008B2QW .QW.SCO080300.NAM/GREENE, ROBERT GLENN  
.SOC/[REDACTED].FBI/90024DA8  
ORI IS GOOSE CREEK PD 843 572-4300

7A 2007-09-22-15.29.40.995925  
1N0101000158F22QWA .QWA.SCO080300.NAM/GREENE, ROBERT G.D08/19610508.SEX/M.RAC/U  
ORI IS GOOSE CREEK PD 843 572-4300

7A 2006-05-12-22.30.15.108419

galloway-greene  
1N0100890069502QW .QW.SC0100300.NAM/GREENE, ROBERT GLENN.D08/19610508  
ORI IS MT PLEASANT PD 843 884-4176

7A 2006-04-30-21.16.36.064387  
1N011F4E0046412QW .QW.SC0100000.NAM/GREENE, ROBERT.D08/19610508.SEX/M.RAC/U  
ORI IS CHARLESTON CO SO CHARLESTON 843 202-1700

THE DATA PROVIDED IS FROM THE BDAT THROUGH THE FOLLOWING DATE: 03-31-2008

\*\*\*END OF REPORT\*\*\* REPORT DATE: 03-02-2011

TOTAL RECORDS REPORTED: 8 TOTAL RECORDS PROCESSED: 1

\_VARIABLES.FIXED@CASE.15@NAME.24@ADDRESS.24@CITY.13@STATE.2@ZIP.9@DOB.8@RACE.1@SEX.  
1@SSN.9@DLIC.2@DL\_ST.2@FILE\_DATE.8@DISP\_DATE.8@DISP.1@JUDGE.3@ARREST\_DATE.8@  
EMP.3@OF\_CNT.2@OF\_CODE.4@SN\_CNT.2@SN\_CODE.4@SN\_LIT.7@DL\_SUSP.1@DL\_DAYS\_SUSP.3@W  
ARRANT\_TICKET.1@ACT\_CODE.1@RESTORE\_DATE.8@SUM\_JUDGE.3

attn/  
Bethany  
896-7022

Date <sup>originally</sup> submitted to SLED

18150svp016app 716 \$ clear

warrant #

name

18150svp016app 717 \$ grep H919963 U1000 Fform10.0\*06

1000.Fform10.021006:2005GS1004854 GREENE, ROBERT GLENN

[REDACTED]

[REDACTED] 2000005081961UM [REDACTED] 008032462

SC10202005020

006100810182005RAH0129880124685 YRS SERVE 3 YRS BAL SUS 2 YRS PROB/CONC/CRED F

H919963 M00000000999

2468 DR code for Lewd act

66

Charleston ~~attempts to~~ <sup>resubmitted</sup> in 2-17-06  
but info still incorrect

000.Fform10.021006:2005GS1004854 GREENE, ROBERT GLENN

[REDACTED]

[REDACTED] 2000005081961UM [REDACTED] 008032462

SC10202005020

006100810182005RAH0129880124685 YRS SERVE 3 YRS BAL SUS 2 YRS PROB/CONC/CRED F

H919963 M00000000999

Res [1st Supp] RFP 0004

modified indictment # and cleared out disposition  
requested deletion to Court Administration

00000 # Perm 10 091406:0000GS10 GREENE, ROBERT GLENN  
[REDACTED] 000005081961WM [REDACTED] 008032462

SC10202005000

00000 10182005RAH012988

H919963 M04072006

correct code for CDV HAN

resubmitted correct charge + disposition

00000 # Perm 10 091406:0000GS10 GREENE, ROBERT GLENN  
[REDACTED] 000005081961WM [REDACTED] 008032462  
82006/09710182005RAH012988

SC10202005001

H919963 M04072006999

dispo date

1-8-06

solicitor's code-097

no file processed  
disposition #4

file date  
10-20-05

H91983  Current Database  Historical Database

1 records found - Record 1 of 1

<< First Record << Previous Record . >> Next Record >> Last Record

Docket: GE County: 10 Year: 0000 Entry Date: 10/31/2005 Last Date: 05/01/2006

Case No: 0000GS10 Warrant/Ticket: H019863 In Judge: 889

File Date: 10/20/2005 Restore Date: 4/7/2006 Transfer Date: Arrest Date: 10/18/2005

Offense Code: 2968 Domestic/CDV high & aggravated AG Date:

Name: GREENE, ROBERT GLENN Address: City:

State: SC Zip Code: Sex: M Race: W SSN: DOB: 5/8/1961

DL State: SC DLIC: 008032462 Atty:

Disp Date: 4/18/2006 Disp: 4 Claim/Not Proc/Proc Ended:

Judge: 87 Master-in-Equity/Judicial Sent Code:

Court Reporter:

Sentence: DL Susp Days:

Comments:

General Sessions

Common Pleas Family Court General Sessions Email File Log Judge Offense Code Reports  **General Sessions Data Entry**

2005gs1004854		<input checked="" type="radio"/> Current Database <input type="radio"/> Historical Database	
.1 records found - Record 1 of 1			
<< First Record << Previous Record >> Next Record >> Last Record			
Docket: GS County: 10 Year: 2005 Entry Date: 02/28/2005 Last Date: 03/01/2007			
Case No	2005GS1004854	Grant/Ticket	H009589 Judge 888
File Date	2/14/2005	Restore Date	Transfer Date Arrest Date 2/11/2005
Offense Code	2468	Sex/Lawd Act, com/atmpt upon child -&lt;1;18	AG Date
Name	GREEN, ROBERT JEROME	Address	UNKNOWN City UNKNOWN
State	SC	Zip Code	Sex M Race B SSN DOB 6/22/1961
DL State	SC	DLIC	00212721 Alty
Disp Date	2/1/2006	Disp	1 Guilty Plea
Judge	8	Hughston, Thomas L. (Ret)	Sent Code 2468 Sex/Lawd Act, com/atmpt upon child <1;18
Court Reporter			
Sentence	5 YRS SERV 3 YRS SAL SUB 2 YRS PROB/CONC/CRD FOR		DL Susp Days
Comments			

