

RECEIVED

OCT 06 2022

For Enclosure 2

SC Court of Appeals

Dear Court of Appeals
I have been trying my best to work with Clerk Allen. She seem to have some personal hate for me. I responded to the Sept 09 letter explaining I have a touch of Covid, that I am a Senior citizen and living only on Social Security that I couldnt possible have the Filing Fee until Oct 3 only a few weeks away. I wrote her again and call several times since the 9th she deliberately refuse to respond until she choose to send the case back to lower court even thou she is not even an Judge. She herself did not Follow rules as an clerk, No proof of Service on Sept 26 letter, No info on Filing appeals, no letter explaining Filing Fees (Full amount). These are serious violations for an clerk. I will keep my promise For Filing on Oct. 3

EL J

STATEMENT OF THE CASE

I would like to contest the following opinions of the Circuit Court of Appeals that the Circuit Court wrongfully transferred case 2020-000479 back to Common Plea Court. They were wrong on all accounts and my evidence will prove that.

1. We hold the Circuit Court erred when they sent the case to Common Plea Court because the defendants failed to file counter claims within the 30 days given under SC R magistrate Court 7 (Magistrate Rule Guideline). Counter claims if not filed in 30 days in S.C. meant you defaulted. Even future arguments of counter claims are out of the picture. (see exhibit A)

The December 6th defendant answers is invalid and irrelevant here's why. On November 19, 2019, the defendant requested a 5 (a) form which gives details or cause of action details of a complaint. I sent the 5 (a) form on November 21, 2019 (see exhibits B & C page 24). The defendant used his old tricks to defraud the courts saying the form 5(a) that I sent was amended complaint. He does that to justify getting time to file lies about counterclaims. He uses rule 15 (a) as a scape goat. Rule 5(a) has absolutely no clause that allows a 21 day for a defendant to amend his or her answers (see exhibit D) page 5. 2-4

Another reason this case should be sent back to magistrate is because the defendant lawyer Mark Abbott and Judge Owens engaged in an illegal court violation (Exparta Communication) in where they contacted each other without me knowing (see exhibit E page 6 and F page 7). This is a very serious violation. It is also a serious violation of Canon 3 a list of rules the judge should follow. In this case the judge violation Canon B (2) and 5 (see exhibit G page 8). The judge knew no counter claims telling by the dates of his defendant answers (see exhibit H page 9-10). Mark Abbott has to this day presented any shred of evidence of counter claims in excess of over \$7,500 only hearsay testimony.

This case was a change of venue case meaning the original complaint and all others must be filed where the original complaint was held. The magistrate shall treat the complaint as though he issued the complaint himself. In this case, the counter claims and all should be filed in the Florence County court the original jurisdiction of the complaint. Judge Owens admitted the counter claims were filed in his court making the transfer invalid (see exhibit I page 11) see also (exhibit E page 6).

2. The circuit court ruled obstruction of justice is not a civil case in S.C. and only prosecutors and the attorney general no private citizens can bring criminal action or any complaints in S.C. Are you kidding me?! These judges obviously are reading to make Dick and Jane books and not enough law books. many

Law U.S.C 1509 gives me a right to bring civil action against someone for obstruction of justice. It reads "no junctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime." (see exhibit J page 11)

1509 is a federal law. Federal laws are laws of the land. It overrides state laws and is part of the supremacy clause and the doctrine of the preemption. Meaning it can overpower any of the state laws for obstruction the defendants may argue (see exhibit K page 12). I am also enclosing a Right to Sue Letter making this case can be tried in federal or state court (see exhibit L page 15).

The circuit court claimed I didn't have enough evidence for sufficient records to show the circuit court was bias. I showed evidence of no counter claims were filed when the circuit court said they were filed when the circuit court said they were filed. I showed evidence of no counter claims were filed when the circuit court said they were filed. I showed ex parte communication between Mark Abbott and Judge Owens.

The defendant offered arguments that were irrelevant to this case. In re est. of Moore this case is irrelevant and deals with family property and has nothing to do with obstruction of justice. In Rainey vs. Haley, this case deals with former Gov. Nikki Haley and is completely political not with obstruction. In Elam vs. Department of Transportation the court claims this case is not up to appellate review because of not enough evidence. This statement is wrong! I have completed my administrative remedies so this case can be up for an appeal (see exhibit M page 13).

