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SC Court of Appeals

SOUTH CAROLINA
In The Court Of
Appeals

Case No. 2022-001437

Johnathan Daniels, Appellant.

v.

The City Of Cayce, Respondent

REPLY OF APPELLANT

February 24th, 2023

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ARGUMENT IN REPLY

A. Despite Respondent's Assertions, Appellant's Guilty Pleas Were Invalid Because They Were Involuntarily, Unknowingly, Misunderstandingly, Or Mistakenly Made And Have No Basis In Fact.

1. The municipal judge, clerk of court, and prosecutor conspired to deprive Appellant of constitutionally protected rights.

A detailed legal argument follows, but this section is given because it is important for this Court to understand that Respondent is attempting to present the unlawful events recorded in the selective Municipal Transcript in a light that makes them appear routine and lawful, when they certainly were not. The truth is difficult to see because a large portion of the discussion which took place in the "closet" was intentionally not recorded, a fact which is addressed below at Argument "C". Respondent seeks to have this Court believe that either Appellant or the state's prosecutor expressed a desire to discuss a plea with the judge outside, followed by the parties being instructed to go outside of the jury's presence and into the "closet" where Appellant's plea was recorded, followed by re-entry into the courtroom and subsequent dismissal of the jurors.

Appellant, Johnathan Martia Daniels, by his own hand, writes here most frankly, honestly, and with all seriousness. What actually happened on the day of trial was an illegal conspiracy against Appellant's protected rights, and is very likely a criminal act perpetrated by the municipal judge, clerk of court, and prosecutor.

At the opening of the municipal court on the trial date, **there was no plea deal on the table, in any sense**. (See JD007 at item "4"; & JD211 at lines 10-11). Appellant and the prosecutor had conferred long before the trial date, via email, with Appellant ultimately refusing the prosecutor's counter offer, which would have Appellant plead guilty to speeding and No

SCDL in exchange for a nolle prosse of the No Vehicle Registration charge. (See JD061). Appellant had refused because he was, and remains to this very day, confident in his South Carolina § 1-32 defense against the two nonmoving charges in this case. (See JD211 at lines 12-16). As soon as Appellant entered the courtroom, the municipal judge inquired about a plea and Appellant responded, letting the judge know he would not be making any plea and that he was ready for trial. This was done right before the beginning of the audio recording dictated in the Municipal Transcript. As shown at the start of the Municipal Transcript, in an effort to create a false record, and to accomplish a fraud on any higher court reviewing the transcript, the municipal judge and clerk of court are heard whispering. (See JD170 at lines 1-3). Here, the judge and clerk of court are **literally pretending** that they need to figure out how to accept a nonexistent plea from Appellant at the beginning of the hearing. **They are literally acting**, in a staged thespian-like manner, as though there was some dilemma as to how to "enter in a guilty plea with them [jurors] in here." **There was no dilemma, because there was no plea or offer of a plea deal on the table. Appellant was confident in his defense and had already failed to reach an agreement with the prosecutor; and the judge had already been made aware of that!** (See JD007 at item "4"; JD211 at lines 3-11; & JD061-whole page of a settlement offer sent by Appellant to the prosecutor, to which no agreement was reached). The whispering described above was pretextual, and would soon be used as an excuse (an illusory one, only for show in the record) for the judge to remove Appellant from open court and take him into the "closet" outside of the courtroom. Appellant had already told the judge that he was ready to start trial. (See JD211 at lines 10-11). It then follows that the judge expresses his intent to avoid having the trial and orders the parties outside. (See JD170 lines 10-13; & JD211 lines 17-25). Once outside, the judge repeatedly insisted that Appellant negotiate with the prosecutor to reach

a plea deal. (See JD212 lines 1-19; & JD231 at lines 6-17). Appellant insisted on being on the record and the judge told Appellant that a record was being made and that he had already ordered the clerk to make the record. (See JD170 lines 21-25). Appellant later found out that statement was false, as there were missing audio files, and the record made was selective and prejudicial against Appellant. (See below at Argument "C"). During the time in the "closet," which was about 45 minutes in total, Appellant refused several offers from the prosecutor, but was resent by the judge to discuss offer after offer with the prosecutor. (See JD 231 at lines 6-17). After telling the judge at least twice that he did not want to make a plea deal because he was only guilty of speeding, and not guilty of the nonmoving charges, Appellant demanded to start trial (See JD230 at line 6; JD214 at lines 2-12; & JD232 at line 18 thru to JD233 at line 1). Appellant believed that the other two charges were unconstitutional-as-enforced. (See JD209 at line 25 thru to JD210 at line 4). The municipal judge then told Appellant that he faced 30 days in jail for speeding, and that making a plea could help him avoid jail time. (See JD208 at line 19 thru to JD209 at line 1). After about 15 more minutes of additional back and forth, Appellant concluded that he was being denied access to trial and decided to make a deal with the prosecutor. (See JD209 at lines 10-12; & JD232 at line 18 thru to JD233 at line 1). In Appellant's mind, by taking the plea deal, he would be able to make it out of court on that day without being taken to jail, and later file an appeal to have the municipal court's actions reversed and its misconduct addressed. (See JD209 at lines 16-17; & JD230 at lines 9-23). Most of what is described above was not recorded in the municipal court, but the recording resumes when Appellant's guilty pleas are taken as shown in the Municipal Transcript. After the forced negotiation, plea hearing, allocution, and sentencing, all of which occurred in the "closet", the parties were ordered back into the courtroom. The judge let the jury know that he was successful in avoiding Appellant's