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR NINTH JUDICIAL CIRCUIT
Robert Glenn Greene,	)	C/A No. 10-CP-10-718
	)	
	)	Plaintiff,
	)	
Versus	)	<b>RESPONSES TO PLAINTIFF'S</b>
	)	<b>SECOND SUPPLEMENTAL</b>
	)	<b>REQUEST FOR PRODUCTION</b>
	)	
State Law Enforcement Division, and	)	
SLED Agent Roger Heaton,	)	
	)	
	)	
Defendants.	)	

TO: O. GRADY QUERY AND MARK V. EVANS, ATTORNEYS FOR THE PLAINTIFF:

The Defendants, State Law Enforcement Division and SLED Agent Roger Heaton (hereinafter "Defendants"), respond to Plaintiff's Second Supplemental Request for Production as follows:

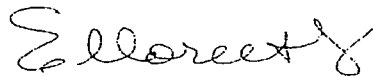
1. Copies of relevant portions of any handbooks, policies, manuals, regulations or any other written materials that govern or apply to the duties of SLED as they relate in any way to the initiation, handling, maintenance, distribution, modification and/or deletion of criminal records in the state of South Carolina.

**RESPONSE:** Please see the documents produced herewith and marked for production as Res(2<sup>nd</sup> Supp)RFP 000-10010.

2. Copy of transmittal letter enclosing Plaintiff's corrected criminal record to him in or about March 2008.

**RESPONSE:** The Defendants are not in possession of any documents responsive to this Request.

HOOD LAW FIRM, LLC  
172 Meeting Street (29401)  
Post Office Box 1508  
Charleston, SC 29402  
Phone: (843) 577-4435  
Facsimile: (843) 722-1630  
Email: Info@hoodlaw.com



---

Robert H. Hood (SC #2599)  
Robert H. Hood, Jr. (SC #13491)  
Ellore A. Ganes (SC #70509)

Attorneys for the Defendants  
State Law Enforcement Division and SLED  
Agent Roger Heaton

April 12, 2011

Charleston, South Carolina

J:\docs\1.114\Res-[2nd Supp]RFP.doc

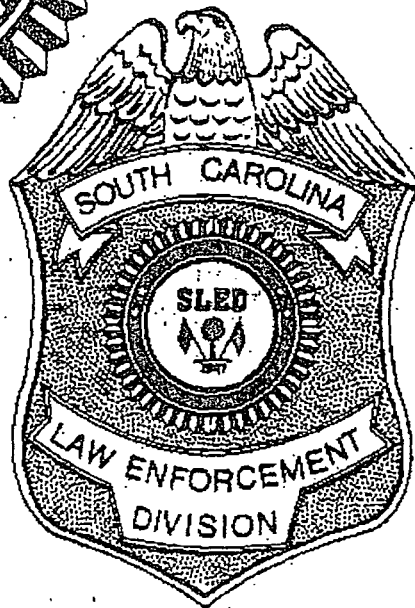
***CERTIFICATE OF SERVICE***

I certify that on this date a copy of the foregoing was served on each party or counsel of record by  mailing;  e-mailing,  facsimile, or  hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 12 day of April, 2011.

Ashley Karst

# CRIMINAL INFORMATION SYSTEMS



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

4400 BROAD RIVER ROAD  
COLUMBIA, SOUTH CAROLINA 29210

**7.1 CRIMINAL JUSTICE INFORMATION SYSTEM DEPARTMENT**

POLICY: 7.1	DATE: Jan. 1, 1992	REVISION DATE: July 26, 2004
TITLE: CRIMINAL JUSTICE INFORMATION SYSTEM DEPARTMENT	PAGE 1 OF 4	

RESPONSIBLE AUTHORITY: ASSISTANT DIRECTOR FOR INFORMATION SERVICES

RELATED STANDARDS/STATUTES/REFERENCES: S.C. Code of Laws, Section 23-3-130;  
CALEA 15.1.2; 82.1.1 (a., d.);  
81.2.9; 82.3.2; 82.3.6

GENERAL PURPOSE: To establish, by policy, the Criminal Justice Information and Communication System Department (CJIS) and set forth the general responsibilities of this Department within the Division.

POLICY: Pursuant to Section 23-3-110, 23-3-120, 23-3-130 of the S.C. Code of Laws, the Division will act as the State's central criminal justice information repository and shall collect, process, and store criminal justice information and records necessary to the operation of the criminal justice information system. The Division will further operate a telecommunications system to assist in the dissemination of criminal justice information and records with due regard to the privacy interests of individuals and shall strive to maintain and disseminate only accurate and complete records. The Assistant Director for Information Services is responsible for the overall management of the records function. Individual departments are tasked with primary responsibility for managing records within those components. (CALEA 15.1.2; 82.1.1 d.)

**SPECIFIC PROCEDURES:**

A. Pursuant to statute, the Criminal Justice Information and Communications System (herein referred to as CJIS) Department will be comprised of the sections or subdivisions as follow:

**1. STATE CRIME INFORMATION CENTER (SCIC)**

a. Central Records Repository--Responsible for collecting, processing, and storing fingerprint cards, dispositions, and the development of comprehensive criminal history record information of persons arrested in the State. Also, tasked with maintaining statewide AFIS database for storage, searching and verification of fingerprint or palm print information. The Repository will accept both adult fingerprint arrest cards and juvenile

fingerprint arrest cards in accordance with Section 20-7-8510 of the S. C. Code of Laws. Juvenile fingerprint cards received by the agency in accordance with this statute will be maintained separate from adult arrest cards. (CALEA 82.1.1 a.; 82.3.6)

b. Uniform Crime Reporting--Responsible for processing, analyzing, coding and compiling of all incident and booking reports received from law enforcement agencies. Such data is submitted in source document form as well as through electronic means. This Section provides monthly reports which assist local agencies in managing resources and is responsible for publication of the State's annual report on crime, CRIME IN SOUTH CAROLINA.

c. Offender Registry--Responsible for managing and operating the offender registration program as required by law.

2. JUSTICE COMMUNICATIONS--Primarily responsible for providing the necessary systems and program support to develop, manage and modify various computer applications and programs as deemed necessary by the other Units of the CJIS to facilitate the automated processing of such information;

3. INFORMATION TECHNOLOGY--Responsible for developing and managing internet, wide area network and local area network applications for SLED.

