THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From Georgetown County
Court of Common Pleas

Benjamin H. Culbertson, Presiding Circuit Court Judge

Case No. 2011 – CP – 22 -1296

Willie Singleton, ...Appellant.

v.

State of South Carolina. .....Respondent,

REPLY BRIEF OF APPELLANTS

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s/ Willie Singleton

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Georgetown, SC 29440
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STATEMENT OF THE FACTS

The Appellant Mr. Willie Singleton owns a 40' wide by 120' deep vacant lot on the corner of South Merriman Road and Emanuel Street in the City of Georgetown, identified on the City of Georgetown official tax map as parcel number 05-0022-026-01-00. Back in 2009 Mrs. Granted confronted the Appellant about the condition of the property in the City of Georgetown, identified on the City of Georgetown official tax map as parcel number 05-0022-026-00-00. The Appellant told Mrs. Grant at that time that he did not own the property. On or about July 28, 2010 Janet Grant a code enforcement officer for the City of Georgetown issued the Appellant a letter stating that the property next to his property located on S. Merriman Road, identified on the City of Georgetown official tax map as parcel number 05-0022-026-00-00 needed to be cut and the dilapidated structure needed to be removed. *See July 28, 2010 letter of Janet Grant.* The Appellant did not go on property of another and demolish the building or cleaned the property because the Appellant's property is tax map as parcel number 05-0022-026-01-00 not tax map parcel number 05-0022-026-00-00 and does not contain a building on it. This appeal derives from a citation issued to the Appellant for maintaining a public nuisance and failure to demolish the dilapidated building located on the property identified as tax map parcel number 05-0022-026-00-00 located on South Merriman Road, *See; July 28, 2010 letter of Janet Grant and City of Georgetown, Uniform Ordinance Summons number 001295 issued to the Appellant, Mr. Willie Singleton.* The description of the violation describes a dilapidated structure that the City of Georgetown wanted demolished and a naturalized lot that has not been cleaned or cut for over 20 years that the City of Georgetown wanted cleaned. The summons describes the property as *"excessive overgrown lot with dilapidated structure"*.

There was one ticket with two different issues, the lot and the house. Before trial, the appellant filed a complaint with the state and in the complaint the appellant alleged that Mrs. Grant violated a consent agreement with the South Carolina LLR Building Code Council by issuing a ticket to have the building removed from the lot. The state in return dropped the dilapidate house from the ticket and proceeded to trial on only the lot portion of the ticket. If one portion of the ticket was illegal the whole ticket should have been illegal.

At trial, Janet Grant testified on behalf of the City of Georgetown and testified that she was the Code Enforcement Officer for the City of Georgetown. *See Trial Transcript Page 1.* At trial, Janet Grant

offered purged testimony when she testified that the Appellant owned a vacant lot on South Merriman Road, on the corner of Emanuel Street and South Merriman Road. *See Trial Transcript Page 1.* But failed to tell the Court that was not the lot for which the ticket was issued or the lot that was before the court for being *"excessive overgrown lot with dilapidated structure"*. When Code Enforcement Officer Grant was describing the property or lot that had a dilapidated home that was overgrown with bushes to the point where you could not see the home, and that the condition was dangerous, she was talking about the property on the lot next door to the Appellants property. She was talking about tax map as parcel number 05-0022-026-00-00 not tax map parcel number 05-0022-026-01-00. Code Enforcement Officer Grant by education and training either knew or should know that the Appellant did not own the property for which The City of Georgetown, Uniform Ordinance Summons number 001295 was issued. Enforcement Officer Grant offered purged testimony when she stated to the court that the Appellant owned the property in question *See Transcript page 2.*

The following are undisputed facts:

a. The case was first call to trial on October 28, 2010. The Appellant was properly notified and the Appellant was present in court and ready for trial and the State asked for a continuance. The continuance was granted.

b. The case was once more called to trial on January 10, 2011. The second time the Appellant was properly notified and the Appellant was present and ready for trial and the State asked for a continuance a second time. The continuance was granted.