trial and the jurors were released. (See JD176 at lines 4-7). If the jurors were called as witnesses, they could confirm that Appellant said he wanted to start trial before being called outside. The whole municipal proceeding was an assault on Appellant's rights, cleverly done, in a coordinated manner, by the municipal judge and court officers. Under Oath/Affirmation and threat of penalty, Appellant explained the above in less detail to the circuit court judge. (See JD207 at lines 17-23; & JD222 at lines 6-19). Appellant agrees that if he were proven to be lying to this Court regarding these matters, a perjury penalty would certainly be in order. (See JD206 at lines 7-8).

Why all of this? These things were done to Appellant because Respondent's judge and court officers chose to treat Appellant's religiously based refusal to use a driver's license and vehicle registration as the conduct of a sovereign citizen, and they labeled Appellant as a sovereign citizen. (See JD217 lines 4-17; JD223 at lines 14-20; JD 231 at line 20 thru to JD232 at line 4; JD233 at lines 9 thru to JD234 at line 20). Realizing that Appellant's South Carolina § 1-32 defense was likely to prevail at trial, Respondent's judge, clerk, and prosecutor went to extreme measures to prevent Appellant's victory at trial, at any cost. In pursuit of this end, they conspired against Appellant's rights. This is the truth of the matter.

2. **To mislead and deceive this Honorable Court, Respondent is intentionally misquoting the municipal transcript in his Initial Brief Of Respondent.**

In an attempt to hide Respondent's wrong doings and not have this Court fully review Appellant's issues on appeal, Respondent's initial brief seeks to mislead this Court through a deliberately inaccurate description of what the Record shows occurred when Appellant made the guilty pleas. (See Initial Brief Of Respondent at p. 3 ¶ 4 thru p. 5 ¶ 1). While it is true that the negotiated penalties for all guilty plea charges were discussed before Appellant plead guilty, the municipal judge did not accept those negotiated penalties until after Appellant had plead

guilty. Until the municipal judge accepted the pleas, he maintained the option of not accepting the penalty recommendations. Until the moment that the judge accepted the pleas and recommendations, it was Appellant's understanding that he faced up to 30 days in jail if found guilty on the speeding charge. Further, because of his already presented and substantiated South Carolina § 1-32 defense, Appellant knew that he could not lawfully be convicted for the No SCDL and No Vehicle Registration charges. Appellant had already presented written proofs establishing his defense to the municipal court via affidavits and in his Motion For A Directed Verdict w/attachments, filed on October 5th, 2021, and Appellant had come prepared to enter the same proofs into evidence before the jury on the day of trial. (See JD121-JD156). By falsely claiming that the municipal judge had already accepted the negotiated penalty recommendations and that Appellant knew what the sentences were prior to making the guilty pleas, Respondent seeks to confuse this Court as to whether Appellant actually misunderstood the possible sentences at the time of his pleading guilty. In presenting this lie to this Court, Respondent has intentionally misquoted the statement of the municipal judge, by deliberately removing the "IF" portion of the statement made by the judge. In an effort to deceive this Court into believing that Appellant was aware of the sentences before he plead guilty, Respondent falsely claims that the municipal judge said, "I'll tell you that I'm accepting it, and I'm also accepting the recommendation," and that Appellant's plea followed. (See Initial Brief Of Respondent p. 4 last paragraph, thru to p. 5 ¶ 1). This is not only incorrect, but it is also an attempt to lie to this Court! Respondent is up to legal shenanigans once again.