B. The responsibilities of CJIS or its organizational structures shall include, but not be limited to, the following functions:

1. The Comprehensive Criminal Justice Information System shall provide information on the following matters: (CALEA 82.3.2 c.)

- a. Vehicle registration;
- b. Criminal history record;
- c. Driver's license files;
- d. Wanted Persons;
- e. Stolen articles; (CALEA 82.3.2 c.)
- f. Missing persons;
- g. Uniform crime reporting;
- h. Stolen boats; (CALEA 82.3.2 c.)

- i. Stolen securities; and (CALEA 82.3.2 c.)
  - j. Automated fingerprint card files.
  - k. Stolen Vehicles
  - l. Sex Offenders
  - m. Firearm Transactions
2. The capabilities of the Comprehensive Telecommunications System shall include dissemination of information provided from the following automated systems: (CALEA 81.2.9)
- a. National Crime Information Center;
  - b. National Law Enforcement Telecommunications System;
  - c. Canadian Police Information Center;
3. The CJIS will provide message switching between or among law enforcement agencies within the State;
4. The CJIS will serve as point of contact for the National Warning System;
5. The CJIS shall provide automated management information support services to various sections within the Division as deemed appropriate by Division authorities, including, but not limited to the following:
- a. Accounts payable;
  - b. Accounts receivable;
  - c. General ledger;
  - d. Vehicle accounting;
  - e. Inventory control;
  - f. Evidence analysis tracking;
  - g. Handgun sale transaction;
  - h. Security officer registration;
  - i. Investigation case tracking;
  - j. Reports;

o Daily Reports -- to provide fiscal accountability for time, attendance, and task activity distributions for human resource management.

o Monthly and Annual Reports -- to provide statistical and data summaries of agency activities.

6. The CJIS Department will provide data processing services for other criminal justice agencies.

C. Relationship of FBI CJIS to SLED CJIS:

Pursuant to the FBI CJIS Advisory Policy Board (APB) findings, SLED as a state Control Systems Agency (CSA) shares responsibility for administering the National Crime Information Center (NCIC). To ensure consistent management, the FBI CJIS policy is SLED policy with respect to NCIC and the Interstate Identification Index (III).

BY ORDER OF:



Robert M. Stewart  
CHIEF OF SLED

DISTRIBUTION: MANUAL HOLDERS

**SOUTH CAROLINA LAW ENFORCEMENT DIVISION**

4400 BROAD RIVER ROAD  
COLUMBIA, SOUTH CAROLINA 29210

**7.2 INFORMATION ENTERED INTO THE SLED/CJIS AND FBI/NCIC COMPUTER FILES**

<b>POLICY:</b> 7.2	<b>DATE:</b> Jan. 1, 1992	<b>REVISION DATE:</b> Sept. 14, 1998
<b>TITLE:</b> INFORMATION ENTERED INTO THE SLED/CJIS AND FBI/NCIC COMPUTER FILES		<b>PAGE</b> 1 OF 5

**RESPONSIBLE AUTHORITY:** APPROPRIATE ASSISTANT DIRECTOR

**RELATED STANDARDS/STATUTES/REFERENCES:** S.C. Code of Laws, Section 23-3-130  
CALEA 81.2.9; 82.1.3; 82.1.4;  
82.3.8

**GENERAL PURPOSE:** To prescribe uniform procedures for entering data into the SLED/CJIS and/or FBI/NCIC computer files. (CALEA 82.1.3)

**POLICY:** The Division feels strongly that it is necessary to implement uniform procedures for the entry of all data to the SLED/CJIS and FBI/NCIC files in order to ensure all entries are made on a timely basis and are complete and accurate. Uniform procedures, as set forth herein, will further ensure that appropriate documentation supporting entry is on file and easily accessible for "hit confirmation" purposes.

**SPECIFIC PROCEDURES:**

A. All information and records entered into the SLED CJIS and/or the FBI/NCIC computer files must be supported through a computer terminal manned 24-hours a day, seven (7) days per week. This requirement ensures "hit confirmation." (CALEA 82.1.4; 82.3.8 f.)

B. For purposes of this policy, "hit confirmation" will be described as follows:

Agencies entering records into NCIC must ensure that hit confirmation is available 24 hours a day either at that agency or through another agency, providing a written agreement has been executed.

1. The agency that obtained the hit has the ability to designate to the entering agency one of two priorities for confirmation.

**PRIORITY 1: URGENT**

Confirm the hit within ten minutes. In those instances where the hit is the only basis for detaining a suspect or the nature of a case requires urgent confirmation of a hit, the highest level of priority should be specified. Each agency must within the designated time frame furnish to an agency requesting a record confirmation, a response indicating a positive or negative confirmation or a notice of a specific amount of time necessary to provide a response to the request of record confirmation.

PRIORITY 2: ROUTINE

Confirm the hit within one hour. Generally, this priority will be used when the person is being held on local charges, property has been located under circumstances where immediate action is not necessary, or an urgent confirmation is not required. Each agency must within the designated time frame furnish to an agency requesting a record confirmation, a response indicating a positive or negative confirmation or a notice of a specific amount of time necessary to provide a response to the request for record confirmation.

2. Added emphasis is to be given to the concept that the confirmation process is shared between the agency that receive the hit and the agency that entered the record.

3. NLETS (National Law Enforcement Telecommunications System) is to be used, at least for documentation, when a record is being confirmed. NLETS should be used for documentation, even if the initial confirmation is handled by a telephone call.

4. The procedures for the first, second, and third request are being handled by the RNO (Record Number Request) field, the request number field. RNO 2 will automatically generate a request to the CTA's (Control Terminal Agency) of the inquiring and the entering agencies. RNO 3 will automatically generate a request to the CTA's and the FBI.

5. The control terminal office, or his designee, of the originating agency will institute appropriate action to ensure proper response and compliance to system standards and this may include the canceling of records. Failure on the part of any control terminal to ensure such compliance will be brought to the attention of the Advisory Policy Board by FBI NCIC.

