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SC Court of Appeals

SOUTH CAROLINA
In The Court Of
Appeals

Case No. 2024-000168

Johnathan Daniels, Appellant.

v.

The City Of Cayce, Respondent

INITIAL BRIEF OF APPELLANT

April 22nd, 2024

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¹ King James Bible, at Galatians 1-7, which reads, “**1** Stand fast therefore in the liberty wherewith Christ hath made us free, and be not entangled again with the yoke of bondage. **2** Behold, I Paul say unto you, that if ye be circumcised, Christ shall profit you nothing. **3** For I testify again to every man that is circumcised, that he is a debtor to do the whole law. **4** Christ is become of no effect unto you, whosoever of you are justified by the law; ye are fallen from grace. **5** For we through the Spirit wait for the hope of righteousness by faith. **6** For in Jesus Christ neither circumcision availeth any thing, nor uncircumcision; but faith which worketh by love. **7** Ye did run well; who did hinder you that ye should not obey the truth?”

² King James Bible, at Romans 3:19, which reads, “19 Now we know that what things soever the law saith, it saith to them who are under the law: that every mouth may be stopped, and all the world may become guilty before God.”

STATEMENT OF ISSUES ON APPEAL

1. Because Appellant clearly established before the municipal court that his sincerely held religious beliefs and practices are substantially burdened by Respondent, and Respondent has twice failed to “demonstrate” as required by South Carolina § 1-32 and the state and federal constitutions, Respondent’s municipal judges erred by failing to quash or dismiss the religiously burdensome charges being prosecuted against Appellant.
2. Because Appellant clearly established before the municipal court that his sincerely held religious beliefs and practices are substantially burdened by Respondent, and Respondent has twice failed to “demonstrate” as required by South Carolina § 1-32 and the state and federal constitutions, Respondent has failed to state a crime; therefore Respondent’s municipal judges are acting without jurisdiction in allowing further prosecution of Appellant for his exercise of his statutorily and constitutionally protected rights.
3. The municipal court’s order prohibiting Appellant from presenting his religious exercise defense and any facts related to his religion, exemptions to the application of the laws, or religious accommodation to the jury at trial unlawfully deprives Appellant of his right to a trial by jury.

STATEMENT OF THE CASE

This case involves an unconstitutional misapplication of State laws by a municipality of State Of South Carolina (hereinafter “State”). The parties are Johnathan Martia Daniels (hereinafter “Appellant”) and City Of Cayce (hereinafter “Respondent”, a municipality of State Of South Carolina, which operates in privity with the State).

On July 22nd, 2021, Appellant was traveling west on 12th street, near Cayce, South Carolina. Appellant had been summoned to the Cayce Municipal Court for a mandatory hearing before the City Of Cayce municipal court, and was traveling in his truck, a green Ford Ranger pickup. For very specific religious reasons, and NOT as a challenge to the state’s authority to regulate use of the public’s roadways, Appellant does not use a state drivers license or vehicle registration. While on his way to court, Appellant was observed by Officer Kathleen Merritt (“Officer Merritt”) of the City Of Cayce Police Department, operating his truck without a State authorized vehicle license plate. Officer Merritt initiated a traffic stop on Appellant and found that Appellant had no drivers license. Appellant did have current insurance coverage on his truck, and an identifying tag on the rear of his privately owned pickup truck. Officer Merritt issued Appellant citations for Driving Without A License, 1st Offense and No Vehicle Registration.

In lieu of towing Appellant’ vehicle, Officer Merritt ordered that Appellant would be allowed to drive to attend the abovementioned court hearing. Appellant did appear at the City Of Cayce municipal court approximately 10 minutes after being ticketed by Officer Merritt.

An initial hearing for the citations issued to Appellant by Officer Merritt was scheduled for an October 19th, 2021 judicial proceeding, with City Of Cayce judge Shannon Bobertz presiding. Prior to the hearing, Appellant had filed a motion to quash both charges. Appellant’s

motion was based on South Carolina § 1-32 and the state and federal constitutions, and presented a defense of unlawful religious burden by the State. At the initial hearing, Appellant argued his Motion To Quash before the municipal court. The State and Federal laws, cited in support of Appellant's motion, required the municipal court to conduct a compelling interest test based on Federal law and U.S. Supreme Court precedent. Upon Appellant's motion and demand that Respondent "demonstrate" as required by South Carolina § 1-32 and the other laws cited, Respondent's prosecutor did not "demonstrate." Judge Bobertz denied Appellant' motion and refused to quash or dismiss the charges against Appellant. Appellant objected to the denial of his motion, and the case proceeded in a normal manner, with Appellant entering a plea of "not guilty" and demanding a jury trial. Three days later, on October 21st Appellant served and filed a motion to reconsider, which was also denied by judge Bobertz. Appellant objected to this denial, and the case proceeded in a normal manner.

On October 31st, 2022, Appellant filed a motion to dismiss based on South Carolina § 1-32 and the State and Federal Constitutions. On November 7th, 2022, at a judicial proceeding before City Of Cayce judge Bryan Jeffries, Appellant argued his motion to dismiss. At this judicial proceeding, Appellant demanded that Respondent "demonstrate" as required by the laws cited in Appellant's written motion. Respondent's prosecutor did not "demonstrate" as required by the laws cited in Appellant's motion. Despite Respondent's failure to meet the requirement to "demonstrate" as required by South Carolina § 1-32 and the Constitutions, judge Jeffries denied Appellant' motion to dismiss. Appellant objected to that denial.

At the same November 7th, 2022 hearing, Respondent's prosecutor made a motion in limine to prohibit Appellant's presentation of his religious burden defense, or any religion related

facts, exemptions, or accommodations to the jury during trial. Judge Jeffries granted this motion made by Respondent. Appellant objected.

After denying Appellant's motion to dismiss, and granting Respondent's motion in limine on November 7th, 2022, Judge Jeffries appointed an attorney, Harry Hancock (hereinafter "Mr. Hancock"), to represent Appellant in this case due to Appellant's indigence.

The following day, Appellant contacted Mr. Hancock concerning this case and expressed his desire to appeal the orders issued by judges Bobertz and Jeffries. Mr. Hancock outright refused to assist or advise Appellant in making and religion based appeal.

Mr. Hancock wrote and stated to Appellant, on multiple occasions, that he would not assist in either (1) the presentation of any defense based on Appellant's right to freedom of religion at trial, or (2) the making of any religion based appeal on Appellant's behalf. Mr. Hancock stated that Appellant would need to make any such appeal to a higher court on his own.

On November 16th, 2022, under the authority of South Carolina § 14-3-330 (2)(a), Appellant filed a notice of appeal with the South Carolina Supreme Court, as well as the municipal court. Respondent was served the same notice on November 14th. 2022. In the appeal, Appellant contested the municipal court's denials of: (1) Appellant' motion to quash, (2) motion to dismiss, as well as (3) judge Jeffries' granting of Respondent's motion in limine, which denied Appellant a meaningful trial by jury. Appellant is not an attorney and is acting for himself.

The South Carolina Supreme Court Clerk made what Appellant believes to be an error in transferring Appellant's November 16th, 2022 appeal to the South Carolina Court Of Appeals. The appeal was made under the authority of South Carolina 14-3-330(2)(a), which specifies that the South Carolina Supreme Court has jurisdiction over appeals in which substantive protected

rights are unlawfully denied. After being transferred to the South Carolina Court Of Appeals, the appeal was dismissed due to a lack of jurisdiction and remitted to the municipal court with an order stating that the appeal must first be made to the circuit court.

Once the case was remitted back to the municipal court, Mr. Hancock still refused to assist Appellant in making the appeal. Due to the lack of legal counsel and abandonment of Appellant by his court appointed legal counsel, Appellant requested that judge Jeffries relieve Mr. Hancock and appoint another attorney. Judge Jeffries granted the request to relieve Mr. Hancock, but denied the request for appointment of another attorney. Appellant objected to the denial of his request for reappointment.

On July 27th, 2023, at Appellant’s earliest opportunity, Appellant filed a notice of appeal in the Lexington County Circuit Court and served Respondent the same notice on July 28th, 2023. Circuit Court judge Debra R. McCaslin heard the appeal on November 28th, 2023. On December 29th, 2023, Judge McCaslin issued an order dismissing the appeal for a lack of subject matter jurisdiction. Appellant became aware of this order on January 5th, 2024.

Appellant objected in writing and filed a notice of objection to the Circuit Court on January 5th, 2024 and served Respondent a notice of appeal on January 29th, 2024. Appellant then filed this appeal with the South Carolina Supreme Court on February 7th, 2024. The appeal has been subsequently referred to the South Carolina Court Of Appeals.