Now, examining the Municipal Transcript, what the municipal judge actually said was, "Well, [pause] the first thing we have to establish is that you are entering this guilty plea and then after you've uh, uh entered it-- Well, first of all, I'll-- **if I accept it**, I'll tell you that I'm

accepting it, and I'm also accepting the recommendation. But then you have another opportunity to tell me anything else you wanna tell me in mitigation, but you will have already entered that guilty plea." (See Municipal Transcript JD172, at line 22 thru to JD173 at line 2). Appellant's guilty pleas follow **after** (see Municipal Transcript JD173 at lines 4-7), **later** followed by the judge's acceptance of the pleas and recommendations (see Municipal Transcript JD173 at line 15). Appellant's allocution, transcribed in the Municipal Transcript, is an explanatory mitigating statement made by Appellant to the municipal judge long after the judge had accepted the plea. (See Municipal Transcript JD174 at lines 5-20). This order of events differs drastically from the order of events Respondent seeks to have this Court accept. The allocution, rather than indicating Appellant's pleas were voluntary as claimed by Respondent, clearly demonstrates that Appellant still believed that, due to his right to religious accommodation under South Carolina § 1-32, which he had already twice proven on motion, the municipal court had lost jurisdiction and that he could not legally be found guilty, or face jail time, for the No SCDL and No Vehicle Registration charges. (See Municipal Transcript JD174 at lines 5-20). Respondent claims that Appellant "weighed the risk of trial with the plea result," and this is true to some extent, but it clearly shows that Appellant misunderstood his exposure to a possible jail sentence for speeding. Considering Appellant's belief that he could not legally be convicted for the nonmoving charges, the allocution shows that Appellant realistically thought he was facing jail time solely for the speeding charge, which was the only other charge against him. Appellant only made the guilty pleas to avoid what he thought was a possible jail sentence for speeding. (See JD208 at line 11 thru to JD209 at line 6; & JD209 line 25 thru to JD210 line 4). To be absolutely clear, when Appellant made the guilty pleas he was mistaken due to an induced misunderstanding, believing that it was in his interests to plead guilty to avoid jail time

for the speeding charge and thinking that he could appeal to a higher court to have the municipal court's misdeeds corrected; in that moment, **without the municipal court providing any notice of his rights or warnings regarding rights waived by making the pleas**, the unrepresented Appellant had no way of knowing that the municipal judge had misstated the possibility of a jail sentence for speeding, or that he might be waiving his rights to have a higher court review the constitutional aspects of the case. (See JD209 lines 7-23).

3. **The Circuit Court was not correct in its determinations, because the pleas given by Appellant were invalid and Appellant's objections and constitutional claims were not lawfully waived.**

The circuit court did not explain its findings in detail, so Appellant cannot respond on a point-by-point basis. Obviously, as the circuit court ruled against Appellant, certain decisions must be assumed to have been made. In answer to those decisions, it will be made be clear to this Court, upon its review of Appellant's Briefs and the Record On Appeal, that the circuit court was incorrect in concluding that: (1) Appellant's pleas were valid and that (2) Appellant's objections and constitutional complaints were waived; if in fact those determinations were made by the circuit court.

In response to Respondent's claim that Appellant admitted to having been notified of his rights while at the circuit court, this is a misleading statement seeking to misdirect the Court. (See Initial Brief Of Respondent at p. 5 ¶ 1). More shenanigans. At the appeal hearing, the circuit court judge inquired to determine if Appellant had been notified "of his right to remain silent, right to a jury trial, right to confront and cross-examine the witnesses the state would call against him?" Respondent's attorney, being the same prosecutor that participated in the plea hearing in the "closet", having first hand knowledge of what was said in that "closet"

responded, “Unless the Return addresses that, I can’t answer that specifically, your Honor.” (See JD227 at lines 16-23). During this line of questioning by the circuit court judge, Respondent's attorney persisted to evade the question, talking a lot, but failing to answer the question with any specificity. (See JD226 at line 22 thru to JD229 at line 2). On this subject, the municipal Return relied upon by Respondent’s attorney fails to show that the municipal judge met the minimum Constitutional warning requirements of the Due Process Clause of the 14th Amendment of the U.S. Constitution. The Return shows that the judge only informed Appellant of his rights to a jury trial, a bench trial, and an attorney. (See JD021 at item “2”). Of the three warnings of waiver of rights inquired of by the circuit court judge, the unrepresented Appellant was only given one of those warnings, and barely that. Appellant had been notified of his right to a jury trial, at a temporally distant motion hearing, nearly a year prior to the trial date. Obviously, the unrepresented Appellant was never notified of his (1) privilege against self-incrimination (i.e. to remain silent) or (2) his right to confront and cross-examine the witnesses the state would call against him. The record in this case is clear on this. (See JD227 at line 3).

As stated in the Initial Brief Of Appellant, in order to satisfy the Due Process Clause of the 14th Amendment to the U.S. Constitution, the trial court must inform the defendant about (1) the privilege against self-incrimination; (2) the right to trial by jury; and (3) the right to confront one’s accusers. *Boykin v. Alabama*, 395 U.S. 238, 242, 23 L. Ed. 2d 274, 279 (1969).

