

Affidavit of facts

RECEIVED

I Demetrius J. Smalls #286806, being duly sworn, deposes
and says that, on 7/8/13, three notices of motion
Scheduling were enclosed with final order dismissing the
Plaintiff's action no. 2012-CP-10-8250 with prejudice, and
a copy of plaintiff's Amended petition for Declaratory Act
Judgment Action and Plaintiff's Initial Request For Production
Of Documents filed with the Ninth Circuit Clerk of Court
Of Common Pleas on 3/19/13 and on 4/10/13. This disclosure

to the Supreme Court has been made on this 8 day,
7th, month, and 2013 year, through the Lieber
Correctional Institution Mailroom, to the Supreme Court of
South Carolina at P.O. Box 11330, Columbia, SC 29211
to accompany the plaintiff's Motion and Notice of Motion to
Alter and Amend judgment Pursuant to SCRP, Rule 59(e). The
Plaintiff also swears that every fact in this affidavit is true and
correct to the best of Plaintiff's knowledge.

WITNESSED AND SUBSCRIBED BEFORE ME
THIS 8th DAY OF July

2013
Lucrecia Bryant
NOTARY PUBLIC
STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES May 26, 2026

[Signature]
Signature

7/8/13
Date

Bulck and Sanders LLC
CC File: Ninth Circuit Court of Common Pleas

STATE OF SOUTH CAROLINA

COUNTY OF

Charleston

IN THE COURT OF COMMON PLEAS

9 JUDICIAL CIRCUIT

CASE NO.: 2012-CP-10-8250

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Demetrius J. Smalls # 286806

Plaintiff,

vs.

J. Al Canoy Jr. Et al.

Defendant.

Plaintiff's Attorney:

_____, Bar No. _____

Address: _____

Phone: _____ Fax: _____

E-mail: _____ Other: _____

Defendant's Attorney:

_____, Bar No. _____

Address: _____

Phone: _____ Fax: _____

E-mail: _____ Other: _____

- ☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Amended Petition Decl. Judgment and Request for production of documents

Estimated Time Needed: Unknown

Court Reporter Needed: ☒ YES ☐ NO

SECTION II: Motion/Order Type

- ☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

(Prose) [Signature]

Signature of Attorney for ☒ Plaintiff / ☐ Defendant7/8/13
Date submitted

SECTION III: Motion Fee

- ☐ PAID - AMOUNT: \$ _____
☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____☐ CONTESTED - AMOUNT DUE: \$ _____

State of South Carolina
County of Charleston

Demetrius J. Smalls #286804
Plaintiff

vs.

J. Al Canon Jr., Ronald Perry, Frank Riccio,
Julius Buncum, Rebecca Thomas R.
Farrell, Tyrone Simmons, Christopher Morrell,
A. J. Santos, David Michel, Linda Lombard,
R. Markley Dennis Jr., Scarlett Wilson and
Julie J. Armstrong. Defendants.

In The Court of Common Pleas
For the Ninth Circuit

Case NO. 2012-CP-10-8250

Amended Petition For
Declaratory Judgment
(Jury Trial Demand)

To: Above-named Defendants

Comes now, the Plaintiff, Demetrius J. Smalls (pro se), moves the Honorable Court to Amend and Supplement his Petition for Declaratory Judgment pursuant to Rule 15(a) and (b), DCRCP, solely based on after discovered evidence and fraud upon the Court, pursuant to Rule 60(b)(1) and (2). This amendment to plaintiff's Petition for Declaratory Judgment is to conform the evidence to the Amended Pleading pursuant to Rule 15(b). With there being allegations of fraud upon the Court and after-discovered evidence, the Plaintiff shall overstand the Statute of Limitations. The Defendants shall have within (15) fifteen days exclusive of the date of service to serve a responsive pleading on the Plaintiff as Rule 15(a), DCRCP, provides.

Statement of the Case

On 11-18-04, Officer Christopher Morrell of the Mount Pleasant Police Department submitted an incident report alleging that Demetrius J. Smalls was operating a motor vehicle without the rear lights on on Coleman Boulevard in Mount Pleasant. OFC. Morrell pulled the plaintiff over in the trailer parking lot where plaintiff allegedly gave the officer his name and date of birth. But stated that he did not have his license with him. OFC. Morrell "allegedly" stepped to the back of his cruiser to Communications with Mr. Smalls information. At that time Mr. Smalls exited the vehicle and fled the scene on foot. OFC. Morrell advised Communications, and had Mr. Green exit the vehicle, and secured Mr. Green in his vehicle for his safety. The vehicle Mr. Smalls was operated was towed by Palmetto Towing and Mr. Green was released. OFC. Morrell then met with Mr. Manigault at the Mount Pleasant Police Department. Mr. Manigault gave the officer a signed written statement stating that he had given the car to Mr. Smalls to use. Mr. Manigault stated that Mr. Smalls called him and stated that he had been stopped by the police and that he ran away and left the car. Mr. Manigault stated that Mr. Smalls lives on Royal Avenue but was unable to provide numbers. Mount Pleasant Communications was unable to locate a driver's license for Mr. Smalls. "I will follow up on this case. ~~Nothing~~ further. per OFC. Morrell. On Dec. 1, 2004 A.J. Santos appeared before the Honorable Linda Lombard and based his probable cause on the November 18, 2004 incident report that OFC. Morrell submitted. On December 1, 2004 two arrest warrants were issued by Linda Lombard for Interference with officer and No driver's license. On January 21, 2005 at approximately 1400 hrs. in Dorchester County the plaintiff was placed under arrest by the Town of Summerville Police Department's Detective D. Peters. Detective D. Peters submitted an incident report solely based on the details of the plaintiff's apprehension

by the Summerville Police Department per order from the Dorchester County Sheriff's Office. Detective D. Peters' incident report was dated January 31, 2005. On January 27, 2005 the plaintiff was enroute to the Mount Pleasant Police Department with Fto. Julius Buncum of the Mount Pleasant Police Department per order from Captain Frank Riccio of MPPD. From the time the plaintiff arrived to Mount Pleasant Police headquarters he was assaulted and not fed until a "false" statement was provided to Fto. Buncum. later in the evening the plaintiff was booked into the Charleston County Detention Center after being transported by the Mount Pleasant Police Department. On January 28, 2005 at around 2:00 pm the plaintiff attended a bond hearing, before the Honorable Linda Lombard and a surety bond of \$500,000 dollars was imposed. On March 10, 2005 a preliminary hearing was held for cases no. 2005-000-275 and 2005-000-979 before the honorable James Gosnell, where Larry Todd represented the state. On February 13, 2006 the grand jurors of Charleston County met and true-billed the plaintiff's indictments nos. 2006-CR-10-1253-1256. On June 25, 2007 the plaintiff picked the twelve member grand jury panel for trial, afterwards the plaintiff's attorney David Wolf Esq., presented approximately 11-13 pre-trial motions before the Honorable R. Markley Dennis Jr., in which all pretrial motions were denied. On June 26, 2007 the plaintiff pled guilty under the advisement of trial Counsel on the basis that he would appeal the pre-trial motions that was denied by Circuit Judge R. Markley Dennis Jr. The plaintiff was having constant communication with the FBI and United States Department of Justice, in regards to having the Central records System searched for main-file records in accordance to the F.O.I.P.A. On December 19, 2012 the plaintiff received a correspondence from Kimberly J. Del Greco of the FBI CITS Division in reference to a request that the CITS division run a

Search to locate a main file to access the dates that the Arrest warrant #s H863655-59 in Cases no. 2005-000-275 and 2005-000-979 were issued, and the exact time they were issued. Since Linda Lombard and Phylis Williams could not tell the plaintiff. The CJIS division stated in Correspondence dated Dec. 19, 2012 "A check of the wanted person file in the National Crime Information Center disclosed no active warrants for your arrest". And the CJIS division referred ~~the~~ plaintiff to the Summerville police Department for additional questions concerning the plaintiff's arrest. On January 15, 2013 the United States Department of Justice affirmed the FBI's decision stating that the FBI did conduct a reasonable and thorough search through the data or indices to their system to locate a main file.

Justiciable Controversy

Pursuant to SC Code Ann. § 15-53-20(b), and Dantzler v. Callison, 227, SC 317, 88 SE.2d 64 (1955). "To demonstrate a cause of action a party must show that a justiciable controversy exist." Where a concrete issue is present, and there is a definite assertion of legal rights and a positive legal duty with respect thereto which are denied by the adverse party, there is a justiciable controversy calling for the invocation of declaratory judgment action.

Jurisdictional background of Magistrate

"Magistrate cannot initiate the judicial process prior to the filing of a proper instrument void ab initio and intentionally commit an accused to jail, set a bond on all offenses absence probable cause. Jurisdiction cannot be granted by waiver of the lack of an information or an affidavit although it has been said that there is no constitutional or statutory bar to a waiver of an information, and such a waiver is

-not effected by a plea of guilty." See SC Code Ann. § 22-5-110 arrest, examination commitment or parishment; warrant; (B)(1) "an arrest may not be issued for the arrest of a person unless sought by law enforcement officer acting in their official capacity."

With there being no active warrants for cases no. 2004-010174, 2005-000-275 and 2005-000-979 as expressed in exhibit # 1, then, the defendants have violated ~~SC~~ Code Ann. § 17-13-30, 17-13-90, 22-5-110, 22-5-160, 22-5-180, 22-5-190, 22-5-710, 23-1-215, 17-13-140, by placing the plaintiff under arrest for the following arrest warrant #'s: H865617, H865618, H863655-59, in the above under-lined cases, in which 2004-010174 and 2005-000-275 and 2005-000-979 were both prosecuted and processed through Magistrate, Municipal and General Sessions Court. Legislation enacted the above-listed Statutory provisions to govern the fundamental practice of law, when initiating the judicial process. Legislations intent of those Statutory provisions were to protect the rights of the accused. The provision of SC Code Ann. § 22-5-110 is clearly expressed with Statutory language coinciding with the plaintiff's State and Federal Constitutional Rights, under articles 13, 190, and the Fourth, Fifth and Fourteenth United States Constitutional Amendments.

Due to the violation of those nine Statutory provisions, which serves the function prerequisite to lawfully initiating the judicial process. Without compliance with these jurisdictional requirements the Court could not ascertain personal, subject-matter or territorial jurisdiction to initiate and hear and decide the three cases involved in this action. These were nine positive legal duties that the adverse party denied the plaintiff of, which submerges and manifests a justiable controversy, calling for the invocation of

Declaratory Judgment action pursuant to SCBCP, Rule 57
and SC Code Ann. § 15-53-10 et. Seq.

