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May 30 2024

SC Court of Appeals

SOUTH CAROLINA
In The Court Of
Appeals

Case No. 2024-000168

Johnathan Daniels,

Appellant.

v.

The City Of Cayce,

Respondent

Motion For Certification and Transfer Of Appeal To
The South Carolina Supreme Court

Now comes Appellant, PRO SE, Johnathan Daniels requesting that this appeal be certified and transferred to the South Carolina Supreme Court for a decision on the merits. This case is an appeal from three orders made in criminal proceedings. At the circuit court and presently, this appeal was made under the statutory authority of S.C. Code Ann. § 14-3-330. To Appellant's knowledge, only the South Carolina Supreme Court has jurisdiction to decide such matters. The South Carolina Court Of Appeals will lack jurisdiction to decide the matter, and will dismiss the case without getting to the merits of the appeal.

This appeal was originally filed with the Clerk for the South Carolina Supreme Court on February 7th, 2024. Most likely due to error, this case was transferred to the South Carolina Court of Appeals on February 8th, 2024.

Appellant filed the Notice Of Appeal to the South Carolina Supreme Court pro se, and failed to cite S.C. Code Ann. § 14-3-330 on page one of the Notice Of Appeal. However, Appellant's appeal to the Circuit Court was made under S.C. Code Ann. § 14-3-330, and that statute has been the basis for every appeal of this case. Supporting documents are included in this submission to the Court.

As evidence of which statute this appeal was made under, please see the "Notice Of Appeal To The Circuit Court" at page 1, paragraph 1; see also, the "Notice Of Appeal" filed at the S.C. Supreme Court at page 3, items #3 and #4, wherein Appellant makes clear his intention for the appeal to be made under S.C. Code Ann. § 14-3-330 and NOT under S.C. Code Ann. § 14-25-95. Also see the "Statement of Issues to Be Reviewed On Appeal" filed with the Notice Of Appeal, at page 1 – Introductory paragraph 1, and at page 1 paragraph labeled "1."

This case involves the denial of a particular mode of trial by a municipal court, which is immediately appealable under S.C. Code Ann. § 14-3-330; and is in fact, ONLY appealable under that statute. See *Cf. Flagstar Corp.*, 341 S.C. at 72, 533 S.E.2d at 333 (party is required to immediately appeal if denied a mode of trial to which he is entitled as a matter of right, and failure to do so forever bars appellate review of the issue).

Additionally, the municipal court's two orders denying Appellant's motion to quash and motion to dismiss have resulted in a per se "judgment" by the municipal court to allow Respondent, a state municipality, to unlawfully burden Appellant's free religious exercise. These orders and the continuing prosecution of Appellant are being done in violation of South Carolina § 1-32, and have already deprived Appellant of his First Amendment Constitutionally protected right to the free exercise of religion. Because

Appellant began to suffer an immediate loss of his protected rights at the moment the orders issued, these “deprivation” orders have already been “executed”. Consequently, a later appeal will not be able to prevent Appellant’s Constitutional injury, making an immediate appeal under S.C. Code Ann. § 14-3-330 (2)(a) appropriate.

Therefore, Appellant is requesting that this appeal be certified and transferred to the South Carolina Supreme Court, as soon as practically possible, and that the case NOT be submitted to the South Carolina Court Of Appeals, which lacks jurisdiction to decide the case.

May 29th, 2024



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The Supreme Court of South Carolina

Johnathan M. Daniels, Appellant,

v.

City of Cayce, Respondent.

Appellate Case No. 2024-000168

ORDER

Pursuant to Rule 204(a) of the South Carolina Appellate Court Rules, this matter is hereby transferred to the South Carolina Court of Appeals.

FOR THE COURT

BY Patricia A. Howard
CLERK

Columbia, South Carolina
February 8, 2024

cc: Johnathan M. Daniels
Danny Calvert Crowe
The Honorable Jenny A. Kitchings

FILED 2023CP3202817

STATE OF SOUTH CAROLINA,	)	2023 JUL 27 PM 4: 18	)	LEXINGTON COUNTY
	)		)	COURT OF COMMON PLEAS
PLAINTIFF,	)	LISA M. GOMER	)	RE: City Of Cayce Municipal Court
	)	CLERK OF COURT	)	Ticket #'s: 20210370007763
VS	)	LEXINGTON SC	)	20210370007764
))	
JOHNATHAN DANIELS,))	
	)		)	NOTICE OF CRIMINAL APPEAL
DEFENDANT,	)		)	NOTICE OF OBJECTIONS
))	