It appears as though, by Respondent's standards, one out of three isn’t too bad. However, the municipal judge’s failure to notify Appellant of these Constitutional rights and the accompanying waivers is fatal to Respondent’s argument that Appellant’s pleas are valid. Being uninformed of these rights and waivers most certainly affected Appellant’s thought process and limited his options, as he was forced to think fast on his feet while being forced to negotiate in

the “closet." Further, Appellant was not given the notices of rights and warnings of waivers that the Judiciary of this state recommends that judges provide to unrepresented defendants pleading guilty. (See JD229 at line 22 thru to JD230 at line 23; See “S.C. Summary Court Benchbook, Criminal Section, Section G. Rights of the Defendant", also see "Section H. Trial Procedure, 5. Entering the Plea, b. Counsel").

The truth is that the warnings inquired of by the circuit court judge, required by due process, and recommended by this state’s Judiciary appear nowhere in the record, because, beyond the inadequate notices given, as described in the municipal Return, the required warnings and notices were never given to Appellant, at any time, by anyone. Regardless of what Appellant may have thought he knew of his rights, Appellant was unrepresented and, at the time, inexperienced in criminal law. The municipal court’s failure to give the notices and warnings left Appellant to his inexperienced, feeble understanding and interpretation of his rights. Appellant was not given a fair opportunity to put into mind the rights he had, or which he would be waiving by making the guilty pleas; nor was he afforded the chance, through questions he might have posed to the municipal judge, to clarify any misconceptions he had regarding those rights and the accompanying waivers.

Appellant will not attempt to guess at why the circuit court did not continue to pursue an affirmative answer to confirm that the warnings were given, but the municipal court’s failure to give the warnings invalidates the guilty pleas given by Appellant, and preserves the viability of Appellant’s objections and his constitutional and statutory claims for appeal.

Moving on, Respondent cites *State v. Hazel*, which states, “In order for a defendant to knowingly and voluntarily plead guilty, he must have a full understanding of the consequences of his plea.” *State v. Hazel*, 275 S.C. 392, 394, 217 S.E. 2d 602, 603 (1980). Appellant sees this

as appropriate and fully expects such law to be fully enforced here. In addition though, there are also other non-optional legal considerations that must be taken into account for a plea to be valid. The record must establish that the guilty plea was voluntarily and understandingly made in order to be valid. *Gaines v. State*, 517 S.E.2d 439 (S.C. 1999) citing *Boykin v. Alabama,* 395 U.S. 238 (1969). "For a guilty plea to be valid, the law requires that a defendant be "realistically" informed of all sentencing possibilities and of his rights and the waivers of those rights. The "court's warning should include an explanation of the defendant's waiver of constitutional rights and a realistic picture of all sentencing possibilities." *State v. Armstrong*, 211 S.E.2d 889 (S.C. 1975). To vitiate a guilty plea, a court's misstatement must be "material in the sense that it is part of the inducement for the defendant's decision to plead guilty." *State v. Higginbotham*, 351 N.W.2d 513, 516 (Iowa 1984). A defendant, after being informed of the evidence against him, must be convinced that he would be found guilty if he went to trial. Such defendant must also receive some benefit from the plea, such as a reduced charge or favorable sentence recommendation. *North Carolina v. Alford*, 400 U.S. 25 (1970).

Whether it was induced by the municipal judge's misstatement of a possible jail sentence for speeding or not, as is still maintained by Appellant and affirmed under Oath and threat of penalty, a close examination of the Record clearly demonstrates that before and after entering the guilty pleas, (1) Appellant misunderstandingly and/or mistakenly thought that he could be sentenced to 30 days in jail for the speeding charge; (2) that Appellant did not believe he could have been found guilty for the No SCDL and No Registration charges because of his South Carolina § 1-32 defense, a position he maintained even after pleading guilty; (3) that Appellant's sole motivation for making the guilty pleas was the avoidance of what he believed to be a possible jail time sentence for speeding; and (4) that Appellant did not have a full

understanding of the direct consequences of his plea, as he did not know he was admitting all facts alleged, waiving his right to appellate review of objections he made to prior rulings of the municipal court, and waiving his right to appeal or challenge several constitutional violations. (See JD004 at item "1" continuing to JD005; JD229 at lines 7-16; JD061 whole page; JD174 at lines 6-20; JD212 at lines 12-19; JD005 at Item "2"; & JD230 at lines 1-30). **In short, Appellant pled guilty under circumstances of mistake and intimidation and did not have an accurate understanding of his rights or the direct consequences of his plea.** As testimony before the circuit court demonstrates, Appellant would not have made the pleas had he known that he was not at risk of a jail sentence for the speeding charge and/or that he was waiving rights he was specifically relying upon to have a higher court correct the municipal court's error of convicting him for a statutorily and constitutionally untenable charge despite his proven South Carolina § 1-32 defense. (See JD229 at lines 7-16, JD230 at lines 9-23).