3. I hold the Circuit Court and Court of Appeals of being bias as well as deliberately negligent. The courts stated the decision made by Judge Roy Nettles was based on Law 15-3-530 when it was really based on Law 15-3-350. (see decision on page 22 in Record of Appeals).

The statute of limitations for violations of federal laws is 5 years period (see exhibit N page 14 and page 15). See also Exh. OP16

CONCLUSION

I have had bad luck with the Court of Appeals the last 5 years. The rule of judges is outlined in Canon 3. Judges are to be fair and honest. It is obvious that the judges in this circuit court opinions were not. Therefore, I have no choice if these decisions aren't reversed to request a full-scale investigation on judges and lawyers. These requests will be with the S.C. Bar, the Judicial Commission on conduct and because federal criminal charges (obstruction of justice) and possibly the FBI.

I have enclosed a tape of the December 2nd court hearing rewarding me with a jury trial. The defendants never appealed the magistrate court decision in the 30 days given time and the court of appeals only provided opinions. Therefore, this case should be handed over to magistrate court for a jury trial as intended from the beginning. The request for an investigation will begin after appeals only if necessary.



Edward Spears
503 Roughfork Street
Florence, SC 29501
Edward4920@att.net
843-496-3711

P.S

The Florence & Lake City magistrate Court Refuse to assist me in getting Recordings of the Dec. 2nd Pre trial. That caused an delay of getting evidence. They still refuse to assist which is part of their job. My case will not be transferred because of their deliberately negligent! If this case is return to me I will not accept & mail copies to governor's office along with clerk's letters to show her deliberate negligent work

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Edward Spears, Appellant,

v.

Michael S. Hopewell, Respondent.

Appellate Case No. 2020-000479

Appeal From Florence County
Michael G. Nettles, Circuit Court Judge

Unpublished Opinion No. 2022-UP-280
Submitted June 1, 2022 – Filed June 29, 2022

AFFIRMED

Edward Spears, of Florence, pro se.

Michael Charles Abbott, of Abbott, McKissick &
Hopewell, LLC, of Florence, for Respondent.

PER CURIAM: Edward Spears filed this action in magistrate court alleging Michael Hopewell committed obstruction of justice under federal law and seeking to recover \$7,500 in damages. He now appeals the circuit court's denial of his motion to reinstate his case to the magistrate court, grant of Hopewell's motion to dismiss, and determination that the statute of limitations barred Spears's claim. On appeal, Spears argues the circuit court erred in (1) determining the magistrate court

properly transferred the case to the circuit court; (2) finding obstruction of justice is not a civil cause of action in South Carolina; and (3) finding his claim was barred by a three-year statute of limitations for "general tort" actions. We affirm.

1. We hold the circuit court did not err in finding the magistrate court properly transferred the case because Hopewell asserted actual and punitive damages in excess of \$7,500 in his counterclaims. *See generally* S.C. Code Ann. § 22-3-10 (2007) (stating magistrate courts have jurisdiction over civil cases where the damages claimed do not exceed \$7,500); Rule 9(b) SCRMC (requiring the transfer of civil cases from the magistrate court to the circuit if the defendant asserts a counterclaim exceeding \$7,500 and does not waive the damages above \$7,500 then "the entire action shall be transferred to the circuit court"); S.C. Code Ann. § 22-3-30 (2007) ("When a counterclaim is filed which if successful would exceed the civil jurisdictional amount as provided in Section 22-3-10, then the initial claim and counterclaim must be transferred to the docket of the common pleas court for that judicial circuit."); Rule 13(j), SCRCP ("In an action brought in a court of limited jurisdiction, in the event the counterclaim . . . is in excess of the jurisdictional amount . . . the action shall be transferred to the circuit court . . ."). Hopewell timely filed his amended answer and counterclaims because he filed them fifteen days after Spears filed his amended complaint. *See* Rule 15(a) SCRCP (stating when a plaintiff is permitted to amend his complaint, the defendant "shall plead in response to an amended [complaint] . . . within *fifteen days* after service of the named amended pleading . . . unless the court otherwise orders" (emphasis added)).¹

2. We hold the circuit court did not err in ruling that obstruction of justice is not a civil cause of action in South Carolina. Therefore, only prosecutors and the attorney general may bring criminal actions in South Carolina, not private civilians. *See* S.C. Const. art. V, § 24 ("The Attorney General shall be the chief