An agency that, following confirmation of a hit(s), recovers a Wanted Person that is index in NCIC, except the agency whose ORI (Originating Agency Identifier) is stored in the record, must transmit a locate message for each record that was hit and confirmed with the ORI of the record. See LOCATE section.

C. The purpose of "hit confirmation" is to obtain additional information from the originating Agency to assist in accurately identifying stolen property and/or person(s) to which the record relates. This confirmation is

especially critical with regard to a "hit" in the "Wanted Person File." A response to a hit confirmation request should include at a minimum, extradition procedures and/or stolen property recovery procedures.

D. In order to ensure uniformity relative to the entry of all record information into the SLED/CJIS and/or the FBI/NCIC computer files, it will be necessary that each record be supported by a completed and applicable "Record Entry Form". (CALEA 82.3.8 b.)

E. The following procedures will be followed in order to properly complete "Record Entry Forms":

1. All fields for which information is available should be completed. (It may be necessary to obtain specific NCIC codes to complete the form. Personnel from the Division's Computer Center can assist in the translation of descriptive information to appropriate NCIC codes for entry);

2. All completed forms should be signed by the requesting official and forwarded directly to the Data Processing Section--NCIC Entry, SLED, P.O. Box 21398, Columbia, South Carolina 29221. If using a postage paid envelope provided by the Division, mark BOX "BA".

3. Following the entry of a record into the SLED/CJIS or FBI/NCIC files, a copy of the record as it exists and was entered into the computer files will be forwarded to the Shift Supervisor for a second party review for accuracy. In the event the Shift Supervisor enters the record into the system, a subordinate will review the entry for accuracy. After the record entry has been reviewed, the Shift Supervisor will initial the entry and a copy of the record will be attached to the Record Entry Form. The individual who entered the record will then sign and date the Record Entry Form. This file, along with all support documentation provided, will be maintained in the Computer Center in order by ascending case number for "hit confirmation" purposes as long as the record remains active in the computer files. (CALEA 82.3.8 c., d.)

F. Certain types of information/records to be entered into the SLED/CJIS or the FBI/NCIC files require that certain information be provided prior to the entry. The following documentation is, therefore, mandatory, for the entry of certain records, as follows: (CALEA 82.3.8 a.)

1. Wanted Persons: When requesting that an individual be entered into the "Wanted Person Files," it is necessary to provide a certified copy of the warrant for the individual when submitting the Record Entry Form. Additionally, it must be noted that the Division offers system users two (2) independent wanted person files: 1) the FBI/NCIC wanted files; 2) the SLED/CJIS state wanted person files. The general differences between these files are:

a. Individuals who have committed an offense for which he/she would be extradited from another state or territory are to be entered into the FBI/NCIC file. Individuals who have committed an offense for which he/she would not be extradited if located outside of South Carolina are to be entered into the state wanted person file.

b. Retention period for the FBI/NCIC file is indefinite until cleared or cancelled. Retention period for the State Wanted Person File is year of entry plus three (3). Each Wanted Person Entry form must indicate to which wanted person file the offender is to be posted.

2. Division Stolen Property: When requesting that property of the Division and/or State of South Carolina be entered as stolen into the SLED/CJIS and/or FBI/NCIC files, it is necessary that a photocopy of the stolen report forwarded to the Division's Purchasing/Inventory Office be provided along with the Record Entry Form.

G. The following procedures will be followed in order to **MODIFY OR CANCEL** a record maintained in the SLED/CJIS and/or FBI/NCIC files:  
(CALEA §2.3:8 e.)

1. All requests to modify or cancel a record maintained in the CJIS or NCIC files can be made by telephoning the Computer Center with the appropriate information and instructions. The individual in the Computer Center responsible for this task will complete, sign and date the "Cancel/Modify Form."

2. In those instances where a record is modified, a copy of the record as modified will be included in the "hit confirmation" reference file. When instructions are received to cancel a record, the record will be immediately removed from the computer files. A copy of the cancellation notice will be included in the "hit confirmation" reference file.

3. When instructions are received to clear a record from the SLED/CJIS or the FBI/NCIC computer files due to the apprehension of a Wanted Person or recovery of stolen property, the record will be immediately removed from the computer files. A copy of the clear notice will be included in the "hit confirmation" reference file.

H. Following cancellation of a record from the SLED/CJIS and/or the FBI/NCIC files, the entire "hit confirmation" reference file will be returned to one of the following:

1. Division Case Number: In those instances in which the cancelled record contains a Division Assigned Case Number issued by the Case File Section, this file will be forwarded to the Case File Section for retention with other investigative information associated with the particular case.

2. Computer Center Case Number: In those rare instances in which it was necessary that the Computer Center assign a reference number and the record is cancelled, the "hit confirmation" file will be maintained for 30 days and then destroyed.

3. Purchasing and Inventory Office Case Numbers: In those instances involving Division property, a case number will be assigned by the Purchasing/Inventory Offices. These case numbers will have a prefix of "INV." When decided a record containing prefix will be cancelled, the "hit confirmation" reference file will be forwarded to the Purchasing/Inventory Office for further action (i.e.: retention, destruction, etc.).

I. FBI/NCIC policies require that all records entered and maintained in the FBI/NCIC files be reviewed periodically to ensure information is still valid and should continue to be maintained in the computer files.

J. Each individual responsible for the entry of a record into the SLED/CJIS and/or the FBI/NCIC files will be responsible for certifying that the property has not been located or recovered; those warrant(s) for a particular individual are still valid; extradition is anticipated if the subject is located; or, in the case of a missing person, the individual is returned in accordance with documentation that may be on file.

K. Validation notices will be mailed to each individual responsible for particular records. Validation certification must be returned within 30 days of mail-out notification. If certification is not received within the specified time period, the record(s) will be removed from the SLED/CJIS and/or the FBI/NCIC files.

L. It should be understood that this policy is not designed to cause unnecessary delay in entering records in the CJIS or the NCIC files. Appropriate documentation is mandatory to ensure accuracy and prevent unnecessary liability for invalid information disseminated by the Division.

M. These procedures should not be viewed as a deterrent to issue immediate in-state bulletins and "All-Points Bulletins" when appropriate for stolen vehicles, wanted and/or missing person(s). This can be accomplished by telephoning the Computer Center and establishing adequate identification.