Further, in spite of Respondent's position, Appellant only misunderstandingly and ignorantly stated that his pleas were voluntarily made. "A plea induced by the influence of the judge cannot be said to have been voluntarily entered." *State v. Cross*, 270 S.C. 44, 240 S.E.2d 514, at 516-517, (1977). Appellant does not make law in this state and has no power to independently overturn *State v. Cross.* Therefore, this Court's review of relevant validity issues remains, particularly issues stemming from (1) the municipal judge initiating and participating in plea discussions while he insisted that a plea agreement be made to avoid his having to conduct the trial of Appellant, (2) the municipal judge and court officers actively working to disallow the trial of Appellant, and (3) the municipal judge's failure to inform Appellant of his rights and waivers before acceptance of the guilty pleas. (See Initial Brief Of Appellant at p. 30 item "D" thru to p. 40).

Appellant had a right to plead "not guilty" and go to trial, and should not have been subjected to the municipal judge conducting what was essentially an off the record, biased, yet mandatory, informal arbitration between Appellant and the prosecutor. The record shows that Appellant did not want to make a plea deal with the prosecutor, and was confident that he could not possibly be convicted for the nonmoving charges. (See JD209 at lines 10-12; JD214 at lines 3-12; JD061 whole page; & Appellant's Motion For a Directed Verdict at JD140 at ¶ 2 and ¶ 3). The unrepresented Appellant was merely following what he perceived to be orders from the municipal judge that he negotiate a plea deal. (See JD231 lines 6-14). At the time, Appellant did not know that the judge's conduct was not allowed by law or the judiciary of this state. Further, the record shows that, in direct contradiction to Appellant's desire to go to trial, the municipal judge (1) desired to not have the trial, (2) worked to ensure that no trial occurred, (3) declared success in his efforts to avoid the trial, and (4) admitted as much, on the record in open court. (See JD170 at lines 10-13, JD176 at lines 4-7). When a defendant is confident in his defense, and desires to go to trial, it is wholly inappropriate for a judge to join the prosecution in efforts to avoid having the trial. See *State v. Cross*, 270 S.C. 44, 240 S.E.2d 514, at 516-517, (1977).

Each of these circumstances and occurrences is clearly shown in the record and described in detail in the Initial Brief Of Appellant at Section "D", at pages 30 - 40; **since the law prohibits such actions by a court, these issues must be reviewed by this Court to determine how they affected the validity of the guilty pleas given by Appellant.** Appellant's statements, which were mistaken and not understandingly made, cannot authorize these prejudicial actions by the municipal court. Through deception, Respondent seeks to avoid a thorough review by attempting to influence this Court to take a dismissive stance towards Appellant's complaints.

On the day of Appellant's trial in this case, Appellant was treated in much the same manner and spirit as that which Respondent has displayed towards this Court. That is to say that the unrepresented Appellant was subjected to lies and inaccurate statements of fact in order to influence his decision to plead guilty. Such conduct by an adversary, such as a prosecutor may or may not be illegal, but a plea influenced by judicial participation in deceiving and/or pressuring a defendant into a guilty plea cannot be considered valid. In this case, the record demonstrates that Appellant made the guilty pleas under the influences of having to avoid an inaccurately stated jail time sentence for speeding, fear of angering the judge, duress, mistake, and/or other circumstances that Appellant was not responsible for creating. Appellant is the only party presenting his account under Oath and threat of penalty, and his affirmed statements should carry some weight in determining the truth. (See JD206 at lines 7-8).

B. Appellant's Guilty Pleas Were Invalid; Therefore, Appellant Has Not Waived Any Other Issues Or Arguments On Appeal Before This Court, Response To Standard Of Review.

Because Appellant's pleas were not valid, as described above and in the Initial Brief Of Appellant, Appellant's other issues and arguments on appeal are preserved for consideration and a thorough review by this Court.

As regards Respondent's position regarding the standard of review required for this Court's examination into the validity of Appellant's guilty pleas, Appellant objects to Respondent's proposal and contends that the Court's review of the validity of his guilty pleas should be conducted *de novo* and take the entire record into consideration. Additionally, Appellant urges that his other issues and arguments on appeal should be reviewed under the standards put forth in the Initial Brief Of Appellant.