ARGUMENT

A. The South Carolina Supreme Court Has Jurisdiction, And An Obligation, To Decide Appellant’s Appeal On The Merits, Or To Refer The Appeal To The South Carolina Court Of Appeals For A Decision To Be Made On The Merits.

South Carolina § 18-9-10 defines “When appeal may be taken” to the Supreme Court in this State, and it says, “ An appeal may be taken to the Supreme Court or the Court of Appeals in

the cases mentioned in Sections 14-3-320 and 14-3-330. The procedure for taking an appeal is as provided by the South Carolina Appellate Court Rules.” South Carolina § 14-3-330 grants appellate jurisdiction to the South Carolina Supreme Court “for correction of errors of law in law cases”, and states that the South Carolina Supreme Court “shall review upon appeal” certain cases. More specifically, South Carolina § 14-3-330 (2)(a) pertains to appeals from, “An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action...”

In this present case appealed before this Court, the municipal court’s orders severely deprive Appellant of substantial rights and “in effect determine[s] the action.” This Court’s intervention will “prevent[s] a judgment from which an appeal might be taken or discontinue[s] the action...”

Unlawful violation of Appellant’s un-waived, Constitutionally protected rights is the issue here, and other factors cannot be determinant of a State court’s obligation to correct violations of unwaived Constitutional rights that have already occurred, or which it can prevent. In this case, Appellant is appealing three orders of the municipal court because the orders authorize retaliatory prosecution against Appellant by Respondent in retaliation for Appellant’s exercise of his protected freedom of religion and liberty. The municipal court issued two of these orders in its refusal to quash or dismiss the charges prosecuted against Appellant, despite Respondent, twice, failing to “demonstrate” as required by South Carolina § 1-32 and the State and Federal Constitutions, under the federal strict scrutiny standard.³ These two orders allow

³ Although South Carolina § 1-32 is a state statute, it invokes the compelling interest test, under the federal strict scrutiny standard, as defined by the U. S. Supreme Court. See SECTION 1-32-30...”(1) restore the compelling interest test as set forth in *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and *Sherbert v. Verner*, 374 U.S. 398 (1963), and to guarantee that a test of compelling state interest will be imposed on all state and local laws and ordinances in all cases in which the free exercise of religion is substantially burdened; and (2) provide a claim or defense to persons whose exercise of religion is substantially burdened by the State.

and ratify retaliatory prosecution of Appellant by Respondent, under color of law. See Municipal Court Return.

The third appealed order of the municipal court deprives Appellant of his right to a jury trial, despite his demand for one, by denying Appellant the right to present his sole and only defense to the jury at trial.⁴ On this particular issue, the municipal court has ordered that, at trial, Appellant cannot bring up the subject of his religion, any facts related to his religion, religious exemptions to application of the laws, or religious accommodations in any way, whatsoever. See Municipal Transcript.

This Court please bear in mind that, at no point in this case, has Appellant ever intentionally or knowingly waived: (1) his right to present his South Carolina § 1-32 defense, along with his State and Federal Constitutional defenses; (2) his protected rights to religious freedom and liberty; (3) his protected right to a trial by jury, nor (4) his protected right to counsel. The U.S. Supreme Court has stated that waivers of constitutional rights must be voluntary, knowing, and intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences. See *Brady v. United States*, 397 U.S. 742, 748 (1970) (citing *Brookhart v. Janis*, 384 U.S. 1 (1966)); see also *Schriro v. Landrigan*, 550 U.S. 465, 479 (2007). The record in this case shows that Appellant has never lawfully waived or relinquished any of these protected rights. See Notice Of Appeal, Motion To Reconsider, Motion To Quash, Motion To Dismiss.

Further, the record in this case shows that, over Appellant's objections, the municipal court's orders are unconstitutional orders that have, effectively, already decided the case to Appellant's detriment. **Firstly**, before issuing the orders, the municipal court had already been put on notice that Appellant's purportedly "unlawful" conduct was the result of Appellant's

⁴ Appellant has preliminarily offered a religious exercise defense as his sole and only defense.

sincere religious exercise, and that Appellant objected to being prosecuted, citing an unlawful State imposed substantial religious burden. Therefore, the municipal court's two orders refusing to quash and/or dismiss the charges, despite Respondent repeatedly failing to "demonstrate" as required by law⁵, are unconstitutional. **Secondly**, given that Appellant has demanded a jury trial in this case, the municipal court's order prohibiting Appellant's presentation of his substantial religious burden defense and the facts related thereto before the jury, denies Appellant a meaningful trial by jury, while subjecting Appellant to an unwanted bench trial, and is therefore unconstitutional. Taken together, these orders force Appellant to suffer retaliatory prosecution and a criminal trial, while at the same time stripping Appellant of his prime defense and every relevant Constitutional and statutory legal protection. Under the circumstances of (1) being forced to stand prosecution and trial that he ought not be subjected to, and (2) being stripped of his only legal defense, Appellant has effectively already lost this case and is reasonably certain to be convicted of the charges before the municipal court. See Municipal Transcript.

This circumstance is representative of the type of situation that South Carolina § 14-3-330 (2)(a) is made to prevent. If application of this statute ever mattered at any place, at any time, this Court's adherence to South Carolina § 18-9-10 and § 14-3-330 (2)(a) here in this case is most crucially needed. If an appeal made under South Carolina 14-3-330(2)(a) will be ignored by the South Carolina Supreme Court, and the unconstitutional conduct complained of allowed to proceed until after final judgment, then there would seem to be absolutely no point in the State legislature's enactment of the statute. In Appellant's view, such an interpretation of the statute by this Court would be unreasonable.

⁵ South Carolina § 1-32-40 states (bold and underline added), "The State may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, **unless the State demonstrates that application of the burden to the person is: (1) in furtherance of a compelling state interest; and (2) the least restrictive means of furthering that compelling state interest.**"

The circuit court made a finding that the circuit court has no jurisdiction to hear this appeal due to untimeliness, although the appeal was originally made to the South Carolina Supreme Court in 2022, and referred to the South Carolina Court Of Appeals, which remitted the case, ordering and directing that the appeal must be made to the circuit court. If the circuit court also has no jurisdiction, then it would seem that no state court has jurisdiction to ensure Appellant's constitutionally protected rights are upheld. This Court's refusal to make a merit-based ruling would constitute a circular due process violation that sends Appellant from court to court, in an endless loop. Respondent and the municipal court will have violated Appellant's constitutionally protected rights, and the judiciary of this State offered no recourse. Such a circumstance is not Constitutionally well thought-out.

1. Appellant's appeal is timely

The circuit court ignored the fact that Appellant's appeal was made pursuant to South Carolina § 18-9-10, § 14-3-330 (1) and § 14-3-330 (2)(a) and was only brought to the circuit court because the South Carolina Court of Appeals previously required it to be submitted to the circuit court. Appellant previously appeared and is now appearing Pro Se, and does not claim to understand why that decision was previously made by the South Carolina Court Of Appeals. South Carolina § 14-3-330 (1) pertains to appeals from circuit court cases "brought there by original process or removed" to the circuit court, while South Carolina § 14-3-330 (2)(a) pertains to appeals from, "An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action..." Neither South Carolina § 18-9-10 or § 14-3-330 (2)(a) state that an appeal made under those sections MUST be brought before the circuit court before the South Carolina Supreme Court has jurisdiction to hear an appeal challenging unconstitutional orders

that blatantly deprive a party of constitutionally protected substantive rights. Additionally, the third order of the municipal court disallows Appellant's religion based defense, and since the order effectively "strikes out" Appellant's sole defense presented in answer to the charges, that order is be appealable under South Carolina § 14-3-330 (2)(c) which pertains to an order that "strikes out an answer or any part thereof..." (See Municipal Transcript)

Further, the circuit court's finding that this appeal was made under South Carolina § 14-25-95, and that Appellant did not comply with that statute's requirements for appeal is erroneous. Even so, Appellant met the requirements of that statute. Judge McCaslin's order states that, "Appellant's proof of service of his appeal pleading for this action indicates service on the Municipal Court on July 28, 2023..." However, judge McCaslin failed to realize that this was the third notice of intent to appeal served to the municipal court.

Appellant's first written notice of objection and intent to appeal was made in response to municipal judge Bobertz's denial of Appellant's October 19th, 2021 motion to quash, and was served on the municipal court on October 22nd, 2021 (3 days after the order was made). This notice preserved Appellant's objection for later appeal. See Motion To Reconsider.