¹ As to Spears's argument the transfer was a result of bias, Spears failed to provide a sufficient record for this court to evaluate whether the circuit court acted improperly or was biased against him. *See In re Est. of Moore*, 435 S.C. 706, 715, 869 S.E.2d 868, 872-73 (Ct. App. 2022) ("The [a]ppellant bears the burden of providing a sufficient record on appeal from which this court can make an intelligent review."); *id.* at 715, 869 S.E.2d at 873 ("In the absence of such a record, [an] issue cannot be considered on appeal." (quoting *Bonaparte v. Floyd*, 291 S.C. 427, 444, 354 S.E.2d 40, 50 (Ct. App. 1987))); *see also* Rule 210(h), SCACR ("[T]he appellate court will not consider any fact which does not appear in the Record on Appeal.").

prosecuting officer of the State with authority to supervise the prosecution of all criminal cases in courts of record."); *In re Richland Cnty. Magistrate's Court*, 389 S.C. 408, 411, 699 S.E.2d 161, 163 (2010) ("The South Carolina Constitution, South Carolina statutes and case law place the unfettered discretion to prosecute *solely* in the prosecutor's hands." (emphasis added)); *see also Rainey v. Haley*, 404 S.C. 320, 332, 745 S.E.2d 81, 87 (2013) (Beatty, J., concurring) ("By precluding a private citizen from prosecuting a criminal action, the interests of the public are best served as the 'powers of the State are employed only for the interest of the community at large' as opposed to the potential self-interest of a private party." (quoting *In re Richland*, 389 S.C. at 412, 699 S.E.2d at 163)).

Because the circuit court did not err in finding Spears could not bring an obstruction of justice action against another citizen, we hold the circuit court did not err in dismissing Spears's claim on the basis that he failed to state a claim. *See* Rule 12(b)(6), SCRCP (requiring a claimant to "state facts sufficient to constitute a cause of action"); *Williams v. Condon*, 347 S.C. 227, 233, 553 S.E.2d 496, 499 (Ct. App. 2001) (stating this court, when considering a motion to dismiss a complaint, will construe the complaint in the light most favorable to the nonmovant and determine if the "facts alleged and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case"); *In re Richland*, 389 S.C. at 411, 699 S.E.2d at 163 (holding prosecutors, not private citizens, bring criminal actions in South Carolina).

Additionally, we hold Spears's argument that the circuit court was required to follow federal law in deciding this case is not preserved for appellate review. *See Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) ("A party *must* file [a Rule 59(e)] motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.").

3. We hold the circuit court did not err in finding the statute of limitations had lapsed. *See* S.C. Code Ann. § 15-3-530 (2005) (informing that the statute of limitations for general torts is three years).²

Finally, we hold Spears's argument that his claim was timely under the federal obstruction of justice statute of limitations is not preserved for appellate review. *See Elam*, 361 S.C. at 24, 602 S.E.2d at 780 ("A party *must* file [a Rule 59(e)]

² The circuit court's citation to S.C. Code Ann. § 15-3-350 (2005) was a typographical error.

motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.").

AFFIRMED.³

WILLIAMS, C.J., and KONDUROS and HEWITT, JJ., concur.

³ We decide this case without oral argument pursuant to Rule 215, SCACR.

Proof of Service

The State of South Carolina
In the Court of Appeals
Appeal from Florence S.C.

Michael L Nettles Judge
Case No. 2019CP2103521

Mike Hopwell

Respondent


Edward Spear

VS

Appellant

Proof of Service

I certify that I have served petitions for investigation to Court of Appeals, Mike Hopwell, Common Plea Court & Lake City magistrate Court


Edward Spear
503 Rough Fork St
Flo., S.C. 29501



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South Carolina Court ...

South Carolina Rules ...

S.c. R. Magist. Ct. 7

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EXB A

As amended through May 2, 2022

Rule 7 - Answer and Counterclaim; Time for Filing

(a) The defendant may reply to the plaintiff's complaint by filing a written statement in a form approved by the magistrate or by personally appearing and making an oral statement. This reply shall be called an "answer." If the defendant personally appears within the specified time period and makes an oral answer, it shall be reduced to writing. The court or court personnel shall assist the defendant in reducing the answer to writing if the court determines assistance is required. The defendant's answer may deny in total or in part any or all of the material allegations made in the plaintiff's complaint, and/or allege any new matter constituting a defense. The court shall deliver a copy of the answer to the plaintiff in a manner provided for in Rule 8.