Pursuant to South Carolina 14-3-330 (1) and (2)(a), and South Carolina Rules Of Criminal Procedure, Johnathan M. Daniels, hereinafter "Appellant", submits this interlocutory appeal from two separate orders made by City Of Cayce Judge Bryan Jeffries on November 7th, 2022, which denied Appellant's S.C. § 1-32 Motion To Dismiss and granted the City Of Cayce Prosecutor's motion to limit evidence. Appellant received verbal notice of both orders on November 7th, 2022. Additionally, Appellant appeals City of Cayce Judge Shannon Bobertz's October 19th, 2021 order denying Appellant's S.C. § 1-32 Motion To Quash, which denied Appellant's request without an allowable basis for doing so. No written orders issued from the municipal court. Appellant also appeals City Of Cayce Municipal Judge Shannon Bobertz's denial of his Motion to Quash on October 19th, 2021.

This appeal is being submitted to this Circuit Court at this time because it was initially filed in the wrong court, and subsequently remitted to the municipal court. As this Court will see explained below, it is for good and justifiable cause that this appeal is being made at this time, rather than sooner. A Notice of Appeal was originally filed in

the South Carolina Supreme Court on November 14th, 2022, filed in the Municipal Court on November 16th, 2022, with service to Respondent on November 14th, 2022.

Due to abandonment of Appellant by his court appointed attorney, Appellant was/is unrepresented in making this appeal, and initially mistakenly appealed to the South Carolina Supreme Court under South Carolina 14-3-330 (1) and (2)(a); the appeal was then transferred to the South Carolina Court Of Appeals (case # 2022-001598) by the Supreme Court Clerk Of Court, and subsequently dismissed and remitted by the South Carolina Court Of Appeals to the municipal court, due to that court's lack of jurisdiction (remitted on March 10th, 2023). The South Carolina Court Of Appeals cited S.C. Code Ann § 18-7-10(2014)... requires submission of the Appeal to the Circuit Court. Once the case was remitted back to the municipal court, Appellant's court appointed attorney continued to refuse to assist Appellant for "political" reasons. Only at present has Appellant realized that this appeal could be re-filed in this Circuit Court, and he has done so promptly and without delay.

Although the most recent orders appealed from were made in November of 2022, due to the extraordinary circumstances of this case, the period for appeal to the Lexington County Circuit Court should be extended to allow appeal at this time. **In good faith, Appellant did file and serve the required Notice Of Appeal to the municipal court and respondent within the 10-day period for doing so, and the authority to extend various time periods for appeal is a recognized power of this Circuit Court under S.C. Code Ann § 18-1-100.** Appellant trusts that this Circuit Court will agree that the below mentioned extraordinary factors justify this appeal being allowed before this Circuit Court at this time.

Detailed Factors Affecting The Timing Of This Appeal

After denying Appellant's Motion To Dismiss on November 7th, 2022, Judge Jeffries appointed an attorney to represent Appellant in this case due to Appellant's indigence. The municipal court's appointed attorney, Harry Hancock, hereinafter "Mr. Hancock", outright refused to assist or advise Appellant in making any appeal challenging the two orders presently challenged and appealed before this Circuit Court.

Despite South Carolina § 1-32 expressly giving Appellant the right to present a claim of undue religious burden as a defense in a "judicial proceeding", Mr. Hancock wrote and stated to Appellant, on multiple occasions, that he would not assist in either (1) the making of an appeal on Appellant's behalf, or (2) the presentation of any defense based on Appellant's right to freedom of religion, at trial. Mr. Hancock stated that Appellant would need to make any appeal to a higher court on his own. (See attached email communications between Mr. Hancock and Appellant). Appellant is not an attorney and subsequently made the mistake of filing the appeal in the wrong court. However, this Circuit Court should agree that Appellant's mistake in filing the appeal to the incorrect court is attributable to the lack of legal counsel and abandonment of Appellant by his court appointed legal counsel.

Further, once the S. C. Court Of Appeals remitted this case back to the municipal court, Mr. Hancock reiterated his refusal to assist in the appeal as long as Appellant was insistent on presenting his South Carolina § 1-32 claim of substantial burden on his free exercise of religion as a defense. It is only through his independent research that Appellant recently discovered that the remitted appeal should be presented to the Circuit Court for intervention and consideration. Appellant has taken steps to do so as promptly

and expeditiously as possible. By law, Appellant possesses an un-waived, Constitutionally protected right to legal counsel, a condition that has not been met to the required legal standard due to Mr. Hancock's appointment and subsequent abandonment of Appellant for "political" reasons.