N. Inquiries may be made to the central records repository concerning suspects or subjects of an investigation on several levels. Where applicable, a hard copy of the inquiry transaction should be obtained to ensure that all desired records/repositories have been checked.

BY ORDER OF:

  
Robert M. Stewart  
CHIEF OF SLED

DISTRIBUTION: MANUAL HOLDERS



U.S. Department of Justice

Federal Bureau of Investigation

Clarksburg, WV 26306

August 2, 2006

Mr. Robert Glenn Greene

[REDACTED]  
[REDACTED] SC [REDACTED]

SUBJECT: Firearm Denial Appeal Acknowledgment  
National Instant Criminal Background Check System  
(NICS) Transaction Number (NTN)-0XLBS79

Dear Mr. Greene:

This letter is in response to your inquiry concerning your denial to purchase or redeem a firearm. By way of background, during a NICS check, our computer system searches several databases which contain records of persons with disqualifying conduct. As a name and descriptive-based system, the computer program is designed to screen individuals with similar names and/or similar descriptive features within certain parameters. Your denial indicates that either you or another individual with a similar name and/or similar descriptive features has been matched with the following federally prohibitive criteria under Title 18, United States Code, Sections 921(a)(20) and 922(g)(1): A person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year or any state offense classified by the state as a misdemeanor and is punishable by a term of imprisonment of more than two years.

If you believe you are the individual who meets this criteria, but have certified court documentation which may nullify our denial, you may submit it to the FBI Criminal Justice Information Services Division's National Instant Criminal Background Check System Section, Appeal Services Team, Post Office Box 4278, Clarksburg, West Virginia 26302-9922. Additionally, if you believe you are the individual whose FBI identification record is on file and desire a copy of that record, you must submit positive proof of your identity.

If you believe you are not the individual whose FBI identification record is on file, you must also submit positive proof of your identity. Positive proof of your identity requires that you provide a set of your rolled fingerprint impressions

Mr. Robert Glenn Greene

prepared by a law enforcement agency on the enclosed fingerprint card. The fingerprint card must contain the following information:

- The law enforcement agency rolling the fingerprint impressions must stamp its agency name and address on the fingerprint card in the designated area. The agency's telephone number also must be included.
- All areas on the fingerprint card must be completed; however, the inclusion of any additional information may help expedite your appeal.
- The FBI Criminal Justice Information Services (CJIS) Division's NICS Section will not charge a fee for this procedure; however, a fee may be charged by the law enforcement agency.

Please be advised that failure to comply with any of the above-listed requirements may result in the rejection of your fingerprint card submission, thereby causing further delays in the processing of your appeal.

Upon receipt of your fingerprints, we will conduct a fingerprint comparison. If the record used for the denial does not match your fingerprints, you will be notified. If the fingerprint comparison is identical, you will be furnished additional information regarding the record(s) on which the denial is based. Your fingerprint card will be returned to you upon verification of identity.

To facilitate initial processing and eliminate unnecessary administration, once a disqualifier has been identified, the NICS Section Appeal Services Team (AST) will not review other records for additional disqualifiers. However, should your appeal be successful on the initially denied record, the NICS AST will examine any additional records for disqualifying information which may result in sustaining the denial.

Additionally, the NICS Section has established a Voluntary Appeal File (VAF) for the purpose of allowing lawful purchasers to request that the NICS Section retain information such as court documentation, arrest information and fingerprint cards which may help clarify or prove an appellant's identity in order to avoid extended delays or erroneous denials on future NICS transactions. An informational VAF brochure is enclosed for your review. If you are interested in being considered for the

Mr. Robert Glenn Greene

VAF, please fill out the VAF application in its entirety, sign the VAF Applicant's Statement and submit any other pertinent information to the address listed on the VAF brochure. An envelope is enclosed for your convenience.

Ensure all correspondence/submissions contain your NTN. Failure to do so will only delay your appeal. Please be advised that your VAF application will be rejected if your appeal is unsuccessful.

If you have any questions regarding this communication, you may contact the NICS Section Customer Service at 1-877-444-6427.

NICS Section  
CJIS Division

Enclosures (3)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON CASE NO. 2010-CP-10-718

ROBERT GLENN GREENE,  
Plaintiff,  
-vs-  
STATE LAW ENFORCEMENT  
DIVISION AND SLED AGENT ROGER  
HEATON,  
Defendants.

COPY

The deposition of Robert Glenn Greene, given before Vicki Small, Court Reporter and Notary Public, at the Law Office of Mark V. Evans, 147 Wappoo Creek Drive, Suite 102, Charleston, South Carolina, on Thursday, October 21, 2010, commencing at 10:09 a.m.

RAY SWARTZ & ASSOCIATES OF SOUTH CAROLINA  
-Professional Court Reporters-  
Serving the Legal Community Since 1957  
1-800-822-8711

Beaufort      Camden      Charleston      Columbia  
Florence      Greenville      Greenwood      Hilton Head  
Lexington      Myrtle Beach      Newberry      Orangeburg  
Spartanburg      Summerville      Sumter      West Columbia

RAY SWARTZ & ASSOCIATES OF SOUTH CAROLINA 1-800-822-8711

Robert Glenn Greene - Direct Examination by  
Ms. Ganes

Page 35

1 that something was on your record that shouldn't  
2 have been there?

3 A. I told my psychiatrist.

4 Q. Anybody that is not privileged. You don't have to  
5 tell me what you told your psychiatrist.

6 A. Well, you asked me --

7 Q. Right. I'm just trying to let you know before you  
8 tell me stuff that I'm not entitled to know.

9 A. Just my lawyer. These aren't things I want  
10 somebody -- once you tell somebody something, you  
11 can't un-tell it. Even people told my girlfriend  
12 that it was on my record, at the time, that found  
13 out.

14 Q. Who was that?

15 A. Patty Hesseltine. Come to found out, all of  
16 Berkeley County knows it.

17 Q. How did you find that out?

18 A. I tried to start a civil lawsuit against the  
19 people that hurt me. He asked me, "I didn't know  
20 you did three years in prison, and that you're out  
21 on parole," because he's a college friend. And he  
22 handed me -- I went to his office and got it, and  
23 I flipped out. Then it made sense of why these  
24 people in Berkeley County were treating me the way  
25 they were treating me.