(b) A defendant shall file an answer and any appropriate counterclaims with the court within thirty (30) days from the first day after the date of service. When service is by some other means, as provided for in Rule 6, the defendant shall file the answer and any appropriate counterclaims with the court within the time period designated by the statute, rule, or order, and the time period shall be stated in the summons.

S.c. R. Magist. Ct. 7

Previous Section

Next Section

M

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Edward Spears
503 W. Roughfork Street
Florence, SC 29501

Plaintiff,

vs.

Michael S. Hopewell
470 W. Evans Street
Florence, SC 29501

Defendant.

IN THE MAGISTRATE'S COURT
CIVIL CASE #2019CV2110105972

MEMORANDUM IN SUPPORT
OF DEFENDANT'S
MOTION TO DISMISS

EXB B

A Motion to Dismiss was included within the Answer of Defendant that was filed on September 27, 2017. This Memorandum is in support of that Motion to Dismiss which is scheduled to be heard on November 25, 2018.

Rule 5(a) of the Magistrate's Court rules provides that:

"A suit is commenced by filing with the Magistrate's Court a short and plain written statement of the facts showing what the Plaintiff claims and why the claim is made."

The Complaint in the present action states only that "Plaintiff is filing for obstruction of justice." The Complaint goes on to state that the Plaintiff believes he is entitled to and does request a judgment for \$7,580.00. No factual basis or recitation of events is listed as the basis for this allegation. No date, occurrence, or even timeframe is listed to substantiate the allegations of the Complaint.

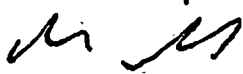
In addition to the fact that Plaintiff did not follow Rule 5(a) by providing a written statement of the facts leading to his allegation, obstruction of justice is not a tort in South Carolina, therefore, a civil cause of action for obstruction of justice does not exist in South Carolina.

2
P. H. B.

Further, obstruction of justice is a crime rather than a civil cause of action. In South Carolina, it is codified in Section 16-9-340. A copy of South Carolina Code Section 16-9-340 is enclosed. It is contained in Title 16 of the South Carolina Code which is titled "Crimes and Offenses".

For the reasons stated herein and in Defendant's Answer, the Defendant respectfully requests that the Plaintiff's Complaint be dismissed, with prejudice.

Respectfully submitted,

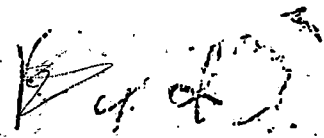


Michael S. Hopewell
Defendant

Florence, SC
November 19, 2019

ABBOTT, MCKISSICK & HOPEWELL, LLC
470 W. Evans Street
Post Office Box 148
Florence, SC 29503
(843) 669-0089
(843) 669-0085 fax
mhopewell@amhattorneys.com

3
P ~~4/25~~



F.V.C. 2019 CP 213521

2019 CU 2110103972
CIVIL CASE NUMBER

STATE OF SOUTH CAROLINA

COUNTY OF Florence
Edward Spears

Rough Fork St PLAINIFF
Flo, S.C. 29501 STREET ADDRESS
Flo, S.C. CITY, STATE ZIP

Mike Hopewell VS DEFENDANT(S)
W. Evans St

Flo, S.C. STREET ADDRESS
Flo, S.C. CITY, STATE ZIP

Edward Spears TELEPHONE

IN THE MAGISTRATE'S COURT

Mike Hopewell - defende
Edward Spears - Plaintiff

COMPLAINT

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NOV 25 2019
LAKE CITY MAGISTRATE

2019 DEC 13 AM 10:31

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the plaintiff in this civil action do make the following claims:

1. I believe the defendant, Mike Hopewell, is a resident of Flo County, and resides at or work at 970 W Evans which is within Judge Tom Beckler's magisterial jurisdiction or this Complaint is properly filed in Florence County.

2. I make this complaint on the following:

On Aug 15 2016 Mike Hopewell deceived & brought false & untrue documents in an attempt to bring an violation of US. Code 1505-1518

(Attached supplement if necessary.)

3. I believe, because of the above information, that I am entitled to and do request a judgment for \$7,500 and/or other relief as below requested:

Plus \$80.00 court cost

including any costs resulting in this action.

I state under penalty of perjury that the above is correct and truthful, except those based on my information and belief.