Appellant has not, and does not intend to waive (1) his right to present his South Carolina § 1-32 defense and state/federal constitutional defenses, (2) his protected right to religious freedom, (3) his protected right to a trial by jury, nor (4) his protected right to counsel. Because the three orders challenged in this appeal act to effectively deny Appellant of substantive and un-waived rights to freedom of religion, trial by jury, and right to present legal a defense (Privileges and Immunities, Equal Protection and Due Process under the 1st, 6th, and 14th Amendments to the U.S. Constitution, and equivalent state laws), Appellant requests that this Circuit Court intervene to (1) insure justice, and (2) insure that state and federal laws are upheld; and to guarantee that Appellant's Constitutionally protected rights not unlawfully denied.

Appellant's Sincere Religious Beliefs And Practices

To avoid confusion of this Circuit Court, a concise summarization of Appellant's religious beliefs and claims of undue substantial burden to religious exercise is described in multiple affidavits and numerous legal memoranda (see Affidavit filed June 2nd, 2023, motion withdrawn after filing, affidavit remains valid; see Motion To Dismiss, filed October 31st, 2022; see Motion To Reconsider, filed Oct. 22nd, 2021; see Motion to Quash and Affidavits, filed Oct. 19th, 2021).

OBJECTIONS AND REASONS FOR APPEAL:

1. Twice, the State failed to meet its burden of “demonstration”, as required under South Carolina § 1-32; twice, the State failed to make any showings of legitimately imposed substantial burden on Appellant’s protected rights, as required by the state and federal constitutions. Therefore, Appellant’s Motion To Quash and later Motion To Dismiss should have been granted, and the charges dismissed, with prejudice.

a. Appellant appeals City Of Cayce Municipal Judge Shannon Bobertz’s October 19th, 2021 denial of his Motion to Quash.

At the Motion To Quash hearing on October 19th, 2021, which was an official judicial proceeding within South Carolina (see S.C. § 1-32-50), the State utterly and totally failed to demonstrate that 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 (see S.C. § 1-32-40). The State failed to present so much as a shred of argument or scintilla of evidence to meet its burden of “demonstration”, as required by South Carolina § 1-32 (which was one of the bases of Appellant’s argument for his Motion to Quash, the other bases being state and federal constitutional challenges).

Despite being asked by Appellant to read the motion before deciding, both the Prosecutor and the judge failed to adequately read or review Appellant’s motion before making a ruling. After her decision to NOT read Appellant’s motion, all it took for Judge Bobertz to deny Appellant’s motion was for her to ask the prosecutor (who

himself had not read the motion) for his position on the motion, followed by the city prosecutor, Ernie Peagler, thumbing through a 30 plus-page written Motion To Quash in less than a minute, closing with him telling the judge, “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 next 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 motions arguments were not political, but religiously based. Judge Bobertz then denied Appellant’s motion.

After Judge Bobertz denied Appellant’s motion, Appellant objected on the record at that hearing because (1) the prosecution failed to meet its burden, (2) the charges were prohibited on state and federal constitutional grounds, and (3) due to overt prejudice, because the prosecutor and judge referred to and treated Appellant as a “sovereign citizen”, which denied him equal access to the court and consequently denied him due process. (See Appellant's October 22nd, 2021 Motion To Reconsider). Three days later, on October 21st, 2021, Appellant filed a written Motion To Reconsider, and Judge Bobertz denied that motion as well.

This Circuit Court’s review of the record, in particular Appellant’s written Motion To Quash, will show that (1) Appellant made a valid claim of prohibited substantial religious burden under S.C. § 1-32, (2) that the prosecution should have been required to carry its burden of “demonstration”, (3) the state failed to meet its burden of “demonstration”, and (4) the charges should have been quashed for failure to state a crime or punishable offense, which deprived the municipal court of jurisdiction. Once

the State failed to “demonstrate,” as required by S.C. § 1-32 and the state and federal constitutions, Judge Bobertz lacked jurisdiction to allow further prosecution of Appellant, as 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, the City Of Cayce’s judge’s and prosecutor’s choices to not attentively read Appellant’s written Motion To Quash before proceeding is binding, and one for which the State must bear the burden and accept their failure. 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 negligent choices, resulting in similar errors.

Importantly, even outside of S.C. § 1-32’s requirements, the state 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. This was a second such error made by the municipal court, as the court denied Appellant's earlier Motion To Quash.