Without Compliance with the aforementioned jurisdictional requirements the court was without personal, territorial, and subject matter jurisdiction to accept a guilty plea from the plaintiff. Due to Hindering officers not being a lesser included offense to Interference with officers, 1) the plaintiff was never indicted on traffic offenses, and 2) the plaintiff ~~did~~ not waive presentment 4) There was an Unauthorized practice of law, with Defendant Thomas not being the arresting officer in none of cases but prosecuted cases 2005-000-275 and 2005-000-979. The arresting officer is the prosecuting authority in which alleged and provided sworn oral testimony that the plaintiff violated SC Code Ann. § 134.02, 16-5-50, 56-1-20, 56-1-440, 16-11-330(a), 16-11-330(b), 16-3-910 and 16-3-620. See In re. Unauthorized practice of Law Rules proposed by South Carolina Bar (SC 1992) 309 SC 304, 422 SE 2d 123. "police officers may prosecute traffic offenses in Magistrate's and Municipal Court without constituting the Unauthorized practice of law, provided, that only the arresting officer may prosecute the case; However, if the officer is new or inexperienced he may be assisted at trial by one of his Supervisors."

In Case no. 2004-010174 Defendant Thomas posed as arresting officer in essence, Defendant Morrell prosecuted Case no. 2004-010174. Defendant Thomas knowingly and willfully placed false and fabricating information on a County document to defraud the Court. Defendant posed as the plaintiff's arresting officer on the Service notations of arrest warrants #'s: H865617,

H865618, H863655-59; and on the Mount Pleasant Police Department Booking reports, but on her police Supplementary reports dated January 26, 2005 and January 27, 2005, the defendant denies ever placing the plaintiff under arrest at all.

Defendant Lombard issued an arrest warrant to an officer that was not the prosecuting authority of Case 2004-010174 and issued two arrest warrants in case no. 2004-010174 without plaintiff being formally charged with an offense that the prosecuting authority sworn under oath that the plaintiff violated in order to have the arrest warrant #'s: H865617 and H865618 issued pursuant to SC Code Ann. § 22-3-710.

Defendant Lombard allowed Defendant Thomas to arrest and bring before her the plaintiff to answer to a case that defendant Thomas was not prosecuting. Which is also unconstitutional to transfer the Case no. 2004-010174 from Magistrate to Municipal Court, due to defendant Thomas not being the prosecuting officer in Case No. 2004-010174. Defendant Morrell is the prosecuting officer.

Defendant Michel was without personal and subject matter jurisdiction to accept a guilty plea in case no. where there was no active arrest warrant to arrest the plaintiff to hold the plaintiff to answer to the offenses of Interference with officer and No Driver's license when there was no warrant issued for operating a motor vehicle with no working tail lights, pursuant to SC Code Ann. § 22-3-710. Defendant Michel was without subject matter jurisdiction to accept a guilty plea without having the plaintiff appear before him to enter a plea of guilty. Defendant Michel

was without Subject matter jurisdiction to accept a guilty plea to offense Code & Code Ann. § 16-5-50, when Hindering officers is not a lesser included offense to Interference with officers, and not having the defendant in front of him to enter a plea of guilty to an offense that is not a lesser included offense to the offense Charged 134.02. See Notice of failure to comply with terms of citation where plaintiff was found guilty in his failure to appear before Judge Michel to be sentenced and pay fine for offense Code 16-5-50, and see back of warrants where the same judge that issued the notice finding plaintiff guilty in his absence, insinuates that plaintiff pled guilty to Hindering officers and Driving without a license. Exhibits 3 + 4.

Defendants B. Farrell exercised an Unauthorized practice of law by executing search warrants without executing the returns; Defendant B. Farrell committed a violation of perjury/ Subornation of perjury by stating in his Supplementary police report dated January 26, 2005 that he executed search warrants in case: 2005-000-979 when Tyrone Simmons Swears under oath to Jannette Harper (Magistrate Judge) that he executed Search Warrant in case 2005-000-979.

Defendant Tyrone Simmons exercised an Unauthorized practice of law by allowing Defendant Farrell to execute search warrants in case #: 2005-000-979 where the Search Warrants specifically directs Tyrone Simmons who is the Sworned affiant in case 2005-000-979 to execute the search Warrants in that case. Defendant Simmons also committed perjury/ subornation of perjury by lying under oath before Magistrate Judge Jannette Harper about serving the

Search Warrant in Case # 2005-000-979 when Defendant Farrell executed the Search Warrant and retained custody of clothing that was Supposively Seized ~~from~~ Demetrius Snells who was arrested on January 26, 2005 and not the plaintiff who was not even in custody on January 26, 2005.

Defendant Riccio gave Authorization and permitted the Unauthorized practice of Law displayed by his Subordinates by not Supervising and directing the activities of his Co. workers that operated under him. Defendant Thomas and Buncum acknowledges Defendant Riccio presence and the fact that the order to transport the plaintiff to Headquarters and his arrest was purely investigatory.

Defendant Buncum transported the plaintiff from Dorchester County to Charleston County which deprived the plaintiff of his rights to be Seize in his own person against Unreasonable Searches and Seizures in the absence of probable Cause. Defendant Buncum executed an Authorized practice of law by proclaiming to have executed arrest warrants in Dorchester County without first having them endorsed by a Magistrate and without having a Written Agreement between both jurisdictions to place the plaintiff under arrest for Criminal investigation. Defendant Buncum knowingly and willfully committed the act of perjury/Subornation of perjury by submitting false information on Supplementary report dated January 26, 2005.

Defendant Santos - filed a complaint against the petitioner when he was not the prosecuting officer of Case no. 2004-010174 or the arresting officer and nor did the plaintiff commit a violation of any State violation in the presence of Defendant Santos. Being that Defendant Santos gave sworn testimony to an offense that the plaintiff allegedly committed Defendant Santos was not only obligated to arrest but serve

Arrest Warrants on the plaintiff apprising him of the offense violated, when the offense was violated, where the offense was violated and etc. all of which constitutes an unauthorized practice of law.

Defendant Perry did not supervise the activities of his underlings. Therefore, serving under the Sheriff of Charleston County Perry was obliged to direct and supervise the activities of Defendant Riccio and his underlings to ensure that the laws that legislation enacted to serve as jurisdictional requirements were circumvented and the accused rights would be protected. Defendant Perry allowed his officers to willfully and knowingly violate the statutory provisions which prohibits systematic police misconduct and constitutes a violation of state and federal law which fundamentally governs the practice of law for law enforcement agencies and judicial officials.

Scarlett Wilson (Defendant) committed prosecutorial misconduct by knowingly and willfully initiating the judicial process and being an advocate for the state, without having active arrest warrants before the plaintiff was placed under arrest. Therefore, the Defendant did not have jurisdiction to act in cases 2005-000-979 and 2005-000-275, and the function that the defendant served was not a judicial one, due to the defendant knowingly and willfully submitting indictments to the grand jury of Charleston County without having probable cause to have the plaintiff arrested.

Defendant Julie J. Armstrong committed the act of violating her oath to discharge her duties without prejudice and impartially as a law clerk of Charleston County and in the state of South Carolina. Defendant Armstrong did not have jurisdiction to act, and the function that was served was not a judicial one due to plaintiff being illegally arrested, admitted bail, committed to jail to await a criminal trial, and bonded over for indictment without valid arrest warrants, and without the issuing magistrate.

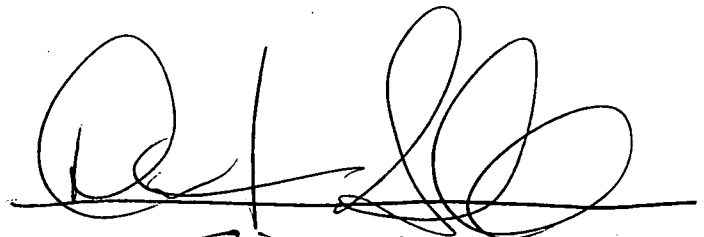
Of Arrest Warrant #s. H865617 and H865618 Complying with SC Code Ann. § 22-5-110 and § 22-5-710. Defendant Armstrong could not perform her duties as Clerk of the Court of general Sessions, when she was never transmitted all papers connected to case: 2004-000-174. The Clerk from Summary Court or Municipal Court after the issuing magistrate was required to forward the Court documents from case: 2004-000-174 to Julie Armstrong in relation to that case so the plaintiff could be transferred or bounded over to general sessions court in cases: 2005-000-275 and 2005-000-979, which deprives plaintiff of his Due process/equal protection rights.

Defendant Canon authorized the arrest and detention of plaintiff in the absence of probable cause. With Defendant Canon depriving plaintiff of his positive legal duty to comply with SC Code Ann. § 23-17-90 and allowing plaintiff to be booked and processed in his detention Center without active arrest warrants, and informing plaintiff of the nature and cause of the accusation being made against him for which he was placed under arrest for, which violates the plaintiff's right against unreasonable searches and seizures, and Due process/equal protection of Law rights.

Defendant R. Markley Dennis Jr authorized and permitted the defendants Julie Armstrong and Scarlett Wilson to process cases: 2005-000-275 and 2005-000-979 without having active arrest warrants for those cases. Therefore, Defendant was without jurisdiction to authorize a bond hearing being had, scheduling court hearings and docketing of cases 2005-000-275 and 2005-000-979. Defendant Dennis was without jurisdiction to authorize a jury to convene to true-bill indictments no. 2004-CR-10-1253-56, and to sentence the plaintiff to twenty-five years, due to plaintiff not being lawfully indicted, in accordance with SC Code Ann. § 14-9-210, therefore Defendant Dennis also violated the statutory provision of SC Code Ann. § 17-25-10 and plaintiff's State Constitutional right to due process/equal protection of Law under Article I § 3.

RELIEF

The plaintiff moves the Court for a hearing on his claims. The plaintiff seeks injunctive relief to discontinue the Unconstitutional and illegally imposed twenty-five year sentence. Plaintiff also seeks to bound this state action over to (Federal) District Court of South Carolina for the violations of plaintiff's Fourth, Fifth and Fourteenth Amendment rights of the United States Constitution and for the violations of Title 18 USCS §§ 241-242. The plaintiff wishes to have this state action bounded over under Supplement Jurisdiction. ¹³⁰⁷ The 28 USCS Plaintiff wishes to have the Unconstitutionally and illegally imposed sentence vacated due to the acts of fraud, perjury / Subornation of perjury, Malicious prosecution and Conspiracy to deprive the plaintiff of his civil rights under color of law. The Plaintiff requests for a declaratory judgment granting the plaintiff the underlying relief listed in this Amended petition and further relief deemed appropriate pursuant to SC Code Ann. § 15-53-120.