Appellant's second written notice of objection and intent to appeal was made in response to municipal judge Jeffries' denial of Appellant's motion to dismiss and the judge's granting of Respondent's motion in limine, and was served on the municipal court on November 16th, 2022 (9 days after the order was made). This preserved Appellant's objection to these two orders for appeal. This second notice of appeal, which appealed all three orders, was sent to the South Carolina Supreme Court on November 16th, 2022 (9 days after judge Jeffries made the orders). See Notice Of Appeal.

The South Carolina Supreme Court clerk referred the appeal to the South Carolina Court Of Appeals, which, for reasons still unknown to Appellant⁶, dismissed the Appeal due to a lack of jurisdiction, citing that the appeal must be brought in the circuit court. The case was then remitted to the municipal court in March of 2023.

The only other timeliness issue addressed by judge McCaslin is the period of time that passed between the remittance of the case from the South Carolina Court Of Appeals back to the municipal court. Appellant clearly established before the circuit court that his court appointed attorney (hereinafter “Mr. Hancock”) provided ineffective assistance of counsel regarding making the appeal, refusing to assist in the matter for the entire duration of his appointment. This was the sole cause of the delay in making the appeal to the circuit court once the case was remitted. At the circuit court hearing, Appellant provided E-mails to the judge McCaslin, which showed that Mr. Hancock refused to make the appeal and refused to assist Appellant with making the appeal. It was explained to judge McCaslin that, Mr. Hancock, who was appointed by the municipal court on November 7th, 2022, was ineffective. (See Circuit Court Transcript)

Mr. Hancock refused to assist Appellant in making any religion-based appeal or presenting any such argument at trial. Mr. Hancock incorrectly reasoned that no free exercise violation occurred because the statutes under which Appellant was charged were both neutral and generally applicable. Mr. Hancock was stunningly incorrect regarding general applicability

⁶ South Carolina § 18-9-10 reveals that South Carolina Supreme Court has jurisdiction to hear and decide appeals made under South Carolina § 14-3-330 (2)(a), and that section differs from South Carolina § 14-3-330 (1) in that section South Carolina § 14-3-330 (1) pertains to appeals “commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction”, while South Carolina § 14-3-330 (2)(a) mentions nothing about any requirement that an appeal made under that section must come from a circuit court. In fact, the deliberate language used in South Carolina § 14-3-330 (1) regarding the requirement that it pertains to appeals from a circuit court, and the absence of such language in South Carolina § 14-3-330 (2)(a), seems to indicate that appeals brought under South Carolina § 14-3-330 (2)(a) do not have to come through a circuit court. This must be the case because, as circuit court judge McCaslin’s order indicates, the circuit court has no jurisdiction to hear such an appeal unless it is an appeal “from the sentence or judgment of the municipal court,” as required by S.C. Code § 14-25-95. If the South Carolina Court Of Appeals had no jurisdiction to decide the case on the merits once the Supreme Court referred the case, then either, such cases must not be referred, or South Carolina § 14-3-330 (2)(a) is a dead and useless piece of legislation.

of the laws. His reasoning may have been proper under *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U. S. 872 (1990), but was totally incorrect considering South Carolina § 1-32. The compelling interest test imposed by South Carolina § 1-32 bypasses *Smith's* neutrality and general applicability barriers to strict scrutiny, and the statute says so in the plain reading of its text.⁷ (See Emails).

Mr. Hancock refused to assist Appellant because he refused to recognize that under a compelling interest test and strict scrutiny, determination of a compelling interest cannot be done at a general or high level. Instead, strict scrutiny requires that courts determine if the state has a compelling interest to deny an exemption to each particular religious claimant, individually and personally. In a strict scrutiny analysis, government cannot merely claim a compelling interest at a high level of generality, because the “compelling interest test under the First Amendment demands a more precise analysis.” See *Gonzales v. O Centro Espírita Beneficente União do Vegetal*, 546 U. S. 418, 430–432 (2006) (discussing the compelling interest test applied in *Sherbert* and *Wisconsin v. Yoder*, 406 U. S. 205 (1972)); see *Fulton v. City Of Philadelphia*, 593 U.S. at 14 (2021). Rather than rely on “broadly formulated interests,” courts must “scrutinize the asserted harm of granting specific exemptions to particular religious claimants.” *O Centro*, 546 U. S., at 431. The question, then, is not whether the Respondent has a compelling interest in enforcing these laws generally, but whether it has such an interest in denying an exemption to Appellant, individually. Appellant had explained to the municipal court, the Respondent’s prosecutor, and Mr. Hancock, via multiple motions, affidavits, emails and testimony that Appellant is very competent to drive, having previously been licensed for more than 25 years and having had only one driving accident during that time. Appellant is not frequently ticketed for

⁷ South Carolina § 1-32-40 states (bold and underline added), “The State may not substantially burden a person's exercise of religion, **even if the burden results from a rule of general applicability**, unless the State demonstrates that application of the burden...”

moving violations, and does not use drugs or drink alcohol. Once properly narrowed, Respondent's asserted interest is insufficient to constitute a Constitutionally genuine compelling state interest under strict scrutiny. Mr. Hancock, for political reasons, unreasonably refused to assist Appellant despite this fact. (See Emails).

Mr. Hancock refused to assist Appellant because he intentionally misinterpreted the case law underlying South Carolina § 1-32, *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and *Sherbert v. Verner*, 374 U.S. 398 (1963). Mr. Hancock's explanation of the implications of *Wisconsin v. Yoder*: 406 U.S. 205 (1972) was completely incorrect. His first position was that *Yoder* was a driver's license case that was decided in favor of the state's right to require licensing. When Appellant informed Mr. Hancock that the case was actually a First Amendment religious exercise case, Mr. Hancock responded that despite his earlier inaccuracy, the case was decided in favor of the state's right to compel licensing or performance under the circumstances. This was also incorrect. In *Yoder*, the U.S. Supreme Court ruled 7-0 that the state of Wisconsin violated the First Amendment to the Constitution, and had no right to compel performance or punish noncompliance with its law. In deciding to abandon Appellant, Mr. Hancock denied this fact. (See Emails).

Mr. Hancock refused to assist Appellant because he refused to take notice that the frequency with which Respondent or the State actually grants the exemptions in question is irrelevant. As the Supreme Court stated in *Fulton v. City Of Philadelphia*, 593 U.S. (2021), quoting *Smith*, 494 U. S., at 884, "The creation of a formal mechanism for granting exceptions renders a policy not generally applicable, regardless whether any exceptions have been given, because it "invite[s]" the government to decide which reasons for not complying with the policy are worthy of solicitude." (See Emails).

It is surely obvious to this Court that any untimeliness, between the remittance of the appeal from the South Carolina Court Of Appeals and Appellant's filing of the appeal to the circuit court, should be excused, as it was a direct result of Appellant being abandoned by Mr. Hancock. Rather than acting as Appellant's advocate, Mr. Hancock acted as an adversary, seemingly providing intentionally ineffective and sub-standard assistance to Appellant. (See Emails).

Outside of delays caused by the interference and or incompetence of Mr. Hancock, whom Appellant requested to be relieved from his appointment, Appellant did give notices such as those required by South Carolina § 14-25-95, within the 10 day period allowed for giving notice of intent to appeal. Likewise, Appellant filed proper pleadings in a timely manner. See Record.

South Carolina Code § 14-25-95 does not address any time requirement outside of the time allowed for giving notice of intent to appeal, and pertains only to appeals from a municipal court to a court of common pleas (i.e circuit court). This makes Appellant's compliance with South Carolina § 14-25-95 non-determinant in the Supreme Court Of South Carolina's (or by referral, the Court Of Appeals') consideration of the timeliness of this appeal. This appeal is proper under South Carolina § 18-9-10 and §§ 14-3-330 (2)(a), and (2)(c).

Further, Appellant has never knowingly or intentionally waived his rights to religious freedom, right to counsel, and trial by jury. Since South Carolina § 14-3-330 (1) and (2)(a) allow appeals for the enforcement of Appellant's unwaived, substantial Constitutionally protected rights, timeliness must give way to getting things right, otherwise Constitutional violations of substantive protected rights will continue to occur. In this case, Respondent is putting Appellant on trial for his Constitutionally protected religious practice. Concurrent with Respondent's unlawful burdening of Appellant's free exercise of religion, Respondent has repeatedly failed to

"demonstrate" as required by South Carolina § 1-32 and the Constitutions, even though Appellant has made multiple proper demands that Respondent do so. Respondent's prosecution of Appellant, and its refusal to allow Appellant lawful accommodation by dropping the charges, is a further unlawful substantial burden on Appellant's protected right of religious freedom. In this case, where Appellant has not waived his rights and the damage from the municipal court's ruling to Appellant's rights has already occurred, or is reasonably foreseeable and preventable/correctable, courts within this State must be able to review the record and ensure Appellant suffers no further Constitutional harm. All levels of this State's judiciary, from its municipal court to its highest court, so far, have failed to force Respondent to comply with the law. See Notice Of Appeal To Supreme Court, Referral to Court Of Appeals, Appeal to Circuit Court.