Appellant's written Motion to Dismiss was filed on October 31st, 2022. The basis for the motion was that South Carolina § 1-32, and the state and federal constitutions, prohibited the State's action to prosecute Appellant under the circumstances. At the November 7th, 2022 motion hearing, which was an official "judicial proceeding" within South Carolina (see S.C. § 1-32-50), despite Appellant's meritorious arguments and requests made via the written motion, the State's prosecutor, failed to present ANY argument or evidence demonstrating that the State'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. Here again, 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 the city's prosecutor simply and blatantly ignored the law. The State chose not to "demonstrate" as required, and Judge Jeffries did not require the State to "demonstrate". Once the State failed to "demonstrate" as required by S.C. § 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 the State's failure to adequately answer Appellant's Motion To Quash and Motion To Dismiss in prior hearings, as described above, the municipal court's repeated denials of Appellant's meritorious motions were/are prejudicial and partial to the State.

Appellant made his motions as an unrepresented neophyte to criminal law. A trained and experienced City Of Cayce prosecutor appeared at each hearing on behalf of the State, with his purpose being to oppose Appellant's written motions. Each written document 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 "demonstration" requirement of S.C. § 1-32, as well as to rebut Appellant's state and federal constitutional challenges to the charges. As the State's representative, the City Of Cayce prosecutor's failure to "demonstrate" and rebut was due to (1) an inability by the State to find a lawful basis to support continued prosecution of Appellant under the circumstances, and (2) a knowing and purposeful intent by the State to disregard the law in order to prosecute Appellant for his religious beliefs and practices.

Regardless of the State's reasoning for presenting insufficient challenges in answer to Appellant's motions, the State has already responded, twice. Therefore, Appellant objects to any further attempt by the prosecution in this case 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 State 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 State is objected to as partial and prejudicial.

As this Circuit court can see from the record of this case, Appellant has repeatedly explained his religious beliefs, and explained how the state is substantially burdening his right to free religious exercise by requiring that he be prohibited from any use of public roads within the state unless he goes against his religious conscious and obtains a state driver's license and vehicle registration. These explanations have been made in detail via in court testimony, multiple affidavits, and numerous legal memoranda (see Motion to Quash and Affidavits, filed Oct. 19th, 2021; see Motion To Reconsider, filed Oct. 22nd, 2021; see Motion To Dismiss filed October 31st, 2022, and Motion To Dismiss and Affidavit filed June 2nd, 2023).

Twice already, the State did not meet its burden of "demonstration" and the municipal court overlooked that fact to allow further prosecution of Appellant. **Appellant argues that once the State failed to meet its burden of "demonstration" in response to Appellant's S.C. § 1-32 and constitutional motions, the municipal court had no jurisdiction to allow continued prosecution, or trial of Appellant.**

Following the denial of Appellant's Motion To Dismiss, additional filings were made (later withdrawn) which further demonstrate the utter futility of Appellant having to address and re-address the municipal court and prosecutor regarding his protected rights, equal access to the courts, and a right to a fair and impartial hearing.

2. Judge Jeffries' November 7th, 2022 granting of the prosecution's motion to limit Appellant's presentation of any evidence pertaining to Appellant's religious beliefs deprives Appellant of his right to a trial by jury, his right to present evidence for his defense, and his right to present his South Carolina § 1-32 and constitutional claims of undue substantial religious burden defense to the jury.

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, his 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 act 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.

Further, the ruling 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 hearing facts related to Appellant's religious beliefs, practices, and claims of undue substantial religious burden. Such a circumstance would allow hostility towards Appellant's religious beliefs and practices by State judicial officers to go undetected, and is tantamount to throwing stones and hiding one's hands. In explanation, without knowledge of the facts surrounding Appellant's religious burden claims under S.C. § 1-32 and the state and federal constitutions, the jury would undoubtedly return a verdict of guilt, and it is to the jury that the error of convicting Appellant despite his valid claim of undue substantial religious burden would be

attributed. Further, Appellant has absolutely no doubt that any directed verdict motion he would make would be not read and subsequently denied. Appellant has recently fallen victim to similar conduct by the same city prosecutor and court officers in the past, and such a sequence is not far fetched. (See S.C. Court Of Appeals, case # 2022-001437).

3. Judge Jeffries' rulings allow unjust continuation of retaliatory prosecution of Appellant for his lawful exercise of protected rights, and deny Appellant protected substantive rights.

Judge Jeffries' denial of Appellant's Motion To Dismiss allows retaliatory criminal prosecution of Appellant for Appellant's exercise of constitutionally protected substantial rights, including 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 City Of Cayce 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. The prosecutor's making of the request to prohibit Appellant's access to the protections of South Carolina's § 1-32 and other constitutional defenses begs deduction and

realization of City Of Cayce'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. City Of Cayce’s error in this is willful, deliberate, intentional, and reckless.