Signature

7/8/13
Date

State of South Carolina
County of Charleston

Demetrius J. Smalls # 286806
Plaintiff

vs.

J. Al Canon Jr., Ronald Perry, Frank Riccio,
Julius Buncum, Rebecca Thomas, R. Farrell,
Tyrone Simmons, Christopher Morrell, A.
Santos, David Michel, Linda Lombard, R.
Markley Dennis Jr., Scarlett Wilson and
Julie J. Armstrong Defendants

In the Court of Common Pleas
Case no 2012-CP 10-8250

Summons

To: Above named Defendants

You are hereby summoned and required to serve upon the plaintiff an answer to the Complaint which is served upon you within (30) thirty days after service thereof, exclusive of the day of service. If you fail to do so, judgment of default will be taken against you for the relief demanded in the Complaint.

From: Demetrius J. Smalls # 286806
Lieber Correctional Institution EA19
P.O. Box 205
Ridgville, SC 29472

To: J. Al Canon Jr. 3505 Pinehaven Dr., Chas.
Heights, SC 29405-7789
Ronald Perry, Frank Riccio, J. Buncum,
Rebecca Thomas, R. Farrell, Tyrone
Simmons, Christopher Morrell and A.
Santos, 100 Ann Edwards Lane, Mount
Pleasant, SC 29464
R. Markley Dennis Jr., J. Armstrong
100 Broad St. Ste 106, Charleston, SC
29401-2258
Scarlett Wilson

State of South Carolina
County of Charleston

Demetrius J. Smalls #286804
Prose

vs.
J. Al Canon Jr., Ronald Perry, Frank Riccio,
J. Barcum, Rebecca Thomas, R. Farrell,
Tyrone Simmons, Christopher Morrell, A.J.
Santos, David Michel, Linda Lombard,
R. Markley Dennis, Jr., Scarlett Wilson,
and Julie J. Armstrong Defendants.

In The Court of Common Pleas
For The Ninth Circuit

Case no. 2012-CP-10-8250

Plaintiff's Second Request for
Production of Documents
and Notice of Motion

To: Above named Defendants.

Pursuant to Rule 34, SCRPC, plaintiff, Demetrius Smalls, prose, hereby request that the above-named defendant J. Al Canon Jr. produce, for inspection and/or copying, the below listed documents or items within thirty (30) days from the date of service thereof.

1) Any and all booking and arrest records, fingerprint and palm print cards included, that was taken by booking officer/and or processing Officer Campbell (ID No 8418) on date January 27, 2005.

2) Any and all booking, processing and housing policy on pre-trial detainees.

3) Any and all policy on Warrant execution in another County and written agreements to arrest an accused in another County for criminal investigation pursuant to SC Code Ann. § 23-1-215

4) Any and all property receipts, order of Commitments, Magistrate/Municipal Court checklist, In-house NCIC Check, Magistrate Court Commitment form, Booking checklist and documentation forms, Charleston County Detention Center Detainer forms based on plaintiff's arrest and commitment on January 27, 2005 by the Mount Pleasant Police Department and Charleston County Sheriff's office for cases: 2004-010174, 2005-000-275 and 2005-000-979.

Plaintiff submits Identification information to locate the requested documents listed in this motion and Notice of Motion. Demetrius Jared Smalls #1141149, 8-10-81; 250-47-7071; cases 2004-010174, 2005-000-275 and 2005-000-979.

Wherefore, plaintiff request that the defendants comply with the mandates of Rule 34, SCRPC, and forward the requested document to plaintiff as soon as practicable. Plaintiff looks to hear from the Defendant Canon Jr. in a time-limit prescribed by SCRPC, Rule 34.

Grace. Peace. Blessings.

Sincerely,

A handwritten signature in black ink, appearing to be "Demetrius Jared Smalls", written over a horizontal line.

Signature

~~6/24/13~~

7/8/13

State of South Carolina
County of Richland

Demetrius J. Smalls
Plaintiff,

VS.

J. Al Canon Jr., Charleston County
Sheriff's Office, Charleston County
Detention Center, Chief Mitch
Lucas and Major John Clark
Defendants.

In The Supreme Court of
South Carolina

Case no. 2012-CP-10-8250

Notice of Motion and
Motion to Alter
and Amend Judgment
(Pursuant to Rule 59(e), SCRPC)

This matter comes before the court, by the plaintiff, prose, addressing the issue of the Ninth Circuit Court of Common Pleas being scheduled to hear two motions, that, the plaintiff in the above Declaratory Judgment Action, along with the adverse parties Notice of Motion and Motion To Dismiss with prejudice on May 30, 2013. See Exhibits 1-3. Defendants' motion is based on the grounds that pursuant to the South Carolina Tort Claims Act, plaintiff claims are barred by the two year statute of limitation. SC Code Ann. § 15-78-100. Defendants additionally assert that plaintiff's claims are barred by statute of limitations mandated by SC Code Ann. § 30-4-100. Plaintiff contends that Action No. 2012-CP-10-8250, is not a Tort Claim Action, so it is no statute of limitation, when filing a declaratory judgment, except when a party is enforcing provision of SC Code Ann. § 30-4-100. In the instant action that was dismissed with prejudice, only two of the defendants [M. Lucas + J. Clark] were listed in action No. 2012-CP-10-8250, Under the Freedom of Information Act, Plaintiff filed an Amended petition for Declaratory Judgment Action, Supplementing the Amended pleading with after-discovered evidence,

Which does not indicate an applicable Statute of limitations and neither does fraud upon the Court pursuant to Rules 60(B) and 60(B)(3), SCRPC. Therefore, The Plaintiffs.

Declaratory Judgment Action and demand for trial by jury cannot be dismissed for the following reasons:

1) SC Code Ann. § 15-53-90, provides that, All rights to trial by jury are preserved by this provision which guarantees the plaintiff a federal and State Constitutional Right to Trial by jury.

2) The facts of the Case are to be determined by a trial by impartial tribunal that indicates whether or not a justiciable Controversy exist, to where the invocation of Declaratory Judgment Action is to be declared.

3) The Defendants had a positive legal duty with respect thereto, which was denied by the defendants, which not only violated the Plaintiff's Federal and State Constitutional rights to be secure in his own person, Against unreasonable searches and seizures, the right to effective assistance of Counsel, the right to not be deprived of Life, Liberty or property without Due Process of Law without just compensation, Due Process [Procedural] and Equal Protection of Law, but constituted acts of fraud, Criminal Conspiracy, Oppression in office & Etc.

4) The acts committed by the adverse party also constitutes the violation of Federal Statutes Title 18 USC §§ 241, 242;

5. On May 30, 2013, the plaintiff was scheduled to present his Motion To Amend Original petition and his initial request for Production of Documents, to prepare present adequately ~~at~~ ~~to~~ preserve action no. 2012-CP-10-8250, so the jury could hear and come to conclusion on the facts presented ~~to~~ set forth a justiable Controversy, that calls for the invocation of Declaratory Judgment Action Pursuant to SC Code Ann. § 15-53-20(b) and SC Code Ann. § 15-53-10 SC Code Ann. § 15-53-90.

6. There is no applicable Statute of Limitations that can be applicable in cases of after discovered evidence and Fraud upon the Court as SC RCP Rules 60(b) and 60(b)(3) provides to warrant action no. 2012-CP-10-8250 being dismissed with prejudice for a bar the plaintiff from having the right to trial by jury as all rights are preserved upon request pursuant to § 15-53-90.

7. Prior to the Commencement of the hearing of the Motion To Dismiss the plaintiff's Original petition, The plaintiff requested that Circuit Judge R. Markley Dennis Jr., recuse himself, due to the fact that he was plaintiff's trial/jury sentencing judge, that denied plaintiff pre-trial motions on June 25, 2007, without reason, to deprive the plaintiff of his civil rights under plaintiff's Fourth, Fifth and Fourteenth

United States Constitutional Rights and State Constitutional Rights under Articles I, §3 and I, §10.

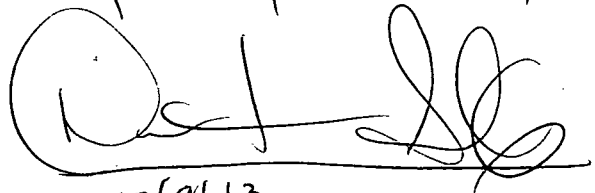
8. By the presiding judge dismissing plaintiff's action with prejudice and ending case no. 2012-CP-10-8250, the Circuit judge violated the "Separation of Powers Doctrine" by serving a Supervisory function to dismiss the plaintiff's right to trial by jury with prejudice, when pursuant to SC Code Ann. § 15-53-90, all existing rights to trial by an impartial tribunal are preserved for plaintiff, since the Court granted him his right to trial by jury. Legislation only has the power to suspend a law and promulgate a statute that would take away plaintiff's right to trial by jury not the presiding Circuit judge.

The plaintiff appeals the decision of Circuit Judge R. Markley Dennis Jr., and motions the Court in a timely fashion to alter and amend judgment to dismiss plaintiff's action with prejudice. Plaintiff plays for the Court to reverse the presiding judge's decision to end the case, and deprive plaintiff of his existing rights to trial by an impartial tribunal, for them to establish whether a justiciable controversy exist that calls for the invocation of Declaratory Judgment Action pursuant to SC Code Ann. § 15-53-20(6) and SC Code Ann. § 15-53-90. Plaintiff wishes for the Supreme Court to remand the case back to the lower court to hear and decide plaintiff's Motion To Amend Original pleadings and plaintiff's initial request for production of documents pursuant to SCRPC, Rule(s) 15(2) and Rule(s) 34.

See Notices of Motion Scheduling form reflecting that on May 30, 2013, the Court was supposed to hear and decide on Plaintiff's Motion To Amend and request for production of documents. And see final order to dismiss with prejudice.

Pursuant to SCRCP, Rule 15(d)(b) Since those Motions were never heard or considered, the Plaintiff wishes to Amend those petitions with recent Amended petitions Changing parties and Conforming evidence to the Amended Complaint. Plaintiff Amends the petition due to After-discovered evidence and fraud upon the Court pursuant to Rules 60(B) and 60(B)(3), to Sustain Statute of Limitation Implemment and to preserve Action. 2012-CP-10-8250 for Plaintiff's jury trial to be had.

Respectably Submitted,



7/8/13
Date

Buyck and Sanders, LLC
CC File Ninth Circuit Clerk of Court of Common Pleas.