The circuit court did not acknowledge that Appellant's Pro Se appeal is properly addressed by South Carolina §§ 14-3-330 (1), (2)(a), and/or (2)(c). The circuit court's decision hinging on whether the untrained, Pro Se Appellant misnamed an intermediate order an interlocutory one should not disallow his appeal. Further, South Carolina § 14-3-330 (1) pertains to "Any intermediate judgment, order or decree in a law case...", while South Carolina § 14-3-330 (2)(a) applies to "(2) An order affecting a substantial right made in an action..." This Court can see that while South Carolina § 14-3-330 (1) is more limited, South Carolina § 14-3-330 (2)(a) is apparently not limited to orders at any particular stage of litigation.

If the circuit court cannot decide the appeal under South Carolina § 14-3-330 (1) and (2)(a) that is understandable, because that statute gives jurisdiction over such appeals to the South Carolina Supreme Court. However, it cannot be the case that the South Carolina Supreme Court will not decide the appeal on the merits, or that it would refer the appeal to the South

Carolina Court Of Appeals, which would then claim to lack jurisdiction over the appeal rather than deciding the appeal on the merits.

Without intervention by this Court, gross injustice and violations of the State and Federal Constitutions will occur. The result being Appellant prosecuted and put on trial while: (1) his religious exercise is unlawfully, substantially burdened by the Respondent, a municipal arm of the State; and (2) he is deprived of the right to a jury trial, because he cannot present his sole and only legal defense, or relevant factual evidence, to the jury at a pending municipal trial. Since preventing unconstitutional retaliatory prosecution and unlawful denial of Appellant's right to a meaningful trial by jury is a sworn duty of the State's judge's, justice requires that this Court hear and decide this appeal on the merits at this time.

Respondent cannot be allowed to: (1) prosecute Appellant for his Constitutionally protected religious practice, (2) twice, fail to "demonstrate" as required by South Carolina § 1-32 and the Constitutions, (3) order that Appellant cannot present his sole and only defense to the jury (effectively denying Appellant's right to present a defense and his demand for jury trial), and then (4) subject Appellant to an unwanted summary trial in a biased forum.

The denials and deprivations have already been brought to the attention of every level of this State's judiciary. In any instance, there must be at least one court in this State with jurisdiction to decide this appeal on the merits. Further, such a round and round, circular denial of due process is per se unconstitutional.

B. Respondent, A State Municipality, Has Unlawfully And Substantially Burdened Appellant's Free Exercise Of Religion, and Respondent's Municipal Judges Have, Twice, Erred By Refusing To Dismiss The Charges Against Appellant.

1. Appellants religious beliefs and practices are sincerely held.

Appellant's defense is based on his right to refuse unlawfully restrictive religious burdens imposed on him by the State. The recognition of the right to such religion-based refusal is the state legislature's intent in enacting South Carolina § 1-32, and is in agreement with the State and Federal Constitutions.

Appellant is a sincere, and devoutly religious man who has made a great many lifestyle sacrifices in adherence to his religious beliefs. Appellant is a Sephardic man, descendent of actual and real Hebrew Negroes exiled from Europe by authority of the Alhambra Decree of 1492. This decree, and the resulting exile of Negroes, was issued by the Catholic rulers of Europe specifically because of the Hebraic religious beliefs of the Negroes. As a consequence, Negroes who refused to convert to Catholicism were exiled to colonies of the Empire, later hunted down and enslaved under warrant, and many Negroes were subsequently moved back to the Americas from whence they had come. Appellant sincerely believes that he is redeemed by God and freed with the revocation of the Alhambra Decree in 1968, making any enslavement of Negroes illegal going back to before 1400 A.D. Appellant believes that it was not a mere coincidence that Negroes in America were extended civil rights in the 1960's, but a result of the worldwide revocation of the order of the Empire that purported to authorize Hebraic Negro enslavement, especially in the New World (The Americas). After having contracted peace in exile, Appellant's ancestors suffered betrayal at the hands of the King and Queen of Spain, the King of Portugal, and the Catholic Church, all acting in bad-faith, resulting in the illegitimacy of the Alhambra Decree of 1492.

Further, Appellant has a sincere and profound belief that the King James Bible contains Holy Scriptures written specifically for Hebrews surviving in exile, and that those scriptures

prescribe that Appellant is obligated to avoid slavery, peonage, bondage, and involuntary servitude in all forms, at all times. See King James Bible, Galatians 5:1-7⁸ & Romans 3:19⁹. Consequently, Appellant's avoidance of direct slavery, chattel slavery, bondage, peonage, and any form of overt or covert involuntary servitude is religiously motivated and is a central and fundamental tenet of his sincerely held religious beliefs and practices. As Appellant has affirmed to various State courts, he is duty bound as under Galatians 5:1-6 and Romans 3:19 to avoid slavery, peonage, and involuntary servitude at all times. Appellant believes that he exists to serve his God exclusively, and that having already been freed from slavery, he is prohibited to return to the yoke of bondage.

Appellant sincerely believes that the State acts on behalf of the "dragon" described in the Biblical book of Revelations at 12:4¹⁰, which entraps children into bondage as soon as they are born of their mothers. Appellant believes that this entrapment and enslavement is carried out through the use of fictitious and/or corporate names, written in ALL CAPITAL LETTERING, plagiarized and passed off as genuine identities upon unsuspecting children of the Creator.

Appellant believes that the term, "corporate" refers to a dead body, which is not truly alive but

⁸ King James Bible, at Galatians 1-7, which reads, "1 Stand fast therefore in the liberty wherewith Christ hath made us free, and be not entangled again with the yoke of bondage. 2 Behold, I Paul say unto you, that if ye be circumcised, Christ shall profit you nothing. 3 For I testify again to every man that is circumcised, that he is a debtor to do the whole law. 4 Christ is become of no effect unto you, whosoever of you are justified by the law; ye are fallen from grace. 5 For we through the Spirit wait for the hope of righteousness by faith. 6 For in Jesus Christ neither circumcision availeth any thing, nor uncircumcision; but faith which worketh by love. 7 Ye did run well; who did hinder you that ye should not obey the truth?"

⁹ King James Bible, at Romans 3:19, which reads, "19 Now we know that what things soever the law saith, it saith to them who are under the law: that every mouth may be stopped, and all the world may become guilty before God."

¹⁰ Book of Revelations, at 12:4, which reads, "And his tail drew the third part of the stars of heaven, and did cast them to the earth: and the dragon stood before the woman which was ready to be delivered, for to devour her child as soon as it was born."

given “psuedo-life” by the State. Appellant believes that by agreeing to identify as a state-created corporate “person”, and using corporate ALL CAPS “names”, men and women of God erroneously claim death and remove themselves from God’s protection. Appellant believes that Godly People should not live under a false name and identity, but rather, that they should “come in the name of their Creator”, given to them by their true Father, and not “come in” a fictitious name assigned by the state as *parens patriae*. Specifically, Appellant refuses to use a state driver’s license or vehicle registration, which he believes mis-identify him as a dead corporate entity through a plagiarized, corporate version of his true name, which appears in ALL CAPITAL LETTERING in those documents. Appellant believes that many government documents address a state-created fictitious corporate “person”, while other government documents address him directly, creating a deliberate condition of confusion.

Importantly, if any misunderstanding exists as to the accuracy of Appellant’s conclusions regarding (1) the existence of a surreptitiously created and imposed State franchise or state-created corporate persona and resulting bondage, or (2) exactly which government functions address said corporate persona and which address him directly, the State is culpable for that misunderstanding because the State has remained secretive and repeatedly refused to disclose requested information to Appellant. Through independent research and legally permissible discovery during litigation with the State over the last ten years, Appellant has diligently attempted to understand the State’s purpose and position on its creation of corporate “persons”, and to prove or disprove which of the State’s franchise and/or corporate schemes involve him. The State has refused to respond to the discovery requested, and the State’s judges have repeatedly ruled against Appellant on motions to compel responses from the State in other cases. The State has never rebutted or denied Appellant’s affirmed attestations to the State’s

surreptitious enfranchisement and mischaracterization of him as a state-created corporate persona. Appellant has thoroughly investigated the matter, and reasonably concluded that through licensing, registration, and other means, the State has treated him and/or intends to treat him, as either a corporate franchisee of the State, or as a state-created corporate person. The State has refused to provide any information to the contrary, leaving Appellant to sincerely accept his findings as the truth of the matter.