c. The case was once more called to trial on April 4, 2011. The third time the Appellant was properly notified and for a third time, the Appellant was present and ready for trial, however at that time them Appellant stated in open court that he had filed a complaint with South Carolina LLR, Building Code Council, alleging that Mrs. Grant wrote part of the ticket demanding him to tear down a building in violation of State law because Code Enforcement Officers must to be licensed by the state before they could order the demolition of any building in South Carolina. The Appellant asked for a continuance until after the South Carolina LLR, Building Code Council investigated and ruled on the complaint. The continuance was granted. The court gave leave to the Appellant not to return to

court until after the State ruled on his complaint. The Appellant left court with the understanding that the case would not be placed back on the trial docket until after a ruling from the State.

d. The case was once more called to trial on July 11, 2011, however this time unlike the times before the Appellant was not notified of the trial date nor had the South Carolina LLR, Building Code Council, completed its investigation or made a ruling on the complaint. The Appellant was unaware of and did not attend the July 11, 2011 trial. The court moved forward in violation of the continuance granted at the April 4, 2011 term of court by the court.

e. The Appellant by any legal definition certainly had leave of the court, not to appear at the July 11, 2011 trial.

f. The Appellant was not notified of the trial and was not present for trial, like he had been at every other scheduled trial. Under no theory of law or at equity could the Respondent prevail at trial, because the Appellant could not be charged with failure to maintain property that he did not own or exercised control over. Code Enforcement Officer Grant offered purged testimony when she stated at trial that the Appellant owned the lot that was *"excessive overgrown lot with dilapidated structure"*. Those conditions does not exist on the 40' wide by 120' deep lot on the cornet of Merriman Road and Emanuel Street that the Appellant owned. Why would the Appellant "NOT" show up for trial and say "I don't own that property?"

g. The day the Appellant received the notice that a trail was held and he was found guilty the Appellant immediately went to the Judge's office and had a meeting with the Judge. Once the Judge determine that he was the one that did the dead's for the property, apparently he felt that he should not be the one to rehear the case so the Judge asked the Appellant to write a brief statement of what happen, then the Judge sent the case to the next level by filing an appeal in the circuit court. The Judge felt that was the proper procedure in this case.

The above facts are not in disputed.

As noted in the **STATEMENT OF THE CASE** the City of Georgetown Code of Ordnances only allow the Code Enforcement Officer to issue a Uniform Ordinance Summons for a maxim of $500.00

the Ordnance takes the next unusual step and does not allow the trial Court to increase that limit or charge court cost. However state law allows the municipal court to asses a ticket up to 107.5 percent. Even if the Respondent makes the argument that the Code Enforcement Officer added the Court's assessment to the ticket before court, $1,092.50 exceeds that. The ticket is defective on its face. By law, education, or training the Judge should have known that and should never have impose that sentence on the Appellant, even if he owned the property.

ARGUMENTS

I. DID THE TRIAL COURT ERR GIVING THE PLAINTIFF A CONTINUANCE UNTIL THE STATE LLR COMPLETED THEIR INVESTAGATION OF JANET GRANT AND HELD THE TRIAL WEEKS BEFORE THE COMPLETION OF THE INVESTAGATION.

This argument as stated in the initial brief of the Appellant has not been disputed by the Respondent, and should be deemed true [Emphasis added] there were three trial scheduled for this case prior to the July 11, 2011 trial.

a. The case was first call to trial on October 28, 2010. The Appellant was properly notified and the Appellant was present in court and ready for trial and the State asked for a continuance. The continuance was granted.

b. The case was once more called to trial on January 10, 2011. The second time the Appellant was properly notified and the Appellant was present and ready for trial and the State asked for a continuance a second time. The continuance was granted.

c. The case was once more called to trial on April 4, 2011. The third time the Appellant was properly notified and for a third time, the Appellant was present and ready for trial, however at that time them Appellant stated in open court that he had filed a complaint with South Carolina LLR, Building Code Council, alleging that Mrs. Grant wrote part of the ticket demanding him to tear down a building in violation of State law because Code Enforcement Officers must to be licensed by the state before they could order the demolition of any building in South Carolina which caused the ticket to be of a poison tree. The Appellant asked for a continuance until after the South Carolina LLR, Building Code Council investigated and ruled on the complaint. The continuance was granted. The court gave leave to the Appellant not to return to court until after the State ruled on his complaint. The Appellant left court with the understanding that the case would not be placed back on the trial docket until after a ruling from the State.

d. The case was once more called to trial on July 11, 2011, however this time unlike the times before the Appellant was **not notified [Emphasis added]** of the trial date nor had the South Carolina LLR, Building Code Council, completed its investigation or made a ruling on the complaint. The Appellant was unaware of and did not attend the July 11, 2011 trial. The court moved forward in violation of the continuance granted at the April 4, 2011 term of court by the court.

e. The Appellant by any legal definition certainly had leave of the court, not to appear at the July 11, 2011 trial.

This continuance took place during the April 4, 2011 term of court. Even though the Appellant was not notified of the July 11, 2011 trial, the Appellant certainly had leave of the court not to appear in court until after the South Carolina LLR Building Codes Council concluded its investigation. The South Carolina LLR Building Codes Council did not hear the complaint until August 2011. Those facts are not in dispute by the Respondent in this case.

II. DID THE COURT ERR IN TRIEING THE PLAINTIFF ON A TICKET THAT FALLS UNDER THE POISON TREE DOCTRINE?

This argument as stated in the initial brief of the Appellant has not been disputed by the Respondent, and should be deemed true [Emphasis added]. At the April 4, 2011 term of court the trial Court gave the Appellant a continuance based on the argument that the ticket was poison because of the Appellant had filed a complaint with the South Carolina LLR Building Code Council. The ruling of the trial court at the April 4, 2011 term of court preserved the issue of the poison tree doctrine. Accord to State Law only a Building Official can order a house demolish the Appellant stated this fact at the appeal before the Culbertson Court. The attorney for the Respondent said that the ticket only dealt with the grass and did not order the house to be demolished. *See transcript page 9* of the Culbertson Court *"the fine had everything to do with his overgrown shrubbery and trees, not the demolition of the*

house." There was one (1) ticket issued involving the required demolition of a house and the required cleaning of a lot. The Respondent only tried the Appellant on half of the ticket.

The poison tree doctrine applies because the Respondent could not issue a citation to compel the demolition of the building, so the citation was poison. Instead of correcting the process and starting over, the Respondent just dropped half of the ticket and proceeded to trial on the other half of the ticket because there was only one (1) ticket issued for both events. If part of the ticket is bad, the whole ticket is bad.

III. AT THE TRIAL THE STATE WITNESS JANET GRANT STATED THE PLAINTIFF OWNED THE PROPERTY SENCE THE PLAINTIFF DOES NOT OWN THE PROPERTY DID THE TRIAL JUDGE COMMIT REVERSIBLE ERR BY TRIEING THE PLAINTIFF FOR PROPERTY THAT THE PLAINTIFF DID NOT OWN?

This argument as stated in the initial brief of the Appellant has not been disputed by the Respondent, and should be deemed true [Emphasis added]. At the onset of the City of Georgetown attempt to get the lot identified on the City of Georgetown official tax map as parcel number 05-0022-026-00-00 cleaned and the house demolished, back in 2009 Mrs. Granted confronted the Appellant about the condition of the property in the City of Georgetown, identified on the City of Georgetown official tax map as parcel number 05-0022-026-00-00. The Appellant told Mrs. Grant at that time that he did not own the property. Accord to purged testimony given at trial Mrs. Janet Grant testified that the Appellant owned the property. *See transcript pages one and two.* Outside of that, the Respondent has never disputed the allegation made by the Appellant that he does not own the property. At trial the Respondent's did not offer any proof that the Appellant owned the property. The Respondent only statement on the issues of ownership was to say that Mrs. Janet Grant said that the Appellant owned the property without offering any proof to support that claim of ownership. The appellant court records show that the Respondent filed a motion with this court to exclude proof that the Appellant did not own the property.

A simple question that is at the foundation of this case; can you hold a person accountable for not maintaining property that they do not own or exercise control over? Can you be held accountable if the person living next door to you does not cut his grass?

This Court standard of review is that the trial court's factual conclusions will not be disturbed on appeal unless so manifestly erroneous as to show an abuse of discretion. **State v. Baccus**, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). An abuse of discretion occurs when the trial court's ruling is based on an error of law or a factual conclusion without evidentiary support. Id.; see also **State v. Douglas**, 367 S.C. 498, 506, 626 S.E.2d 59, 63 (Ct. App. 2006) cert. granted June 7, 2007; **State v. Preslar**, 364 S.C. 466, 472, 613 S.E.2d 381, 384 (Ct. App. 2005). Accordingly, an appellate court is bound by the trial court's factual findings when the findings are supported by the evidence and not controlled by error of law. **Baccus,** 367 S.C. at 48, 625 S.E.2d at 220; **Douglas**, 367 S.C. at 506, 626 S.E.2d at 63. The Respondent wants to hold the Appellant accountable for property he does not own or exercise control over. In order to prevail at trial, the Respondent had to first show that the Appellant owned the property and then show that the Appellant fail to maintain it. The error of law is the fact that the Appellant does not own the property. The factual findings show that Mrs. Grant committed perjury and the Respondent covered it up by filing a motion preventing this court from seeing evidence showing that the Appellant did not own the property in question.

IV. APPELLANT WAS PROVIDED SUFFICIENT NOTICE OF TRIAL, FAILED TO APPEAR, AND WAS FOUND GUILTY IN ABSENTIA BY A JURY.

This argument is the initial brief of respondent argument number one.
Undisputed facts are: the Appellant does "not" own the property.

The Respondent argues that Pursuant to Rule 16, of the South Carolina Rules of Criminal Procedure,

> *"a person indicted for misdemeanors and/or felonies may voluntarily waive his right to be present and may be tried in absence upon a finding by the trial judge that such*

person has received notice of his rights to be present and that a warning was given that the trial would proceed in his absence upon a failure to attend the court."

The Appellant waved no such right and was eagerly awaiting trial because he did not owned the property.

Courts have indicated that the trial Judge must make finding of fact that the defendant (1) received notice of the right to be present and (2) was warned the trial would proceed in his absence. **State v. Patterson, 367 S.C. 219, 229, 625 S.E.2d 239, 240 (Ct. App. 2006).** See also **State v. Fairey, 374 S.C. 92, 99-100, 646 S.E.2d 445, 448 (ct. App. 2007).**

On the whole of the record, (*See Transcript*) the trial judge has made no such "finding of fact" In order for the Respondent to ask for the protection of law, the trial court must first follow the law. On the record you should find the following:

a. The case was first called to trial on October 28, 2010, the Appellant was present and ready for trial and the State asked for a continuance. The continuance was granted.

b. The case was once more called to trial on January 10, 2011, the Appellant was present and ready for trial and the State asked for a continuance. The continuance was granted.

c. The case was once more called to trial on April 4, 2011, the Appellant was present and ready for trial, however at that time them Appellant stated in open court that he had filed a complaint with South Carolina LLR, Building Code Council, alleging that Mrs. Grant wrote part of the ticket demanding him to tear down a building in violation of State law and asked for a continuance until after the South Carolina LLR, Building Code Council investigated and ruled on the complaint. The continuance was granted.

d. The case was once more called to trial on July 11, 2011, the Appellant was not notified of the trial and was not present for trial, like he had been at every other scheduled trial. The South Carolina LLR, Building Code Council, had not completed its investigation or made a

ruling on the complaint, the court moved forward in violation of the continuance granted at the April 4, 2011 term of court.

The "substantial evidence" in this case shows that the Appellant had leave of the court not to appear at the July 11, 2011 term of court because the Appellant has not notified that court that the State's investigation was over and that the case should be placed back of the trial docket. "Substantial evidence is that evidence which, in considering the record as a whole, would allow reasonable minds to reach the conclusion the lower court reached."

The substantial rights of the appellant have been prejudiced because the decision of the lower Court is affected by errors of law and the decision is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. Also when you consider that the ultimate fact finder in this case was the Judge that created the problem in his role as an attorney, certainly should give this court a reason to pause.

The Appellant, built in affirmative defense was "I don't own the property and I have deeds and document to prove it" as defenses go, that's a very good one when you are accused of not maintaining that property, why would the Appellant not show up to say that?

V. APPELLANT FAILED TO FILE HIS APPEAL WITHIN THE TIME REQUIRED BY LAW.

This argument is the initial brief of respondent argument number two.

When the Municipal Court notified the Appellant that he had been found guilty at a trial he knew nothing about, that same day, the Appellant went to the Judge's office and told the Judge that he was not notified of the trial and that he wanted the court to re-hear the case. The Judge told the Appellant to write a letter explaining why the case should be reheard. The Appellant sat in the Judge's office and wrote the letter. (*See; Letter attached to transmittal of criminal appeal*) the letter stated sever things:

1. That the Appellant did not own the property.
2. That the Judge was the person that transferred the property to others.

3. That the Appellant wrote a letter to the Judge outlining the problem, before he was charged in the case.
4. That the Appellant never received notice of the court date.
5. That the Appellant would have appeared in court if notice would have been given.
6. That the ticket was improper because of the amount of the ticket.
7. The Appellant also asked the Judge to allow him to appeal the decision.

The Judge took the letter from the Appellant on July 29, 2011 and after it was stated that the Judge was the attorney that actually prepared the deed's to the property in question he said that he would have his office prepare the necessary paperwork to have the case reheard and he made the decision not to rehear the case but rather the Judge filed it with the circuit court. In order to understand this you have to put it in perspective. The City of Georgetown Municipal Judge took a request from the Appellant on July 29, 2011 and the City of Georgetown Municipal Court prepared a **TRANSMITTAL OF CRIMINAL APPEAL** on September 23, 2011 and then the City of Georgetown Municipal Court filed that with the Georgetown County Clerk of Court on October 6, 2011. Some sixty nine (69) days after the Appellant submitted the letter to the City of Georgetown Municipal Judge. Now the Respondent, the City of Georgetown, wants the case dismissed because it was not filed in a timely manner.

The Appellant could not find any case law directly on point or even close, but common sense dictate that the Respondent clam is directly of its own making. The City of Georgetown by and through its own agents withheld filing the complaint with the Court. Now they want to be rewarded for their clever subterfuge.

Now here is an interesting point of law that the Court ruling in this case in favor of the Respondent will create new law in South Carolina. Can a Municipal Court be considered as a General Secession Court? The quick answer is "NO" so let's go with that. Now look at the court rules.

> South Carolina Appellant Court Rules, Rule 203 Notice Of Appeal, (b) Time for Service. (2) Appeals From the **[Court of General Sessions]**. ***Emphases added***

After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed. In all other cases, a notice of appeal shall be served on all respondents within ten (10) days after receipt of written notice of entry of the order or judgment. When a timely post-trial motion is made under Rule 29(a), SCRCrimP, the time to appeal shall be stayed and shall begin to run from receipt of written notice of entry of an order granting or denying such motion. In those cases in which the State is allowed to appeal a pre-trial order or ruling, the notice of appeal must be served within ten (10) days of receiving actual notice of the ruling or order; provided, however, that the notice of appeal must be served before the jury is sworn or, if tried without a jury, before the State begins the presentation of its case in chief.

The emphases was added to the Court of General Sessions, what's not addressed in the court rules is Municipal or Magistrate Court, let's try looking at the Magistrate Court Register.

Magistrate Court Register, Rule 18, Appeals

(a) All appeals of judgments rendered by the magistrates court shall be to the circuit court of the county where the judgment was rendered. Within thirty (30) days after delivery of written notice of judgment to the parties or their attorneys, a party wishing to appeal shall serve on the respondent and file a notice of appeal containing a statement of the grounds for appeal with the magistrate rendering the judgment and with the Circuit Court of the County where the judgment was rendered. If the judgment is announced at the trial in the presence of the parties or their attorneys, the notice of appeal shall be served and filed within thirty (30) days of the date the judgment is announced. At the time of the filing of the notice of appeal, the appropriate filing fee shall be paid by the appellant to the clerk of the circuit court to which the appeal is taken, unless a motion for leave to proceed in forma pauperis and an affidavit showing the appellant's inability to pay the fee required to appeal the action accompanies the filing of the notice of appeal. The right of appeal from a judgment exists for thirty (30) days after the denial of a motion for a new trial.

(b) Within thirty (30) days of the date of filing of the notice of appeal with the Circuit Court, the magistrate shall file the return to the notice of appeal with the Clerk of the Circuit Court for the county wherein the judgment was rendered, together with the record, a statement of all proceedings in the case, and, if necessary, the testimony taken at trial. Upon motion for good cause shown, the Circuit Court may allow a definite extension of time in which to file the return.

(c) Pursuant to Rule 75, SCRCP, upon receipt of the magistrate's return, the clerk of the Circuit Court to which the appeal is taken shall give notice in writing to the parties that the return has been filed.

The Respondent spent a large part of their **INITIAL BRIEF OF RESPONDENT** dealing with the time in which the Appellant appeal was filed with the City of Georgetown Municipal Court. The Appellant was found guilty in Municipal Court on July 13, 2011 and the Appellant gave notice of appeal on July 29, 2011. That date is well within the thirty (30) days allowed by Magistrate Court Register, Rule 18, Appeals.

The Respondent argument based on the timeliness of filing should also apply to the Respondent. Once the initial brief of the Appellant was filed, the Respondent had thirty (30) days to file its initial brief of Respondent with the court. After one hundred twenty (120) days the Court sent the Respondent a letter giving the Respondent an additional thirty (30) days to file its initial brief of Respondent. Even after all that time, the Respondent still did not file their brief within that amount of time, the brief was dated 4 or 5 days after the thirty (30) day dead line. The Respondent filed its initial brief of Respondent five (5) months after the Appellant initial brief was file.

The Appellant was found guilty in Municipal Court and the Appellant gave notice of appeal the same day the Appellant was notified by mail of the trial;16 days after the trial. That date is well within the thirty (30) days allowed by Magistrate Court Register, Rule 18, Appeals. The Respondent took five (5) months after the Appellant initial brief was file to respond, that five times the limit set forth in the South Carolina Appellate Court Rules.

VI. APPELLANT DID NOT PRESERVE ANY GROUNDS FOE APPEAL BECAUSE HE FAILED TO APPEAR AT TRIAL AND THUS FAILED TO MAKE A MOTION FOR A DIRECTED VERDICT AT THE CONCLUSION OF ALL TESTIMONY.

This argument is the initial brief of respondent argument number three.

A request for directed verdict does not preserve an issue for appeal. The only issues before the court is the fact that the Appellant was found guilty of not maintaining property he does not own, and the Court verdict exceeded the amount allowed by law. Any issue raised in the Court's order is deemed preserved for appeal. The Appellant was found guilty and fined, those issues are preserved. The Judge in this case has a clear conflict of interest because of his evolvement in the case by prepared, certified and filed the deeds giving the property to others, then setting in judgment of the case as the ultimate factfinder in this case, that was not an issue raised on Appeal.

This Court has sited case after case stating issues deemed preserved for Appeal, Court's orders and verdicts are always preserved.

It is also important to note that the Appellant was never notified by the Court of the date and time of the last trial. The Court also granted leave to the Appellant not to show up for that trial until after the State finished its investigation and on the whole of the record, that is not a fact in dispute.

The Respondent's argument is manifestly without merit.

VII. APPELLANT DID NOT PRESERVE THE ISSUES RAISED IN HIS APPEAL BECAUSE HE FAILED TO MAKE A MOTION FOR A NEW TRIAL PRIOR TO SENTENCING, OR AFTER SENTENCE WAS IMPOSED.

This argument is the initial brief of respondent argument number four.

The City of Georgetown Municipal Court gave a continuance in this case until after the South Carolina LLR, Building Code Council made a determination as to whether Code Enforcement Officer Grant violated State law in the request for demolition on the dilapidated home because she was not a building inspector. Before the state completed its investigation, the City of Georgetown Municipal Court held a trial without notifying the Appellant.

After trial the City of Georgetown Municipal Court notified the Appellant of the results of trial. The Appellant had a meeting with the City of Georgetown Municipal Court Judge, and the Judge told the Appellant what to do based on the facts in the case.

The City of Georgetown Municipal Court filed the Appeal with the Georgetown County Clerk of Court on October 6, 2011. Some sixty nine (69) days after the Appellant submitted the letter to the City of Georgetown Municipal Judge. Now the Respondent, the City of Georgetown, wants the case dismissed because it was not filed in a timely manner.

The Respondent, the City of Georgetown filed the motion of appeal with the Court "out of time," not the Appellant. The Judge in the case told the Appellant that the hand written note was sufficient for appeal.

You do not have to make a motion for a new trial to file an appeal those are two totally different things.

The Respondent's is argument is manifestly without merit.

VIII. DID THE TRIAL JUDGE COMMIT REVERSIBLE ERROR BY ASSERTING THAT THE APPELLANT OWNED THE PROPERTY.

This argument is the initial brief of respondent argument number five.

At trial the Respondent correctly asserted that the Appellant owned the 40' wide by 120' deep lot, on the corner. The corner lot 40' length running along Merriman Road! Then it proceeded to talk about the adjoining lot (property of another).

"The possibility of drawing two inconsistent conclusions from the evidence prevents the lower court's finding from being supported by substantial evidence." The evidence on the whole of the record supports the fact that the appellant does not own the property. No evidence was presented to support the position that the appellant exercised any control over the naturalized, vacant lot that had not been cleaned in over 20 years, yet the lower court decision finds the appellant guilty of not maintaining property he does not own. In part the decision of the lower court is correct, the appellant did not maintained the vacant, naturalized lot that had not been cleaned in the past twenty {20} years, that he does not owned. The question of law for the court is can a person be charged for not maintaining property that he or she does not own or exercise control over. In short; can you be charged for not cutting and maintaining the lawn next to your property?

This Court standard of review is that the trial court's factual conclusions will not be disturbed on appeal unless so manifestly erroneous as to show an abuse of discretion. **State v. Baccus**, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). An abuse of discretion occurs when the trial court's ruling is based on an error of law or a factual conclusion without evidentiary support. Id.; see also **State v. Douglas**, 367 S.C. 498, 506, 626 S.E.2d 59, 63 (Ct. App. 2006) cert. granted June 7, 2007; **State v. Preslar**, 364 S.C. 466, 472, 613 S.E.2d 381, 384 (Ct. App. 2005). Accordingly, an appellate court is bound by the trial court's factual findings when the findings are supported by the evidence and not controlled by error of law. **Baccus,** 367 S.C. at 48, 625 S.E.2d at 220; **Douglas**, 367 S.C. at 506, 626 S.E.2d at 63. The Respondent want to hold the Appellant accountable for property he does not own or exercise control over.

The substantial rights of the appellant have been prejudiced because the decision of the lower Court is affected by errors of law and the decision is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

"Substantial evidence is that evidence which, in considering the record as a whole, would allow reasonable minds to reach the conclusion the lower court reached."

The Respondent wants those facts ignored and the conviction to stand.

IX. DID THE TRIAL COURT ERR BY ASSESSING A FINE IN EXCESS OF STATE LAW.

This argument is the initial brief of respondent argument number six.

The Respondent agrees that the maxim fine that can be given by the Georgetown City Ordinance is $500.00. The Respondent also agrees that according to South Carolina Code of Laws as required in § 14-1-208 (1976, as amended) that the maxim additional assessment is 107.5 percent and that the amount is $537.50 and that is the maxim assessment.

Then the Respondent came up with a very interesting interpretation of State law to justify the additional money charged by the City of Georgetown Municipal Court, let's take a look:

South Carolina Code of Laws as required in § 14-1-211 (1976, as amended) General Sessions Court surcharge; fund retention for crime victim services; unused funds; reports; audits.

Based on the clear and unambiguous language of the text, this section only apply to General Sessions Court, in fact it says in the caption "General Sessions Court surcharge" the court can see through that subterfuge. The Municipal Court cannot add more money to a fine using a General Sessions Court surcharge. South Carolina Code of Laws § 14-1-208 (1976, as amended) is the only section of law that applies to Municipal Court.

South Carolina Code of Laws as required in § 14-1-212 (1976, as amended) Surcharges on fines; distribution.

Based on the clear and unambiguous language of the text, this section only apply to Surcharges on fines; distribution, in fact it says in the caption "Surcharges on fines;

distribution" the court can see through that subterfuge. The Municipal Court cannot add more money to a fine using a Surcharges on fines; distribution guideline. South Carolina Code of Laws § 14-1-208 (1976, as amended) is the only section of law that applies to Municipal Court.

Unless something changed when I was napping, applying the Criminal Justice Academy fee surcharge mandated by Regulation 90.5 of the Temporary Provision of the 2012-2013 general Appropriations Act; cannot be applied because they were not in effect on September 17, 2010 when the Uniform Ordnance Summons was issued.

Lastly, Code Enforcement Officer Grant is not a Judge or the Court. Only the Court can impose the assessment.

The Respondent's argument is manifestly without merit.

X. DID THE TRIAL JUDGE COMMIT REVERSIBLE ERROR BY ASSERTING PUBLIC NUISANCE.

This argument is the initial brief of respondent argument number seven.

This is an issue ripe for review. Can the City of Georgetown have a naturalized wooded lot or must every lot in the City of Georgetown with grass, weeds and bushes and trees over 18" constitute a public nuisance. The lot in question has not been cleaned or maintained in over 20 years. This issues is more about social policy. What constitute a naturalized wooded lot? The City of Georgetown is silent on the issue and is applied arbitrarily to property because either every wooded lot in Georgetown must be cleaned or none of the wooded lots in Georgetown should be cleaned. In 20 years pine trees can be planted, grow to maturity and harvested. Yet after not being cleaned for over 20 years, Code Enforcement Officer Grant can suddenly determine that a lot is overgrown.

Code Enforcement Officer Grant was issued a Cease and Desist order by the South Carolina LLR, Building Codes Council for engaging in the practice of building code enforcement

without being licensed by the State. So Code Enforcement Officer Grant did not and could not make a determination on the condition of the home. Her determination was only about the lot.

The date for filing an appeal is well within the thirty (30) days allowed by Magistrate Court Register, Rule 18, Appeals. (*See;* **Magistrate Court Register, Rule 18, Appeals**.)

XI. DID THE TRIAL COURT COMMIT ERROR BY NOT APPLYING THE STANDARDS OF *HAINES V. KERNER*

This argument is the initial brief of respondent argument number eight.

The Respondent spent a large part of their **INITIAL BRIEF OF RESPONDENT** dealing with the appropriateness of the pleadings and now suggests that any person accused should hire an attorney to represent them and never represent themselves; doesn't the law allow for a person to represent himself?

The Appellant complied with the substantive and procedural requirements of the law. The Respondent, the City of Georgetown, by and through it's agent, the City of Georgetown Municipal Court, Issued a continuance giving the Appellant leave of the court until after the State ruled on the complaint filed with the State. Then the Respondent failed to notify the Appellant of the date and time of trial. Then the Respondent filed the appeal.

Now the Respondent is saying:

a. The Appellant was told that he did not have to show in court until after other issues was resolved, but we decided not to hold court anyway.
b. The Appellant was NOT notified of the trial date, but we found him guilty anyway.
c. We filed the appeal for the Appellant in this case around 3 months after the trial, but you should penalize the Appellant because the appeal was not filed in a timely manner.
d. Now the Respondent is saying that if the Appellant would have hired an attorney, none of this would have happen.

The standards of **Haines v. Kerner** should apply.

CONCLUSION

For the reasons stated in the Initial Brief and herein, the issues are ripe for review and I pray this Court will consider. The motions were filed within the 30 days allowed by law, all issues were preserved and the appeal is a timely and appropriate post trial motion.

Respectfully submitted,

September 6, 2013

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PROOF OF SERVICE OF REPLY BRIEF OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From Georgetown County
Court of Common Pleas

Benjamin H. Culbertson, Presiding Circuit Court Judge

Case No. 2011 – CP – 22- 1296

Willie Singleton, Appellant.

v.

City of Georgetown Code Enforcement Officer Janet Grant, et. al. Respondent,

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PROOF OF SERVICE

I certify that I have served the Reply Brief Of Appellants on City of Georgetown Code Enforcement Officer Janet Grant, et. al. by hand mailing a copy of it on Sep 6, 2013, addressed to their attorney of record, Robert Maring, 1130 Highmarket Street, Georgetown, SC 29440

September 6, 2013

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