C. Respondent's Explanation Does Not Justify The Municipal Court's Intentional Creation Of A Partial, Selective, Misleading, And Prejudicial Record, Which Provides An Unfair Advantage To Respondent, While Handicapping Appellant.

In reply to Respondent's position that the municipal court was not required to make a verbatim record, Appellant maintains that the municipal record is selective and prejudicial. Almost immediately after the municipal judge ordered Appellant into the "closet" outside of the courtroom, Appellant expressed his concerns that no record was being made. At that time, to allay Appellant's reservations of speaking in the "closet" rather than in open court, the municipal judge assured Appellant that a record was being made. The judge reminded Appellant that he had ordered the municipal clerk of court to make a record, and the municipal clerk of court was standing there with a small recorder in her hand. (See JD170 at lines 21-25). With these assurances, Appellant was given reason to believe that a verbatim record was being made at that time, so he chose to continue conversations while in the "closet."

Even if the municipal court was not required by law to make a verbatim record, once the judge told Appellant that they were on the record in the "closet", the "promised" record must be made and delivered. This case has not been conducted without contention, and Appellant was reliant upon the promised record to make sure that the conversations during the "closet" meeting were aboveboard. Had Appellant known that no record was being made, Appellant would have objected to conducting the meeting in the "closet" while being off the record.

Further, because a selective record was made in the "closet", Appellant is now forced into the position of appealing to this Court with an incomplete record. Likely resulting from more of Respondent's shenanigans, only the portions of the promised "closet" recording which would have memorialized the statements and conversations complained of by Appellant are missing from the delivered municipal audio record. (See JD169 at lines 1-15). Appellant is most certainly

prejudiced by the selective record, as unlike Respondent, Appellant is unable to support many of his allegations with verbatim proofs. (See JD213 at lines 2-8). There is no good excuse for this. If, as the "Judge's Notes" claim, going into the "closet" was necessary in order to get outside of the jury's presence, that still does not explain why a recording was (1) ordered to be made while Appellant met with the judge, prosecutor, and court officers in the "closet," (2) promised to be made, (3) but intentionally, only selectively made.

Since Respondent is relying on laws which direct that municipal courts are not courts of record, let's examine why there was any recording made in the "closet" at all. It's not the case that the municipal court's officers simply forgot to make any record while in the "closet." They made a selective recording that benefits only the prosecution. Appellant argues that once he was "promised" that a record was being made, he had a similar right to benefit from portions of a hypothetical complete record that would have been to his advantage as well. Respondent and Appellant should be on equal footing in the nature of proof each is able to present to this Court. Respondent has access to a verbatim record as it attempts to support its claim that Appellant pled guilty under lawful conditions, while Appellant has to rely on summaries and denials written, after the filing of his appeal, by the very municipal judge who broke the rules to persecute Appellant. The selective record of the "closet" meeting is the epitome of a "prejudicial record."

That the record made in the "closet" is selective and deliberately intended to disadvantage Appellant is easily proven. Before the circuit court, Respondent's attorney claimed that the meeting in the "closet", referred to by Respondent's attorney as a "break room," was "on the record." (See JD227 at lines 11-17). This statement is false and misleading in that it creates the impression that all of the conversations in the break room were "on the record." If the record is claimed to be complete and non-selective, then Appellant could claim that **no** constitutional

warnings were given and that **no** description of the potential sentences was given to Appellant at all; as none appear anywhere in the Municipal Transcript. Instead, in honesty, Appellant has affirmed that the municipal judge, like the circuit court judge, misstated the possible sentence of 30 days in jail for the speeding charge against Appellant. (See JD226 at lines 13-19; & JD229 at lines 7-16). Regarding the Municipal Transcript, nothing could be more prejudicial than Respondent's municipal court deliberately not making portions of the record, and Respondent now wanting this Court to disregard Appellant's affirmed claim, that the possibility of a 30-day jail sentence for the speeding charge was told to him by the municipal judge, simply because the judge's misstatement does not appear in the transcript. Without a complete record, Appellant's Oath/Affirmed claims are pitted against, after the fact, unsworn statements made by the municipal judge and prosecutor, both of whom sought to subvert Appellant's rights throughout this case.

Further, while it may be true that a summary court in South Carolina may submit a written summarization of proceedings in the form of a written Return, neither the law nor the regulating judiciary of this state can allow, advocate or proscribe that false, intentionally misleading, or grossly inaccurate statements be made in a Return sent in response to a criminal appeal. The error filled "Judge's Notes", was relied on by the circuit court in making its determinations. Appellant is merely pointing out, to this Court, the fact that the majority of things claimed to have been done in the "Judge's Notes" portion of the municipal Return to Appellant's appeal are either directly contradicted by other portions of the record, unsupported by any portion of the record, or wholly false. (See Initial Brief Of Appellant at p. 26 at item "C" thru to p. 30).