To be absolutely clear, Appellant is NOT a sovereign citizen, as he believes that only the Most High Creator can be recognized as truly Sovereign. Appellant is a competent driver, as prior to his "religious awakening" in 2015, Appellant had held state drivers licenses (in good standing) for over 20 years. Even now, Appellant pays property taxes, vehicle taxes and permit fees to the State where due. Until he was unconstitutionally intimidated off of and banned from using the public roads in 2021, Appellant maintained liability insurance on his truck at all times. However, due to overzealous and persistent prosecution by Respondent, since 2021 Appellant has had to park his truck and refrain from using it on the public roads of the State. Appellant does not deny the State's authority to regulate use of the public roads of the State, nor does he deny the authority of the courts of the State or of the United States. Appellant has repeatedly proposed to SCDMV, Respondent, and other State agencies that he would not object to using a State driver's license and vehicle registration, if these State agencies would simply print his name with proper capitalization (for example, "Johnathan Daniels", instead of "JOHNATHAN DANIELS"). In short, any similarity between Appellant' religiously motivated conduct and that of sovereign citizens is purely an unfortunate coincidence.

By way of testimony, affidavit, and through various writings, Appellant has informed Respondent's municipal court, the Lexington County Circuit Court, the South Carolina Court Of

Appeals, the South Carolina Supreme Court, and SCDMV of his religious beliefs. Appellant has clearly established that his beliefs are sincerely held. (See Affidavit, Circuit Court Transcript, Motion To Quash, Motion To Dismiss, Municipal Judge's Return).

2. Appellant's freedom to exercise his religion, among other protected rights, has been severely and substantially burdened by the Respondent, a municipality of the State.

Regardless of any State prosecutor's opinion of Appellant's sincerely held beliefs and practices, government may neither compel affirmation of a repugnant belief, *Torcaso v. Watkins*, 367 U. S. 488; nor penalize or discriminate against individuals or groups because they hold religious views abhorrent to the authorities, *Fowler v. Rhode Island*, 345 U. S. 67; courts cannot examine the truth or falsity of religious beliefs, *United States v. Ballard*, 322 U.S. 78 (1944).

("[I]t is not within the judicial function and judicial competence to inquire whether" someone who has religious qualms with a law has "correctly perceived the commands of [his] faith."). *Thomas v. Review Bd. of Ind. Emp't Sec. Div.*, 450 U.S. 707, 716 (1981). The adherent alone defines the tenets of his or her religious observance. [Underline added]. Courts may determine only the sincerity of religious beliefs, not their validity. Even religious beliefs that some reasonable observers would view as implausible are entitled to protection if sincerely held. *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 724 (2014). The Court has repeatedly emphasized, the reasonableness or truth of religious belief is beyond the competence and purview of the courts. *Id.* at 724.

Where a religious objector believes that performing an act will violate his or her religious beliefs, and that belief is sincerely held, courts must accept the objector's belief.

[Underline added]. *Hobby Lobby*, 573 U.S. at 686; see also *New Doe Child #1 v. Congress of the U.S.*, 891 F.3d 578, 586-587 (6th Cir. 2018). Substantial burden on an objector's religious exercise is evaluated on the basis of the objector's own sincerely held religious belief.

[Underline added]. *Hobby Lobby*, 573 U.S. at 682, 724. ("Repeatedly and in many different contexts, we have warned that courts must not presume to determine ... the plausibility of a religious claim.") *Id.*

A religious believer's exercise of religion is substantially burdened if the law presents the believer with the choice of either violating his or her religious beliefs or suffering a substantial penalty. [Underline added]. *Hobby Lobby*, 573 U.S. at 726; see also *Holt v. Hobbs*, 574 U.S. 352, 361 (2015).

The record in this case indicates that Appellant's beliefs are sincerely held, and that he has possessed the beliefs for years. Reviewing the charges brought in this case, Appellant clearly faces the choice of violating his religious beliefs or suffering a substantial penalty of jail time and fines. Given Appellant's sincere religious belief that his obtaining a State drivers license and vehicle registration will violate his religious beliefs, and his accompanying claims of State-imposed substantial burden, Appellant has proven beyond any reasonable doubt, that the State has caused him to suffer a substantial burden to his free exercise of religion. This burden results from Respondent's retaliatory prosecution of Appellant while Respondent attempts to unconstitutionally enforce the State's driver's license and vehicle registration requirements on Appellant; Respondent has allowed no accommodation for Appellant's religious beliefs, while simultaneously and completely forbidding his use of the State's public roads until Appellant acts in contradiction to his religious conscious and obtains a state drivers license and vehicle registration.

- 3. Twice, at official judicial proceedings before Respondent’s municipal court, Respondent utterly failed to “demonstrate” as required by South Carolina § 1-32, and the State and Federal constitutions**
 - a. Appellant appeals City Of Cayce Municipal Judge Shannon Bobertz’s October 19th, 2021 denial of his motion to quash.**

Prior to the preliminary hearing in this case, Appellant filed and served a motion to quash the charges in this case. The motion was argued before judge Bobertz at a motion hearing on October 19th, 2021. This motion hearing was an official judicial proceeding within South Carolina (see South Carolina § 1-32-50). At the hearing, citing the authorities of South Carolina § 1-32 and the State and Federal Constitutions as a defense, Appellant demanded that Respondent meet the requirements of the compelling interest test as required by the laws cited in Appellant’s motion to quash. Respondent utterly and totally failed to “demonstrate” that application of the burden to Appellant’s free religious exercise was (1) in furtherance of a Constitutionally genuine compelling State interest; **and** (2) the least restrictive means of furthering that compelling State interest (see South Carolina § 1-32-40). Respondent failed to present so much as a shred of argument or scintilla of evidence that approached the standard of “demonstration” required by South Carolina § 1-32 and the State and Federal Constitutions.

Respondent’s prosecutor, Mr. Ernie Peagler, having reviewed Appellant’s written motion to quash told Judge Bobertz, “Well, your Honor, these are just cut and paste sovereign citizen arguments downloaded from online.” Mr. Peagler then declared that, “the State opposes the granting of the motion.” Judge Bobertz ignored Appellant’s strident rebuttal, which stated that he was NOT a sovereign citizen and that his motion was self-authored, NOT "cut and paste

from online”, and that the motion’s arguments were not political, but religiously based. Judge Bobertz then denied Appellant’s motion. See judge Bobertz’s Municipal Return and Appellant’s Motion To Quash.

After Judge Bobertz denied Appellant’s motion, Appellant objected on the record because (1) the prosecution failed to meet its burden of “demonstration”, (2) the charges were prohibited on State and Federal Constitutional grounds, and (3) because of bias and overt prejudice, because judge Bobertz and prosecutor Peagler referred to and treated Appellant as a “sovereign citizen”, which denied Appellant equal access to the court, consequently denying Appellant due process. See judge Bobertz’s Return. Three days later, on October 21st, 2021, Appellant filed a written Motion To Reconsider, and Judge Bobertz denied that motion as well. Appellant objected to that denial as well. See Motion To Reconsider.

Importantly, Respondent’s judge’s and prosecutor’s decisions in response to Appellant’s motion to quash at this proceeding are binding, for which the State must bear the burden and accept their failures. Due process, equal protection, and fairness require that such a position be taken in the interest of justice. Appellant would not be forgiven and allowed another chance had he made similarly negligent or poor choices.

This Court’s review of the Record, in particular Appellant’s written motion to quash, will show that (1) Appellant’s religious beliefs are sincerely held and Appellant made a valid claim of prohibited substantial religious burden under South Carolina § 1-32, and the State and Federal Constitutions, (2) Respondent was required to carry its burden to “demonstrate”, (3) Respondent failed to meet its burden to “demonstrate” and the charges should have been quashed for failure to state a crime or punishable offense. Respondent’s failure to state a crime deprived the municipal court of jurisdiction. Once Respondent failed to “demonstrate,” as required by South

Carolina § 1-32 and the State and Federal Constitutions, judge Bobertz lacked jurisdiction to continue what amounted to “retaliatory prosecution” of Appellant.