Further evidencing the City Of Cayce’s determination to convict Appellant through its “sovereign citizen” witch hunt, the Motion To Dismiss hearing transcript will show that City of Cayce prosecutor Ernie Peagler openly appealed to Judge Jeffries, insisting that the judge not enforce the Constitution and ignore his Rule 502.1 Oath to “defend the Constitution of this State and of the United States” and “seek justice alone.” The transcript and face of the record will show that the judge acquiesced to this request by the prosecutor. A certified transcript of the November 7th, 2022 Motion to Dismiss hearing is being made and will be filed with the Circuit Court Clerk Of Court shortly, following the filing of this notice to the Circuit Court.

Wherefore, on the grounds and objections presented above, Appellant respectfully requests that this Circuit Court issue an order dismissing the charges against Appellant, with prejudice.

Respectfully Submitted



Johnathan Daniels, Pro Per
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Email: chesssetbyj@yahoo.com

STATE OF SOUTH CAROLINA

COUNTY OF Lexington FILED

IN THE COURT OF COMMON PLEAS

* Jonathan Daniels

2023 JUL 27 (s) PM 4:18

CIVIL ACTION COVERSHEET

vs.

LISA M. COMER
CLERK OF COURT
LEXINGTON, SC

-CP-

* City of Cayce

Defendant(s)

*Submitted By: Jonathan Daniels

*Address: Po Box 30651
Columbia, SC 29230

SC Bar #: 2023CP3202817

*Telephone #: 843-259-4361

Fax #:

Other:

E-mail:

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
- NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

Contracts

- Constructions (100)
- Debt Collection (110)
- General (130)
- Breach of Contract (140)
- Fraud/Bad Faith (150)
- Failure to Deliver/Warranty (160)
- Employment Discrim (170)
- Employment (180)
- Other (199)

Torts - Professional Malpractice

- Dental Malpractice (200)
- Legal Malpractice (210)
- Medical Malpractice (220)
- Previous Notice of Intent Case #
20 -NI-
- Notice/ File Med Mal (230)
- Other (299)

Torts - Personal Injury

- Conversion (310)
- Motor Vehicle Accident (320)
- Premises Liability (330)
- Products Liability (340)
- Personal Injury (350)
- Wrongful Death (360)
- Assault/Battery (370)
- Slander/Libel (380)
- Other (399)

Real Property

- Claim & Delivery (400)
- Condemnation (410)
- Foreclosure (420)
- Mechanic's Lien (430)
- Partition (440)
- Possession (450)
- Building Code Violation (460)
- Other (499)

Inmate Petitions

- PCR (500)
- Mandamus (520)
- Habeas Corpus (530)
- Other (599)

Administrative Law/Relief

- Reinstate Drv. License (800)
- Judicial Review (810)
- Relief (820)
- Permanent Injunction (830)
- Forfeiture-Petition (840)
- Forfeiture-Consent Order (850)
- Other (899)

Judgments/Settlements

- Death Settlement (700)
- Foreign Judgment (710)
- Magistrate's Judgment (720)
- Minor Settlement (730)
- Transcript Judgment (740)
- Lis Pendens (750)
- Transfer of Structured Settlement Payment Rights Application (760)
- Confession of Judgment (770)
- Petition for Workers Compensation Settlement Approval (780)
- Other (799)

* Appeals

- Arbitration (900)
- Magistrate-Civil (910)
- Magistrate-Criminal (920)
- Municipal (930)
- Probate Court (940)
- SCDOT (950)
- Worker's Comp (960)
- Zoning Board (970)
- Public Service Comm. (990)
- Employment Security Comm (991)
- Other (999)

Special/Complex /Other

- Environmental (600)
- Automobile Arb. (610)
- Medical (620)
- Other (699)
- Sexual Predator (510)
- Permanent Restraining Order (680)
- Pharmaceuticals (630)
- Unfair Trade Practices (640)
- Out-of State Depositions (650)
- Motion to Quash Subpoena in an Out-of-County Action (660)
- Pre-Suit Discovery (670)

* Submitting Party Signature:

Jonathan Daniels

*Date:

July 27th, 2023

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

Feb 07 2024

S.C. SUPREME COURT

APPEAL FROM LEXINGTON COUNTY CIRCUIT COURT

Debra R. McCaslin, Circuit Court Judge

Case No. 2023-CP-32-02817

The State (City Of Cayce), Respondent,

v.

Johnathan M. Daniels, Appellant.