RAY SWARTZ & ASSOCIATES OF SOUTH CAROLINA 1-800-822-8711

1 Q. What people in Berkeley County?

2 A. The detectives, the solicitor, even the judge, the  
3 victim's advocate of violent crimes.

4 Q. This is related to the incident in 2007?

5 A. That's correct. They treated me the way you would  
6 treat a sex offender.

7 Q. Did any of those people in Berkeley County ever  
8 say to you, "We saw this on the record"?

9 A. They called my ex-girlfriend and told her that  
0 that was on my record.

1 Q. That's Patty Hesseltine?

2 A. That's correct.

3 Q. Do you have a girlfriend now?

4 A. No.

5 Q. Is that Detective Maggie Carver who told Patty  
6 Hesseltine?

7 A. That's correct.

8 Q. You've given me that discovery, but I need you to  
9 tell me here in your deposition -- and we won't  
0 belabor it. But tell me a little bit about that  
1 circumstance of Maggie Carver telling Patty  
2 Hesseltine that this was on your record.

3 A. She called her. Patty's brother had been in that  
4 the department and was her partner.

5 Q. What is his name?

1 A. Bobby Ellis.

2 Q. He was an officer?

3 A. Yes, he was.

4 Q. I'm sorry to interrupt. Go ahead.

5 A. She called Patty and told her that she needed to  
6 watch me around her daughter because I was a  
7 convicted sex offender.

8 Q. Did anybody ever --

9 A. Do the math? Look at it?

10 Q. No. Did anybody ever approach you about  
11 registering or anything of that nature?

12 A. No.

13 Q. So they never came to your house and said, "Why  
14 aren't you registered?"

15 A. No.

16 Q. How old was Patty's daughter?

17 A. 15.

18 Q. Was that her only child?

19 A. Yes.

20 Q. Do you have any siblings?

21 A. Yes, I do.

22 Q. How many?

23 A. One.

24 Q. Is it a brother or sister?

25 A. Sister.

1 Q. What is her name?

2 A. Leigh Anne Riddle.

3 Q. Where does she live?

4 A. She lives in Vero Beach.

5 Q. What does she do for a living?

6 A. She's a nurse.

7 Q. I skip around when I fill things in.

8 A. I got that.

9 Q. How did you find out that Maggie had called Patty  
10 or that Detective Carver had called Patty?

11 A. I found that out in -- she told me in '09.

12 Q. That the phone call had been made in '07?

13 A. Yes.

14 Q. And she had kept it from you?

15 A. Yes.

16 Q. And had never said anything about it?

17 A. I was like, "You're retarded. A detective calls  
18 you and says that I'm a sex offender, and you  
19 don't tell me."

20 Q. How long did you date Patty?

21 A. For three years.

22 Q. When did you break up?

23 A. About six months ago.

24 Q. Why did you guys end your relationship?

25 A. Well, her daughter stabbed me, so it pretty

1 much -- it was just too much baggage.

2 Q. So the phone call from Detective Carver came to  
3 Patty in about 2007?

4 A. 2007, about 11 days after this (indicating).

5 Q. After your incident?

6 A. Yes. And she pulled the records --

7 Q. On you?

8 A. -- on me.

9 Q. And called Patty?

10 A. Yes.

11 Q. Is there any other incident of this being  
12 discussed about you that you're aware of?

13 A. That I know of, no. I think that it's a good --

14 Q. Right. By my questions, I'm not trying to  
15 diminish what you've already told me. I'm just  
16 trying to make sure we get it all.

17 A. That's a pretty good hit.

18 Q. I'm not trying to diminish the importance of one  
19 time. I just want to know if there are ten.

20 A. At that point everyone knows. That means the  
21 solicitor knew, because he pulled my record as  
22 well. That means the judge saw it as well. That  
23 means the opposing side got it, and they probably  
24 all had it in yellow right there. That is why the  
25 guy who I know the judge from, Mr. Query, said

1 that judge would have given him five years for  
2 what he did. Five years, not nine months out in  
3 five months with probation and nothing else.

4 That's when it all started to click for me. I  
5 called Officer Carver 30 times trying to find out  
6 things, and she never returned my calls. I called  
7 the station and left messages with her captain and  
8 never got responses.

9 Q. Tell me about the allegation that you have in your  
10 complaint of early February 2006, your attempt to  
11 purchase a firearm from a dealer.

12 A. Correct.

13 Q. Tell me, where did that happen?

14 A. That happened at Ladson Fair Ground.

5 Q. Was that at a gun show?

6 A. That's correct.

7 Q. You don't know who the dealer was?

8 A. No, I don't.

9 Q. In 2006, who were you at that gun show with?

0 A. I was at that gun show with Tom Hall.

Q. Who is Tom Hall?

A. A former friend.

Q. Where does he live?

A. He lives at Folly Beach.

Q. Is he employed?

1 A. No, ma'am.

2 Q. So 2006 was the first time you attempted to do  
3 that?

4 A. That's correct.

5 Q. Is that the only time you've ever attempted to do  
6 that?

7 A. Correct.

8 Q. What happened?

9 A. I was refused purchase of the gun, but I didn't  
10 think it was a big deal because I thought it might  
11 have -- I thought I had read that you were unable  
12 to purchase a gun for a year if you were arrested  
13 for criminal --

14 Q. CDV?

15 A. Yes, correct.

16 Q. You were arrested for CDV in 2005?

17 A. That's correct.

18 Q. When did you get divorced from Polly?

19 A. Three months later.

20 Q. In 2005?

21 A. Yes, ma'am.

22 Q. So when you were -- when you started to see Robin,  
23 you were also at the end of your marriage like she  
24 was?

25 A. That's correct.

# ARREST RECORD

## S.C. LAW ENFORCEMENT DIVISION

Since neither fingerprints nor an identifying number which is indexed in our files accompanied your request, SLED cannot guarantee in any manner that this material concerns the individual in whom you are interested.