D. The Municipal Court Committed An Error Of Law, Abuse Of Discretion, And/Or Exceeded Its Jurisdiction by Allowing Continued Prosecution Of Appellant, Convicting Appellant, And Punishing Appellant For The No SCDL Charge.

1. Once proven, Appellant's South Carolina § 1-32 defense was sufficient to prohibit continued prosecution and/or conviction of Appellant, and the defense deprived the municipal court of further jurisdiction to allow the continued prosecution, conviction, and punishment of Appellant for the nonmoving charges.

In response to Respondent's contention that Appellant's South Carolina § 1-32 defense was non-jurisdictional, Appellant argues that, although this defense did not initially prohibit Appellant's prosecution, after the defense was proven, it should have barred further prosecution, trial, and conviction of Appellant. Therefore, Appellant puts forward that although his defense, motions, proofs, and affidavits presented to the municipal court prior to making the guilty pleas may not have precluded jurisdiction per se, they amply proved Appellant's defense to the point of being dispositive of the nonmoving charges in this case. Importantly, the record shows that the state never challenged the sincerity of Appellant's religious beliefs, only whether the exemptions allowed as part of Appellant's South Carolina § 1-32 defense were legally adequate to give Appellant a right to accommodation which would prohibit further prosecution of Appellant and/or prohibit Appellant's conviction for the nonmoving charges. In fact, Respondent's prosecutor accepted that Appellant qualified for an exemption, but proposed that the exemption was not adequate to prohibit further conviction of Appellant. (See JD 228 at line 21 thru to JD229 at line 2). As Respondent's prosecutor is a trained attorney, with many years of experience, his inaccurate position on the adequacy of Appellant's South Carolina § 1-32 defense is deliberate and premeditated, and pretext to deprive Appellant of his protected rights.

The record in this case makes it is reasonable to conclude that, regarding the nonmoving charges, there was no genuine factual dispute requiring a trial by either a judge or jury, as nothing factually relevant would have been added by a trial because, (1) the prosecution could not reasonably disprove Appellant's religious beliefs or his sincerity, and in fact, had not challenged either through several hearings; (2) Appellant had already declared his sincere religious beliefs under Oath/Affirmation and provided written original Affidavits to the municipal court; and (3) Appellant had already provided a written memorandum of law detailing the relevant statutes and exemptions, which explained to the municipal judge and prosecutor why Appellant had a legal right to accommodation and exemption under South Carolina § 1-32. In short, Appellant's right to accommodation and/or exemption under South Carolina § 1-32 was known to the municipal judge and prosecutor, and was sufficient to prohibit further prosecution of Appellant for the charges of No SCDL and No Vehicle Registration. (See Initial Brief Of Appellant at p. 9, Argument "A" thru to p. 23 at ¶ 2; Appellant's Motion For A Directed Verdict at JD129 at item "A" thru to JD137 at ¶ 5; Affidavit at JD108 at item "1" and JD109 at item 5; & Affidavit at JD083 at item "1", JD084 at items "5" and "8" and JD085 at item "9").

All of the proof the municipal judge and prosecutor needed to recognize Appellant's rights and conclude that Appellant could not possibly be convicted or punished for the nonmoving charges had been filed and discussed before the municipal court, prior to Appellant making the guilty pleas. (See JD210 at lines 7-14). The filings had already been reviewed by the judge and the prosecutor, and were discussed in the "closet" on the day of trial. (See JD021 at item "5"; JD174 at line 21 thru to JD175 at line 8). Therefore, the municipal judge knew, or should have known, that **(1)** for religious reasons, Appellant DID conduct himself contrary to the licensing and registration laws of the state, **(2)** that Appellant claimed a South Carolina § 1-32

defense for his facially "illegal" conduct, **(3)** that Appellant had provided voluminous oral and written proofs and explanations of his sincerely held religious beliefs throughout the case, particularly, in affirmed affidavits, within his Motion To Compel, Motion To Dismiss, and in his extensive explanation of his South Carolina § 1-32 defense within his Motion For A Directed Verdict, **(4)** that the laws in question were not generally applicable and did not enforce a constitutionally genuine compelling state interest, **(5)** that statutes complimentary to the statutes under which Appellant was charged allowed many exemptions for secular purposes, and **(6)** that the state was not regulating Appellant by the least restrictive means, as required by law. Under these circumstances, the municipal judge had absolutely no power, no duty, no authority, nor any discretion to convict Appellant for the nonmoving charges in this case, much less to sanction or punish Appellant for noncompliance with the licensing and registration laws in question.