There is no discretion to ignore a lack of jurisdiction. The subject matter jurisdiction of a court is fundamental. "Lack of subject matter jurisdiction may not be waived, even by consent of the parties, and should be taken notice of by this Court. It is well-settled that issues related to subject matter jurisdiction may be raised at any time, including for the first time on appeal in this Court." Brown v. State, 343 S.C. 342, 346, 540 S.E.2d 846, 848-49 (2001) (citation omitted). The action of a court, regarding a matter as to which it has no jurisdiction, is void. State v. Funderburk, 259 S.C. 256, 261, 191 S.E.2d 520, 522 (1972).

Further, even outside of South Carolina § 1-32’s requirements, Respondent failed to overcome State and Federal constitutional requirements and safeguards, or to otherwise justify its imposition of substantial burden to Appellant's religious practices and denial of Appellant’s other protected rights. Accordingly, on Constitutional grounds, the challenged charges should have been quashed for failing to state a crime or punishable offense.

b. Appellant appeals City Of Cayce Municipal Judge Byran Jeffries’ November 7th, 2022 denial of his Motion to Dismiss.

Appellant’s written motion to dismiss was filed and served on October 31st, 2022. The bases for the motion were that South Carolina § 1-32, and the State and Federal Constitutions, prohibited Respondent’s action to prosecute and persecute Appellant under the circumstances. At the November 7th, 2022 motion hearing, which was an official “judicial proceeding” within South Carolina (see South Carolina § 1-32-50), despite Appellant’s meritorious arguments and requests made via the written motion, Respondent’s prosecutor, again, failed to present ANY

valid argument or evidence demonstrating that Respondent's application of the burden to Appellant's free religious exercise was (1) in furtherance of a compelling State interest; **and** (2) the least restrictive means of furthering that compelling State interest. There was no discussion as to the prosecution "demonstrating" at a later date, or the prosecution being granted any extension of time to "demonstrate." The judge and prosecutor simply and blatantly ignored the law! Respondent did not "demonstrate" as required. See Municipal Court Transcript; see Judge Jeffries' Municipal Return.

Once Respondent failed to "demonstrate" as required by South Carolina § 1-32 and the State and Federal Constitutions, judge Jeffries lacked jurisdiction to allow further prosecution of Appellant, and he had no discretion to ignore the lack of jurisdiction. The judge erred in not granting Appellant's motion to dismiss.

- c. Given Respondent's failure to adequately answer Appellant's motion to quash and motion to dismiss in these prior hearings, as described above, the municipal court's repeated denials of Appellant's meritorious motions were/are biased, prejudicial and partial to Respondent (i.e. the State).**

Appellant made his motions as an unrepresented neophyte to criminal law. A trained and experienced prosecutor appeared at each hearing on behalf of Respondent, with his purpose being to oppose Appellant's written motions. Each written motion clearly stated the reasons and the law that Appellant believed justified an order to quash or dismiss. Given such written notices, the prosecutor knew, or should have known, that he was required to meet the South Carolina § 1-32 compelling interest test requirement to "demonstrate", as well as to rebut Appellant's State and Federal Constitutional challenges to the charges. As the State's

representative, Respondent's prosecutor's failure to "demonstrate" and rebut was due to (1) his inability to find a lawful basis to support continued prosecution of Appellant under the circumstances, and (2) a knowing and purposeful intent by Respondent to disregard the law in order to prosecute Appellant for his religious beliefs and practices.

Regardless of Respondent's reasoning for presenting insufficient challenges in answer to Appellant's motions, Respondent has already responded, twice. Therefore, Appellant objects to any further attempt by Respondent to turn back the hands of time to attempt, for a third time, to "demonstrate" and rebut the grounds for Appellant's motion to quash and/or motion to dismiss. If Appellant were to have failed similarly, under similar conditions, he would not be granted leniency by a court to re-argue and present evidence or information that he could have presented at the time of a previous hearing, therefore any court's granting of such a third opportunity to the Respondent is objected to as partial and prejudicial.

As this Court can see from the record of this case, Appellant has repeatedly explained his religious beliefs, and explained how Respondent is substantially burdening his right to free religious exercise through persistent retaliatory prosecution, and Respondent enforcing that Appellant must be prohibited from **any and all** use of the public roads within the State unless he goes against his religious conscious and obtains a State driver's license and vehicle registration. All the while, other persons in this State are exempted from the same license and registration requirements for a variety of secular reasons.

Twice already, the State did not meet its burden to "demonstrate" and the municipal court overlooked that fact to allow retaliatory prosecution of Appellant. Appellant argues that once the State failed to meet its burden to "demonstrate" in response to Appellant's South Carolina § 1-32

and Constitutional motions, the municipal court had no jurisdiction to allow continued prosecution, or trial of Appellant.

d. Respondent's municipal court committed an error of law, or abused discretion by permitting retaliatory prosecution against Appellant.

The municipal court's orders presently under appeal allow unjust continuation of retaliatory prosecution of Appellant for his lawful exercise of Constitutionally protected rights, and denies Appellant protected substantive rights, such as Appellant's right to a trial by jury, right to present a defense, right to equal protection of the laws, right to freedom of religion, right to free speech, right to own property, and right to liberty.

Viewed in totality of the circumstances, the orders challenged in this appeal facilitate the State's punishment of Appellant for his religious beliefs and practices, while simultaneously stripping away any meaningful access to the laws that Appellant sought to employ for his defense and the protection of his rights.

Throughout the various stages of this case, and in other cases, the Respondent has repeatedly labeled Appellant a "sovereign citizen" and sought to punish him for his religious beliefs, while concurrently denying him privileges, immunities, equal protection, and due process guaranteed to State and United States Citizens. Respondent's prosecutor's making of a request to prohibit Appellant's access to the protections of South Carolina § 1-32 and other constitutional defenses begs deduction and realization of Respondent's true intent, which is to enforce an unlawful blanket policy of offering "no quarter" to "sovereign citizens." The problem here is that Appellant is not a "sovereign citizen," but has only been misidentified as one by city officials, due to his religious beliefs and practices. Respondent's error in this is willful, deliberate, intentional, and reckless enforcement of municipal policy. (See Municipal

Court Transcript; See Mr. Peaglers Statement In Circuit Court Transcript for Court Of Appeals Case # 2022-001437).

Further evidencing the City Of Cayce's determination to convict Appellant through its "sovereign citizen" witch hunt, the November 7th, 2022 municipal court motion hearing transcript will show that Respondent's prosecutor, Mr. Peagler Peagler, openly appealed to judge Jeffries, insisting that the judge ignore his Rule 502.1 Oath to "defend the Constitution of this State and of the United States" and seek justice. The transcript and face of the Record will show that the judge acquiesced to this request by the prosecutor. See Municipal Transcript.

C. Appellant objects to any further attempt by Respondent to "demonstrate", as Respondent has already made two attempts to do so, and no valid legal theory exists by which Respondent could "demonstrate" as required by South Carolina § 1-32, and the State and Federal Constitutions.

South Carolina § 1-32-40 states (bold and underline added), "The State may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, **unless the State demonstrates that application of the burden to the person is: (1) in furtherance of a compelling state interest; and (2) the least restrictive means of furthering that compelling state interest.**"

Due to the facts of this case and the law as it currently stands, at the State and Federal level, Respondent could not, and cannot, "demonstrate" as required by the compelling interest test. The Court please bear in mind the following:

- (1) The compelling interest test imposed by South Carolina § 1-32 bypasses *Smith*'s neutrality and general applicability barriers to strict scrutiny, and the statute says so in the plain reading of its text;
- (2) As stated above, at page 16, last paragraph to page 18 last paragraph., rather than rely on "broadly formulated interests," courts must "scrutinize the asserted harm of granting specific exemptions to particular religious claimants." *O Centro*, 546 U. S., at 431, and the question, is not whether the Respondent has a compelling interest in enforcing these laws generally, but whether it has such an interest in denying an accommodation to Appellant, on an individual basis;
- (3) The frequency with which Respondent or the State actually grants the exemptions in question is irrelevant. *Fulton v. City Of Philadelphia*, 593 U.S. (2021); *Smith*, 494 U. S., at 884.

1. The State interests Respondent seeks to enforce and protect through its retaliatory criminal prosecution of Appellant are not constitutionally genuine compelling interests.

Appellant has previously notified various State courts and agencies, since 2017, that his sincerely held religious beliefs and practices (1) prohibit his participation in corporate franchising schemes in subjugation to the State, (2) prohibit him from assuming the identity of an ALL CAPS State-created corporate persona in subjugation to the State, and (3) that these religion based prohibitions prevent his obtaining a State drivers license and vehicle registration. Respondent has previously been given notice that it is on this religious basis alone that Appellant has refused to obtain a State drivers license or register his truck.