Statement of Facts

RECEIVED

JUL 15 2013

S.C. SUPREME COURT

1). SCRCR Rule 41 (2) provides, By order of Court
"Except as provided in Paragraph (1) of this Subdivision
of this rule, an action shall not be dismissed at the
plaintiff's instance save upon order of the Court and upon such
terms and conditions as the Court deems proper. If a
Counterclaim has been pleaded by a defendant prior to the
Service upon him of the Plaintiff's Motion To Dismiss, the
action shall not be dismissed against the defendant's
objection unless the counterclaim can remain pending
for independent adjudication by the Court. Unless other-
wise specified in the order, a dismissal under this paragraph
is without prejudice." Meaning that way a non-suit can
be dismissed by order of the Court is without prejudice.

2). Section 15-53-90 provides that all existing rights to a
jury trial by an impartial tribunal are preserved for the
facts to be determined by a jury trial. As the plaintiff's
Federal Constitutional right to trial by an impartial jury and
right to confront his accusers, 5th & 6th Amendment USCA, and
plaintiff's First Amendment right to Access to the Court and
address of grievances. Which is why Judge Dennis is depriving
the plaintiff of his civil right to Due Process/Equal
protection of Law under the Color of Law and Conspiracy

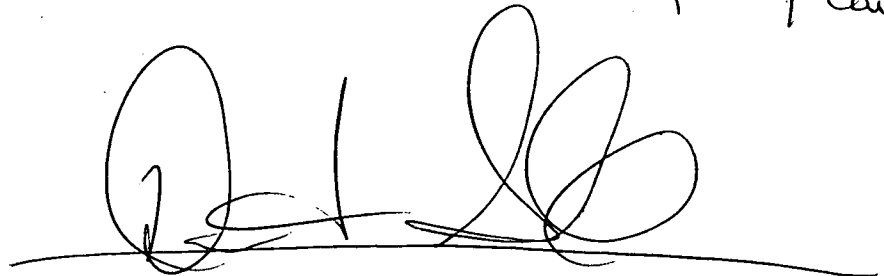
to deprive Plaintiff of Civil right based on the defendants
2nd Circuit Judge P. Martley Dennis Jr; dismissing the
Plaintiff's action no. 2012-CP-10-8250 with prejudice when
a justiciable controversy exist, in the fact that the adverse
party violated State and Federal Constitutional Rights
of the Plaintiff, by violating SC Code Ann § 17-13-30, 17-13-140,
22-3-710, 22-5-110, 22-5-210, 22-5-510, 22-5-710, 22-5-160,
22-5-180, 22-5-190, 23-17-90 and 23-1-215 + etc. pursuant
to SC Code Ann § 15-53-20(b), when a justiciable controversy exist
thus calls for the invocation of Declaratory Judgment Action.

^{notices of Motion Sched.}

(See Exh. 1-3) and (See Exh. 4) (Order of Dismissal)
3. See all (B) notices of Motion Scheduling dated April 24, 2013
Scheduling hearing for May 30, 2013 at the Court of Common
Pleas, Charleston County Judicial Center at 100 Broad St, Ste. 106
Charleston, SC 29401-9401 in Court room 3-E with Judge Dennis.
Judge Dennis was suppose to hear Motion To Amend Complaint
Petition for Declaratory Judgment and Plaintiff's Motion to
Request for production of Documents and Affidavits for Case no.
2012-CP-10-8250, Judge Dennis only heard the Defendant
Motion To Dismiss Case: 2012-CP-10-8250 with prejudice
and granted Defendant's Motion To Dismiss solely for
Plaintiff having a year to file a Declaratory Judgment
to enforce the provisions of the South Carolina Freedom of
Information Act, when Plaintiff only addressed two of
the defendants not complying with the FOIA.

(See Exhibit #5 (Defendants Motion To Dismiss), see
(Exh. 6 & 7) Plaintiff's Motions filed on 4-10-2013 at 9:48 AM
And March 19, 2013, where Plaintiff complied with SCRCP, ^{Rule} 15(e) and
Rule 34, SCRCP, and his Motions were not heard or responded to
by the Defendants but was dismissed without prejudice.

4. (See Exhibits 8 and 9) (Motion To Alter and Amend Judgment/Off of Service
Plaintiff files an Amended petition for Declaratory Judgment
demanding a jury trial and a Second request for production
of documents and a Motion To Alter and Amend Judgment
Which Supports the plaintiff's Underlying Statement of facts.
(See Exh. 10) Motion For Appointment of Counsel filed prior to action
being dismissed. Also see Complaint with office of Disciplinary Counsel



Signature

7/8/13

Date

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2012-CP-10-8250

Demetrius J. Smalls, #286806

Charleston County Sheriff's Office, Al Cannon,
Jr., Charleston County Detention Center, Chief
Mitch Lucas, and Major John Clark

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE 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 LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Plaintiff submitted an Inmate Trust Fund Account Report dated November 30, 2012 in which he authorizes the South Carolina Department of Corrections to pay the full filing fee in accordance with S.C. Code Ann. § 24-27-100 and -150. The Plaintiff is to pay the filing fee by the method instructed in S.C. Code Ann. § 24-27-110 and § 24-27-150 until paid in full. The action is to be filed pursuant to S.C. Code Ann. § 24-27-150, and the Clerk is to direct the South Carolina Department of Corrections to make payments per S.C. Code Ann. § 24-27-110.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
n/a		\$
		\$
		\$

JULIE J. ARMSTRONG
CLERK OF COURT, C.P. & G.S.
100 BROAD STREET, SUITE 106
CHARLESTON, SC 29401-2258
RETURN SERVICE REQUESTED



www3.charlestoncounty.org



61



DEMETRIUS J SMALLS
286806 LIEBER C I
PO BOX 205
RIDGEVILLE SC 29472-0205

NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC

Order/Order For Plntff to Pay Full Filing Fee

CASE NO: 2012CP1008250
Demetrius J Smalls VS Charleston County Sheriffs Office

This judgment was entered on the 19th day of December, 2012, and a copy mailed first class on Friday, December 21, 2012, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at www3.charlestoncounty.org.

Common Pleas
Charleston County Judicial Center
100 Broad Street - Suite 106
Charleston, SC 29401-9401

STATE OF
SOUTH CAROLINA



Demetrius J Smalls
#286806 Lieber C.I.
Po Box 205
Ridgeville, SC 29472

NOTICE OF MOTION SCHEDULING

April 24, 2013

**Motion "MDISMS - Motion/Dismiss by defendant, crt/srv" for Case: 2012CP1008250 -
Demetrius J Smalls VS Charleston County Sheriffs Office has been added to the
following Motions Roster:
80 - MOTIONS ROSTER - JUDGE DENNIS**

This hearing of this motion has been scheduled for 5/30/2013 at 2:00 PM.

MOTIONS WILL BE HEARD IN COURTROOM 3E WITH JUDGE DENNIS. JUDGE DENNIS WILL NOT
CONSIDER REQUESTS FOR CONTINUANCES AFTER WEDNESDAY, MAY 22nd AT 5 PM. IF YOU HAVE
QUESTIONS, PLEASE CONTACT CAROLINE LEONARD AT cleonard@charlestoncounty.org.

Mail Notice To:

Demetrius J Smalls
#286806 Lieber C.I.
Po Box 205
Ridgeville, SC 29472

Court Info:

Common Pleas
Charleston County Judicial Center
100 Broad Street - Suite 106
Charleston, SC 29401-9401

If you have any questions regarding the scheduling of this motion, please contact the courts at:

(843)958-5000

Respectfully,

Julie Armstrong
Clerk of Court

Common Pleas
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401-9401

STATE OF
SOUTH CAROLINA



Demetrius J Smalls
#286806 Lieber C.I.
Po Box 205
Ridgeville, SC 29472

NOTICE OF MOTION SCHEDULING

April 24, 2013

**Motion "MOFREE - Motion/Plaintiffs Motion & Request for Production, affdvt/sr" for Case: 2012CP1008250 - Demetrius J Smalls VS Charleston County Sheriffs Office has been added to the following Motions Roster:
80 - MOTIONS ROSTER - JUDGE DENNIS**

This hearing of this motion has been scheduled for 5/30/2013 at 2:00 PM.

MOTIONS WILL BE HEARD IN COURTROOM 3E WITH JUDGE DENNIS. JUDGE DENNIS WILL NOT CONSIDER REQUESTS FOR CONTINUANCES AFTER WEDNESDAY, MAY 22nd AT 5 PM. IF YOU HAVE QUESTIONS, PLEASE CONTACT CAROLINE LEONARD AT [ccleonard@charlestoncounty.org](mailto:cleonard@charlestoncounty.org).

Mail Notice To:

Demetrius J Smalls
#286806 Lieber C.I.
Po Box 205
Ridgeville, SC 29472

Court Info:

Common Pleas
Charleston County Judicial Center
100 Broad Street - Suite 106
Charleston, SC 29401-9401

If you have any questions regarding the scheduling of this motion, please contact the courts at:

(843)958-5000

Respectfully,

Julie Armstrong
Clerk of Court



Demetrius J Smalls
#286806 Lieber C.I.
Po Box 205
Ridgeville, SC 29472

NOTICE OF MOTION SCHEDULING

April 24, 2013

**Motion "MOFREE - Motion/Amend Petition for Judgment by plaintiff, crt/srv" for Case: 2012CP1008250 - Demetrius J Smalls VS Charleston County Sheriffs Office has been added to the following Motions Roster:
80 - MOTIONS ROSTER - JUDGE DENNIS**

This hearing of this motion has been scheduled for 5/30/2013 at 2:00 PM.

MOTIONS WILL BE HEARD IN COURTROOM 3E WITH JUDGE DENNIS. JUDGE DENNIS WILL NOT CONSIDER REQUESTS FOR CONTINUANCES AFTER WEDNESDAY, MAY 22nd AT 5 PM. IF YOU HAVE QUESTIONS, PLEASE CONTACT CAROLINE LEONARD AT [ccleonard@charlestoncounty.org](mailto:cleonard@charlestoncounty.org).

Mail Notice To:

Demetrius J Smalls
#286806 Lieber C.I.
Po Box 205
Ridgeville, SC 29472

Court Info:

Common Pleas
Charleston County Judicial Center
100 Broad Street - Suite 106
Charleston, SC 29401-9401

If you have any questions regarding the scheduling of this motion, please contact the courts at:

(843)958-5000

Respectfully,

Julie Armstrong
Clerk of Court

STATE OF SOUTH CAROLINA

COUNTY OF CharlestonDemetrius Jarod Smalls# 286806

vs.

Plaintiff,

Charleston County Sheriff'sOffice

Defendant.