Appellant argues that the municipal court's jurisdiction does not extend into matters where it has absolutely no power, no duty, no authority, nor any discretion to act. "Jurisdiction is the power to hear and determine the subject matter in controversy between parties to a suit, to adjudicate or exercise any judicial power over them . . . ." *Rhode Island v. Massachusetts*, 37 U.S. 657, 718 (1838). "The statutory and (especially) constitutional elements of jurisdiction are an essential ingredient of separation and equilibration of powers, restraining the courts from acting at certain times, and even restraining them from acting permanently regarding certain subjects." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 101 (1998).

Under the current laws of this State, the United States, and the United Nations, Respondent's municipal court could never, EVER, have power, duty, authority, or discretion to sanction or punish Appellant for violating laws which substantially burden Appellant's free exercise of religion, whenever such laws: (1) are not generally applicable, (2) aim to enforce a

non-compelling state interest, (3) allow exemptions for secular reasons, and (4) allow exemptions which regulate by less restrictive means than the state seeks to impose on Appellant. This is precisely the circumstance that exists regarding the nonmoving charges in this case, and that is a permanent and absolute truth. No way around it. Upon Appellant's motion to dismiss, or sua sponte, once the municipal judge had knowledge of proof sufficient to prove Appellant's South Carolina § 1-32 defense, as was provided, the only power or authority the judge had left, as to the two nonmoving charges, lie in his duty and authority to dismiss the charges and discontinue allowing prosecution of Appellant for those charges.

By continuing to allow prosecution of Appellant for the nonmoving charges, despite and over Appellant's motions/protests, and convicting Appellant for No SCDL, the municipal judge committed an error of law, or alternatively, abused discretion, at a minimum. Had the municipal judge done what the law required, Appellant could have addressed the speeding charge and been done with the case altogether.

Interestingly, the circuit court judge was made aware of the same circumstances described at items (1) – (6) above, but ruled against Appellant in his appeal to the circuit court. (See JD219 line 3 thru to JD222 line 5; & JD007 at item "5", continuing to JD008). Also interesting is the fact that, like the municipal judge, the circuit court judge initially misstated the same possibility of a 30-day jail sentence for the speeding charge against Appellant. (See JD226 at lines 13-21); however, unlike the municipal judge, the circuit court judge did not have the benefit of presenting a revisionist Return before others recognized his inaccuracy.

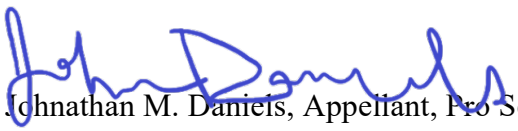
F. Conclusion.

In light of the above, this Court should **(1)** vacate Appellant's conviction for the charge of No SCDL; **(2)** instruct that the municipal court dismiss the No Vehicle Registration charge as unenforceable under South Carolina § 1-32 and/or unconstitutional-as-enforced (the municipal court has no discretion to do otherwise, given the record in this case); **(3)** remand the speeding charge back to the municipal court; **(4)** issue an order requiring Respondent and other privies of the State to accommodate Appellant regarding the State's drivers license and registration requirements under authority of South Carolina § 1-32 and the state and federal constitutions, **(5)** conduct an inquiry into misconduct of Respondent's municipal court officers, and **(6)** provide Appellant any other relief this Court deems to be in the interests of justice. This request is a clarification of Appellant's previous request for relief. As Appellant is untrained and unrepresented, having only cursory knowledge of civil litigation and almost no experience in criminal law, Appellant may have previously requested relief which this Court cannot grant.

I, Appellant, Johnathan Martia Daniels, Appeal to this Honorable Court for Myself and take full responsibility for everything written by My hand. It is most disconcerting that this persecution was carried out, and I intend to seek justice without end. As a descendant of Hebrew Negros, who were persecuted by the Inquistion of the Empire and suffered the pains and penalties of Alhambra, as described in the record of this case, for Me to face religious persecution in the South Carolina, in 2021, at the hands of a state funded, black robed judge is very reminiscent of what My ancestors went through in the days of the inquistition and is abhorrent to the sensibility of godly people the world over. If this Court does not intervene, injustice will prevail, and confidence in the Judiciary of this State will almost certainly be negatively impacted.

Respectfully Submitted,

February 24th, 2023



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Feb 24 2023
SC Court of Appeals

THE SOUTH CAROLINA
In The Court Of Appeals

Case No. 2022-001437

Johnathan Daniels, Appellant.

v.

The City of Cayce Respondent,

PROOF OF SERVICE

I certify that I have served the Reply Brief Of Appellant on Respondent by email, on February 24th, 2023, addressed to his attorneyof record, Danny C. Crowe, emailed to danny@crowelafave.com.

February 24th, 2023

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