Dated: Nov. 21-19

[Signature]
Signature of Plaintiff (or his attorney)

SCCA/701 (Amended 05/08)

CERTIFIED: A TRUE COPY
[Signature]
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

4

[Signature]

**RULE 5
COMPLAINT**

Exp. B

(a) A suit is commenced by filing with the magistrates court a short and plain written statement of the facts showing what the plaintiff claims and why the claim is made. Provided, however, upon a personal appearance, the plaintiff may make an oral statement which shall be reduced to writing. The court or court personnel shall assist the plaintiff in reducing the statement to writing if the court determines assistance is required. This statement shall be called a complaint. A plaintiff may combine as many claims as the plaintiff has against a defendant in one case and may sue more than one defendant in one case if the claim involves all of the defendants.

(b) The plaintiff shall state on the complaint the address to which the court may mail notices and correspondence concerning the case. If the plaintiff's mailing address changes, the plaintiff must advise the court in writing. The court may notify the plaintiff of all proceedings incident to the case by mailing the notice by regular mail to the plaintiff at the address provided.

(c) A plaintiff who desires to file an action without costs shall file a motion for leave to proceed *in forma pauperis*, together with the complaint proposed to be filed and an affidavit showing the plaintiff's inability to pay the fee required to file the action. If the motion is granted, the plaintiff may proceed without further application and file the complaint in the court without payment of filing fees.

P 25

EXB E

Abbott, McKissick & Hopewell, LLC

Attorneys at Law

Michael C. Abbott
Robert D. McKissick
Michael S. Hopewell

P.O. Box 148
470 W. Evans St.
Florence, SC 29503
(843) 669-0089
(843) 669-0085 Fax
www.amhatorneys.com
mabbott@amhatorneys.com

December 5, 2019

Honorable Dominic G. Owens
Lake City Magistrate Court
Post Office Box 39
Lake City, SC 29560

Re: Edward Spears
vs. Michael S. Hopewell
Civil Case #2019CV2110105972
Our File #2016008

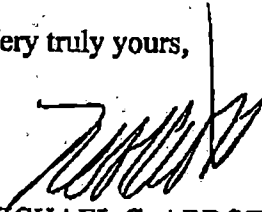
Dear Judge Owens:

Enclosed please find the original and one copy of the Defendant's Answer and Counterclaim to Plaintiff's Amended Complaint in the above matter, along with the Certificate of Service. Please note that the Counterclaim contains a request for damages in excess of the jurisdictional limit of the Magistrate's Court; therefore, the case must be transferred to circuit court.

Please file the original and return the clocked copy in the stamped, self-addressed envelope that is enclosed:

Thanking you and with kind regards, we are

Very truly yours,



MICHAEL C. ABBOTT

FILED
019 DEC 13 AM 10:36
PARIS FOLLOWS CIVIL
CCCP & CS
FLORENCE COUNTY SC

MCA/kch
Enclosures

cc: Michael S. Hopewell, Esq.
Mr. Edward Spears

RECEIVED
DEC 06 2019
LAKE CITY MAGISTRATE

CERTIFIED: A TRUE COPY

Dominic G. Owens
CLERK OF COURT C.R. & G.S.
FLORENCE COUNTY, S.C.

R / 4 P 2

EXHIBIT
20/19 CP 21 3821

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

CIVIL CASE NUMBER
2019CV2110105972

IN THE MAGISTRATES COURT
CIVIL CASE REQUIRING TRANSFER
TO COURT OF COMMON PLEAS

Edward Spears
503 W Roughfork St
Florence, SC 29501-0000
(843) 496-3711

PLAINTIFF(S)

vs.

Michael S Hopewell
PO Box 148
470 W Evans St.
Florence, SC 29503

DEFENDANT(S)

FILED
2019-DEC-13 AM 10:42
JONIS FIELDS JYKAS
CCCP & GS
FLORENCE COUNTY, SC

I find that the defendant in the above captioned civil case has filed a counterclaim with this court seeking damages in excess of the current civil jurisdiction of magistrate court, and such counterclaim does not fall within any jurisdictional exception found in SC Code §22-3-10. Therefore, pursuant to S.C. Code §22-3-30, this case shall be transferred to the Court of Common Pleas in this County. Accordingly,

IT IS ORDERED that the above captioned civil case be transferred to the Court of Common Pleas in this County and that no filing fee shall be required by that court from either party to this action, all in accordance with S.C. Code §22-3-30.

Dated: 12/9/19
December 9, 2019

Dominica
MAGISTRATE

POST 7

CANON 3

EXB 8 G

A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY

A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law.* In the performance of these duties, the following standards apply.