IN THE COURT OF COMMON PLEAS

9 JUDICIAL CIRCUITCASE NO.: 2012-CP-10-8250MOTION AND ORDER INFORMATION
FORM AND COVERSHEETPlaintiff's Attorney: Pro Se

_____, Bar No. _____

Address: _____

Phone: _____ Fax _____

E-mail: _____ Other: _____

Defendant's Attorney: _____

_____, Bar No. _____

Address: _____

Phone: _____ Fax _____

E-mail: _____ Other: _____

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: _____

Estimated Time Needed: _____

Court Reporter Needed: ☐ YES/☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff/☐ Defendant

Date submitted _____

SECTION III: Motion Fee

☐ PAID - AMOUNT: \$ _____☐ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support☐ Domestic Abuse or Abuse and Neglect☐ Indigent Status ☐ State Agency v. Indigent Party☐ Sexually Violent Predator Act ☐ Post-Conviction Relief☐ Motion for Stay in Bankruptcy☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____☐ CONTESTED - AMOUNT DUE: \$ _____

State of South Carolina
County of Charleston

Demetrius Fred Smalls #286804
Plaintiff,

- versus -

Charleston County Sheriff's Office,
Al Cannon Jr. (Chief) Mitch Lucas,
(Major) John Clark, Charleston County
Detention Center.
Defendants.

In The Court of Common Pleas
For The Ninth Circuit

(Case No. 2012 CP-10-8250)

Motion To Amend Petition For
Declaratory Judgment

FILED

MAR 19 2013

JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

To: Defendants

You will please take notice that the Plaintiff in this action, Demetrius Smalls, Pro Se, will move the Circuit Court, at a time and place to be arranged with the Court and parties involved for an Order granting the Plaintiff's Motion To Amend Petition For Declaratory Judgment Pursuant to South Carolina Rules of Civil Procedure Rule 15.

Defendants' moves to dismiss Plaintiff action with prejudice pursuant to Rule 12(b)(6) on the grounds that Plaintiff's petition allegedly fails to state facts sufficient to constitute a cause of action. Defendants also allege that pursuant to the South Carolina Tort Claims Act, Plaintiff's claims are barred by the applicable statute of limitations.

Plaintiff Complied with the Court rule 12(b)(6) by providing the defendants with the Cause of action, which was plaintiff being subjected to the intentional infliction of emotional distress, mental anguish, grief and sorrow, mental shock and suffering, loss of companion-ship, defamation of character, and the loss of his experience and judgment of managing his affairs business-wise, in addition to the loss of his ability to earn money for the support, maintenance, care and protection for his family, and the loss of his ability for the education and training of the latter, wounded feelings through the Charleston County Sheriff's office, J. Al Cannon Jr., Charleston County Detention Center and Chief Mitch Lucas's failure to exercise slight care as provided in JENKS v. Richland (SC 2003) 2003 WL 21910551. Municipal Corporations - Key 723.

"The decision to grant a motion to dismiss for failure to state facts sufficient to constitute a cause of action must be based solely upon the allegations set forth in the complaint; the question whether, viewing the allegations in the light most favorable to the plaintiff the complaint states any valid claim for relief, even if the court doubts that the plaintiff will prevail." Clearwater Trust v. Bunting (SC 2006) 367 SC 340, 626 SE.2d 334. Pre-trial Procedure Key 622, Pre-trial Procedure Key 679; Pre-trial Procedure Key 681.

"Complaint may not be dismissed for failure to state a claim if facts alleged in complaint and inferences reasonably drawn therefrom would entitle plaintiff to any relief on any theory of case." Burns v. Gardner (S.C.App. 1997) 328 SC 608, 493 SE.2d 356. Pre-trial Procedure Key 624.

Plaintiff amends Petition For Declaratory Judgment by way of this Motion under the above-listed underlying factual predicates that should sufficiently constitute Plaintiff's cause of action. The Plaintiff contends that the following injuries occurred due to the Defendants violating State and Federal Constitutional law as well as Statutory law.

- 1) False imprisonment,
- 2) Intentional infliction of emotional distress,
- 3) Mental anguish,
- 4) Grief and Sorrow,
- 5) Mental Shock and Suffering,

6) Wounded feelings

Pursuant to SCRPC Rule 12 (11) "A plaintiff must satisfy the following elements to state a claim of intentional infliction of emotional distress: (1) the defendant intentional infliction of emotional distress or recklessly inflicted severe emotional distress, or was certain or substantially certain that such distress would result from his conduct; (2) the conduct was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community; (3) the actions of the defendant caused the plaintiff's emotional distress; (4) the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it. Bergstrom v. Palmetto Health Alliance (SC App. 2002) 352 SC 221, 573 SE.2d 805, rehearing denied, Certiorari granted, aff'd in Part, vacated in part 358 SC 388, 594 SE.2d 42. Damages Key 57.21.

Plaintiff asserts the following, without active arrest warrants to vest a Magistrate or the Sheriff, the Charleston County Sheriff's Office or the Charleston County Detention Center with jurisdiction over Plaintiff's person or the Subject-matter without an oath or information being filed with the Magistrate's Court, a magistrate is without jurisdiction to issue a legal order committing the Plaintiff into the custody of the Charleston County Sheriff's Office, Detention Center or J. Al Cannon Jr, who governs both governmental entities.

This also renders the plaintiff being detained in the defendants custody and control illegal, based on plaintiff's arrest being illegal. The Plaintiff has State and Federal Rights to not be deprived of Life Liberty, or property without due process of law, The right to be secure in his own person, houses, papers and effects against unreasonable searches and seizures, as well as the right to Due Process and Equal Protection of law, With their not being a valid Booking and Arrest records to warrant Plaintiff's detention for Case: 2004-010174, and Warrant #: H865617 and H865618, then Plaintiff's United States and South Carolina Coordinated Rights and were violated and the Criminal Laws of the State of South Carolina governing the Criminal act of Kidnapping were violated by the defendants as well.

South Carolina Code Ann. § 16-3-910 defines the act of Kidnapping as being an Unlawful Seizure, confinement, abduction, kidnapping, inveigling, decoying, and carrying away of a person without the authority of law as the Statutory Provision prohibiting Such act provides.

In an Action for Unlawful arrest a city was not entitled to Summary Judgment Under 15-78-60 ~~(b)~~ (3), where the Plaintiff was arrested before the City obtained a warrant from a magistrate, and thus the actions of the Police did not occur either during the execution or enforcement

Of a Court order, or during the lawful implementation of any process.
Wortmann v. Spartanburg (SC 1992) 310 SC 1, 425 SE.2d 18.

As plaintiff's alleged false imprisonment as being the gist of Plaintiff's detention as well as plaintiff's Petition for Declaratory Judgment, The Supreme Court explained the difference between false imprisonment and Malicious Prosecution as follows:

"Where one brings an action for false imprisonment, all that is necessary for him to allege and prove is that he has been unlawfully restrained of his liberty, and it is wholly immaterial to inquire whether the charge against him, for which he has been arrested, is well or ill-founded in fact." § 5 Malicious Prosecution. South Carolina Jurisprudence.

Defendants assertion is that Under state law, Defendant Al Cannon Jr. as Sheriff of Charleston County, is considered "an arm of the State" (Cone v. Nettles, 308 SC 109, 417 S.E.2d 523 (1992), adopting the district Court's holding in Gulledge v. Smart, 691 F.Supp. 947 (D. S.C. 1988) (holding that South Carolina Sheriffs are State officials for Eleventh Amendment purposes), aff'd mem., 878 F.2d 379 (4th Cir. 1989).

This action filed should only be construed as being a Petition for Declaratory Judgment not a South Carolina Tort Claim or a 1983 Civil Act 42 USC 1983. The holding in Cone and Gulledge, related solely to 1983 civil action due to the Sheriff being State officials for eleventh Amendment purposes.

Where a concrete issue is present, and there is a definite assertion of legal rights and a positive legal duty with respect thereto which are denied by the adverse party, there is a justiciable controversy calling for the invocation of declaratory judgment action. Dantzler v. Callison, 227, SC 317, 88 SE, 2d 64 (1955). Also see § 15-53-20(6)

A justiciable controversy exists, in that The Defendants all violated the Plaintiff's State and Federal Constitutional Rights, as well as Statutory Law.

The Charleston County Sheriff's Office, Sheriff J. Al Cannon Jr., and The Charleston County Detention Center had a positive legal duty to ensure that there were active arrest warrants to commit the Plaintiff to detention to await a Criminal trial in the appropriate Criminal Jurisdiction. Plaintiff

contends that Sheriff J. Al Cannon Jr., and the two governmental entities had a Constitutional duty to ensure that the detention of Plaintiff was a lawful one, pursuant to South Carolina Code of Laws 23-15-100

23-15-50 24-5-10 24-5-20, 1976 Codes of Laws of South Carolina, for the case numbers: 2004-010174; Arrest Warrant numbers: H865617 and H865618 on January 27, 2005.

The Charleston County Sheriff's Office, Charleston County Detention Center and J. Al Cannon Jr. (Sheriff), had a positive legal duty to honor Plaintiff's Fourth Amendment Right Under the United States Constitution, and State Constitutional Rights Under Article I § 10 and Article I § 18 and to honor the Statutory Provision of SC Code of Laws § 22-3-710, which vest a Magistrate's Court with jurisdiction over the Plaintiff's person to warrant an accused person's arrest. Thus, also renders the Plaintiff the right pursuant to Article I § 18 of the State Constitution to be informed of the nature and cause of the accusations made against him prior to detention and arrest of the Plaintiff. In Accordance, with SC Code of Laws § 22-3-710 Under the 1942 Code the necessity of an oath and information being filed in Magistrate's Court to vest the Magistrate Court with jurisdiction over the person and the cause may not be waived. See Bayly v. State 397 SC 290, 724 SE2d 182 2012

Defendants Mitch Lucas and John Clark refused to comply with each and every request for access to records that was made by Plaintiff's attorney and the Plaintiff. Both Defendants informed Plaintiff of what information would be needed to proceed with Plaintiff's request to access to records. Plaintiff complied with the request for information to process Plaintiff's request that was made by the Defendants Lucas and Clark.

Plaintiff requested specifically requested for the fingerprint and palm print Cards and Original Charleston County Detention Center Booking Report + etc., and Both Defendants Lucas and Clark replied that the Arresting Agency would be the Agency that Plaintiff needs to contact to get these documents that the Charleston County Detention Center was duty bound to maintain.