NOTICE OF APPEAL

Now comes Appellant **PRO SE**, Johnathan Daniels, giving notice of appeal and notice of the below listed objections to the order and decision of the circuit court. Appellant preserves for appeal, the circuit court's findings, making the following objections:

1. 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 Constitutional violations that have occurred or which it can prevent. In this case, Appellant appeals the orders of the municipal court. Those orders allow retaliatory prosecution of Appellant by City Of Cayce, hereinafter "the City", in retaliation for Appellant's protected exercise of religion; this despite the City, twice, failing to "demonstrate" as required by South Carolina § 1-32 and the state and federal constitutions under the federal strict scrutiny standard (although it is a

state statute, South Carolina § 1-32 invokes the compelling interest test, under the same federal strict scrutiny standard). Further, the orders of the municipal court deprive 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 (Appellant has preliminarily offered a religious exercise defense as his sole and only defense). The municipal court has ordered that, at trial, Appellant cannot bring up the subjects of his religion, exemptions to application of the laws, or religious accommodations in any way. Over Appellant's objections, these unconstitutional orders have effectively decided the case to Appellant's detriment and deprived him of substantial constitutionally protected rights. 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..."

2. The circuit court's finding that the circuit court has no jurisdiction to hear this appeal, although the appeal was originally made to the South Carolina Supreme Court, and referred to the South Carolina Court Of Appeals, which ordered and directed that this 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 constitutes a circular due process violation that sends Appellant from court to court, in an endless loop. The City and the municipal court have violated Appellant's constitutionally protected rights, and the judiciary of the state offered no recourse; that is unconstitutional.

3. The circuit court's insistence that this appeal was made under S.C. Code § 14-25-95, and that Appellant did not comply with that statute's requirements for appeal are erroneous. Contrarily, Appellant did give the notices required by S.C. Code § 14-25-95 to the municipal court within the 10 day period allowed for giving notice of intent to appeal after the orders of the municipal court. South Carolina Code § 14-25-95 does not address any other 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 S.C. Code § 14-25-95 non-determinant in disallowing his appeal for a lack of timeliness.

4. Judge McCaslin ignored the fact that Appellant's appeal was made pursuant to South Carolina §§ 14-3-330 (1) and/or (2)(a) and was only brought to the circuit court because the South Carolina Court of Appeals required it to be submitted to the circuit court (Appellant is Pro Se, and does not claim to understand why that decision was 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..." South Carolina § 14-3-330 (2)(a) does NOT state that an appeal made under that section MUST be brought before the circuit court before the South Carolina

Supreme Court has jurisdiction to hear the appeal challenging unconstitutional orders.

5. The only timeliness issue addressed by the circuit court, outside of S.C. Code § 14-25-95, 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 provided ineffective assistance of counsel regarding the appeal, which was the sole cause of the delay in filing the appeal at the circuit court. At the circuit court hearing, it was explained to Judge McCaslin that Appellant's attorney, appointed by the municipal court, was ineffective as follows: **(A)**. He refused to assist Appellant in making any religion-based appeal or presenting any such argument at trial. Appellant provided E-mails to the circuit court, which showed that his attorney incorrectly reasoned that no free exercise violation occurred because the statutes under which Appellant was charged were both neutral and generally applicable. Apart from his attorney being incorrect regarding general applicability of the laws, this reasoning was proper under *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U. S. 872, but it is a totally incorrect reasoning given 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. **(B)**. Appellant's court appointed attorney refused to assist Appellant because he failed 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 City 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 City prosecutor, and his attorney, via multiple motions, affidavits, and statements 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 moving violations, and does not use drugs or drink alcohol. Once properly narrowed, the City’s asserted interests are insufficient to satisfy a compelling interest under strict scrutiny. Appellant’s attorney, for political reasons, unreasonably refused to assist Appellant despite these facts. **(C.)** Appellant’s court appointed attorney refused to assist Appellant because he intentionally misinterpreted the case law underlying South Carolina § 1-32’s

compelling interest test, *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and *Sherbert v. Verner*, 374 U.S. 398 (1963). His 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 him that it was a First Amendment religious exercise case, his attorney 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, Appellant's attorney denied this fact. **(D)**. Appellant's court appointed attorney refused to assist Appellant because he refused to take notice that the frequency with which the City 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."

6. The circuit court's finding that this appeal is untimely. Any untimeliness, between the remittance of the case from the South Carolina Court Of Appeals and Appellant's filing of the appeal to the circuit court, is a direct result of Appellant being abandoned by his court appointed attorney, who provided ineffective and

sub-standard assistance to Appellant. 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 intermediate appeals for the enforcement of Appellant's substantial Constitutionally protected rights, timeliness must give way to getting things right, otherwise Constitutional violations of substantial protected rights will continue to occur. In this case, the City is putting Appellant on trial for his constitutionally protected religious practice. Concurrent with the City's unlawful burdening of Appellant's free exercise of religion, the City has repeatedly failed to "demonstrate" as required by South Carolina Section 1-32, despite Appellant's multiple proper demands that the City do so. The City's prosecution of Appellant, and its refusal to allow Appellant lawful accommodation 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 the City to comply with the law.