TO: REC03A-05080 Wed Feb 13, 2008 13:09:08 0PML6RAWPKFB  
 FROM: SCCH-00396 Wed Feb 13, 2008 13:09:08

ICHR REQUEST FOR RAP SHEET  
 ORI-SCLED0000 SID-389936 PUR-E  
 ATN-SELF; MHH

AUTHORIZED USE ONLY. \*\*\*\*\* CONTACT CONTRIBUTING  
 AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.  
 BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY  
 SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE--01 DATE--02/13/2008 TIME--13:09:06  
 REQ ORI-SCLED0000 S C LAW ENF DIV  
 SID-SC00389936 FBI- 90024DAB  
 NAME-GREENE, ROBERT GLENN SEX-M RACE-W  
 HEIGHT-602 WEIGHT-200 EYES-BRO HAIR-BRO SKIN-FAR BORN-NC  
 FPC-DO1111PMP01300121112 HENRY-11 0 9 U OOM  
 M 21 U IOI 12

PHOTOGRAPH AVAILABLE AUTHORIZED USE ONLY  
 PALM PRINTS AVAILABLE AUTHORIZED USE ONLY  
 1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--12/16/1982 DATE OF LAST UPDATE--02/28/2006

ADDITIONAL IDENTIFIERS	BIRTH			
NAME	DATES	MARKS	SOC SEC	MISC NUM
GREEN, ROBERT GLENN	05081961			
GREENE, GLENN				

CONTRIBUTOR/SUBJECT	DOA/RCVD	CHARGE/DISPOSITION/ETC
---------------------	----------	------------------------

SC0100200 CHARLESTON CNTY PD	10/07/1982	
CASE-82395948		

ARREST CHARGE 01-DRIVING  
 UNDER SUSPENSION  
 OFFENSE DATE-10/07/1982

GREENE, ROBERT GLENN	07/27/1984	
SC0100100 CHARLESTON POLICE DE		
CASE-111097		
WARR-B140982		

ARREST CHARGE 01-BURGLARY  
 PHOTOGRAPH AVAILABLE  
 PALM PRINTS AVAILABLE

WARR-B140983

BATTERY HIGH AGGRAVATED  
NATURE

GREEN, ROBERT GLENN  
SC0100100 CHARLESTON POLICE DE  
CASE--111897  
WARR-C144186 @

06/10/1988

ARREST CHARGE 01-ATTEMPTED  
BURGLARY  
PHOTOGRAPH AVAILABLE

WARR-C144185 @

ARREST CHARGE 02-CONSPIRACY  
TO VIOLATE NARCOTIC LAW  
COURT CHARGE 01-ATTEMPTED  
BURGLARY  
COURT DISP--NON-CONVICTION;  
DISMISSED  
COURT DATE--09/15/1988  
COURT CHARGE 02-CONSPIRACY  
COURT DISP--NON-CONVICTION;  
DISMISSED  
COURT DATE--09/15/1988

GREENE, ROBERT GLENN  
SC0100000 CHARLESTON CNTY 90  
CASE-2005024299  
ATN-10X005291054  
WARR-NA @  
CIT-16-25-0065-MISDEMEANDR

10/18/2005

ARREST CHARGE 01-CRIMINAL  
DOMESTIC VIOLENCE HIGH  
AND AGGRAVATE\*  
OFFENSE DATE-10/18/2005  
PHOTOGRAPH AVAILABLE

CIT-16-15-140-FELONY  
DOC-05651004854 WARR-H919963

COURT CHARGE 01-COMMITTING  
LEWD ACT UPON CHILD UNDER  
16  
COURT DISP-CONVICTED;5 YRS  
SERVE 3 YRS BAL SUS 2 YRS  
PROB/CONC/CRED FOR  
COURT DATE-02/01/2006  
ATN-10X005291054

@ - WARRANT OCCURS WITH MORE THAN ONE SID NUMBER

BASED ON SEARCH OF SLED CJIS CCH FILE USING SID/SC00389936  
THIS CRIMINAL HISTORY RECORD IS FOR SOUTH CAROLINA ARRESTS AND  
CONVICTIONS ONLY AND IS BASED ON THE INFORMATION PROVIDED. SINCE  
CHANGES MAY OCCUR DAILY A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT  
USE OF THIS RECORD IS ALLOWED.

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION  
PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN  
CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS.  
THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY  
FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS  
DEFINED BY THE GUN CONTROL ACT OF 1968 (18.U.S.C 922(G)).

\*\* S C CJIS END OF RECORD \*\*

ICRP REQUEST FOR RPT SHEET  
011-3008000 SID:909996 PUR-1  
RPN-G, P

AUTHORIZED USE ONLY CONTACT CONTACTING  
AGENCY FOR SPECIFIC MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS  
BECAUSE ADDITIONS OR DEVIATIONS MAY BE MADE AT ANY TIME. A NEW COPY  
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

**ARREST RECORD**  
S.C. LAW ENFORCEMENT DIVISION  
EMPLOYEE #29

CASE-11 011-3008000 TIME-14:38:27  
AND 011-3008000 AND 011-3008000  
011-3008000 AND 011-3008000  
011-3008000 AND 011-3008000  
011-3008000 AND 011-3008000  
011-3008000 AND 011-3008000

Since neither fingerprints nor an  
identifying number was included  
in our file accompanied your re-  
quest, SLED cannot guarantee in any  
manner that this material concerns  
the individual in whom you are  
interested.

DATE RECORD ENTERED--12/18/1992 DATE OF LAST UPDATE--03/11/2008

ADDITIONAL IDENTIFIERS	BIRTH	NAME	DATES	MARKS	SEC	SEC	MISC	NUM
	05081961	GREEN, ROBERT GLENN						
		GREENE, GLENN						

CONTRIBUTOR/ISSUER FOR SCOTLAND YARD/CHARLESTON POLICE

011-3008000 AND 011-3008000  
011-3008000

GREENE, ROBERT GLENN 05/08/1961  
SC0100100 CHARLESTON POLICE DE  
CASE-111897  
WARR-8140962

WARR-8140962

GREEN, ROBERT GLENN 05/08/1961  
SC0100100 CHARLESTON POLICE DE

WARR-8140993

PROBATION DEPT. OF CORRECTIONS  
COURT HOUSE  
MONTGOMERY, ALA.