B. Adjudicative Responsibilities.

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(2) A judge shall be faithful to the law* and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.

(3) A judge shall require* order and decorum in proceedings before the judge.

(4) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require* similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

Commentary:

The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

told clerk not to retract disposition

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability or age, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

Commentary:

A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment and must require the same standard of conduct of others subject to the judge's direction and control.

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.

(6) A judge shall require* lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability or age, against parties, witnesses, counsel or others. This Section 3B(6) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, or other similar factors, are issues in the proceeding.

P. 8

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

IN THE MAGISTRATE'S COURT
TWELFTH JUDICIAL CIRCUIT
CIVIL CASE #2019CV2110105972

Edward Spears
503 W. Roughfork Street
Florence, SC 29501-0000
(843) 496-3711

Plaintiff,

vs.

Michael S. Hopewell
470 W. Evans Street
Florence, SC 29501

Defendant.

FLH
ANSWER OF DEFENDANT

The Defendant, answering the Plaintiff's Complaint, would allege and show unto the Court as follows:

FOR A FIRST DEFENSE

1. The allegations contained within paragraph 1 are admitted.
2. The allegations contained within paragraph 2 are denied.
3. The allegations contained within paragraph 3 are denied.

FOR A SECOND DEFENSE

4. Each and every allegation contained within the Complaint not hereinabove admitted, qualified or explained is denied and strict proof is demanded thereof.

FOR A THIRD DEFENSE
(Motion to Dismiss)

5. The allegations of the Complaint fail to state facts sufficient to constitute a cause of action, therefore, the Defendant prays that the Complaint be dismissed pursuant to Rule 12(b)(6),

SCRPC.

EXB ~~AT~~

View the 2018 South Carolina Code of Laws | View Previous Versions of the South Carolina Code of Laws

2013 South Carolina Code of Laws

Title 22 - Magistrates and Constables

CHAPTER 3 - JURISDICTION AND PROCEDURE IN MAGISTRATES' COURTS

SECTION 22-3-920. Change of venue.

Universal Citation: SC Code § 22-3-920 (2013)

Whenever in a case in the court of a magistrate (a) either party in a civil case, after giving to the adverse party two days' notice that he intends to apply for a change of venue or (b) the prosecutor or accused in a criminal case shall file with the magistrate issuing the warrant or summons an affidavit to the effect that he does not believe he can obtain a fair trial before the magistrate and setting forth the grounds of such belief, the papers shall be turned over to the nearest magistrate not disqualified from hearing the cause in the county, who shall proceed to try the case as if he had issued the warrant or summons. But in counties in which magistrates have separate and exclusive territorial jurisdiction the change of venue shall be to another magistrate's district in the same county. One such transfer only shall be allowed each party in any case.

HISTORY: 1962 Code Section 43-131; 1952 Code Section 43-131; 1942 Code Sections 274, 946; 1932 Code Sections 274, 946; Civ. P. '22 Section 230; Cr. P. '22 Section 42; Civ. P. '12 Section 97; Cr. C. '12 Section 42; Civ. P. '02 Section 88; Cr. C. '02 Section 33; R. S. 29; 1887 (19) 787; 1896 (22) 12, 13.

Disclaimer: These codes may not be the most recent version. South Carolina may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or

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18 U.S.C. § 1509 - U.S. Code - Unannotated Title 18. Crimes and Criminal Procedure § 1509. Obstruction of court orders

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Whoever, by threats or force, willfully prevents, obstructs, impedes, or interferes with, or willfully attempts to prevent, obstruct, impede, or interfere with, the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States, shall be fined under this title or imprisoned not more than one year, or both.

No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime.

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Read this complete 18 U.S.C. § 1509 - U.S. Code - Unannotated Title 18. Crimes and Criminal Procedure § 1509. Obstruction of court orders on Westlaw ([https://1.next.westlaw.com/Document/12384F69002C811E6AEE7E76FEE31CDCC/View/FullText.html?originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://1.next.westlaw.com/Document/12384F69002C811E6AEE7E76FEE31CDCC/View/FullText.html?originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))).

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Litigation and Appeals

Litigation and Appeals

Florence, SC

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The Supremacy Clause and the Doctrine of Preemption

Created by FindLaw's team (<https://www.findlaw.com/company/company-history/findlaw-com-about-us.html>) of legal writers and editors.