South Carolina § 1-32-30 allows for the citing of a substantial burden on the free exercise of religion as a valid defense. Here now, Appellant requests that this Court consider South Carolina § 1-32-30(2), which states (bold added):

“The purposes of this chapter are to:

- (1) restore the compelling interest test as set forth in Wisconsin v. Yoder, 406 U.S. 205 (1972), and Sherbert v. Verner, 374 U.S. 398 (1963), and to guarantee that **a test of compelling state interest will be imposed on all state and local laws and ordinances in all cases in which the free exercise of religion is substantially burdened**; and
- (2) provide a claim or **defense** to persons whose exercise of religion is substantially burdened by the State.”

South Carolina § 1-32-40 states (bold and underline added), “The State may not substantially burden a person's exercise of religion, **even if the burden results from a rule of general applicability, unless the State demonstrates that application of the burden to the person is: (1) in furtherance of a compelling state interest; and (2) the least restrictive means of furthering that compelling state interest.**”

Because Appellant has proven that he is sincere in his beliefs and that he has suffered a State-imposed substantial burden, the burden of proof would shift to Respondent, in privity with the State, to prove BOTH, (1) that it has a Constitutionally genuine compelling State interest in prosecuting Appellant and demanding that Appellant not use the public roads, AT ALL, unless he uses a State issued driver’s license and vehicle registration, AND (2) that the means of regulation the State is imposing upon Appellant are the least restrictive means available under the law. Respondent’s failure to prove EITHER that (1) a Constitutionally genuine compelling State interest exists, OR (2) that the State is regulating Appellant’s use of the public’s roads

through the least restrictive means available would require that any State court dismiss the charges against Appellant, with prejudice.

Since Respondent has not and cannot “demonstrate” as required in this case, then the State’s legislature clearly and unambiguously does not intend for Appellant’s religiously motivated conduct to be considered a crime, violation, or offense.

As explained above, if any misunderstanding exists as to the accuracy of Appellant’s conclusions regarding the existence of a surreptitiously imposed State franchise or ALL CAPS State-created corporate persona, the State itself is culpable for that misunderstanding. Appellant cannot comply with the State law requiring him to use a State drivers license and registration without putting aside his sincerely held religious beliefs, practices, and obligations. It is obvious that the current retaliatory prosecution of Appellant by Respondent, the restrictions enforced upon Appellant’s free use of the roadways within City Of Cayce, along with suppression of Appellant’s other protected rights, result directly from the Respondent’s prosecution and enforcement actions in reaction to Appellant’s exercise of his Constitutionally protected rights. The resulting penalties for noncompliance with Respondent’s enforcement demands constitute a very real and substantial burden on Appellant’ free exercise of religion, and must be done under strict scrutiny, at a minimum (see South Carolina § 1-32-30). Federal guidelines in similar cases, involving State violation of multiple protected rights, constituting a federal “hybrid claim”, also require strict scrutiny.

The State interests protected by South Carolina §§ 56-1-20 and 56-3-110 are not Constitutionally genuine compelling state interests.

For the purposes of this case, Appellant admits that the State has a compelling interest in regulating the use of the public roadways of the State. **Importantly however, Appellant**

challenges any assertion that, in its regulating the use of the public roads, the State has a Constitutionally genuine compelling State interest in strictly requiring Appellant to (1) use a State driver's license and (2) a State vehicle registration. The statutes creating the obligations to drive only if licensed and only if the vehicle is registered, South Carolina §§ 56-1-20 and 56-3-110, are not laws of general applicability, as both of these obligating statutes have complimentary statutes that allow exemptions for secular purposes. For example, South Carolina § 56-1-30 (the section providing exemptions to a blanket mandatory driver license requirement in this State) permits several classes of persons to be exempted from the licensing requirement, and includes South Carolina § 56-1-30(3), which allows some persons with no license in any jurisdiction whatsoever to drive within this State for 90 days a year without a driver's license. For a second example, South Carolina §§ 56-3-120 and 56-3-180 (the sections creating exemptions to State vehicle registration), particularly South Carolina § 56-3-120(1) permits persons to be exempted from the vehicle registration requirement altogether.

Once a legislature has carved out an exemption for a secular group or person, the law is no longer “generally applicable,” and thus subject to standards of strict scrutiny. As the U.S. Supreme Court opined, “where such a law is not neutral or not of general application, it must undergo the most rigorous of scrutiny: It must be justified by a compelling governmental interest and must be narrowly tailored to advance that interest.” *Church of the Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520 (1993).

Very importantly, it is established in strict scrutiny jurisprudence that "a law cannot be regarded as protecting an interest 'of the highest order' ... when it leaves appreciable damage to that supposedly vital interest unprohibited." [Underline added] *Florida Star v. B. J. F.*, *supra*, at 541-542 (SCALIA, J., concurring in part and concurring in judgment). See *Simon & Schuster*,

Inc. v. Members of N. Y. State Crime Victims Bd., 502 U. S. 105, 119-120 (1991). The abovementioned secular exemptions, as described at South Carolina §§ 56-1-30(3), 56-3-120 (1), and 56-3-180, act to leave “appreciable damage unprohibited” as to any purported requirements that all persons driving upon the State’s public roads must use or have a State drivers license and vehicle registration. Thus, it follows that, according to the U.S. Supreme Court, the exemptions at South Carolina §§ 56-1-30(3), 56-3-120 (1), and 56-3-180, which create a definite, and certain likelihood for circumvention of South Carolina §§ 56-1-20 and 56-3-110, reveal that South Carolina §§ 56-1-20 and 56-3-110 are not laws protecting an interest ‘of the highest order’, or a ‘vital interest.’ Therefore, Respondent cannot reasonably argue that the State's drivers license and vehicle registration requirements protect a Constitutionally genuine compelling State interest which is served by repeatedly prosecuting Appellant and banning Appellant from **all** use of the public roads of this State due to his protected religious exercise. Appellant directly challenges any notion that the State has a Constitutionally genuine compelling interest in requiring that he be completely forbidden any and all use of the State’s public roads until he contradicts his religious conscious to acquire a State drivers license and vehicle registration.

2. The means employed by the State in regulating Appellant’s use of the State’s public roadways are not the least restrictive means allowed under the laws of this State.

Additionally, but no less importantly, in light of the very substantial burdens placed on Appellant’s Constitutionally protected free exercise of his religion, his property rights, and his right to liberty through travel, Respondent’s methods of regulating Appellant’s use of the public roadways must take the form of the least restrictive means of regulation.

This State does utilize less restrictive means of regulation in similar circumstances. As discussed above, South Carolina §§ 56-1-30(3), 56-3-120 and 56-3-180 permit exempted persons

to use the State's public roads, including City Of Cayce's roads, without being subjected to Respondent's South Carolina §§ 56-1-20 and 56-3-110 enforcement and prosecution actions. Were Respondent's traffic enforcement officers to come across a hypothetical exempted person¹¹ driving through City Of Cayce, with no drivers license and no vehicle registration, they would let such a person continue on their way. The exempted person would not face prosecution and/or trial. The only difference between this hypothetical exempted person and Appellant is that the hypothetical exempted person in this example would have been approved for exemption and accommodation by the SCDMV, and other State agencies, because his exemptions were for secular reasons, while Appellant's reasons for requesting the same exemptions are religion based. This indicates that State agencies have assumed a non-neutral stance towards Appellant's requests for religious exemption and accommodation, and the religious nature of Appellant's request is the reason for his request having been denied. See SCDMV Letter.

Regarding the exemption given at South Carolina § 56-1-30(3), should Respondent attempt to make a distinction between "resident" and "nonresident", while claiming that Appellant would be ineligible for the exemption, the argument must fail. This Court's recognition of this distinction, if indeed the Court were to consider it so, would be unreasonable. The reason it would be unreasonable is that Appellant is not claiming direct access to the benefits of the exemption given at South Carolina § 56-1-30(3), but rather that since this court's determination of "least restrictive means" must be made under "strict scrutiny" due to Appellant's valid and substantiated claim of State-imposed burden on the free exercise of his religion, which is a statutory as well as Constitutional claim, the 1st Amendment to the United States Constitution, the Privileges and Immunities Clause of the 14th Amendment, the Equal Protection

¹¹ That is to say, a person who has requested and received secular exemptions from the SCDMV, Respondent, or other State agency, under South Carolina §§ 56-1-30(3), 56-3-120 and 56-3-180.