GREENE, ROBERT GLENN  
1072 1/2 AVE  
MONTGOMERY, ALA. 36103

1072 1/2 AVE

PROBATION DEPT. OF CORRECTIONS  
COURT HOUSE  
MONTGOMERY, ALA.

GREENE, ROBERT GLENN  
1072 1/2 AVE  
MONTGOMERY, ALA. 36103  
CIT-15-23-55-FELONY  
DISMISSED  
COURT DATE-09/15/1968  
COURT CHARGE 02-CONSPIRACY  
COURT DISP-NON-CONVICTION  
DISMISSED  
COURT DATE-09/15/1968

GREENE, ROBERT GLENN  
1072 1/2 AVE  
MONTGOMERY, ALA. 36103  
CIT-15-23-55-FELONY

PROBATION DEPT. OF CORRECTIONS  
COURT HOUSE  
MONTGOMERY, ALA.

CIT-15-23-55-FELONY

GREENE, ROBERT GLENN  
1072 1/2 AVE  
MONTGOMERY, ALA. 36103  
CIT-15-23-55-FELONY  
DISMISSED  
COURT DATE-09/15/1968  
COURT CHARGE 02-CONSPIRACY  
COURT DISP-NON-CONVICTION  
DISMISSED  
COURT DATE-09/15/1968

9 - WARRANT OCCURS WITH MORE THAN ONE SID NUMBER.

GREENE, ROBERT GLENN  
1072 1/2 AVE  
MONTGOMERY, ALA. 36103  
CIT-15-23-55-FELONY

PROBATION DEPT. OF CORRECTIONS  
COURT HOUSE  
MONTGOMERY, ALA.

GREENE, ROBERT GLENN

1072 1/2 AVE

MONTGOMERY, ALA. 36103  
CIT-15-23-55-FELONY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR NINTH JUDICIAL CIRCUIT
Robert Glenn Greene,	)	C/A No. 10-CP-10-718
	)	
Plaintiff,	)	<b>ORDER OF DISMISSAL</b>
	)	<b>AS TO</b>
Versus	)	<b>SLED AGENT ROGER HEATON</b>
	)	
State Law Enforcement Division, and	)	
SLED Agent Roger Heaton,	)	
	)	
Defendants.	)	

2011 JUN 24 PM 3:37  
 JULIE J. ARMSTRONG  
 CLERK, C.P. & P.C.

The Plaintiff hereby agrees, stipulates, and consents to the DISMISSAL of his Complaint with prejudice, against the Defendant, SLED Agent Roger Heaton, in the above-captioned case;

ON MOTION of Hood Law Firm, LLC, Attorneys for the Defendants, and with the consent of Mark V. Evans, Esquire of Query Sautter, Gliserman & Price, LLC, Attorney for the Plaintiff, it is

ORDERED, ADJUDGED, AND DECREED that this case be, and the same is hereby, dismissed with prejudice and forever ended as to the Defendant SLED Agent Roger Heaton.

**IT IS SO ORDERED.**

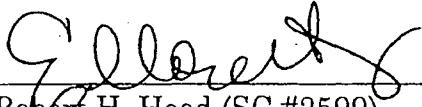
*S. Kristi Harrington*  
 Presiding Judge, Ninth Judicial Circuit

*June 23*, 2011  
*Chas*, South Carolina  
 J:\docs\1.114\Order of Dismissal (Heaton).doc

ATTEST: A TRUE COPY  
 JULIE J. ARMSTRONG (SE)  
 CLERK, C.P. & P.C.  
 BY *[Signature]*  
 DEPUTY CLERK

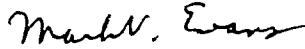
**WE MOVE FOR DEFENDANTS,**  
State Law Enforcement Division, and SLED  
Agent Roger Heaton:

**I CONSENT FOR THE PLAINTIFF,**  
Robert Glenn Greene:



Robert H. Hood (SC #2599)  
Robert H. Hood, Jr. (SC #13491)  
Ellorée A. Ganes (SC #70509)

HOOD LAW FIRM, LLC  
172 Meeting Street  
Post Office Box 1508  
Charleston, SC 29402  
Phone: (843) 577-4435  
Facsimile: (843) 722-1630  
Email: [Info@hoodlaw.com](mailto:Info@hoodlaw.com)



Mark V. Evans, Esquire

QUERY SAUTTER, GLISERMAN  
& PRICE, LLC  
147 Wappoo Creek Drive  
Wappoo Centre, Suite 202  
Charleston, SC 29412  
P: (843) 762-6640; F: (843) 762-1500  
E: [MEvans14@bellsouth.net](mailto:MEvans14@bellsouth.net)

CERTIFICATE OF APPELLANT'S COUNSEL

I hereby certify that this Record on Appeal contains all material proposed to be included by the parties hereto and not any other material.

Mark V. Evans      7/3/12  
Mark V. Evans, Esquire

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM CHARLESTON COUNTY  
COURT OF COMMON PLEAS

THE HONORABLE R. MARKLEY DENNIS, JR., PRESIDING JUDGE

---

CASE NUMBER: 2010-CP-10-718

---

ROBERT GLENN GREENE,

APPELLANT,

vs.

STATE LAW ENFORCEMENT DIVISION, and SLED AGENT ROGER HEATON,

RESPONDENTS,

**RECEIVED**

JUL 05 2012

---

PROOF OF SERVICE

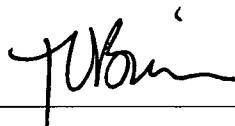
---

**SC Court of Appeals**

I, the undersigned, hereby certify that I served a copy of the Record on Appeal upon Ellore A. Ganes, attorney for Respondents, by placing a copy of same in the United States Mail with sufficient postage attached thereto and addressed as follows:

Ellore A. Ganes, Esquire  
Hood Law Firm, LLC  
172 Meeting Street  
Post Office Box 1508  
Charleston, South Carolina 29402

Dated: 7.3.12

  
\_\_\_\_\_