7. The circuit court did not acknowledge that Appellant's Pro Se appeal, is an appeal from an "intermediate" or "interlocutory" order, such as the orders made by the municipal court in this case, and that such an appeal is properly addressed by South Carolina § 14-3-330 (1) and (2)(a). 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. The circuit court should decide if the orders complained of can be appealed under South Carolina § 14-3-330 (1) and (2)(a) and hear the appeal. If the circuit court cannot hear the appeal under South Carolina § 14-3-330 (1) and (2)(a) that is understandable, as long as Appellant's appeal to the South Carolina Supreme Court is decided on the merits of the appeal. Additionally, the order of the municipal court, which disallows Appellant's religion based defense, may be appealed under South Carolina § 14-3-330 (2)(c) which pertains to an order that "strikes out an answer or any part thereof..."

8. Regarding timeliness, the circuit court's refusal to utilize its authority under S.C. Code Ann. § 18-1-100 is stunning, and will allow gross injustice and violations of the state and federal Constitutions. The result is that Appellant is being put on trial while: (1) his religious exercise is unlawfully burdened by the City, and (2) he is deprived of the right to a jury trial, because he cannot present his sole and only legal defense to the jury at the 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 courts, justice requires that the circuit court hear and decide this appeal at this time. Why should the City be allowed to: (1) prosecute Appellant for his protected religious practice, (2) then, twice, fail to "demonstrate" as required by South Carolina Section 1-32, then (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 (4) then subject Appellant to an unwanted summary trial in a biased forum.

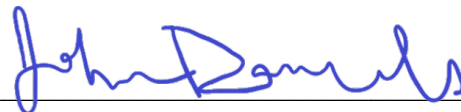
9. The circuit court's finding that Appellant must continue to endure blatant and unlawful denials of due process and the resulting damages is shocking. The denials and deprivations have already been brought to the attention of every level of this state's judiciary. This is to say that, the judiciary of South Carolina, with full knowledge that: (1) a deprivation of Appellant's protected rights has been carried out by a municipality of this state, (2) that the deprivation has been ratified and ordered to be allowed by the municipal judge, and (3) suffered by Appellant on multiple occasions, will not act to protect Appellant until he has been further deprived and sentenced to jail. Appellant has already suffered deprivations of his rights to religious freedom, liberty and property, and the circuit court's refusal to act will allow him to be deprived of his right to trial by jury as well. What is the point of South Carolina 14-3-330 (1) and (2)(a), if the appeal will be ignored and the unconstitutional conduct allowed to proceed until after final judgment?
10. The circuit court erred in not deciding the appeal on the merits. In any case, there must be at least one court in this state with jurisdiction to decide the case. This appeal has now been presented to every level of court in this state, and every court has refused to decide the appeal on the merits. Such round and round, circular denial of due process is unconstitutional.

The Cayce Municipal Court and City Of Cayce have engaged in depriving Appellant of his Constitutionally protected rights through retaliatory prosecution and denial of due process. The South Carolina Supreme Court has previously refused to decide this matter, having referred

the case to the South Carolina Court Of Appeals. The South Carolina Court Of Appeals refused to decide the case on the merits, requiring that the case go through the circuit court. Now, the circuit court too claims a lack of jurisdiction. Every level of the South Carolina judiciary has, so far, failed to protect Appellant's rights of religious freedom and right to a trial by jury. This is circular denial of due process, and is unconstitutional.

Finally and specifically, regarding Appellant's arguments made in this appeal, which the circuit court has refused to address on the merits, **Appellant maintains each and every objection to the actions and orders of the municipal court as described in the NOTICE OF CRIMINAL APPEAL / NOTICE OF OBJECTIONS filed with the circuit court on July 27th, 2023.** Appellant objects and maintains all of the abovementioned for review and appeal to the South Carolina Supreme Court or South Carolina Court Of Appeals.

Respectfully Submitted



Johnathan Daniels

Appellant, **PRO SE**

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January 3rd, 2024

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Feb 07 2024
S.C. SUPREME COURT

Debra McCaslin, Circuit Court Judge

Case No. 2023-CP-32-02817

Johnathan M. Daniels

Appellant,

v.

The State (City Of Cayce),

Respondent.