Clause of the 14th Amendment as well as the Due Process Clause of the 14th Amendment are all implicated; each of which addresses treatment of “*citizens of the United States*” and/or “*persons*” within a state, making no distinction between “resident” or “nonresident.” Appellant is a citizen of the United States for 1st and 14th Amendment purposes, and also a person within the state of South Carolina for 14th Amendment purposes. The simple fact is that under a strict scrutiny analysis involving a proven state-imposed substantial burden on the free exercise of religion of a resident citizen of South Carolina, which requires an inquiry into the least restrictive means of regulation, no basis exists under which a “nonresident” person would be extended more rights than a sincere religious objector residing within South Carolina. In short, under “secular” State laws authorizing exemptions, some unknown number of “persons” are allowed to drive within South Carolina, without a drivers license, for 90 days a year. It is a fact that driving 90 days a year without a license is less restrictive than Appellant being completely barred from use of the State’s public roads due to his religiously motivated objection to obtaining a State drivers license. Respondent would be required to “demonstrate”, as South Carolina § 1-32 and the constitutions require or, failing to do so, recognize Appellant’s Constitutionally protected rights and cease its unconstitutional enforcement of the penalizing statutes and end the retaliatory prosecution against Appellant.

Regarding the exemptions allowed under South Carolina §§ 56-3-120(1) and 56-3-180, should Respondent claim that Appellant needed to have a permit to be exempted, this position would be also be unreasonable. Here again, this is because the 1st Amendment of the United States Constitution, the Privileges and Immunities Clause of the 14th Amendment, the Equal Protection Clause of the 14th Amendment as well as the Due Process Clause of the 14th Amendment are all implicated. Appellant is not claiming that he has directly qualified for the

exemption to vehicle registration allowed under South Carolina §§ 56-3-120(1) and 56-3-180. However, his Constitutional and South Carolina § 1-32 defenses do not require that Appellant demonstrate that he was approved for the exemption. In response to the Respondent's claim that the State is regulating Appellant by the "least restrictive means" as to vehicle registration, Appellant would need only show the existence of the exemption as one that his religious conscious views as less restrictive, and demonstrate that he has tried to obtain the permit, which he has done (although it was not issued through the fault of the State's regulating agency). Appellant previously contacted the SCDMV for obtaining a permit under South Carolina § 56-3-180, but did not receive an affirmative response, or any guidance to obtain the permit. The SCDMV Office Of General Counsel openly stated that Appellant would not be extended the requested exemptions and accommodations because those exemptions are for secular purpose only. See SCDMV Letter. Like the Respondent in this case, and prosecutors in other cases previously brought by Respondent, the SCDMV failed to recognize and uphold Appellant's protected rights. After multiple inquiries made to various State agencies, attorneys, and prosecutors, no guidance for making the permit application and request for accommodation has ever been given to Appellant by any State officer or official in response to Appellant's multiple requests, notices of undue substantial religious burden, and/or notices of religious objection to using a State drivers license and vehicle registration.

Importantly: Appellant has not failed to act in accordance with any statutory requirement to obtain the permit allowed under South Carolina § 56-3-180. South Carolina Title 56, the section that creates the legal requirement for drivers licenses and vehicle registration, is void of any guidance directing a course of action to someone subjected to an undue substantial religious burden as a result of the statute's provisions; further, Appellant's attempts to work with

the SCDMV for a permit resulted in no permit being issued. Regarding the vehicle registration charge in this case, the State cannot, on one hand, claim to regulate Appellant by the least restrictive means, while on the other hand actively deny him the permit alternative to vehicle registration, and then allow Respondent to subsequently prosecute him for having neither registration nor permit. Taken together, these actions indirectly prohibit Appellant's use of his truck on the State's public roads, and directly punish him for his religion based refusal to obtain a State vehicle registration.

Governmental preference cannot be given to secular conduct and purposes, which is subsequently denied to Appellant's religiously motivated conduct and purpose. Doing so inevitably deters or discourages the exercise of First Amendment rights of religious freedom, and thereby threatens to "produce a result which the State could not command directly." *Speiser v. Randall*, at 357 U. S. 526 (1958). Likewise, to condition the availability of privileges upon a claimant's willingness to violate principles of his religion effectively penalizes his free exercise of constitutional rights. *Id.* at 357 U. S. 518. Similar to the denial of exemptions for religious reasons in the present case, "to deny an exemption to claimants who engage in certain forms of speech is, in effect, to penalize them for such speech." *Id.* at 357 U. S. 518. As the Court addressed the issue in *Fowler v. Rhode Island*, government cannot, "penalize or discriminate against individuals or groups because they hold religious views abhorrent to the authorities", *Fowler v. Rhode Island*, 345 U. S. 67. Therefore, Appellant cannot lawfully be punished, or penalized, for exercising his protected rights to free exercise of his religion, freedom of liberty through travel, and right to property.

It is beyond any reasonable argument that the alternative regulatory means, recognized by the exemptions given at South Carolina §§ 56-1-30(3), 56-3-120(1), and 56-3-180, are far less

restrictive than those the State is imposing on Appellant; and, where there is any doubt that they are less restrictive, Appellant has declared that his religious exercise would allow him to use a State drivers license with proper capitalization of his name and a similar permit alternative to vehicle registration. (See Motion to Dismiss). Therefore, no reasonable argument can be made that totally banning Appellant from using the State's public roads, until he complies with using a State drivers license and vehicle registration, is the least restrictive means of regulating Appellants use of the public roads in this State.

To be clear, Appellant is not arguing that the State should allow him to use the public roadways sans any regulation whatsoever, but rather that the State has already set its limits and conditions for (1) regulating persons who drive within this State without a driver's license and (2) regulating unregistered vehicles used on the public roads of this State. These previously set parameters allow for Appellant to be regulated by the State through means which are less restrictive than completely forbidding his use of the State's public roads due to his not using a State driver's license and vehicle registration. Furthermore, because of Appellant's religious beliefs, practices and proven substantial burden, the State is obligated to extend these less restrictive modes of regulation to Appellant. Further prosecution of Appellant on these charges would be a violation of the laws of this State and the United States.

D. Respondent's Municipal Court Committed An Error Of Law, Or Abused Discretion By Granting Respondent's Motion In Limine, Which Deprives Appellant Of Appellant's Constitutionally Protected Right To A Trial By Jury.

Judge Jeffries' November 7th, 2022 granting of Respondent's prosecutor's motion in limine to limit Appellant's presentation of any and all evidence pertaining to Appellant's religious beliefs, exemptions to the application of the law, and required religious accommodations deprives Appellant of (1) his right to a trial by jury, (2) his right to present

evidence for his defense, and (3) his right to present his South Carolina § 1-32 and Constitutional claims of undue substantial religious burden defense to the jury. See Municipal Transcript.

In granting the State's motion to limit Appellant's presentation of any evidence linked to his religion, Judge Jeffries said that he, alone, would hear evidence of Appellant's religious claims and make a ruling. However, Appellant has demanded a jury trial, not a bench trial! Judge Jeffries' refusal to let the jurors hear the factual basis for Appellant's South Carolina § 1-32 and Constitutional defenses and have the jury decide Appellant's guilt or innocence, effectively denies Appellant the right to a trial by jury.

Instead, the judge's order acts to convert Appellant's demand for a trial by jury into request for a summary judgment before a judge who has demonstrated hostility towards Appellant's religious beliefs. This order also denies Appellant the right to enter religion-oriented facts and documents into evidence, or to make the jury aware of relevant laws and exemptions, thus crippling Appellant's defense.

Further, the order prejudices Appellant to an extreme degree, as no jury could reasonably find Appellant "not guilty" under his South Carolina § 1-32 and Constitutional defenses if that jury is denied consideration of facts related to Appellant's religious beliefs, practices, and claims of undue substantial religious burden. Without access to the factual evidence surrounding Appellant's religious burden claims under South Carolina § 1-32 and the State and Federal Constitutions, the jury would undoubtedly return a verdict of "guilty", and it is to the jury that the error of convicting Appellant despite his valid claim of undue substantial religious burden would be attributed. Such a circumstance would allow hostility towards Appellant's religious


beliefs and practices by this State's judiciary to go undetected, and is tantamount to the State throwing stones and hiding its hands.

Further, because of the municipal court's prior conduct, Appellant has absolutely no doubt that any directed verdict motion he would make would go unread and subsequently be denied. Besides this, due to the prohibiting order, there would not be sufficient favorable facts entered into evidence to support a motion for a directed verdict. Appellant has recently fallen victim to similar shenanigans by the same prosecutor and court officers in the past, and such a sequence is absolutely not far fetched. (See S.C. Court Of Appeals, case # 2022-001437).

E. Conclusion

In light of the above, this Court should dismiss the charges in this case, because they are "unconstitutional-as-enforced." Further, this Court should issue an order requiring Respondent and other privies of the State to accommodate Appellant regarding the State's drivers license and registration requirements.

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