The Booking Report Submitted by the Mount Pleasant Police Department are fraudulent and places the plaintiff at the immediate possession of the Arresting Agency at a date and time that is impossible for plaintiff to be in custody. The plaintiff also contends that the officer that alleges to arrest the plaintiff on a date and time that plaintiff was never in custody and the officer lied about being the arresting officer. The Booking Report lacks not only a booking officer, personal property, they also reflect that the officer that lied about being the Arresting Agency perfected a lawful on view arrest, the reports are Stamped Certified True Copy and bear plaintiff's Charleston County Detention Center Identification Number, They have a fraudulent date that a bond hearing was held, they also lack signatures for the plaintiff's property that was impounded at the Mount Pleasant Detention Center and there was no Signature of

On November 6, 2012, Plaintiff received Correspondence from the Clerk of Court of General Sessions, Julie J. Armstrong, stating that the arrest warrants that the U.S. Dept. of Justice and FBI, informing Plaintiff that were not active under the wanted person file in the National Crime Information Center for Plaintiff's arrest, would not pull up in the Clerk's Clerical Computer. *See exhibit number three* Correspondence by Clerk of Court Julie J. Armstrong).

On August 1, 2012, the FBI informed Plaintiff that his FOIPA request has been received at FBI Headquarters for processing, and that the FBI was searching the indices to their Central Records System for the information responsive to Plaintiff's request, and that Plaintiff will be informed of the results in future Correspondence. *See exhibit number four* Correspondence by FBI's David M. Hardy).

On November 14, 2012, Plaintiff received Correspondence from David M. Hardy of the FBI stating that Plaintiff's request for a CJS Rapsheet Check and that the enclosures were forwarded to the CJS Division. *See exhibit #5 Corr. by FBI David M. Hardy).

Plaintiff concedes that the Plaintiff's Petition for Declaratory Judgment should not be barred by the applicable Statute of Limitations Solely Based on the fact that Plaintiff discovered his "loss" through the FBI, US Dept. of Justice, Clerk of Court of General Session in 9th Circuit. Plaintiff further contends, that Plaintiff's initial petition for Declaratory Judgment was Solely based on Circumstantial evidence and Plaintiff could not present the recent exhibit of evidence enclosed in Plaintiff's Motion to Amend Petition for Declaratory

Judgment. prior to the filing of Petition for Declaratory Judgment by Plaintiff.

Plaintiff request that the Circuit Court arrange a time and date to challenge the Defendants Claim of Statute of Limitation. Plaintiff request a Summary Judgment on issue whether defendants may be estopped from claiming statute of limitations defense, when Plaintiff was just informed of the loss and provided "tangible" evidence to present evidence in the Court of Law to attain relief.

Every Sherriff is liable for the acts of all of his officers, and all persons acting under him in every subordinate capacity, and they on their parts are bound to conduct themselves in the like manner as the Sherriff himself ought to do, if he were present. Scott v. Vandiver (C.A. 450) 1973) 476 F.2d 238.

The liability of a Sherriff or Constable for the official acts of a deputy is not based upon the doctrine of respondeat Superior, but on the fact that the deputy is his representative, for whose acts he is as liable as if they had been done by himself. Rutledge v. Small (SC 1939) 192 SC 254, 6 SE.2d 260. Sherriff's and Constables Key 100.

Gross negligence in the context of liability by a governmental entity, is the intentional conscious failure to do something which is incumbent upon one to do or the thing intentionally that one ought not to do, it is failure to exercise slight care. Jinks v. Richland County (SC 2003) 2003 WL 21910551. Municipal Key 723.

Sherriff Al Cannon Jr. is being sued individually pursuant to South Carolina Code of Laws § 15-78-60 (25), due to the defendant being the head Sherriff of the Sherriff's office and Detention Center of Charleston County. Defendant Cannon owes Plaintiff a duty of care at all times relevant to the petition for Declaratory Judgment. The Defendants held plaintiff without active arrest warrants and fraudulent Booking and Arrest records submitted to lawfully detain the Plaintiff as a pre-trial detainee for offenses that plaintiff was accused of committing within the trial jurisdiction.

Defendant Cannon and both governmental entities had a positive legal duty to direct and supervise the activities of the employees or agents of the two governmental entities in this action, due to the fact that their duties and policy of the entities derived from and must coincide with the United States and South Carolina Constitution. Defendants are employed to supervise and/or govern the activities of the above-listed government entities.

Due to the Defendants failure to exercise slight care the plaintiff sustained the afore-mentioned listed injuries caused by the Defendant and was compelled to undergo mental health treatment to rehabilitate and reinvigorate himself from the afore-mentioned mental illness. Plaintiff was placed on Tegritol to control such mental illnesses imposed or inflicted by the Defendant reckless disregard for Plaintiff's Life, Liberty, United States and State Constitutional Amendments.

Defendants also hindered plaintiff from gaining a meaningful review of his claims in Circuit Court by withholding all of his booking and arrest records to assist, aid and abet the Ninth Judicial Circuit in their expedition/or conquest to procure a conviction.

Plaintiff Submits respectfully his wish to Amend his initial
Claims Submitted in his petition for Declaratory Judgment Under
the Uniform Declaratory Judgment Act, pursuant to Rule 15 SCRCP and
After Discovered evidence.

With Kindest and Best regards,

Sincerely,

The Undersigned Moves Prose
To Amend his petition For
Declaratory Judgment.



Demetrius Jarrod Smalls, #286806
LCI CB25
P.O. 205
Ridgeville, SC 29472

SEE listed Exhibits in Motion

CC File: FBI, US Dept. of Justice, 9th Circuit Clerk of Court
Bryck and Sanders LLC

MAR 19 2013

JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

I, Demetrius J. Smalls, #286806, being duly sworn upon my oath deposes and says that on this date a copy of the Notice of Motion and Motion To Amend Petition For Declaratory Judgment, was served on the Clerk of Court of Common Pleas at 100 Broad St., ~~106~~ Suite 106, Charleston, SC 29401-2258, Julie J. Armstrong, at this day of 7 month and year of March 2013. See letter dated 3/7/13.

This day of 7
month March year 2013

June 2017

Expiration date

[Signature]

S/ [Signature]

Demetrius J. Smalls #286806
LCI Cooper B 25
P.O. Box 205
Ridgelyville, SC 29472

Enclosures: letter from FBI, letter from US Dept of Justice, letter from Julie Armstrong, Correspondence letter from FBI, Correspondence from FBI

cc file: FBI, US Dept. of Justice, Buysch + Sanders LLC, Clerk of Court



Demetrius J Smalls
#286806 Lieber C.I.
Po Box 205
Ridgeville, SC 29472

NOTICE OF MOTION SCHEDULING

April 24, 2013

**Motion "MOFREE - Motion/Plaintiffs Motion & Request for Production, affdvt/sr" for Case: 2012CP1008250 - Demetrius J Smalls VS Charleston County Sheriffs Office has been added to the following Motions Roster:
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This hearing of this motion has been scheduled for 5/30/2013 at 2:00 PM.

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Mail Notice To:
Demetrius J Smalls #286806 Lieber C.I. Po Box 205 Ridgeville, SC 29472

Court Info:
Common Pleas Charleston County Judicial Center 100 Broad Street - Suite 106 Charleston, SC 29401-9401

If you have any questions regarding the scheduling of this motion, please contact the courts at:

(843)958-5000

Respectfully,

Julie Armstrong
Clerk of Court



Demetrius J Smalls
#286806 Lieber C.I.
Po Box 205
Ridgeville, SC 29472

NOTICE OF MOTION SCHEDULING

April 24, 2013

**Motion "MOFREE - Motion/Amend Petition for Judgment by plaintiff, crt/srv" for Case: 2012CP1008250 - Demetrius J Smalls VS Charleston County Sheriffs Office has been added to the following Motions Roster:
80 - MOTIONS ROSTER - JUDGE DENNIS**

This hearing of this motion has been scheduled for 5/30/2013 at 2:00 PM.

MOTIONS WILL BE HEARD IN COURTROOM 3E WITH JUDGE DENNIS. JUDGE DENNIS WILL NOT CONSIDER REQUESTS FOR CONTINUANCES AFTER WEDNESDAY, MAY 22nd AT 5 PM. IF YOU HAVE QUESTIONS, PLEASE CONTACT CAROLINE LEONARD AT [ccleonard@charlestoncounty.org](mailto:cleonard@charlestoncounty.org).

Mail Notice To:

Demetrius J Smalls
#286806 Lieber C.I.
Po Box 205
Ridgeville, SC 29472

Court Info:

Common Pleas
Charleston County Judicial Center
100 Broad Street - Suite 106
Charleston, SC 29401-9401

If you have any questions regarding the scheduling of this motion, please contact the courts at:

(843)958-5000

Respectfully,

Julie Armstrong
Clerk of Court

Common Pleas
Charleston County Judicial Center
100 Broad Street - Suite 106
Charleston, SC 29401-9401

STATE OF
SOUTH CAROLINA



Demetrius J Smalls
#286806 Lieber C.I.
Po Box 205
Ridgeville, SC 29472

NOTICE OF MOTION SCHEDULING

April 24, 2013

**Motion "MDISMS - Motion/Dismiss by defendant, crt/srv" for Case: 2012CP1008250 - Demetrius J Smalls VS Charleston County Sheriffs Office has been added to the following Motions Roster:
80 - MOTIONS ROSTER - JUDGE DENNIS**

This hearing of this motion has been scheduled for 5/30/2013 at 2:00 PM.

MOTIONS WILL BE HEARD IN COURTROOM 3E WITH JUDGE DENNIS. JUDGE DENNIS WILL NOT CONSIDER REQUESTS FOR CONTINUANCES AFTER WEDNESDAY, MAY 22nd AT 5 PM. IF YOU HAVE QUESTIONS, PLEASE CONTACT CAROLINE LEONARD AT [ccleonard@charlestoncounty.org](mailto:cleonard@charlestoncounty.org).

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Ridgeville, SC 29472

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Common Pleas
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100 Broad Street - Suite 106
Charleston, SC 29401-9401

If you have any questions regarding the scheduling of this motion, please contact the courts at:

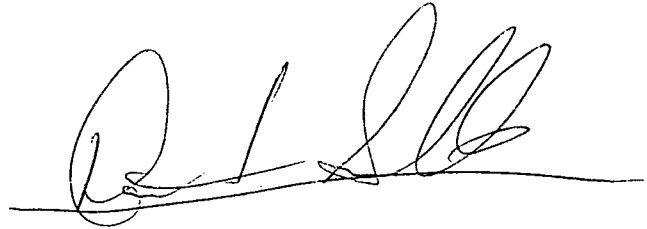
(843)958-5000

Respectfully,

Julie Armstrong
Clerk of Court

Certificate of Service

This certifies that a letter dated 4-5-13, was sent through the Lieber Correctional Institution mailroom to Julie J. Armstrong at Court of Common Pleas CP & GS, 100 Broad St. Ste. 106, Charleston, SC 29401-2258. Through Lieber's mailroom attendant this service was made.