What happens when state law conflicts with federal law? The answer relies on the doctrine known as federal preemption.

The Supremacy Clause (<https://dictionary.findlaw.com/definition/supremacy-clause.html>) is a clause within Article VI (<https://caselaw.lp.findlaw.com/data/constitution/article06/>) of the U.S. Constitution which dictates that federal law is the "supreme law of the land." This means that judges in every state must follow the Constitution, laws, and treaties of the federal government in matters which are directly or indirectly within the government's control. Under the doctrine of preemption (<https://dictionary.findlaw.com/definition/preemption.html>), which is based on the Supremacy Clause, federal law preempts state law, even when the laws conflict. Thus, a federal court may require a state to stop certain behavior it believes interferes with, or is in conflict with, federal law.

But in the absence of federal law, or when a state law would provide more protections for consumers, employees, and other residents than what is available under existing federal law, state law holds. For instance, federal anti-discrimination law does not include LGBTQ individuals (<https://civilrights.findlaw.com/discrimination/gay-and-lesbian-rights-sexual-orientation-discrimination.html>) as a protected class. Therefore, an openly gay employee in Kansas can be lawfully

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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

EXB ~~123~~

To: Edward R. Spears
503 Roughfork Street
Florence, SC 29501

From: Greenville Local Office
301 North Main St
Suite 1402
Greenville, SC 29601

m

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
14C-2016-00399	Andrew C. Davis Jr. Investigator	(864) 241-4427

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission


Patricia B. Fuller,
Local Office Director

MAY 06 2016

(Date Mailed)

Enclosures(s)

cc: Jamison Hickman
Owner
R & R CLEANING
2215 W. Palmetto Street
Florence, SC 29501

Page ~~12~~ 13

and that, statutes of limitation and due process laws protect the accused from these kinds of unreasonable delays in prosecution.

Statutes of limitations often encourage law enforcement officers to investigate suspected criminal activity quickly. This leads to a better outcome in cases both for the plaintiff and for the defense.

It should be noted that the US Patriot Act made a number of changes in statutes of limitations that relate to several federal crimes, such as terrorism.

Federal Statutes of Limitations History

Statutes of limitation at the federal level go back hundreds of years. When the Founding Fathers first met at the First Congress, they passed not just the first criminal laws but also made prosecution under the laws subject to statutes of limitation. Related provisions have continued to the present day. While federal crimes can be prosecuted at any time, but generally a five year statute is in place, with some exceptions outlined below.

Statutes of Limitation Under Federal Law

According to US Code 18 Section 3282, the statute of limitations for the majority of crimes is five years. Keep in mind that the statute of limitations could be longer in some

- June 27, 2022

TV Celebrity Josh Duggar Files Appeal After Getting 12 Years For Child Porn - June 27, 2022

Oscar-Winning Director Paul Haggis Arrested in Italy For Sexual Assault - June 27, 2022

Links and Resources

United States Constitution

United States Code

United States House of Representatives

SEC Corporate Information

Federal Laws at USA.gov

Federal Crimes

Criminal Cases UsCourts.gov

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18 U.S.C. § 3282 - U.S. Code - Unannotated Title 18. Crimes and Criminal Procedure § 3282. Offenses not capital

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(a) **In general.** --Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within five years next after such offense shall have been committed.

(b) **DNA profile indictment.** --

(1) **In general.** --In any indictment for an offense under chapter 109A for which the identity of the accused is unknown, it shall be sufficient to describe the accused as an individual whose name is unknown, but who has a particular DNA profile.

(2) **Exception.** --Any indictment described under paragraph (1), which is found not later than 5 years after the offense under chapter 109A is committed, shall not be subject to--

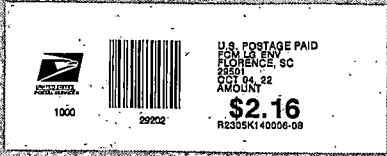
(A) the limitations period described under subsection (a); and

(B) the provisions of chapter 208 until the individual is arrested or served with a summons in connection with the charge contained in the indictment.

(3) **Defined term.** --For purposes of this subsection, the term "DNA profile" means a set of DNA identification characteristics.

Handwritten notes and signatures at the bottom right of the page.

Edward Means
503 Rough Fork St.
Florence, SC 29501



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OCT 06 2022
SC Court of Appeals

Court of Appeals
1220 Senate St
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