Statement of Issues to Be Reviewed On Appeal

This case involves an appeal from intermediate orders made by the City Of Cayce municipal court, which unlawfully deprive Appellant of Constitutionally protected substantive rights; therefore, this statement of issues that can be reviewed upon appeal is being included. Appellant intends to request review of the jurisdictional issue ruled upon by the Circuit Court as well as other important Constitutional issues, which demand that the Supreme Court Of South Carolina decide the matter under authority of South Carolina § 14-3-330. The orders presently being appealed have effectively decided the case, and this Court deciding these issues now will prevent an unconstitutional judgment from which further appeal may be taken.

Issues raised and decided by Lexington County Circuit Court Judge Debra McCaslin include the following:

1. Ruling that the Circuit Court has no jurisdiction – Respectfully, the Circuit Court may indeed have no jurisdiction; however, Appellant made this appeal under South Carolina § 14-3-330(2)(a), which gives jurisdiction to the South Carolina Supreme Court to hear and decide “intermediate” (interlocutory) appeals which request relief from orders which deprive Appellant of substantive Constitutionally protected rights. It does not appear to Appellant that such an appeal must be, or even can be, heard and decided by the circuit court before presentation to the South Carolina Supreme Court. In any case, Appellant

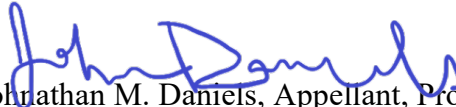
has now presented this appeal before the circuit court and the South Carolina Supreme Court directly. Appellant is acting *Pro Se*, and is not an attorney, but if no level of the judiciary will allow this appeal under South Carolina § 14-3-330(2), then Appellant is doomed to suffer Constitutional harms unnecessarily. Such a condition will only demand further litigation, and put Appellant on an endless hamster wheel chasing Constitutional enforcement of the laws.

2. Unlawful state imposed burden on Appellant's Constitutionally protected rights of (1) free religious exercise, (2) liberty, and (3) right to property – Appellant has twice demanded that the City Of Cayce “demonstrate”, as required by South Carolina § 1-32, at hearings before City Of Cayce municipal judges; twice, the City Of Cayce has failed to demonstrate as required by law. The City's failures to demonstrate meant that the City could not further burden Appellant's religious practice, requiring dismissal of the charges against Appellant. However, the City Of Cayce Municipal Court has a policy or practice of overlooking the City's failure to demonstrate and has issued orders denying Appellant's request to dismiss the charges under South Carolina § 1-32 and the state and federal constitutions. The intermediate orders of the municipal court deprive Appellant of his right to a trial by jury and allow further retaliatory prosecution of Appellant, by City Of Cayce, for Appellant's exercise of Constitutionally protected rights.
3. Unlawful denial of Appellant's demand for jury trial – The municipal court's granting of the prosecution's motion to limit Appellant's presentation of any evidence pertaining to Appellant's religious beliefs effectively decides the case by depriving Appellant of his right to a trial by jury, his right to present evidence for his defense, and his right to present his South Carolina § 1-32 and constitutional claims of undue substantial religious burden as a defense to the jury. **Appellant's religious exercise defense is his sole and only defense**; therefore, by denying Appellant the right to bring up the subject of "his religion or anything like that", the municipal court has unlawfully denied Appellant's demand for a trial by jury and prejudicially decided the case. This dooms Appellant to a conviction under unconstitutional circumstances. **The Supreme Court hearing this appeal now will prevent an unlawful conviction, which will certainly be appealed later.**

Appellant has not, and does not intend to waive (1) his right to present his South Carolina § 1-32 defense and state/federal constitutional defenses, (2) his protected right to religious freedom, (3) his protected right to a trial by jury, nor (4) his protected right to counsel. Because the three orders challenged in this appeal act to effectively deny Appellant of substantive and un-waived rights to freedom of religion, trial by jury, and right to present legal a defense (Privileges and Immunities, Equal Protection and Due Process under the 1st, 6th, and 14th Amendments to the U.S. Constitution, and equivalent state laws), Appellant requests that this Court intervene to (1) insure justice, and (2) insure that state and federal laws are upheld; and to guarantee that Appellant's Constitutionally protected rights not unlawfully denied.

For the above listed reasons, Appellant prays for review of each issue so eligible under this appeal to the South Carolina Supreme Court.

February 8th, 2024


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May 30 2024

SC Court of Appeals

THE SOUTH CAROLINA
In The Court Of Appeals

Case No. 2024-000168

Johnathan Daniels,

Appellant.

v.

The City of Cayce

Respondent,

PROOF OF SERVICE

I certify that I have served the Motion For Certification and Transfer Of Appeal on Respondent, by e-mail, on May30th, 2024, addressed to his attorneyof record, Danny C. Crowe, emailed to danny@crowelafave.com.

May 30th, 2024



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