4/5/13

FILED
2013 APR 10 AM 9:48
JULIE J. ARMSTRONG
CLERK OF COURT
BY

State of South Carolina
County of Charleston

In the Court of Common Pleas
Case no. 2012-CP-D-8250

Demetrius J. Smalls # 286806
Prose,

Plaintiff's Initial Request
for Production of documents
and Notice of Motion

vs.
Charleston Co. Sheriff's Office, Al
Cannon Jr., Chief Mitch Lucas and
John Clark Charleston Co. Detention Center.
Defendants.

2013 APR 10 AM 9:48
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

To: above-named Defendants.

Pursuant to Rule 34, SCRPC, plaintiff, Demetrius J. Smalls, Prose, hereby request that the above-named Defendants produce, for inspection and/or copying, the below listed documents or items within thirty (30) from the date of service thereof.

1) Any and all policy that governs the fundamental Practice of Law enforcement ~~and~~ vest the Charleston County Sheriff's Office, Al Cannon Jr., with the jurisdiction over my person and the Subject-matter, as the Fourth, Fifth and Fourteenth Amendments of the United States Constitution and the Coordinated Rights of the State Constitution provides. SC Const. Articles 1, § 3, 1, § 8, 1, § 10 and 1, § 18, were all mandated to vest the defendants with the authority to perform their public duties that derived by virtue of the State and Federal Constitution.

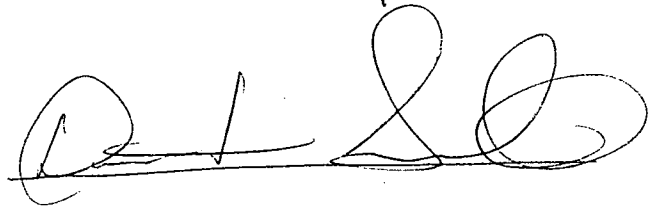
2) All booking, processing and housing procedures that governs the jurisdiction of the Cause. Which are: Charleston Co. Detention Center Booking Reports for: Demetrius J. Smalls, 8-10-81, 250-47-7071, OCA#.

2005-000-275, 2005-000-979 and 2004-010174, ~~OFFENSE~~ OFFENSE codes:
134.02, 16-5-50, 56-1-440, 56-1-20, 16-11-30(A) 2 counts, 16-3-620,
16-3-910, Fingerprint Cards, Palmprint Cards, Property receipts, Order of
Commitment, Magistrate/Municipal Court Check-list, In-House NCIC Check,
Magistrate Court commitment form, Book ID Number forms, Victim Notification
Information checklist, Booking Checklist and Documentation forms, Charleston
County Detention Center Detainer, ~~etc.~~ Incident and Supplementary reports
of every officer that processed the aforementioned cases for the arresting
agency that placed plaintiff under arrest on January 27, 2005, for the
Mount Pleasant Police Department.

Wherefore, Plaintiff request that the defendants comply with the mandates
of Rule 34, South Carolina Rules of Civil procedure and forward all documents
to the plaintiff as soon as applicable. Plaintiff looks to hear from
the defendants in a time-frame prescribed by Statute.

With kindest and best regards, I am,

Sincerely,

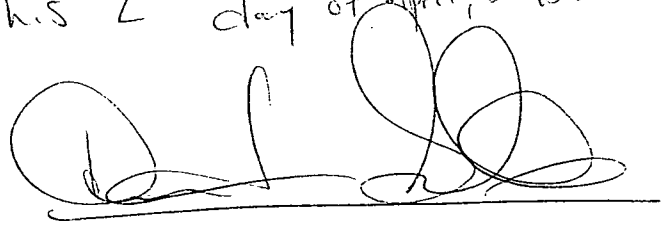


4-5-13

Certificate of Service

I Certify that on this date a copy of the foregoing
was served on the Ninth Circuit Court, Clerk of Court
Julie J. Armstrong at 100 Broad St., Suite 106 Charleston, SC 29401-2258
on 4-2-13.

This 2nd day of April, 2013.



FILED
2013 APR 10 AM 9:52
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

CC File: Bayck and Sanders, LLC a copy of Motion For Appointment of Counsel

State of South Carolina
County of Charleston

In The Court of Common Pleas
Case no: 2012-CP-10-8250

Demetrius J. Small, #286804
Plaintiff,

Motion For Appointment
of Counsel

VS.

Charleston Co. Sheriff's Office, J. A. Cannon Jr.,
Major Clark, Chief Mitch Lucas, and
Charleston Co. Detention Center

Defendants.

BY

JULIE J. ARMSTRONG
CLERK OF COURT

2013 APR 10 AM 9:52

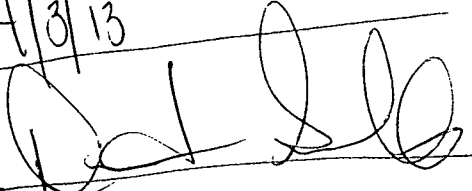
FILED

Pursuant to South Carolina Rules of Civil procedure, hereby plaintiff moves for appointment of counsel and in support of this motion, plaintiff states:

- 1) Plaintiff is unable to afford counsel. He has requested leave to proceed In forma Pauperis.
- 2) Plaintiff's imprisonment will greatly limit his ability to effectively litigate. The issues involved in this case are complex, and will require significant research and investigation. Plaintiff has limited access to the law library and limited knowledge of the law.
- 3) That, due to the fact, the plaintiff is incarcerated under the supervision of the South Carolina Department of Corrections, they have the authority to wield its power to deprive the plaintiff of access to the courts which can only come through usage of the Institution's Law Library, and this tends to chill the exercise of Plaintiff's State and Federal Constitutional Rights.
- 4) A trial in this case will likely involve conflicting testimony, and counsel would better enable plaintiff to present evidence and cross-examine witnesses. Plaintiff is having extreme difficulty obtaining documents from the defendant to substantiate his claim and needs the expertise of a professional attorney to litigate these matters.

5) Due to plaintiff's inability and incapacity to litigate due to plaintiff's literacy level relating to the law, Plaintiff is in Dire need of a Civil attorney who is qualified to practice.

Wherefore, plaintiff request that the Court appoint Mr. Byron Gibson, at 130 Centre St., Orangeburg, SC 29115, as member of the South Carolina Bar, as Counsel in this case.

Date: 4/3/13
Signature: 

Demetrios J. Small # 286804
LCI EB. 25
P.O. Box 205
Ridgeville, SC 29472

W. L. Turner Jr.
P.O. Box 12159
Columbia, SC 29211

4-11-13

4-11-13
Please Send a copy of all sixteen enc
along with this four page letter stamped so I will
that your office has received evidence to substantiate
of Billie R. R.

RECEIVED

APR 18 2013

OFFICE OF
DISCIPLINARY COUNSEL

RE: Circuit Court Judge R. Mark Kley Dennis,
Solicitor Ralph Hoisington, Assistant Solicitor Scarlett,
Wilson, and Magistrate Judge Linda Lombard

Dear Mr. Turner I am kindly resubmitting this letter in regards
to Circuit Court Judge Dennis violating his Order of Assignment
which is Misconduct. Misconduct is defined in Rule 2(c) Pursuant
to Rule 502 Judicial Discipline. Misconduct: any Conduct by a judge
constituting grounds for discipline. See Rule 7(c).

In accordance with Rule 7(c)(1), Circuit Judge M. Wilson

In accordance with Rule 7(c)(1), Circuit Judge Markley violated a valid Court Order issued by a court of this State as well as Rule 7(a)(9). Not only did Circuit Judge Dennis violate Rule 7(b)(9), but judge Dennis violated Rule 502. I violate Rule 7(c)(7) (2) and (6), Canon 3(B)(1)(2)(B)(4)(5)&(6), Canon 3(C)(1)(2)(3), Canon 1(e), Canon 2(e), Canon 3(e)(1)(e), on the basis that judge Dennis did not have jurisdiction to carry out his adjudicative responsibilities.

is so because

18 So because Judge (Magistrate) Linda Lombard illegally bounded me to General Session after having me Kidnapped from Society. The warrants I was arrested on were never active in Case # 2004-010174, however, La Lombard had me arrested anyway, set a ransom bond on me for \$100,000.00, which she could not set bail on me for, due to there being no oath or information filed in Magistrate's Court to vest the Court with jurisdiction over my person or the Subject-matter. Thus, violated not

SC Code Ann. § 22-3-710, but my fourth, fifth, sixth, and fourteen Amendments of the United States Constitution, as well as the State Constitution under Articles 1, 3, 10, 15, 17, 18, 19, 20, and 21. SC Code Ann. § 22-5-160, 22-5-180, 22-5-180, 22-5-180, 17-13-140 as well as perjury, Criminal Conspiracy and Kidnapping, by giving the County Solicitor the green light to commit these acts through her warranting my arrest. I learned of all of these things through the Federal Bureau of Investigation, U.S. Dept. of Justice and the Clerk of Court in Charleston County, the County Solicitor's office as well.

Each and every member knew of the chain of events that transpired from the date of my arrest, which was January 27, 2005 at 1400 hrs. By Summer. with all of the listed keyplayers in this Criminal Conspiracy, my Court appointed attorneys involved as well, knowing of these violations and still proceeding to move forward with the cases displays nothing other than systematic prosecutorial misconduct and violations of federal and state constitutional and statutory laws of the State of South Carolina.

Each and every keyplayer in this Criminal Conspiracy, derived by way of the State Constitution and they swore under oath to exercise the duties of the office to which they have been appointed, and they swore to discharge those duties to the best of their ability and reserve, protect and defend the Constitution of this state and of the United States...

the Magistrate Judge Linda Lombard intentionally and illegally committing me to jail with no active arrest warrants, setting a bond on me and every offense that there was no active warrants for and sending me over to General Sessions Court to be indicted illegally.

After being committed to jail without an oath or information being filed by the town of Mount Pleasant Police Department for arrest warrants #'s. H865617, H865618, H863655, H863656, H863657, H863658 and H863659 to be issued in cases 2004-000174, 2005-000275 and 2005-000979.

Chief Circuit Judge Markley Dennis Jr. did not issue an order scheduling the terms of the grand jury in Charleston County and file a copy of the order with the Office of Court Administration as the Order of Assignment issued for the Chief Circuit Judge For Administrative Purposes provides. The Order issued Pursuant to the power vested in the Chief Justice by way of the State Constitution under Article 5. The Order directed the Chief Circuit Judge to make certain that the Clerk of Court for the Ninth Circuit keep and maintain all issued Order by himself and file it with the office of Court Administration and maintain a copy for the next ensuing Chief Circuit Judge for the next term of Court of General Sessions.

R. Markley Dennis Jr., Magistrate Judge Linda Lombard, And the Solicitor's Office, along with the Mount Pleasant Police Department and Sumnerville Police Department, Charleston County and Dorchester County Sheriff's Offices, all created a massive miscarriage of justice to prosecute me in the absence of active warrants, as SC Code Ann. 22-3-710 provides in the Code of Laws of South Carolina for 1976.

Title 22 provides under jurisdictional background of Magistrates, "Magistrates cannot initiate the judicial process prior to the filing of a proper instrument void ab initio and intentionally commit an accused to jail, set a bond on all offenses absence probable cause,

Jurisdiction Can't be granted by waiver of the lack of an affidavit or information, although it has been said that there is no Constitutional or Statutory bar to a waiver of information, and such a waiver is not effected by a plea of guilty.

The Solicitor's Office was responsible for the following acts to procure a conviction. Scarlett Wilson and Ralph Hoisington falsified evidence and constituted systematic prosecutorial misconduct to compel to plead guilty to four felonies that I am completely innocent for. I acted under the psychological coercive pressures from my court appointed attorneys David Holton and David Wolf. Pursuant to Buckley v. Fitzsimmons, 509 U.S. 259, 274, 113 S.Ct. 2606, 125 L.Ed.2d 209 (1993) ("A prosecutor neither is, nor should consider himself to be, an advocate before having probable cause to have anyone arrested." (footnote reference omitted)).

Preamble of Rule 501. Code of Judicial Conduct provides that, "The Judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law." The State could not prove three very important things to lawfully procure a conviction as charged: 1) That I was not illegally arrested; 2) That they lacked personal and subject-matter jurisdiction to lawfully resume a grand jury to indict me for the offenses charged as I code 17-19-10, 14-9-210, 22-3-710, 22-5-160, 22-5-180, and 22-5-190 provides. 3) They also cannot prove that I am guilty of the offenses charged.

pursuant To Rules 19(b), 21, and 22 I Am respectfully requesting for
An investigation by the investigation panel, I also want R. Markley
Dennis Jr., Ralph Hisington, Scarlett Wilson, Magistrate Judge Linda Lombard
David Holton & David Wolf all to be formally charged and disbarred for
Criminal Conspiracy, Fraud, Kidnapping & etc. On October 25, 2012 Matter
Number 12-De-J-0261 was dismissed, So I am requesting Under Rule
20 that Disciplinary Counsel Motion to reopen dismissed Complaints, On the
basis that there is new information concerning the matter dismissed. On
December 19, 2012, I was informed by the FBI that A check under
the Wanted person file in the National Crime Information Center
disclosed no active Warrants to Warrant Information Center
2005-000-275 and 2005-000-979. So the my arrest in Cases: 2004-010174,
Court, the Solicitor's office nor the Chief Magistrate Court, Municipal
Jurisdiction over my person to Perform any judicial duties in
Cases#: 2004-010174, 2005-000-275 and 2005-000-979.

Also pursuant to SC Code Ann. § 14-5-140 I request that by R. Markley
Dennis Violating his orders of assignment (6, 9 & 11) this be brought
forth to the General Assembly at its next session by the Attorney
General So Such Chief judge can be held amenable to the proceedings
in violation of Such Order of assignment. And former charges be
led on Chief judge R. Markley Dennis Jr., for him violating the
criminal laws of the State of South Carolina.

patiently await your responses and I pray that your office
comply with the office rules and regulations that are binded
through the South Carolina Court rules Under Rule 502 code

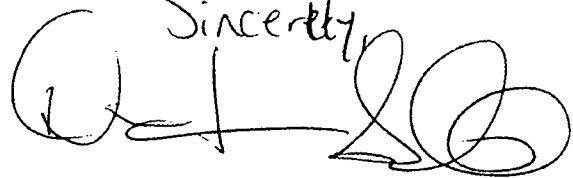
Judicial Conduct. Your duties are to preserve, protect and defend the Constitution. I hope that there will be no discriminatory enforcement because the aforementioned key players broke the laws, the Rules governing Judiciary, and are required to be sanctioned appropriately and subject to the filing of formal charges.

Judicial Immunity only extends to officials that act in their official Capacity. Failure to exercise slight care by the Office of Disciplinary Counsel and Commission on Judicial Conduct constitutes negligence and with me having been placed on medication and mental health by the key players criminal acts constitutes a sufficient cause of action. Please exercise your public duties with the care that I am owed under the given circumstances. I lost my life because of the systematic prosecutorial and judicial misconduct. I demand by way of Constitution under my Due Process and equal protection right that the appropriate sanctions be imposed on the key players in this web of conspiracy.

Thanks for your time and patience of acknowledging my request and demands. Grace. Peace. Blessings.

With kindest regards, I remain,

Sincerely,

A handwritten signature in black ink, appearing to be "D. L. B.", written in a cursive style.

See Enclosures

1. Incident report by Summerville Police Detective D. Peters dated January 31, 2005
2. Incident report by Mount Pleasant Police OFC. Christopher Morrell
3. NCIC Wanted person file 2 pages
4. 6 Arrest Warrants 2 Municipal and four felonies
5. US Dept. of Justice Correspondence dated Jan. 15, 2013
6. FBI Correspondence dated December 19, 2012
7. 1 palm print card by OFC. Campbell of Charleston Co. Detention Center dated January 27, 2005
8. Correspondence from Assistant Attorney General A. Whitsett Dated May 22, 2012
9. Correspondence from Clerk of Court dated 10-09-2012 (Chas. Co.)
10. Order of Assignment by Chief Justice dated June 17, 2005
11. Correspondence from Chief Circuit Judge R. Markley Dennis, Jr. dated September 19, 2012
12. two Correspondences from SC Administration Court dated November 28, 2012 and October 1, 2012
3. Correspondence from Clerk of Court (Chas. Co) dated May 31, 2012
4. Correspondence from office of Disc. Counsel dated October 25, 2012

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Demetrius J. Smalls, #286806,

Plaintiff,

Versus

Charleston County Sheriff's Office, Al
Cannon, Jr., Charleston County Detention
Center, Chief Mitch Lucas and Major John
Clark;

Defendants.

) IN THE COURT OF COMMON PLEAS

) NINTH JUDICIAL CIRCUIT

) C/A No. 12-CP-10-8250

ORDER OF DISMISSAL

FILED
2013 JUN 18 AM 8:44
BY JULIE ARMSTRONG
CLERK OF COURT

This matter came before the Court on May 30, 2013, for a hearing on Defendants' Motion to Dismiss. Present at the hearing were the Plaintiff, appearing *pro se*, and G. Wade Cooper, Esq. appearing on behalf of Defendants. Following oral argument from both parties and their counsel, and for the following reasons, the Defendants' Motion to Dismiss is **GRANTED** and this case is ended **with prejudice**.

Plaintiff, a *pro se* inmate in the custody of the South Carolina Department of Corrections (SCDC), filed this action in Charleston County as a petition for declaratory judgment pursuant to SCRCF Rule 57 and S.C. Code Ann. § 30-4-100. Specifically, Plaintiff's petition seeks injunctive relief related to requests sent to Defendants pursuant to the Freedom of Information Act. S.C. Code Ann. §30-4-10, *et seq.* Plaintiff alleges that he and his criminal defense attorney sent requests to Defendants for records related to his incarceration at Charleston County Detention Center as a pre-trial detainee. Plaintiff represented to the Court that his incarceration at the detention center began on January 27, 2005. Plaintiff alleges that Defendants either failed to respond to his FOIA request(s) and/or provided documents pursuant to such requests which were false and misleading. Plaintiff alleges that these documents would have assisted his criminal defense. Plaintiff pled guilty to kidnapping and additional charges on June 26, 2007.

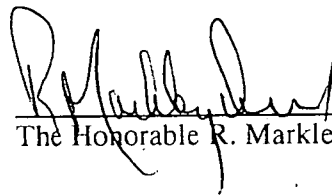
RMD/TJL

Defendants moved pursuant to Rule 12 (b)(6) on the grounds that Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action. Defendants' motion is based on the grounds that, pursuant to the South Carolina Tort Claims Act, Plaintiff's claims are barred by the two year statute of limitations. S.C Code Ann. § 15-78-110. Defendants' additionally assert that Plaintiff's claims are also barred by the one year statute of limitations mandated by S.C. Code § 30-4-100.

Plaintiff filed the instant action for declaratory judgment in Charleston County on December 19, 2012. During the hearing on this matter, Plaintiff represented several times to the Court on the record that his alleged "injury" or "date of loss" related to his FOIA requests to Defendants was on either the date of his initial detention (January 27, 2005) or on the date he pled guilty to his crimes (June 26, 2007). Thus, under either legal theory regarding the statute of limitations applicable to Plaintiffs' claim, the Court finds that Plaintiff failed to timely file this action against these Defendants, and grants Defendants' motion to dismiss.

For the foregoing reasons, Plaintiff's Complaint in this matter is hereby **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED!


The Honorable R. Markley Dennis, Jr.

June 12, 2013
Charleston, South Carolina

RMPT/12

Prisoner Request to Staff member

To: Business office

Date: 7/3/13

Demetrius J. Smalls

RECEIVED
286806
JUL 15 2013

Lieber Corr. Inst.

S.C. Supreme Court
E/A

RECEIVED
JUL 05 2013

BUSINESS OFFICE

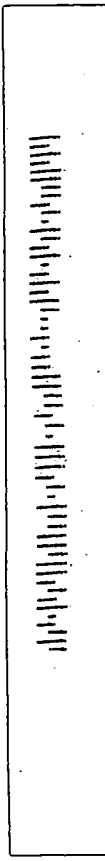
I understand that now your office can only provide a financial statement for me only on the 1st and 5th of every month. Since the 5th is two days away I am asking for your office to provide me with the total deposits made to my E.H. Cooper Trust Fund for the preceding six-month period. Thanks for your acknowledgment of my request, and your professional capability is greatly appreciated. Grace. Peace. Blessings.

Disposition by Staff Member:

Signature: *APery*

There are no deposits on your account.
you have a zero balance as of 6/30/12

Date: 7/5/13



Denetris Smalls & Webb
 LCI EA 19
 P.O. Box 205
 Ridgeville, SC 29472

RECEIVED
 JUL 09 2013
 MAIL ROOM
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Mr. Daniel E. Shearouse
 Clerk of Court of Supreme Court
 P.O. Box 11330
 Columbia, SC 29211

UNITED STATES POSTAGE
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THE DEPARTMENT DOES NOT ASSUME RESPONSIBILITY
FOR ITS CONTENTS

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FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE