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Nov 26 2024

THE STATE OF SOUTH CAROLINA SC Court of Appeals

In the Honorable Court of Appeals

APPEAL FROM THE YORK COUNTY

Hon. WILLIAM McKinnon, Chief Administrative Law Judge
For the Circuit Court Case no 2022-cv-46-01509

Appellate Docket/Case No. 2024-000269

Kalishwar Das	Appellant.
v.	
York County	Appellee

RECORD ON APPEAL

Kalishwar Das

1505 The Crossing

Rock Hill, SC 29732

(803) 370-2344

Pro Se Appellant

Todd A. Darwin

Holcombe Bomar, PA

P.O. Box 1897

Spartanburg, SC 29304

(864) 594-5322

Attorney for Appellee

INDEX TO RECORD ON APPEAL

Item No.	Subject Title	Page/Exhibit No.
1.	Cover Page	1
2.	Index of Record	2
3.	Designation of Matter (Rule 209, SCACR)	3
4.	Notice of Appeal filed February 23, 2024	Exhibit 1
5.	Initial Complaint filed May 16, 2022	Exhibit 2
6.	Defendant's Motion to Dismiss filed June 16, 2022	Exhibit 3
7.	Joint Stipulation of Settlement filed July 21, 2022	Exhibit 4
8.	Appellant's Request to Preserve Electronic Evidence	Exhibit 5
9.	Court Order dated September 27, 2022	Exhibit 6
10.	Plaintiff's Amended Complaint filed October 3, 2022	Exhibit 7
11.	Defendant's Reply to Amended Complaint filed October 18, 2022	Exhibit 8
12.	Court Order dated January 10, 2023	Exhibit 9
13.	Plaintiff's 2nd Amended Complaint filed January 25, 2023	Exhibit 10
14.	WRIT OF MANDAMUS	Exhibit 11
15.	Court Order dated March 29, 2023	Exhibit 12
16.	Plaintiff's Motion to Reconsider filed March 30, 2023	Exhibit 13
17.	Plaintiff's Supplement-I to Motion to Reconsider filed January 19, 2024	Exhibit 14
18.	Plaintiff's Supplement-II to Motion to Reconsider filed February 6, 2024	Exhibit 15
19.	Court Dismissal Order dated February 13, 2024	Exhibit 16

SET-B: Transcripts of Hearings

Item No.	Hearing Transcript	Page/Transcript No.
20.	Hearing held on April 14, 2022	Transcript I
21.	Hearing held on September 20, 2022	Transcript II
22.	Hearing held on January 5, 2023	Transcript III
23.	Hearing held on March 9, 2023	Transcript IV
24.	Telephonic Hearing on February 13, 2024	Transcript V

THE STATE OF SOUTH CAROLINA

In the Honorable Court of Appeals

Appellate Docket/Case No. 2024-000269

RECEIVED

Jun 14 2024

SC Court of Appeals

**MOTION FOR EXTENSION OF TIME
TO OBTAIN MAGISTRATE COURT HEARING TRANSCRIPT
BEFORE FILING BRIEF WITH RECORD**

Kalishwar Das

Appellant.

v.

York County

Appellee

COMES NOW Kalishwar Das, Pro se Appellant, respectfully moves this Court for an extension of thirty (30) days to obtain magistrate court hearing transcript before filing brief with record, currently due on June 20, 2024. In support of this Motion, Appellant states as follows:

1. **Newly Discovered Evidence:** Appellant recently became aware that an audio recording of a Magistrate Court hearing, relevant to this case, has not yet been transcribed. This audio recording was provided by the York Circuit Court on demand.
2. **Transcription Difficulties:** The court transcriptionist has informed Appellant that she cannot transcribe this particular audio as she was not present during the hearing and it falls outside her purview.
3. **Importance of Transcript:** The aforementioned Magistrate Court hearing is crucial to Appellant's case. The transcript of this hearing is essential for a complete and accurate presentation of the facts and arguments on appeal.

4. **Need for Independent Transcription:** Given the unavailability of the court transcriptionist, Appellant needs to engage an independent transcriber to complete the transcription of the audio recording.
5. **Time Needed for Completion:** Securing a qualified independent transcriber, obtaining the completed transcript, and incorporating it into the Brief will require additional time.
6. **Extension Request:** Therefore, Appellant respectfully requests an extension of thirty (30) days from June 20, 2024, to obtain transcript to file the Brief with Record after that. This extension will allow Appellant to obtain the necessary transcript and ensure the Court has a complete record for review.
7. **No Prejudice:** Granting this extension will not prejudice Appellee as it solely allows Appellant to include a critical piece of evidence in the Brief.

WHEREFORE, Appellant respectfully requests that this Court grant an extension of thirty (30) days to file the Brief with Record.

Respectfully submitted,

Kalishwardas

Dated: June 14, 2024

Kalishwar Das
Pro Se Appellant
1505 The Crossing
Rock Hill, SC 29732
P: 803-370-2344
Email: kaliswardas@gmail.com

YORK CIRCUIT COURT
YORK, SOUTH CAROLINA

Civil Action No.: 2022-CP-46-01509

FILED-RECEIVED

2024 FEB 20 PM 3: 14

Kalishwar Das, Pro Se Plaintiff
Vs.
York County, Defendant
[For party defendants]

ANGIE M. BRYANT
C.C.C.P. & GS
YORK COUNTY, SC

RECEIVED

Feb 23 2024

SC Court of Appeals

NOTICE OF APPEAL

Pursuant to SCRCP Rule 203(b)(1)

TO the Hon. Clerk of the Court
York Circuit Court
York, SC 29745

I, Kalishwar Das, the Pro se Plaintiff in the above-mentioned case, hereby submit this Notice of Appeal [Pursuant to SCRCP Rule 203(b)(1)] to formally announce my intent to appeal the court's recent order entered on February 13, 2024 in this matter.

I request the Hon. court clerk to duly note and record this Notice of Appeal, throughout this legal process.

Sincerely,



Feb. 20, 2024

Kalishwar Das
1505 The Xing
Rock Hill, SC 29732
803-370-2344
kalishwardas@gmail.com

CERTIFICATE OF SERVICE

For the Case Number 2022-CP-46-01509

Kalishwar Das Vs. York County

I, Kalishwar Das, hereby certify that:

I, served a true and accurate copy of NOTICE OF APPEAL with the local US Post Office to get it delivered upon the opposing party/s by the method of :
Electronic and Certified USPS Mail, with Return Receipt.

I declare that the foregoing is true and correct.



Feb. 20, 2024

Kalishwar Das
1505 The Xing
Rock Hill, SC 29732
803-370-2344
kalishwardas@gmail.com

STATE OF SOUTH CAROLINA

COUNTY OF YORKKALLSAWAR DAS

Plaintiff(s)

vs.

Ms. Jennifer S. Cotton Kolter

Defendant(s)

Submitted By: Kalishwan DasAddress: 1505 THE BRIDGEROCK HILL SC 29732

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2022-CP-46-01509

SC Bar #:

Telephone #:

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 cases that are NOT E-Filed. It must be filed out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

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. (Certificate 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)
Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 <u>-NI-</u>
☐ 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) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699)
☐ Sexual Predator (510)
☐ Permanent Restraining Order (680)
☐ Interpleader (690) | 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)
☐ Incapacitated Adult Settlement (790)
☐ 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) |

Submitting Party Signature:

Date:

05/16/2022

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.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR under ADR Rule 3(b) upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals;
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. Cases may also be exempt from ADR under ADR Rule 3(c) upon motion to and approval by the court.
6. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
7. Application of a party to be exempt from payment of neutral fees due to indigency should be filed with the Clerk of Court prior to the scheduling of the ADR conference.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA,)
)
COUNTY OF)
)
Kalishwar Das)
)
Plaintiff,)
)
vs.)
)
1. Jennifer S. Colton, Magistrate on duty)
2. Three Court Staffs on duty)
3. Constable on duty)
4. Rawlinson Corner, LLC)
)
Defendant.)

IN THE COURT OF COMMON PLEAS

SUMMONS

2022CP4601509

FILE NO.

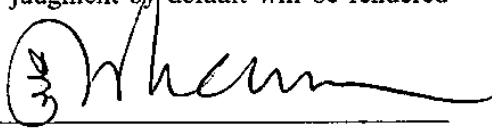
FILED-RECEIVED
2022 MAY 16 AM 11:17
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

York, South Carolina

Dated: 05/16/2022


Plaintiff/Attorney for Plaintiff

Address:

1505 THEXING

ROCK HILL, SC 29732

KALISHWARDAS@GMAIL.COM

803-370-2344

CIRCUIT COURT OF YORK
COUNTY OF YORK, YORK, SOUTH CAROLINA

Kalishwar Das	(	2022CP4601509	2022 MAY 19 AM 11:17 FILED-RECEIVED W/S
	(		
	(	Complain	
Vs.	(	Against defaulter landlord for refusing to	
	(	adjudicate my personal investments with	
1. Jennifer S. Colton, Magistrate on duty	(	compensation and for prosecuting court staffs	
2. Three Court Staffs on duty	(	including Magistrate for their alleged hate	
3. Constable on duty	(	Crime/discrimination/insult in public	
4. Rawlinson Corner, LLC	(	JURY TRIAL DEB	

Complain against Catawba/Ebenezer Magistrate's discrimination/hate crime, out of jurisdictional actions, personal refusal of counterclaims and denial of motions of New Jury Trial without conducting hearing to stop my investment properly adjudicated with due rent.

Now, this case is brought in this court to get justified the dispute of my unpaid investments on defendant's property. Defendant landlord has allegedly been 'leveraged' by the Magistrate court to skip the 'status of a defaulter' because of being abstain from the hearing in the same dispute to ignore my counterclaims, as it was ignored by the Magistrate Colton in its second attempt, to keep this case 'unauthentically' in her own hand to officially evict my business. This dishonesty can be seen in the order where my counterclaim has been pretended be taken care of, but in real Magistrate Colton had straightforwardly refused to go through it by alleging it to be submitted 'not on time'. While doing so, she refused her incompetent court staff misbehavior, who had refused my repeated attempts to submit the same on time. Premise in a well-furnished condition, which is beyond the standard and condition as it was provided in poor condition to me, the Plaintiff in May 2019, is taken back by the defendant today 'dishonestly', without paying back my investments and for my loss of business hours in turning this isolated premise feasible to conduct business.

Compared to demanded back rent and my investments is coincidentally very close which does not constitute a substantial amount to adjudicate but by evicting my business two months before the lease had yet to end, this amount tides up with a demand of compensations with the amount to be adjudicated with the due rent. Demand of compensation and so this case, is legitimate because the efforts to mitigate this issue was attempted several times and which the defendant always attempted by offering unacceptable terms of waiving off all due rent.

Charge of courthouse corruptions, lawlessness, and the court-staffs incompetency, if untrue, must be the symptomatic of a planned corruption which were proven extremely helpful in the execution of controversial order of the Magistrate(s) who first by illegally disposing the case (in case ending with #3580 of December 2021) and secondly by not admitting the counterclaims (in case ending with #0783 of April 2022), 'successfully stopped' the case to get transferred to the circuit court because the both side's claim of amounts were exceeding its jurisdictional limit. This is a clear evidence of courthouse corruption and is not a mere mistake or a human error because it was duly demanded during the hearing. Honorable Circuit court should determine Magistrate's monotheical action in this matter.

Now, the Plaintiff named above, complaining against the Defendant(s) named above, herein and alleges as follows:

Parties, Jurisdiction and first instance reason of Implications

1. Pro se Plaintiff ("Plaintiff") Kalishwar Das is a resident of York County of South Carolina.
2. Ms. Jennifer Colton is the Ebenezer/Catawba Magistrate posted in Rock Hill of York County who for 'personally' deciding to throw Plaintiff out from the courthouse premise and for 'personally' refusing to conduct hearing of my filed motions via her personal email, is therefore, named as the second defendant ("defendant-2").
3. Three Court staff(s) (names unknown), of the Ebenezer/Catawba Magistrate court Rock Hill of York County for their 'out of rule book behavior' while on duty, are charged extraordinarily for refusing to accept counterclaim documents, obstructing justice by stopping from attaining court hearing are therefore named as the third defendant(s) ("defendant-3A") ("defendant-3B") ("defendant-3C").
4. Role of Security guard (name unknown) of the Ebenezer/Catawba Magistrate court Rock Hill of York County is posted to maintain peace and security in the courthouse premise. Forgetting this binding rule, he, for obstructing justice and peaceful attempt of conducting court business by plaintiff, is charged extraordinarily and is therefore, named as the fourth defendant ("defendant-4").

5. Rawlinson Corner, the fifth defendant ("defendant-5"), is in the center of this dispute who is an Atlanta based owner company or the landlord of the property which is located within the York County Jurisdiction of Rock Hill city limit, South Carolina. Company is charged for 'illegally' occupying Plaintiff's well-furnished premise after evicting him in charge of non-payment of rent but by ignoring the demanded adjudication of his investment.
6. This court has jurisdiction over the parties and subject matter of this action, and venue in this court is proper.

Background of this dispute

Eviction suit brought by the landlord with a charge of non-payment of rent was well under the jurisdictional limit of Magistrate court, only if the counterclaim against the due rent had not turned this charge of unpaid rent litigable by exceeding its limit of \$7,500. In such a situation, case had to be transferred to the circuit court but magistrate by breaking these laws, eagerly took personal interest in fixing this rent dispute by suppressing tenant's counterclaim to keep landlord's claim of due rent immune (from counterclaim) and so out from the need of sending it to the circuit court. For committing this corrupt court practice, she pretended to be a valid authority without a sign or support of law for the actions she took to severely harm grieving tenant, the Plaintiff.

A Magistrate Judge cannot be prosecuted for her decision against the party of any side as if, she performed her duty under her lawful authority and did not take any personal action out from the court or court hearing. But her decision, actions and behavior were literally an 'indigenous action' without any affiliation of law or rulings, and so is highly objectionable and prosecutable.

By barring defendant tenant from submitting his counterclaims, and from letting him join the hearing of his own case, court staff and the Magistrate openly corrupted the justice system for benefitting to the landlord, who was a defaulter in the same case. Magistrate, by maneuvering to go out of her jurisdictional limit of \$7,500, gave a controversial decision in this case where a demand of \$42,000 as back due rent and \$55,700 as the counterclaimed amount was in the center of the dispute from the day first.

|
:
|

Factual Allegation

Contradicting Jurisdiction

1. Magistrate Court have authority to decide any dispute brought to the court, if it is less than or equal to \$7,500 and no more. Provided that a Magistrate still has an authority or power to evict any tenant if he/she fails or deny paying rent 'more or less' than \$7,500 only if, there is no money counterclaimed by the tenant which is more than \$7,500. If tenant has an unsettled counterclaim or compensation of loss which amounts more than \$7,500 then case must be referred to the circuit court for a final justification. Magistrate Colton violated this mandatory rule despite being requested, by refusing to go through provided counterclaiming documents. By doing so she erred the law by violating its jurisdictional authority and financial limit, and obstructed justice by not letting this case be handed over to the higher court for a proper justification where tenant's counterclaim documents could have been taken care of.

Considering this serious error of law, her order in this case is erroneous and qualifies for a substantial compensation to the tenant who lost his entire business due to her autocratic unlawful order.

Violation of law by the Landlord and the Magistrate court

1. 'There is no state or federal law in practice which permits a lessor to lease his premise to lessee as if the premise is not a lawfully operational at the time of signing lease. In this manner landlord committed a fraud on tenant and never compensated him for his loss.'
2. Magistrate court on December 30, 2021 (in an *Ex Parte* hearing of case 2021cv4610303580) disposed the case 'by keeping the tenant out from the courtroom', and on April 12, 2022, 'suppressed the case when tenant submitted the counterclaim'.
3. Tenant deserved a default judgment in his favor because only he made his appearance in his first counterclaim hearing over landlord's eviction suit on December 30, 2021. Court staff stopped tenant to enter in the courtroom despite his hearing was in process. But the court illegally disposed the case to benefit landlord and illegally permitted him to sue the tenant again.
4. In the second attempt to evict tenant, court staffs refused tenant's repeated attempts to submit counterclaims against landlord's eviction suit.

5. On the hearing date of April 12, 2022, court staff again stopped me to enter in the courtroom despite my hearing was in process without me. This incident was reported to the Magistrate in writing but was totally ignored.
6. Magistrate Colton refused to accept Counterclaims without taking responsibility of her court staff(s) who had repeatedly refused to accept the same crucial document with a wrong suggestion that counterclaim document can be submitted directly with the Magistrate.

Relief demanded as
Prayer to the Hon. Circuit Court of York County

1. Prosecute to the landlord who by refusing to pay renovation cost to me, -the Plaintiff tenant, illegally ousted my business to cause me a substantial loss of \$94,500. Unamended break-up of this claimed compensation is:
 - a. Counterclaimed amount of \$55,700
 - b. Loss of business due to wrongful eviction \$20,000
 - c. Loss of inventory due to wrongful eviction \$12,000
 - d. Court cost and other expenses \$7,500
2. Prosecution of court staffs who stopped me to attain my own hearing two times.
3. Prosecution of court staff who repeatedly refused to accept my counterclaims.
4. Prosecution of Magistrate Colton for a sum of Six million (\$6,000,000) as compensation on finding that her hate crime or discriminatory actions were not personal but 'an objectionable administrative action' while the Magistrate was on duty.

"Commonsense understanding of this issue is that: 'without being an authority, a Magistrate cannot order constable to 'throw the peacefully waiting Plaintiff out from the courthouse lobby' by abusing his basic human and legal rights with public humiliation'. If this incident is proven 'lawful' then there should be no charge or prosecution be held and if proven 'unlawful' then prosecutions and demand of compensation is inevitable. It literally damaged my social reputation, health, endangered my family security and confidence of having equal rights in America. Due to my depression after public insult by the Magistrate, my family and particularly my physically-mentally challenged wife home, suffered a lot."

5. My fifth request is to provide me the 'full & all' audio-video of the all incidents including court hearing to be provided to the local and foreign media to maintain transparency.

This is my strong opinion after evaluating the entire incidents, developments, and aftermaths that I am a hate crime victim and I have been heavily discriminated by none but by the Magistrate herself. My social position has been degraded with insults by a sitting Magistrate, who took this matter too far and probably feared that 'conducting hearing on filed motions with an apology from an ethnic Indian justice seeker may damage her position'. A promise of equality in the US constitutions is thus, -set on question, proving in my case that the law of equality is not actually equal for all as said in the Constitution. Because I still believe in US Constitution and in the rule of law, I have brought this case against the court staffs including Magistrate Colton, for their personal misbehavior on me and not against their on duty official misconduct. Refusing to accept my counterclaim, barring me from entering the courtroom for hearing, throwing me out from the courthouse lobby with extreme insult and rejecting to conduct hearing on filed motions, cannot be an official conduct but was aimed to benefit only to the defaulter landlord. Hon. Circuit court must decide and classify the nature of offense committed by the defendants to adjudicate my demanded compensations from them and in general.

Sincerely



Date: 05/16/2022

Kalishwar Das
1505 The Crossing
Rock Hill, SC 29732
Ph: 803-370-2344
Kalishwardas@gmail.com

Copy of this complain with summon has been served to the Defendant(s) and the receipts with the proof of delivery has been preserved on iCloud service.

~~~~~

|                                         |   |                                    |
|-----------------------------------------|---|------------------------------------|
| STATE OF SOUTH CAROLINA                 | ) | IN THE COURT OF COMMON PLEAS       |
|                                         | ) |                                    |
| COUNTY OF YORK                          | ) | CIVIL ACTION NO.: 2022-CP-46-01509 |
|                                         | ) |                                    |
| Kalishwar Das,                          | ) |                                    |
|                                         | ) |                                    |
| Plaintiff,                              | ) |                                    |
|                                         | ) |                                    |
| vs.                                     | ) | <b>MOTION TO DISMISS ON BEHALF</b> |
|                                         | ) | <b>OF ALL DEFENDANTS EXCEPT</b>    |
|                                         | ) | <b>RAWLINSON CORNER, LLC</b>       |
| Jennifer S. Colton, Magistrate on Duty, | ) |                                    |
| Three Court Staff's on Duty, Constable  | ) |                                    |
| on Duty, and Rawlinson Corner, LLC,     | ) |                                    |
|                                         | ) |                                    |
| Defendants.                             | ) |                                    |

---

YOU WILL PLEASE TAKE NOTICE that pursuant to S.C.R.Civ.P. 12(b)(6), the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-10 *et seq.*, and the common law, the above-referenced Defendants Jennifer S. Colton, Magistrate on Duty, Three Court Staff's on Duty, and Constable on Duty (collectively "Defendants"), hereby move to dismiss Plaintiff's Complaint as it fails to state facts sufficient to state a claim against these Defendants. The South Carolina Tort Claims Act provides a limited remedy for the alleged torts of governmental employees while acting within the scope of their employment. Under S.C. Code Ann. § 15-78-70(c), a plaintiff "shall name as a party defendant only the agency or political subdivision for which the employee was acting." Defendants are thus entitled to have Plaintiff's claims dismissed against them in their individual capacities.

Furthermore, Plaintiff's maximum recovery, if any, is controlled and limited by the provisions of § 15-78-120 of the South Carolina Tort Claims Act, which prohibits, among other things, Plaintiff's recovery of punitive damages or interest. Therefore, Plaintiff's claims for damages in the amount of Six Million Dollars against Defendants should be dismissed.

Finally, Plaintiff's claims against Defendant Magistrate Judge Jennifer S. Colton, whether alleged in her individual or official capacity, arise from actions taken as a judicial officer in the exercise of her judicial function. See § 22-8-20. These claims are therefore barred under the common law doctrine of judicial immunity and should be dismissed with prejudice.

This motion is made pursuant to the South Carolina Rules of Civil Procedure, the South Carolina Tort Claims Act, and any other statutory and/or common law authority as may apply, as well as any memoranda as may be filed in support hereof.

**HOLCOMBE, BOMAR, P.A.**

/s/ A. Todd Darwin

A. Todd Darwin, SC Bar No.: 7032

Post Office Box 1897

Spartanburg, South Carolina 29304

(864) 594-5300

tdarwin@holcombebomar.com

Attorney for Defendants Jennifer S. Colton, Magistrate on Duty, Three Court Staff's on Duty, and Constable on Duty

June 16, 2022  
Spartanburg, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE CIRCUIT COURT

Kalishwar Das,

2022-CP-46-01509

Plaintiff,

**JOINT STIPULATION OF DISMISSAL  
WITH PREJUDICE**

v.

Jennifer S. Colton, Magistrate Judge; Three  
Court Staffs on duty; Constable on Duty; and  
Rawlinson Corner, LLC,

**(ONLY AS TO PLAINTIFF DAS AND  
DEFENDANT RAWLINSON CORNER,  
LLC c/o HALPERN ENTERPRISES,  
INC.)**

Defendants.

Pursuant to South Carolina Rule of Civil Procedure 41(a)(1)(B), Plaintiff Kalishwar Das and Defendant Rawlinson Corner, LLC c/o Halpern Enterprises, Inc. stipulate and agree to dismiss with prejudice all claims brought against each other in this litigation. Das and Rawlinson Corner shall bear their own costs and attorneys' fees.

Respectfully submitted this the 21<sup>st</sup> Day of July, 2022.

Kalishwar Das  
1505 The Crossing  
Rock Hill, SC 29732

s/Andrew Rawl

Mary M. Caskey, SC Bar No. 76198  
Andrew M. Rawl, SC Bar No. 102807  
Haynsworth Sinkler Boyd, PA  
Post Office Box 11889  
Columbia, SC 29211  
(803) 779-3080  
mcaskey@hsblawfirm.com  
drawl@hsblawfirm.com

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE CIRCUIT COURT

Kalishwar Das,

2022-CP-46-01509

Plaintiff,

**JOINT STIPULATION OF DISMISSAL  
WITH PREJUDICE**

v.

**(ONLY AS TO PLAINTIFF DAS AND  
DEFENDANT RAWLINSON CORNER,  
LLC c/o HALPERN ENTERPRISES,  
INC.)**

Jennifer S. Colton, Magistrate Judge; Three  
Court Staffs on duty; Constable on Duty; and  
Rawlinson Corner, LLC,

Defendants.

Pursuant to South Carolina Rule of Civil Procedure 41(a)(1)(B), Plaintiff Kalishwar Das and Defendant Rawlinson Corner, LLC c/o Halpern Enterprises, Inc. stipulate and agree to dismiss with prejudice all claims brought against each other in this litigation. Das and Rawlinson Corner shall bear their own costs and attorneys' fees.

Respectfully submitted this the \_\_\_\_ Day of July, 2022.

s/

Kalishwar Das  
1505 The Crossing  
Rock Hill, SC 29732

s/

Mary M. Caskey, SC Bar No. 76198  
Andrew M. Rawl, SC Bar No. 102807  
Haynsworth Sinkler Boyd, PA  
Post Office Box 11889  
Columbia, SC 29211  
(803) 779-3080  
mcaskey@hsblawfirm.com  
drawl@hsblawfirm.com

Kalishwar Das

**Pro Se Plaintiff**

**Vs.**

York County

(State of South Carolina)

**Defendant**

-----

I, Kalishwar Das, Plaintiff, lawfully issue Notice to Preserve Evidences under SCRCR Rule 37(e), and state the following:

- 13

evidence is an obligation under Rule 37(e) of the South Carolina Rules of Civil Procedure, and it is my lawful insistence and humble demand that defendant holding evidences comply with this obligation. Violation of lawful preservance in terms of destruction, alteration, or falsification of records and/or tampering is considered to be a federal crime under Rule 18 U.S. Code § 1519, and also under South Carolina Code Section §16-9-340<sup>1</sup>. Under South Carolina law, a person who violates this law can be charged with a felony offense.

4. Rule 37(e) of the South Carolina Rules of Civil Procedure explicitly allows for the issuance of a Notice of preserving evidence to ensure the safeguarding of evidence. Failure to comply with this obligation is deemed an offense. As such, I respectfully insist and humbly demand that defendant should fulfill their obligation to preserve all the evidence in this case.



Kalishwar Das  
1505 The Crossing  
Rock Hill, SC 29732  
8033702344, 8032627737  
kalishwardas@gmail.com

\* Copy served to the opposing counsel.

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<sup>1</sup> This law is titled "Tampering with or fabricating physical evidence" and makes it illegal to knowingly tamper with physical evidence or to fabricate or plant false evidence with the intent to mislead, prevent, or hinder an investigation, inquiry, or trial.

{Attachment-2 (1+3+2=p6)}

**CIRCUIT COURT OF YORK**  
**COUNTY OF YORK**  
**YORK, SOUTH CAROLINA**

FILED-RECEIVED  
 2022 JUN 24 PM 2:34  
 DAVID HAMILTON  
 C.C.P. & GS  
 YORK COUNTY, SC

|                        |  |                                         |
|------------------------|--|-----------------------------------------|
| Kalishwar Das          |  | )( Civil Action No.: 2022-CP-4601509    |
|                        |  | )(                                      |
| Plaintiff              |  | )( <b>MOTION FOR</b>                    |
| Vs.                    |  | )( <b>EXPEDITE ORDER TO SEIZE &amp;</b> |
| Jennifer Colton et al. |  | )( <b>PRESERVE COMPUTER HARD</b>        |
| Rawlinson Road Corner  |  | )( <b>DRIVES BEARING CRUCIAL</b>        |
| Defendants             |  | )( <u><b>CAMERA RECORDINGS.</b></u>     |
|                        |  | )(                                      |

I, Kalishwar Das, as Pro Se Plaintiff, pursuant to S.C. Rule 9(d) of "Rules of Evidence" (whether *all parts of Rules 9(a) through 9(g) conform to the Federal Rules and to present State practice*) and Pursuant to S.C. App. Ct. Rule 606 "Retention and disposition of exhibits in the Circuit..." and pursuant to Federal rule 1.7 an act on "conflict of interest", is hereby taken under consideration with any other rule that court deem fit to this urgent purpose, and is so requested to pass an expedite order to seize & seal (preserve) all/any computers memory drives (HDD) from the Catawba/Ebenezer Magistrate office which were or are still in use to record everyday video recordings.

As per provided information, Magistrate court retains recordings of past 90 days before passing it to the York County data retention center periodically. Because 90 days period from the date of incident has not matured yet, and because the prime defendant has an easy access to these memory drives, who can destroy or maneuver its recorded contents, -seizure of such memory drives has become urgent for a future verification of facts in this or in higher courts.

**{Attachment-2 (1+3+2=p6)}**

Pursuant to S.C. App. Ct. Rule 606(a)(b) and (c2), suggests its own Clerk of Court for a specific duty to maintain such records and that should also be applicable with the Magistrate court's clerks, but because Magistrate court staffs are defendants in this case so a special arrangement of preservation of records is urgently needed and so this motion is prayed for.

This request is urgent after Defense Attorney confirmed in his courtesy mail (Find in Attachment-I), "indicating" that demanded video recording may have been missing from Magistrate Court's system or is inaccessible and that, for this reason, York County IT Department has been asked to find any back up copy or Cloud based retention system. Such so-called recovery attempt may not be an attempt to recover the data but maybe an attempt to destroy the data instead because data was never inaccessible or lost. Copy provided on USB drive to the Plaintiff is not the total recording.

Prime Defendants of this case of corruption and discrimination are the staffs of the same Magistrate court, while holding of the same data cannot be assumed safe. Any possible loss of data from multiple computers from Court custody while the Magistrate and Magistrate Court themselves are under question of wrongdoing, is contentious which may raise many serious questions. To avoid further escalation of this matter, seizure of all computers is urgent.

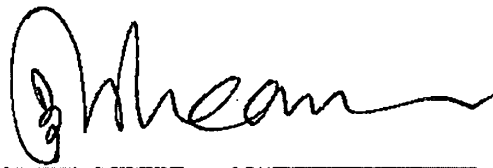
Loss of data from a computer Hard Drive (Microsoft or Macintosh) 'if it was used or ever linked to a camera system, can be recovered' with full or partial detection of information 'even if it was maneuvered'. For this purpose, seizure of all computers bearing recording activity log should immediately be seized.

**{Attachment-2 (1+3+2=p6)}**

Any excuse of ignoring, denying this demand by the Magistrate or her office should be taken as a serious offense of interrupting justice, tampering proofs, and abusing law to escape the corruption and discrimination charges.

“Proving by Providing” proof of innocence is the burden on Defendants because they are holding all such proofs with their official positions. Plaintiff is totally deprived of this facilitation or access to data. Destruction of data relating to the charge of discrimination may be inter-related and matter may escalate a bigger and wider investigation of corruption which can only be stopped if untampered computer drives are seized immediately and sealed for a neutral interrogations; and which is not denied because of any possible error of referenced law or its sections on such a complicated case on court staffs themselves.

It is so prayed for,

06242022 

Date

Kalishwar Das, Pro Se Plaintiff  
1505 The Crossing, Rock Hill SC 29732  
(803) 370-2344;  
email: [kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)

Copies served to both defense Attorneys via certified mail.

{Attachment-2 (1+3+2=p6)}

## CIRCUIT COURT OF YORK

COUNTY OF YORK

YORK, SOUTH CAROLINA

|                        |            |                                                         |
|------------------------|------------|---------------------------------------------------------|
|                        |            | ) ( Civil Action No.: 2022-CP-4601509                   |
| Kalishwar Das          |            | ) (                                                     |
|                        | Plaintiff  | ) ( SUPPLEMENT to Motion filed on                       |
|                        | Vs.        | ) ( June 24 <sup>th</sup> , 2022 for an <b>EXPEDITE</b> |
| Jennifer Colton et al. |            | ) ( <b>ORDER TO SEIZE &amp; PRESERVE</b>                |
| Rawlinson Road Corner  |            | ) ( <b>COMPUTER HARD DRIVE</b>                          |
|                        | Defendants | ) (                                                     |

FILED-RECEIVED  
 2022 JUN 27 PM 2:27  
 CLERK OF COURT  
 YORK COUNTY, SC

This motion, in the case mentioned above, which was filed alleging a criminal act of discrimination committed by Catawba/Ebenezer Magistrate herself, with corruption charge of her court staffs, all to illegitimately benefitting to the Defendant landlord Rawlinson Road Corner to win the case of rent dispute despite being already defaulted the same case on December 30, 2021.

In this regard, motion filed on June 24, 2022 was aimed to 'seize and preserve the computer drives bearing all crucial recordings' which cannot be assumed 'safe' in the hands of alleged defendants and can be destroyed in an attempt to escape the multiple charges.

Such 'assumed' acts of extended wrongdoings by court officials have an obvious serious consequence which can be avoided only if my request of following recordings are provided without unprecedented delays. This may be done without or still by seizing computer drives as requested by me to preserve proofs for the court use. Demanded documents and electronic recordings are as follows:

- Audio/Video recording of Catawba/Ebenezer Magistrate COURTROOM of following time and date:
  - a. April 12, 2022 from 3:00 PM to 5:30 PM (150 minutes)
  - b. April 14, 2022 from 1:00 PM to 3:00 PM (120 minutes)
  - c. December 30, 2021 from 9:30 AM to 11:00 AM (90 minutes)

**{Attachment-2 (1+3+2=p6)}**

- Audio/Video recording of Catawba/Ebenezer Magistrate court's PUBLIC LOBBY of following time and date:
  - a. March 20<sup>th</sup> to April 2<sup>nd</sup>, 2022 following Plaintiff's two visits;  
(Time cannot be specified but it should be during afternoon time.)
  - b. April 12, 2022 from 3:00 PM to 3:45 PM (15 Minutes)
  - c. April 18, 2022 from 11:00 am to 4:00 PM (300 Minutes)
  - d. December 30, 2021 from 9:30 AM to 11:00 AM (90 minutes)
- Audio/Video recording of Catawba/Ebenezer Magistrate court's MAIN ENTRANCE of following time and date:
  - a. April 18, 2022 from 11:00 am to 4:00 PM (300 Minutes)
  - b. April 30, 2022 from 12 Noon to 3:00 Pm (180 Minutes)

Demand made in this supplementary document and through motion filed on June 24, 2022 are in pursuant to the state and federal law and is demanded in order to accomplish justice.

It is therefore, humbly requested.

A handwritten signature in black ink, appearing to read 'Kalishwar Das', followed by the date 'June 27, 2022'.

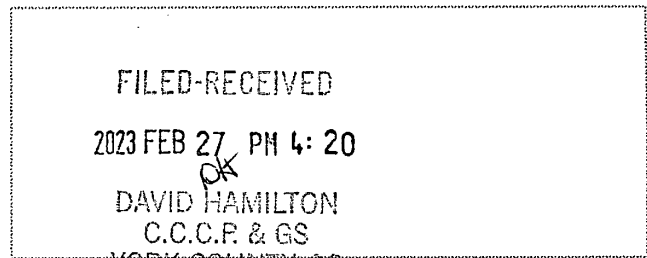
Kalishwar Das, Pro Se Plaintiff  
1505 The Crossing Rock Hill, SC 29732  
Ph: 803.370.2344 Email: [kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)

\* Copies of this supplement document along with main motion filed on June 24, 2022 are served to both defense Attorneys via certified mail.

---

FILED 03/28/23 BY Clerk/fbl

CIRCUIT COURT OF YORK  
COUNTY OF YORK  
YORK, SOUTH CAROLINA



**Kalishwar Das**

Pro Se Plaintiff

**Vs.**

York County

**(State of South Carolina)**

Defendant

)(  
)( **Civil Action No.: 2022-CP-46-01509**  
)(  
)( Petition to strike abeyance on Motion filed  
)( on June 24, 2022, and for the continuance of  
)( the recently scheduled hearing to Finish  
)( **Compel Discovery**  
)( AND  
)( The demand of an '**Oath under Perjury**'  
)( from defendant asserting the authenticity  
)( of provided audio recordings.  
)(

Given the flagrant violation of the law by the defendant in deceiving by providing a tampered audio recordings, I am obliged to submit this critical motion seeking a continuance of the forthcoming hearing scheduled for March 9, 2023. This will allow me to exhaust my last opportunity to have my June 24, 2022 motion heard FIRST and the matter of illegal denial of interrogatories to the defendant of July 14, 2022 get addressed. Furthermore, I am seeking an 'Oath under Perjury' from defendant asserting the authenticity of the provided audio recording (Fee Paid \$10) and the seizure of original computer recordings, which should have been acted upon without delay. Pursuant to Rule 37, matter qualifies for a default judgment as well, but considering posed security issues due to defendant's continued attempts to conceal their blatant revealing about a federal investigation, it is imperative to give attention and action, the matter deserves.

¶ 01. In order to redirect the trajectory of this sensitive case, which centers around allegations of **discrimination and Plaintiff endangerment**, stemming from mysterious exposure of federal investigation on terror funding, by the defendant who is still withholding its vital evidence from view. By failing to illuminate with the demanded

evidence and thus to enable the court, the jurors, and to the Plaintiff himself to clearly evaluate the claims, the defendant is impeding the progress of justice. **"The defendant diluted or skipped a crucial portion of event in the rendered audio clips taken from the main or cloned video footage-I"** and has illegally denied to provide with the other surveillance footages or BWR/BCR in an attempt to conceal the charge of my public humiliation and depriving me from legal and human rights. **In such a situation, verification of the alleged offense NOW urgently requires reviewing of the video clips only** and/or detecting evidence of tampering with the recordings.

NOW,

¶ 02. After making exhaustive efforts to obtain surveillance footage and related verbatim transcripts, I am bringing this motion for Continuance of recently scheduled hearing, for a **Compel Discovery**, as requested on June 24, 2022, and July 14, 2022 are accomplished. The unlawful conduct of defendant, by refusing to provide any surveillance footage, and **by providing an edited audio recording**, constitutes a violation of Appellant's constitutional rights to a fair trial and due process through the contravention of statutory provisions outlined in **18 U.S. Code sections § 4-241 and § 4-242**, which pertain to **conspiracy against rights and deprivation of rights**, respectively. This is also a clear violation of the Plaintiff's right for a **"due process"** and which qualifies the **violation of the Contempt of Courts Act, 1971 for not mandating the true version of transcript/surveillance footage** as well as a **violation of 42 U.S.C. § 1983** which concerns civil rights violations by the state actors. The Plaintiff's alleged experiences of personal harassment and torture are deeply distressing and represent significant human rights violations. In light of the serious nature of these allegations, it is essential that they are taken seriously and that appropriate measures are taken to address them to ensure justice and accountability.

¶ 03. Defense attorney falsely trying to make this court believe that Plaintiff is revengeful after his client probably erred the law and procedure in deciding his rent dispute, SO **"there is no such cause of action"** as claimed by the Plaintiff for deprivation of rights, discrimination and the claim that Magistrate unauthentically revealed the classified information about a federal investigation by naming Plaintiff in it as a **"\*\*\* whistleblower"**. For the security reason, exact wording that Magistrate used, cannot be

revealed in this filing as it may go in public violating federal laws but can be heard clearly in the video “if seized” which the defendant has skipped. And to steer away from this crucial issue defendant is raising the issue of dead dispute with landlord. This attempt by the defense counsel to deceive the court can also be seen in his rejection of the joint stipulation (**Attachment-5**) executed between plaintiff and landlord on July 21, 2022, a fact which the plaintiff is repeating but the defendant is suppressing, in order to set his false narratives.

¶ 04. Instead of providing demanded video footages of (i) April 14, 2022, (ii) April 18, 2022 and (iii) April 29, 2022, “defendant” has provided “extracted audio recording” which may be a ‘clone of the original’ of only **April 14, 2022** which was recorded in the court room during re-hearing. It has been **“edited to conceal the section of dialogues”** which the Plaintiff has been claiming as the main ‘cause of action’ of this case.

**Section-I (Demand of Surveillance footage of April 14, 2022)**

¶ 05. Provided audio recording of re-hearing held on April 14, 2022 in the courtroom **IS EDITED**, and which is self explanatory to its corrupt maneuvering to qualify several federal charges of criminal nature including the **“charge of endangering Plaintiff by revealing his name in a federal investigation of terror funding.”** EDITING of audio recording and concealment of video footage is the smoking evidence of committed crime, the fire of which could be traced easily NOW because of the confirmed availability of the original recording from where the current recording has been taken. This submission by the defendant proves that:

- 5.1 **Source file is still existing and can NOW be seized for its neutral forensic test. I demand the original copy of it for my personal record.**
- 5.2 **Source file may have been cloned to dodge the investigation but which can be detected in a targeted forensic examination of it.**
- 5.3 On June 24, 2022, I filed a motion requesting the expedite seizure of computer recordings to prevent any possible tampering. Unfortunately, this motion had been put on hold, and instead of addressing it FIRST, a

subsequent motion by defendant to dismiss this crucial case has been given priority.

- 5.4 Source file has been touched or tampered to extract 'audio only' is the violation of federal rule of tampering, altering or changing the original look of the evidence which is crucial for a transparent hearing, and which is solely owned by the court administration. When a source file is touched, altered or tampered with in order to extract audio only, it constitutes a violation of federal tampering rules. This kind of alteration changes the original look of the evidence can compromise the transparency of the hearing. The source file is the sole property of the court administration, and any unauthorized tampering with it is not only illegal but also undermines the integrity of the judicial process.
- 5.5 The audio clips provided have several hiccups, with the sound intermittently turning on and off throughout various sections. This makes it difficult to accurately relate the audio to specific times and events, as there are gaps and inconsistencies in the recording.
- 5.6 **Main events have been deleted or not provided by simply hearing the clips starting at 5:55 minutes of TimeStamping.**
- 5.7 **Sound track where Magistrate "offered" me to go through the answer from opponent attorney is totally DELETED with a faded sound track.**
- 5.8 **This crucial missing "5+ minutes" was declared by Magistrate and could ONLY be found in original video/audio footage.**
- 5.9 In the provided audio tape it can be heard very easily that:
  - 5.9(a) Court started 'suddenly' without initial salutation which was at least 10 minutes prior to the actually shown start timestamp (TS)
  - 5.9(b) **Magistrate at TS 3:45 went to her chamber to print the answer of opponent for me to read as it was a last moment darrfting.**
  - 5.9(c) "Magistrate declared that recording is going on."

5.9(d) Magistrate came back to her seat at TS 5:15 with printed answer and handed over to opponent attorney at TS 5:54 to pass me a copy of it to go through it.

5.9(e) NOW I WAS GIVEN FIVE (5) PEACEFUL MINUTES TO GO THROUGH OPPONENT's REPLY BUT WITHIN THAT PERIOD MAGISTRATE STARTED TALKING ABOUT MY FEDERAL CASES AND OTHER THINGS. I OPPOSED, SHE STOPPED ONCE BUT AT SECOND TIME, ON MY DEMAND OF CLARIFICATION WHICH SHE WAS TALKING ABOUT (MY FEDERAL CASES ETC.), SHE ENDED MY 5 MINUTES OF SPECIAL SESSION. THIS CRUCIAL PART IS TOTALLY DELETED BUT COULD BE EASILY TRACED WITH ITS ORIGINAL RECORDING.

5.9(f) Immediately after that Magistrate could be heard initiating court procedure at TS 6:41 which is actually a maneuvered time-stamp (TS).

5.9(g) According to this maneuvered audio clips this court has to believe that 'I was able to read entire answer within 40 seconds based upon which Magistrate started rehearing at TS 6:41 as presented.

—this is one of the best proofs that SOUND TRACK HAS BEEN DELETED

5.9 Considering action 5.9(e), the action of 5.9(b) and 5.9(d) above there were a gap of 5+ minutes containing two consecutive 'unusual fuss with Magistrate' for demanding 5 promised peaceful minutes for going through the provided/printed answer of opponent attorney. That crucial 5+ minutes is converted to 20-40 seconds of "dimmed recording" "manually" to show that "I was able to read the entire 3 page answers in less than a minute". Act of printing answer is proven but there is no evidence when Plaintiff was given time to read that.

5.10 This was the same '5+ controversial minutes' during which, the magistrate to break my focus, spoke with an air of utter certainty about my connections

with federal investigating agencies, as if my significance to them was minuscule or a fun for her to abuse me. Magistrate's mysterious talk caused me to rush for the end of hearing without responding anything properly. At the end, I inquired about reason of her talk and its source of information, but Magistrate ignored to answer anything NOW with insults of my Hindu culture and ethics. The provided audio completely lacks that part too.

- 5.11 The statements given above can be verified only by viewing the original video recording, and I assert their factual accuracy.

¶ 06. This proof can be obtained NOW only through a 'forensic test' of the original recording which is proven now their availability and point of access/location. Provided audio is a piece of tampered audio recording which I claim, is not consistent with its original format. Any change brought in the recording can be detected by simply digging some roots and a common test to detect whether the recording was maneuvered with or without cloning it or not, at some certain point of time as claimed, is good to do with enough tools and expertise only.

**Section-II (Demand of Surveillance footage of April 18, 2022)**

¶ 07. Defendant has completely denied or ignored to provide any surveillance footage of the incident of 'throwing me out of court lobby by the court constable because the defendant ordered him to do so.

¶ 08. Plaintiff offers to present **Five (5) witnesses** to prove this charge of his public humiliation, discrimination and a hateful spree of that fateful day of April 18, 2022 which the defendant is attempting to avoid. On this day, Plaintiff was also deprived of his lawful rights to get his motions be scheduled.

¶ 09. An email of April 19-20 in this regard is a valid proof which was sent from defendant's personal email and device (iPhone) in which it is clearly asked by the Plaintiff and answered by the defendant about the incident of April 18, 2022, about scheduling the motion, denouncement of motion without schedule to be heard first and absurdly refusal to response the insult of Plaintiff. Please find this email in **Attachment-I**

**Section-III (Demand of Surveillance footage of April 29, 2022)**

¶ 10. Defendant (Magistrate) ordered to disallow Plaintiff enter in the courthouse to obtain court order. Plaintiff has a witness of this incident whose availability is under uncertainty.

¶ 11. Plaintiff to favor his claim of getting deprived of his legal right by the defendant, has a **phone call recording with court clerk** who can be heard clearly stating this fact that Plaintiff by the order of Magistrate, is barred from entering in the courthouse and the Plaintiff can receive his court order copy only at the entrance. In the same uninterrupted call, same clerk is confirming that Plaintiff is recording his conversation with him too. This unlawful conduct of defendant was the perfect act of deprivation of his right with discrimination and public insult.

¶ 12. Hon. Court of Judge Sprouse ordered to correct the name of defendant in this hearing, and without realizing the sensitivity of the demanded seizure of computer recordings, put the matter in abeyance on September 20, 2022. In the court of Hon. Court of Judge of McKenna on January 5, 2023, this matter remained suppressed because “court believed that cause of action had no clarity and it needed to be refiled within 30 days” — again extended the time to seize the computer recordings. Despite all these facts, putting my ‘motion to expedite the seizure of computer recording’ of June 24, 2022, in abeyance was a severe error of “due process”, I claim.

¶ 13. Under SCRCR Rule 37, I was legally allowed to request discovery from the defendant by serving written requests for documents, admissions, or interrogatories. I, as Pro Se Plaintiff, had done so, on July 14, 2022 which has been illegally denied by the Defendant. This denial is also in violation of “Due Process”. Please refer to **Attachment-3**.

¶ 14. South Carolina Rules of Civil Procedure Rule 37 outlines that if a party fails to respond to the discovery requests, the requesting party may file a motion to compel

discovery<sup>1</sup>. Plaintiff in this regard, repeats his demand of Compelled Discovery. The plaintiff acknowledges that the defendant has failed or unlawfully refused to respond to interrogatories, and as a result, the plaintiff is entitled to a default judgment in his favor. Nevertheless, the plaintiff is insistent on having a fair hearing upon his claims of discrimination, public humiliation, and endangerment caused by a sitting magistrate, in order to pursue appropriate justice and seek full compensation with punitive and other related expenses. Please refer to **Attachment-3**

¶ 15. The recordings are vital evidence in this case, and the withholding of its originals undermines the fair administration of justice. It is imperative that the court take immediate action to end the abeyance on the Plaintiff's motion of June 24, 2022 and expedite the seizure of the computer recordings. Provided that if the recordings have been tampered then computer must be sent for a forensic test/recovery and a criminal case be lodged against defendant for tampering with court property in criminal attempt to obstruct justice. Please refer to **Attachment-2**

¶ 16. Submitting a tampered proof, also known as falsifying evidence, is a serious offense that can result in criminal charges. State of South Carolina follows primarily the federally legislated laws where such act of defendant is or may sooner or later, be potentially qualifying **18 U.S. Code § 1001**-False Statements by the defendant in the form of submitted maneuvered evidence. Defendant knowingly has submitted a maneuvered court recording, which may fall in the hands of a federal court to decide the matter of endangering to the Plaintiff, and so they could potentially be charged under this law followed by **18 U.S. Code § 371** on conspiracy to commit offense or to defraud United States, and **18 U.S. Code § 1519** for knowingly alter, destroy, or falsify any record, document, or tangible object with the intent to impede, obstruct, or influence a federal investigation (or bankruptcy case). Please read **18 U.S. Code § 1621** also which makes it a crime to knowingly make a false statement under oath in any official proceeding.

---

<sup>1</sup> ...party may file a motion to compel discovery. The court may then order the party failing to comply with the discovery request to do so within a certain timeframe, and may also award expenses, including attorney's fees, to the moving party. If a party still fails to comply with the court's order, the court may impose further sanctions, including entering a default judgment against the non-compliant party.

9

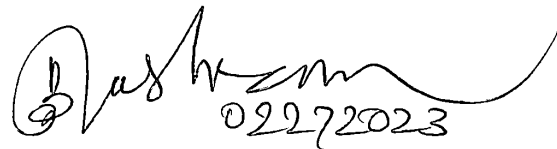
¶ 17. The defendant's conduct goes against statutory provisions outlined in 18 U.S. Code sections § 4-241 and § 4-242, which deal with conspiracy against rights and deprivation of rights, respectively. This behavior also violates my right to "due process" for fair trial and falls under the Contempt of Courts Act, 1971, since the defendant is not providing the true version of the surveillance footage and transcripts. Additionally, it is a violation of 42 U.S.C. § 1983, which concerns civil rights violations by state actors. Hon. Court is requested to dismiss defendant's motion for the dismissal of this case and should order to seize the computer recordings bearing surveillance footages, which the defendant is refusing to provide for a proper Jury trial of this case.

Therefore, Plaintiff respectfully requests that the court following the motion of June 24, 2022 seize the computer recordings for a forensic test and so, re-schedule the hearing of this case with a proper Jury-Trial with direction to safely present other electronic recordings, and for subpoena/call to the witnesses after obtaining the neutral forensic test report to verify evidences. Hon. Court is requested to obtain an 'Oath of Perjury' on veracity of provided recording from the defendant in advance. Plaintiff trust that the court will act in the interest of justice and ensure that the Plaintiff has access to these data as well.

Respectfully,

Attachments: Certificate of service+30 Pages

1. Email exchanged between Magistrate (Party-defendant) and plaintiff on April 19-20, 2022, confirming the occurrence of claimed hate crime/discrimination/deprivation of right on April, 18, 2022. (3 Pages)
2. Copy of motion for expedite seizure of computer recordings, filed on June 24, 2022. (1+3 pages) 2 pages of Supplementary (6 pages) and 3 Pages of Order marked as Attchement -7(3/1-3)
3. Copy of interrogatories-I to defendants filed on July 14, 2022 (4 Pages) and Supplementary of September 15, 2022 (6 Pages) with demand of evidence from emailed to defense counsel and DUI court clerk Ms. Lori (5 Pages).
4. Receipt of receiving audio flash drive by paying \$10.00 (1 Page).
5. Joint stipulation filed with landlord (2 Pages)
6. Certificate of Service for hearing this action. (1)
7. Order to put the matter in abeyance (3 Pages)



02272023

Kalishwar Das (Pro Se Plaintiff)  
1505 The Crossing  
Rock Hill, SC 29732  
803-370-2344, 803-262-7737  
[kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)

**From:** Kalishwar Das kalishwardas@gmail.com  
**Subject:** Fwd: NO COURT ORDER OR DATE OF HEARING PROVIDED YET  
**Date:** May 7, 2022 at 1:49 AM  
**To:** Kalishwar Das kalishwar@me.com

----- Forwarded message -----

**From:** Colton, Jennifer <jennifer.colton@yorkcountygov.com>  
**Date:** Wed, Apr 20, 2022, 8:53 AM  
**Subject:** Re: NO COURT ORDER OR DATE OF HEARING PROVIDED YET  
**To:** Kalishwar Das <kalishwardas@gmail.com>, Drew Rawl  
<drawl@hsblawfirm.com>

Mr Das.

You cannot email the court without including Mr. Rawl. Please forward any communications to the clerks and not the judge. I don't even have to be copied on the email. There is no hearing scheduled. Your motion to set aside or vacate the judgment (or reconsideration) was denied. You will receive the written order. I did receive your motion for a new Jury trial. That is denied also.

Sent from my iPhone

Jennifer S Colton  
Magistrate Judge  
Catawba-Ebenezer  
Magistrate  
York County Government

---

[jennifer.colton@yorkcountygov.com](mailto:jennifer.colton@yorkcountygov.com)  
Phone:

[cid:logo\_ccdf8981-cba4-4eb5-9abc-30b7830ad94d.png]  
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**Attachment-1(p3)**

please contact the sender by reply e-mail or telephone immediately and destroy all copies of the original message. "Any information provided on this email, including any attachments, may be subject to the South Carolina Freedom of Information Act and may be disclosed to third parties in accordance with applicable law."

On Apr 20, 2022, at 6:34 AM, Kalishwar Das <[kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)> wrote:

WARNING: The email below is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear Hon. Magistrate,

Despite my personal appearance on April 15, and on April 18, followings are not provided to me yet from your office in case #2022CV4610300783:

1. Court order so that I can file Appeal. (Notice of Appeal has already been given to your court and to opponent counsel on april 12, 2022)
2. Hearing Transcript of April 12th 2022 and April 14, 2022
3. Date of hearing for New Trial (Jury trial) filed on April 18, 2022 after finding a new discovery that a recent order was given in favor of the landlord who has already defaulted in this case before.
4. Date of Hearing for Voiding Writ Possession was found on doorfront without Court Order served and by ignoring Notice of Appeal and Motion for New Trial (Jury Trial)

To 'Compare' please check the camera recording of following public events:

On 15th of April 2022 at about 4 PM, I was told by the Court Clerk that there is no order signed by you yet.

On 18th of April 2022, at about 12 Noon, (under which law of the state) I was forcefully ousted for asking a probable date of hearing of filed petitions as mentioned in #3 and #4 above. Court staff proved by providing me INSTRUCTION FOR EVICTION HEARINGS and by referring to Clause #2 that they did not understand that I was asking for the hearing date of accepted Motion for New Trial (Jury Trial) and not about the hearing which already had concluded. I was also asking about the hearing date of another accepted motion for Voiding Writ Possession and I did not get any answer.

Beside being a common public, I am a declared media person under South Carolina rule of law, and for a purpose to serve best, I always carry undetectable manual and cloud based electronic recorders. But on April 18th, 2022; there was an attempt to deprive me of this freedom (a fundamental right under the first amendment of the US Constitution) by Magistrate Court's security without any prior notice or specific reason or rule of exemption, prohibiting me from carrying my electronic devices even in the court's public place/lobby. I would really appreciate, if you help me understand under which law of the State, and unlike the Superior/Appellate/Supreme Court premise, could a public lobby of the Magistrate court premise be declared a prohibited area for public and media persons for carrying electronic devices? If this rule is not mandatory for a media person please allow me to carry my electronic devices with my media ID Card

|                                         |   |                                        |
|-----------------------------------------|---|----------------------------------------|
| STATE OF SOUTH CAROLINA                 | ) | IN THE COURT OF COMMON PLEAS           |
|                                         | ) |                                        |
| COUNTY OF YORK                          | ) | CIVIL ACTION NO.: 2022-CP-46-01509     |
| Kalishwar Das,                          | ) |                                        |
|                                         | ) |                                        |
| Plaintiff,                              | ) |                                        |
|                                         | ) |                                        |
| vs.                                     | ) | <b>ORDER RULING ON DEFENDANTS</b>      |
|                                         | ) | <b>COLTON, THREE COURT STAFF'S</b>     |
| Jennifer S. Colton, Magistrate on Duty, | ) | <b>ON DUTY AND CONSTABLE ON DUTY'S</b> |
| Three Court Staff's on Duty, Constable  | ) | <b>MOTION TO DISMISS</b>               |
| on Duty, and Rawlinson Corner, LLC,     | ) |                                        |
|                                         | ) |                                        |
| Defendants.                             | ) |                                        |
|                                         | ) |                                        |

THIS MATTER came before me on September 20, 2022 for a hearing on Defendants Jennifer S. Colton, Magistrate on Duty, Three Court Staff's on Duty, and Constable on Duty (collectively "Defendants") Motion to Dismiss filed on June 17, 2022. Present at the call of the case was A. Todd Darwin, attorney for the Defendants, and Kalishwar Das, pro-se Plaintiff. After considering the Motion and listening to the arguments presented, it is hereby

**ORDERED** that the Motion to Dismiss is granted based on the applicable provision of the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-70(c), which states a plaintiff "shall name as a party defendant only the agency or political subdivision for which the employee was acting." Therefore, since all of these individually named Defendants were York County employees at the time of the alleged incident, they are entitled to be dismissed as parties.

The Plaintiff shall have ten (10) days from the date of this Order to file an Amended Complaint naming York County as the Defendant. Furthermore, the hearing on the Plaintiff's Motion for Expedited Order to Seize and Preserve Computer Hard Drives filed on June 24, 2022 is held in abeyance pending the filing and service of the Amended Complaint.

**IT IS SO ORDERED.**

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Judge's Electronic Signature Page to Follow

ELECTRONICALLY FILED - 2022 Sep 27 9:21 AM - YORK - COMMON PLEAS - CASE#2022CP4601509



**York Common Pleas**

**Case Caption:** Kalishwar Das VS Jennifer S Colton , defendant, et al

**Case Number:** 2022CP4601509

**Type:** Order/Other

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Total Pages: 09

Honorable

CIRCUIT COURT OF YORK  
COUNTY OF YORK

YORK, SOUTH CAROLINA

|               |   |                                    |
|---------------|---|------------------------------------|
|               | ) |                                    |
| Kalishwar Das | ) |                                    |
| Plaintiff     | ) |                                    |
| Vs.           | ) | Civil Action No.: 2022-CP-46-01500 |
| York County   | ) | <b>Amended Complaint</b>           |
| Defendants    | ) | as ordered by this Hon. Court.     |
|               | ) |                                    |

FILED-RECEIVED  
2022 OCT -3 PM 3: 11  
DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY, SC

COMPLAINT AGAINST DISCRIMINATION AND OTHR OFFENSES

As per the ORDER signed by Hon. Judge on 9/27 2022, I, as Pro Se Plaintiff, am filing this amended complaint after substituting with an appropriate defendant and omitting one of the defendants 'Rawlinson Corner LLC' after we mutually agreed to end our dispute with prejudice on July 21, 2022. I, as Pro Se Plaintiff, following Rule 34, have provided defendants proper response to the demanded interrogatories. Defendants' failed or have deliberately denied to respond Plaintiff's interrogatories which I have turned-in on August 26, 2022, with a negligible typo error which may or may not be required a scrivener service as the other document verifies truthful submission of the postal receipts.) Despite relieving one defendant and modifying the name of defendants, this demand of interrogatories remains in lawful demand for a proper hearing of this case.

Now

I, as the Pro Se Plaintiff, as above named, complaining against the defendant, as above named, and herein alleges that:

**Parties and Jurisdiction**

1. I, Kalishwar Das, am a (“Pro Se Plaintiff”) local resident of Rock Hill in York County living with my family continuously since 2008. Until April 2022, I was running my men’s clothing business named ‘Trueman’. After it was controversially evicted in April 2022, I lost the physical existence of my company ‘Vibha Mens Clothing, LLC’ and so the POC status with its DUNS & CAGE licenses as SAMS US Army medical-wear supplier. This licensed status is getting restored now with my new business address. I am still designing fabric & doing tailoring work for my brand ‘Trueman-USA’, and freelancing for my sons’ local and overseas businesses. I am also earning royalties from my books and technical works.
2. York County is the substituted defendant (“defendant”), with its subsidiary: Catawba/Ebenezer Magistrate court which includes the name of Ms. Jennifer Colton, Magistrate, as party defendant-A, Court constable as party defendant-B, female Court clerk as party defendant-C, and male Court clerk as party defendant-D, all employed at the same Catawba/Ebenezer Magistrate court for their offense as described in this Complaint. They have been named ‘party defendant’ wherever needed.
3. The corruption charges, causing loss to the Plaintiff, violating transparent justice, concealment of evidences, discriminating against Plaintiff and dragging plaintiff out of court lobby to interrupt justice are the subject matter of this complaint which were committed at the Catawba/Ebenezer Magistrate court of York County, South Carolina.
4. Assuming this court, for being in same authority and/or jurisdiction, as of “Defendant” is not in contravention of natural law with court’s Honorable discretion, Jurisdiction of this court over the parties and subject matter of this action, and venue in this court is proper<sup>1</sup>.

**Factual Allegations**

**{Charges of Corruption with Defendant’s discriminatory behavior}**

---

<sup>1</sup> Jurisdiction of this Hon. Court MAY BE in contrary to justify its own administrator: ‘York County’ as “Defendant” representing its another subordinate division: ‘The Magistrate Court’, by & under its own laws to decide its own courthouse corruption charge with another serious charge of discrimination. This assumed contrary of law is rooted in the principle that “no man can be a prosecutor or judge in his own case”. [S.REP. No. 170, 95th Cong., 1st Sess. 5 (1977), reprinted in 1978 U.S. Code Cong. Admin. News 4216, 4221.] Understanding this farrago situation, whether a defendant cannot be a Judge of its own case, is obvious and lucid, I leave this matter of Jurisdiction on Hon. Court’s descretion to specify and proceed accordingly.

Defendant acted with corruption and misbehaved with me from the start which I strongly believe were torturous attempts to prevent me from proceeding with my legal stands, and which was nothing less than an insane act of discrimination. Their act ended not with re-hearing on April 14, 2022 but instead it ended with me being insanely ousted from the court premise and having my both motions declined via cell phone and having no order given to me yet. This caused me a loss of my business and livelihood because I was told to vacate the place within 24 hours. I Appealed in this court for justice but later withdrew it because, payment of bond to retain on the premise where I had nothing left as a store, was not practical and also because the matter had fallen in an acute need of a different route for justice, which is this move of filing direct complaint.

5. Defendant “York County” (Catawba/Ebenezer subsidiary: Magistrate Court) played a discriminatory and corrupt role against Plaintiff and kept Plaintiff on total denial to all/any justice.

6. Defendant maintained no transparency in conferring justice, denied to provide court hearing transcripts, video footage and order copy<sup>2</sup> which is compulsorily required by US laws and proved itself biased and in violation of several laws.

7. Defendant York County caused direct financial, mental and social loss to Plaintiff.

**8. Party defendant-C and Party defendant-D interrupted justice and abused law to damage Plaintiff’s vital legal interests.**

8.A On December 30, 2021 (Case No.# 2021-CP-46-10303580) Party defendant-C deliberately stopped me from entering the courtroom until it ended with disposal of the case because the opponent party didn’t show up.

8.B Same Party defendant-C, on April 12, 2022 stopped me again from entering the same courtroom where my hearing had just started. This time, I refused to wait until the last minute like before, and entered the courtroom where my case was going through hearing, *Ex Parte*.

---

<sup>2</sup> Order of April 19, 2022 as confirmed by Magistrate Ms. Colton.

8.C Unlike in December 2021, the Party defendant-D (always with a security vest performing as the court clerk) refused to file my counterclaims TWICE.

**9. Lawless act of the Party defendant-B interrupted justice and destroyed his vital legal rights.**

9.A Party defendant-B violated Plaintiff's legal rights and interrupted Plaintiff from accomplishing his court business.

9.B In the morning of April 18, 2022, Party defendant-B stopped me from taking my cell phone inside the court premise (lobby) but allowed other visitors to carry their phone inside the court premise.

**9.C Party defendant-B on April 18, 2022, stopped me from finishing my court business by dragging me out of the court lobby with full public insult.** [In this Hon. court, on September 20, 2022, Defense Attorney argued this incident in his opening statement that "...this was an administrative action taken by Party defendant Magistrate Ms. Colton, "whether it looked like an act of "discrimination" or not but was an action to maintain peace and stability"; ~this is an affirmative statement of the committed guilt because Plaintiff at the time of incident was asked to wait for Magistrate's quick reply on his request for expedite hearing. With such an argument, defense Attorney literally attempted to cover up this drastic incident and to its culprits on record to let the incident lose its weight and gravity.]

9.D On April 30, 2022 Party defendant-B stopped me from entering into the court.

9.E Party defendant-B provided me with unplayable video footage of the court.

**10. Party defendant-A (Magistrate Ms. Colton) erred the law and court's procedure on several occasions in numerous ways, and complicated the dispute.**

10.A On April 12, 2022 Party defendant-A ignored the verbal complain of Plaintiff about Party defendant-C for her re-attempt to stop Plaintiff from attaining hearing (as mentioned above #8.B).

10.B Despite acknowledging that Party defendant-D refused to accept counterclaim, Magistrate Ms. Colton refused to go through with it.

10.C Party defendant-A ignored the verbal complain about male Party defendant-D who had refused to file the same counterclaim documents in prior to hearing (as mentioned above #8.C).

10.D Party defendant-A Magistrate Ms. Colton refused Plaintiff's lawful demand of continuance to let the court and the opponent go through my counterclaims.

10.E Instead of deciding the counterclaimed amount in controversy, due to which the rent was withheld, Party defendant-A only focused on one side of the fact to pass a RUSH ORDER to evict erroneously.

**10.F Party Defendant-A action in the second court hearing was objectionable.**

Party defendant-A Magistrate Ms. Colton during the 're-hearing of the case to consider lapses' on April 14, 2022 granted only 5 (five) minutes to the defendant tenant (Plaintiff in this case) to go through Plaintiff Landlord's written response, and instead of providing a peaceful moment to let defendant tenant (Plaintiff in this case) carefully read the written response of landlord, she kept loudly talking with his opponent Attorney about one of my pending case in North Carolina and my role as a whistleblower for FBI and/or "CIA" (as she can be heard in court's audio-video footage) and thus distracted me to understand landlord's written response upon the current issues in question.

**10.G Party Defendant-A (Magistrate) performed the role of an Attorney of the Landlord.**

Upon Eight or nine out of twelve (12) points of newly raised issues of lapses for rehearing, Party defendant-A could be seen: 'stopped' opponent attorney to speak, AND 'interrupted' me by yelling loudly, AND 'abnormally argued' with me in place of opponent Attorney AND thus biasedly favored to retain with her decision to evict my business again without accepting my counterclaims.

10.H Party Defendant-A had enough time to go through counterclaims before conducting re-hearing but she "illegally" remained adamant to refuse Plaintiff's counterclaim.

10.I Magistrate's order to put a temporary sign to stop visitors from carrying their phone inside the court lobby was a violation of law on freedom of speech and transparency. It was also a violation of equality because only the Plaintiff was stopped carrying a phone.

**10.J Party defendant-A (Magistrate Ms. Colton), on being requested via Party defendant-D for scheduling expedite hearing, she ORDERED TO THE COURT CONSTABLE TO THROW PLAINTIFF OUT OF THE COURT LOBBY, and**

**10.K Party defendant-A Magistrate declined my motions without hearing.**

**10.L Party defendant-A used her official email log from her personal cell phone to declare her official decision.**

**10.M Magistrate court never provided me with the order copy on new motion after it was declined by Magistrate Ms. Colton, Party defendant-A, on phone.**

10.N Party defendant-A proved herself rude, unapologetic by refusing to respond to the question of ordering a Court constable to throw me out.

10.O Party defendant-A illicitly tried to justify her insane discriminatory action against Plaintiff by declining his both motions without hearing.

---

**First Claim for Relief**

(Act of discrimination and corrupt court practice)

11. Plaintiff reiterates the allegations set forth above and incorporates them by reference to the extent not inconsistent herewith.

12. My first claim of relief is for the discrimination that Defendant(s) did towards me 'violently' and deprived me of my legal and human rights with full public humiliation. Entire Magistrate court took the Plaintiff overwhelmingly granted to abuse, and abused all their power while ignoring his legal rights to plead, move, question, speak, obtain information, adjudicate, get justified, for no other reason but to ensure the Landlord's victory. By violently dragging the Plaintiff, out of court premise while he was peacefully waiting for Magistrate's response on the scheduling expedite court hearing, and then the Magistrate sent personal email to declare the declining of both motions without hearing and denying to provide such

order without any apology or regret or remorse, -are the proofs of discrimination with total lawlessness. Defendants were corrupt and fearless because they, themselves were in charge of executing laws and court rulings. Defendants' position on such public posts are a risk for others and a matter of shame for the judiciary.

On September 20, 2022, Defense Attorney argued the incident of Plaintiff's insane ouster from the court lobby on April 18, 2022 as "*an administrative action taken by Party defendant Magistrate Ms. Colton, "whether it looked like an act of "discrimination" or not but was an action to maintain peace and stability"*"; ~this is an affirmative statement of the committed guilt, and an attempt to cover up this drastic incident and to its culprits on record to let all the other charges lose its weight and gravity with it. As an overall circumstance and the phenomena as it were created overwhelmingly to achieve a dedicated target to ensure Landlord's victory in the case any how, and without letting defendant tenant (Plaintiff in this case) incorporate his counterclaims as he had done last time in December 2021, and so the case was illegally disposed without being questioned ~because defendant tenant either had no knowledge of law, or he deliberately preferred to ignore opposing that erroneous dismissal of the case, was nothing less than the act of discrimination which can only be executed in corrupt manner which the Defendants did wickedly because Plaintiff was an Indian immigrant with accent and was representing himself Pro Se. Stopping him from entering in the court building, depriving him from his phone in the court lobby, refusing to accept petitions, stopping him to attain his own hearing, throwing him out of the court lobby, dismissal of his case because opponent didn't come, dismissal of his motions without hearing and many more incidents are proving defendant York County at the brink of discrimination. Its subsidiary Magistrate court worked with incompetent employees whose poor training in handling litigant's matters was not only harming judicial procedure but also to the grieving parties seeking justice. Defendant(s) were not endowed with the power of reason, were biased, disrespectful, unprofessional, illegal, torturous, careless of the losses to the tenant and non-cooperative, and at the far extent of these tainted qualities, were an ultimate discriminatory autocratic authority to abuse laws fearlessly.

13. This type of discrimination is unexplainable but the evidence clearly indicates, that one of the most deplorable offense definitely occurred nowhere else but in the Catawba/Ebenezer Magistrate courthouse of the York County. Pursuant to several federal rules, and only if the

alleged offense of discrimination is not out of this court's jurisdiction, and the rulings that comes from SCTCA which limits the tort liability of "the State, an agency, a political subdivision, and a governmental entity." S.C. Code Ann. § 15-78-40 (Supp. 1993), ~Plaintiff requests to this Hon. Court that the Defendant be ordered to compensate to the Plaintiff 'for and by each party defendants' separately for their separate offenses in this matter.

**Second Claim for Relief**

(My personal loss of livelihood and other losses)

14. Plaintiff reiterates again, the allegations set forth above and incorporates them by reference to the extent not inconsistent herewith.

15. If Magistrate court would have accepted the counterclaims of the tenant, the eviction would have been avoided and it would have not gone out of business with a premature lease. But by defusing the Plaintiff's efforts to have his counterclaims be heard for adjudication with what he really owed as due rent, which was almost nothing. Defendant destroyed Plaintiff's entire business, and gave him no time to safely vacate the place either. Plaintiff due to severe depression from being humiliated by the Court constable, lost his appetite. Due to the mental and physical depression he was unable to quickly dispose of the store by himself. Which left him no option but to sell entire fixtures, furniture, electronics worth no less than \$16000 in just \$800. He noticed this massive loss only after everything was gone forever. This sudden extinction from a known business entity to no physical entity status, caused Plaintiff's POC status for US Army medical-wear supply business with his personal DUNS and CAGE license, to be put on hold, and to lose any new contracts as well.

Hence, in pursuant to several federal rules, and as per rulings set in SCTCA (despite it limits the tort liability of "the State, an agency, a political subdivision, and a governmental entity." S.C. Code Ann. § 15-78-40 (Supp. 1993)), Plaintiff requests to this Hon. Court that the Defendant be ordered to compensate to the Plaintiff for and by each 'party defendant' separately for their separate offenses who caused me personal losses which is still incurring because I lost my physical location only because of Defendant's corrupt court activities with discrimination.

**Third Claim for Relief**

(Procurement of hearing transcript/video footage issue)

16. Procurement of hearing transcripts and video footage of the courtroom, court's public lobby and main door area, ~all of Magistrate court, are still a crucial legal demand which Defendant(s) are denying to provide or provided a unreadable/wrong file. Plaintiff hereby requests that for this illicit attempt to harass Plaintiff by denying or concealing or providing wrong computer files, Defendant be ordered to submit original files/unaltered transcripts, and to pay Plaintiff a reasonable compensation for his mental harassment and expenses incurred in terms of cost of his attempts, hours of pleading and for the other expenses which he, the Plaintiff, never deserved to deal with.

**Fourth Claim for Relief**

(Cost of this Action)

17. Plaintiff hereby requests that the Defendant be ordered to pay Plaintiff's costs of this proceeding and reasonable Attorney fees, if any, in this action which will be notified to the court during trial.

WHEREFORE, Plaintiff Prays for judgment against Defendant for actual damages, consequential damages in an amount to be determined at trial, interest at the applicable rate, the cost of this action, reasonable fees, and for such other and further relief as the Hon. Court may deem fit, just and proper.

Respectfully submitted,



October\_03\_, 2022

**Kalishwar Das, Pro Se Plaintiff**  
1505 The Crossing  
Rock Hill, SC 29732  
Email: [kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)  
Ph: 803-370-2344, 803-262-7737

Copies provided to the Defense Attorney via USPS  
Certified mail and the proof of mailing has been  
preserved to get turned in if required.

|                         |   |                                    |
|-------------------------|---|------------------------------------|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS       |
|                         | ) |                                    |
| COUNTY OF YORK          | ) | CIVIL ACTION NO.: 2022-CP-46-01509 |
|                         | ) |                                    |
| Kalishwar Das,          | ) |                                    |
|                         | ) |                                    |
| Plaintiff,              | ) |                                    |
|                         | ) |                                    |
| vs.                     | ) | <b>ANSWER TO AMENDED COMPLAINT</b> |
|                         | ) | <b>(Jury Trial Demanded)</b>       |
| York County,            | ) |                                    |
|                         | ) |                                    |
| Defendant.              | ) |                                    |
| _____                   | ) |                                    |

Defendant York County ("Defendant"), answering the Amended Complaint, hereby alleges the following:

**FOR A FIRST DEFENSE**

1. All allegations of the Amended Complaint which are not hereinafter admitted, qualified or explained are denied.
2. Any allegations of wrongdoing by Defendant that may be construed to be included in Plaintiff's unnumbered introductory paragraph are denied.
3. In responding to the allegations of paragraph 1, it is admitted, upon information and belief, that Plaintiff is a resident of York County. Defendant is without sufficient information to form an opinion as to the veracity of the remaining allegations of paragraph 1 and therefore denies same.
4. In responding to the allegations of paragraph 2, it is admitted that York County is the only properly named Defendant in this action, pursuant to the prior ruling of this Court. All remaining allegations of paragraphs 2 are denied and any and all references

to Magistrate Judge Jennifer Colton any other “party defendant” should be stricken from the Amended Complaint.

5. In responding to the allegations of paragraph 3, Defendant denies any alleged wrongdoing

6. The allegations of paragraph 4 call for legal conclusions to which no response is required.

7. Any allegations of wrongdoing complained of in the paragraph captioned *Factual Allegations* are denied. In further responding to the allegations contained in said paragraph, Defendant admits that Plaintiff filed an appeal from the commercial eviction in the Magistrate’s Court and later withdrew it.

8. Any allegations of wrongdoing contained in paragraphs 5, 6, 7, 8, 9, and 10 are denied.

9. Defendant admits so much of paragraph 11 as previously admitted, and denies or qualifies so much of paragraph 11 as previously denied or qualified.

10. Defendant denies the allegations of paragraphs 12 and 13.

11. Defendant admits so much of paragraph 14 as previously admitted, and denies or qualifies so much of paragraph 14 as previously denied or qualified.

12. Defendant denies the allegations of paragraphs 15, 16, and 17.

13. Defendant denies that Plaintiff is entitled to any of the relief sought in his Amended Complaint.

**FOR A SECOND DEFENSE<sup>1</sup>**

14. The allegations of the previous defense are realleged to the extent they are consistent with this defense.

15. Plaintiff's Amended Complaint fails to state any cause of action against the Defendant and should therefore be dismissed pursuant to Rule 12(b)(6), SCRCP.

**FOR A THIRD DEFENSE**

16. The allegations of the previous defenses are realleged to the extent they are consistent with this defense.

17. During the period and events alleged in the Amended Complaint, Defendant was acting in accordance and compliance with the specific laws, rules, and regulations of the State of South Carolina. Consequently, Defendant is immune from suit and pleads such statutory and regulatory authorization as a complete defense to Plaintiffs' Amended Complaint.

**FOR A FOURTH DEFENSE**

18. The allegations of the previous defenses are realleged to the extent they are consistent with this defense.

19. Defendant is subject to the defenses and limitations prescribed by the South Carolina Tort Claims Act ("SCTCA"), S.C. Code Ann. §15-78-10, *et seq.* .

20. Defendant's ' liability for torts is therefore governed and controlled by the SCTCA.

---

<sup>1</sup> Since Defendant has not yet engaged in discovery with Plaintiff to learn all of the facts and circumstances relating to the matters at issue in the Amended Complaint, Defendant hereby reserves the right to amend its Answer to assert additional affirmative defenses or abandon affirmative defenses once discovery has been completed

21. Plaintiff's claims are barred by the terms of S.C. Code Ann. §15-78-60(1) because a governmental entity is not liable for a loss resulting from legislative, judicial, or quasi-judicial action or inaction.

**FOR A FIFTH DEFENSE**

22. The allegations of the previous defenses are realleged to the extent they are consistent with this defense.

23. Plaintiff's claims are barred by the terms of S.C. Code Ann. §15-78-60(2) because a governmental agency is not liable for a loss resulting from administrative action or inaction of a legislative, judicial, or quasi-judicial nature.

**FOR A SIXTH DEFENSE**

24. The allegations of the previous defenses are realleged to the extent they are consistent with this defense.

25. Plaintiff's claims are barred by the terms of S.C. Code Ann. §15-78-60(3) because a governmental agency is not liable for a loss resulting from execution, enforcement, or implementation of the orders of any court or execution, enforcement, or lawful implementation of any process.

**FOR A SEVENTH DEFENSE**

26. The allegations of the previous defenses are realleged to the extent they are consistent with this defense.

27. Plaintiff's claims are barred by the terms of S.C. Code Ann. §15-78-60(4) because a governmental agency is not liable for a loss resulting from adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether

valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies.

**FOR AN EIGHTH DEFENSE**

28. The allegations of the previous defenses are realleged to the extent they are consistent with this defense.

29. Plaintiff's claims are barred by the terms of S.C. Code Ann. §15-78-60(5) because a governmental agency is not liable for a loss resulting from the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee.

**FOR A NINTH DEFENSE**

30. The allegations of the previous defenses are realleged to the extent they are consistent with this defense.

31. Plaintiff's claims are barred by the terms of S.C. Code Ann. §15-78-60(20) because a governmental agency is not liable for a loss resulting from an act or omission of a person other than an employee including but not limited to the criminal actions of a third persons.

**FOR A TENTH DEFENSE**

32. The allegations of the previous defenses are realleged to the extent they are consistent with this defense.

33. Plaintiff's claims against Defendant are against a governmental entity, by virtue of which Plaintiff's recovery, if any, is limited by §15-78-120(a) of the Code of Laws

of South Carolina (1976 as amended) which is pled as a partial bar to this action.

**FOR AN ELEVENTH DEFENSE**

34. The allegations of the previous defenses are realleged to the extent they are consistent with this defense.

35. Plaintiff's maximum recovery, if any, is controlled and limited by the provisions of § 15-78-120 of the South Carolina Tort Claims Act, which prohibits, among other things, Plaintiffs' recovery of punitive damages, attorneys' fees, or interest.

**FOR A TWELFTH DEFENSE**

36. The allegations of the above defenses are realleged to the extent they are consistent with this defense.

37. Any injuries and damages Plaintiff suffered were due to and proximately caused by the contributory negligence, carelessness, gross negligence, wilfulness, wantonness, and recklessness of Plaintiff in failing to exercise due care for his own safety and well being.

38. The contributory negligence, carelessness, wilfulness, wantonness, gross negligence, and recklessness of Plaintiff was greater than any alleged gross negligence on the part of the Defendant; consequently, Defendant pleads contributory negligence as a complete bar to Plaintiffs' action.

**FOR A THIRTEENTH DEFENSE**

39. The allegations of the above defenses are realleged to the extent they are consistent with this defense.

40. Any injuries and damages suffered by Plaintiff were due to and proximately

caused by his own negligence, carelessness, wilfulness, wantonness, gross negligence, and recklessness as set forth above. Even if such conduct on the part of Plaintiff did not exceed the alleged gross negligence of Defendant, such conduct by Plaintiffs at least contributed substantially to his alleged injuries and damages; consequently, Plaintiff's recovery, if any, should be reduced by the percentage of his negligent, careless, wilful, wanton, grossly negligent, and/or reckless conduct.

**FOR A FOURTEENTH DEFENSE**

41. The allegations of the above defenses are realleged to the extent they are consistent with this defense.

42. The South Carolina Tort Claims Act provides a limited remedy for the alleged torts of governmental employees while acting within the scope of their employment. Under S.C. Code Ann. § 15-78-70, a plaintiff "shall name as a party defendant only the agency or political subdivision for which the employee was acting." "Party defendants A-D" are thus entitled to have Plaintiff's claims dismissed against them in their individual capacity.

**FOR A FIFTEENTH DEFENSE**

43. The allegations of the above defenses are realleged to the extent they are consistent with this defense.

44. Plaintiff's alleged loss results from the exercise of discretion or judgment by Defendant's employees; consequently, Plaintiff's claims are barred by § 15-78-60(5) of the South Carolina Tort Claims Act.

**FOR A SIXTEENTH DEFENSE**

45. The allegations of the above defenses are realleged to the extent they are consistent with this defense.

46. Defendant is not responsible or liable to the Plaintiff for any damages caused as the result of the negligent, careless, reckless, willful, and/or wanton conduct of any third

party, which conduct was unforeseeable to Defendant and which was the sole proximate cause of Plaintiff's damages, if any.

**FOR A SEVENTEENTH DEFENSE**

47. The allegations of the above defenses are realleged to the extent they are consistent with this defense.

48. Plaintiff is barred from relief to the extent he failed to mitigate his damages.

**FOR AN EIGHTEENTH DEFENSE**

49. The allegations of the above defenses are realleged to the extent they are consistent with this defense.

50. Defendant pleads waiver, estoppel, collateral estoppel, res judicata and laches as complete defenses to the Plaintiff's claims.

**FOR A NINETEENTH DEFENSE**

51. The allegations of the above defenses are realleged to the extent they are consistent with this defense.

52. The damages allegedly sustained by Plaintiff were not proximately caused by the actions of Defendant.

**FOR A TWENTIETH DEFENSE**

53. The above defenses are realleged to the extent they are consistent with this defense.

54. The damages asserted by Plaintiff are speculative.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendant prays that the Amended Complaint be dismissed with prejudice, that Defendant be awarded the costs of this action, and for such other and further relief as this court deems just and proper.

**HOLCOMBE, BOMAR, P.A.**

/s/ A. Todd Darwin

A. Todd Darwin, SC Bar No.: 7032  
Post Office Box 1897  
Spartanburg, South Carolina 29304  
(864) 594-5300  
tdarwin@holcombebomar.com

Attorney for Defendant

October 18, 2022  
Spartanburg, South Carolina



**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***

**NOTICE OF ELECTRONIC FILING [NEF]**

-

**A filing has been submitted to the court RE:** 2022CP4601509

**Official File Stamp:** 01-10-2023 02:08:35 PM

**Court:** CIRCUIT COURT

Common Pleas

York

**Case Caption:** Kalishwar Das VS York County , defendant, et al

**Document(s) Submitted:** Form 4 Order/Motion Default Denied/Motion  
Dismiss Granted Order/Electronic Form 4

**Filed by or on behalf of:** William A. Mckinnon

This notice was automatically generated by the Court's auto-notification system.

-

**The following people were served electronically:**

A. Todd Darwin for York County

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

Kalishwar Das for Kalishwar Das

Kalishwar Das for Kalishwar Das

ELECTRONICALLY FILED - 2023 Jan 10 2:09 PM - YORK - COMMON PLEAS - CASE#2022CP4601509

## FORM 4

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

## JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP4601509

Kalishwar Das  
PLAINTIFF(S)

York County  
DEFENDANT(S)

## DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);  
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;  
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):  
☐ Affirmed; ☐ Reversed; ☐ Remanded;  
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

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

The motion for default is denied. The motion to dismiss is granted, but the Plaintiff is hereby granted leave to amend the complaint within 30 days of the entry of this order. All other motions are denied as moot.

## ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

## For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 01/10/2023 .

Kalishwar Das for Kalishwar Das  
Kalishwar Das for Kalishwar Das

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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ELECTRONICALLY FILED - 2023 Jan 10 2:08 PM - YORK - COMMON PLEAS - CASE#2022CP4601509



**York Common Pleas**

**Case Caption:** Kalishwar Das VS York County , defendant, et al

**Case Number:** 2022CP4601509

**Type:** Order/Electronic Form 4

So Ordered

/s William A. McKinnon, #2761, Resident Circuit  
Judge and Chief Admin. Judge for CP, 16th Cir.

CIRCUIT COURT OF YORK  
COUNTY OF YORK  
YORK, SOUTH CAROLINA

Kalishwar Das

Plaintiff

Vs.

York County

Defendant

)(

)( Civil Action No.: 2022-CP-46-

)(

)(

)(

)(

)(

**Amended Complaint**

as ordered by the

Hon. Court of Judge McKenna

entered on January 10, 2023.

DAVID HAMILTON  
S.C.C.P. & GS  
YORK COUNTY, SC

2023 JAN 25 PM 4: 54

FILED-RECEIVED

I, Kalishwar Das, as the Pro Se Plaintiff, as above named, complaining against the defendant,  
York County, as above named, and herein declare and allege that:

**Declaration of "nolle prosequi"**

1. The Plaintiff, Kalishwar Das, is dropping the charges against the court clerks and constable, Mr. William, in the interest of good moral conduct, cooperation, and to simplify the main issues in this case. Their names may be referenced in this case if necessary.

**Parties and Jurisdiction**

2. Plaintiff Kalishwar Das is a local resident of Rock Hill and is referred as "Das" in this Complaint.
3. York County, as Defendant, is being held responsible for its subsidiary, the Catawba/ Ebenezer Magistrate Court, and specifically, Magistrate Ms. Jennifer Colton, who is

<sup>1</sup> Unlike the federal law, the U.S. Attorney General has the authority to dismiss a case or move to reduce charges against a defendant which is known as "deferred prosecution" or "non-prosecution agreements" but South Carolina state law allows for a defendant to be released from charges through a process called "nolle prosequi." This means that Plaintiff has decided not to pursue the case against the defendant which can be done at any point before trial or by filing amended complaint, and does not require the consent of the court or the defendant.

referred to as the "Party Defendant", "Magistrate", or "Magistrate Ms. Colton" and who is employed by the Defendant at the Catawba/Ebenezer Magistrate Court as a Magistrate Judge. After dropping the charges against the court clerks and constable, and the dispute between landlord and tenant has ended, this matter only remains with Magistrate Ms. Colton.

4. This court has jurisdiction over the parties and subject matter of this action, and venue in this court is proper. **Assuming this court, for being in same authority and/or jurisdiction, as of "Defendant" is not in contravention of natural law with court's Honorable discretion, Jurisdiction of this court over the parties and subject matter of this action, and venue in this court is proper<sup>2</sup>.**

**Factual Allegations**

5. The Plaintiff alleges that during a re-hearing of an eviction case on April 14, 2021, the Party Defendant Magistrate Ms. Colton made a disrespectful inflammatory statement regarding the Plaintiff as a "whistleblower" in a terror report to federal agencies.
6. This action of her overturned the re-hearing of the civil case in her courtroom into a case of "severe security concern" which the Party-Defendant rudely refused to clarify at the end of the hearing when requested by the Plaintiff.
7. Plaintiff alleges that Defendant had contentious motives behind her statement which she vigorously retained with her racist behavior and hate crime against Pro Se Plaintiff on April 18, 2022 by ordering court constable to through him out of the court lobby while he, the Plaintiff, was peacefully scheduling his motion for hearing. Court constable pushed him out of the lobby.

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<sup>2</sup> Jurisdiction of this Hon. Court MAY BE in contrary to justify its own administrator: 'York County' as "Defendant" representing its another subordinate division: 'The Magistrate Court', by & under its own laws to decide its own courthouse corruption charge with another serious charge of discrimination. This assumed contrary of law is rooted in the principle that "no man can be a prosecutor or judge in his own case". [S.REP. No. 170, 95th Cong., 1st Sess. 5 (1977), reprinted in 1978 U.S. Code Cong. Admin. News 4216, 4221.] Understanding this farrago situation, whether a defendant cannot be a Judge of its own case, is obvious and lucid, I leave this matter of Jurisdiction on Hon. Court's descretion to specify and proceed accordingly.

8. The Defendant also deprived the Plaintiff of his right to justice by dismissing the motion without conducting hearing, and rudely informed about her decision through her personal email next day on April 19, 2022, sent from her personal iPhone.
9. Court never provided any written order of this decision.
10. The Plaintiff brought this matter to the Honorable Circuit Court, requesting surveillance footage and hearing transcripts, but has yet to receive them.
11. Defense Attorney in an attempt to exculpate party defendant, has accepted on record that 'this fateful incident happened' in order to maintain the peaceful environment which is an 'affirmative defense' against the committed offense.
12. The Plaintiff alleges that the Defendant exhibited a hateful attitude towards his Hindu faith and used insulting language about Hindu woman's traditional forehead marking.
13. Plaintiff was refused entry into the Courthouse on April 29, 2022 to collect the order copy of his cases and denied motion.

The cause of action in this lawsuit is based on civil rights laws, such as 42 U.S.C. § 1983, which allows individuals to sue state actors for violating his/her constitutional rights. Plaintiff, reiterates the allegations set forth above and incorporates them by reference to the extent which is consistent herewith.

**FIRST CLAIM FOR RELIEF**

*Upon*

*Endangerement to Plaintiff*

{US federal laws prohibit the unauthorized disclosure of classified information. The Espionage Act (18 U.S.C. § 793) makes it a crime to disclose information related to national defense without proper authorization. Additionally, the Privacy Act (5 U.S.C. § 552a) prohibits the unauthorized release of personal information by government agencies. Additionally, in South Carolina, the state's Code of Laws Title 30, § 8-13-700 prohibits any person from disclosing any information concerning an investigation, including the identity of the person, without authorization from the appropriate law enforcement agency.}

14. Defendant created an indirect threat<sup>3</sup> upon the life & family of Plaintiff for no reason.
15. Defendant caused Plaintiff to abandonment of his common public engagements for earning which is in excess of \$100,000 as of yet, incurring with the loss of unsold inventories of no less than \$25,000.

### **SECOND CLAIM FOR RELIEF**

*for*

18 U.S. Code 4 242 - Deprivation of rights under color of law

(18 U.S. Code § 241 - Conspiracy against rights)

16. Defendant's act of exasperating to the Plaintiff was a Conspiracy against his rights.
17. Defendant's order to the Court constable to throw Plaintiff out of court lobby/premises was act of deprivation of rights under color of law.
18. Defendant's order to stop Plaintiff entering the courthouse was not only his public insult but also an evident deprivation of his constitutional rights under color of law.

### **THIRD CLAIM FOR RELIEF**

*for*

Violation of constitutional provisions of "due process"

19. Defendant's declaration of denying motions without conducting hearing was the evident violation of constitutional provisions of "due process".

### **FOURTH CLAIM FOR RELIEF**

*for*

Committing Hate crime (with discrimination) & public insult

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<sup>3</sup> An **indirect threat** tends to be vague, unclear, and ambiguous which clearly appears in the attempts Party-defendant did. The plan, the intended victim, the motivation, and other aspects of the threat are masked or equivocal. Party-defendant appears to have structured a threat modeling to stop Plaintiff pleading for justice which she might have thought it will be easy to get rid of him after conferring a corrupt ploy against him which Plaintiff was vigorously proving her wrong. Should she have constructed a threat process with the objectives to identify security requirements of Plaintiff, pinpoint security threats and potential vulnerabilities of him and his family, quantify threat and vulnerability criticality, and prioritize remediation methods. Threat modeling methods create an abstraction of the system.

{“Under the Civil Rights Act of 1964, Title-II Section 201(d)—2&3 segregation on the grounds of **race, religion or national origin** was banned at all places of public accommodation, including **courthouses...**”. Pursuant to Federal Rule 18 U.S.C. § 245. : This statute prohibits hate crimes committed because of a person's **race, color, religion, or national origin**. || 18 U.S.C. § 247: This statute prohibits hate crimes committed because of a person's **religion, race, or national origin** and that involve damage to religious property. || 18 U.S.C. § 249: This statute, commonly known as the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, prohibits hate crimes committed because of a person's actual or perceived **race, color, religion, national origin, gender, sexual orientation, gender identity, or disability.**}

20. Defendant, in order to deviate Plaintiff's question on why she was talking about federal agencies with his last name 'Das'? —she counter-questioned about Plaintiff's Tilak on his forehead (a colorful symbol which a Hindu devotee wear by putting it on his forehead), and on being answered, she replied roguery that involved all Hindu women with an unusual insult.
21. Defendant with her arrogant conversation had no respect for the people of India wherein, Plaintiff or his family was not an exception either.
22. In the video footages, Defendant (Magistrate Ms. Colton) can be seen arrogantly reacting upon Plaintiff against his short claim about India as the country of oldest civilization, ultimate talent, believe in non-violence and global brotherhood.
23. Defendant did not realize that regardless of their current abode abroad, all real Indians are sentimentally attached with their country of birth and mother-tongue and which included Plaintiff too.

**FIFTH CLAIM FOR RELIEF**

*for*

*A possible destruction of evidence*

*18 U.S. Code § 1519 - Destruction, alteration, or falsification of records in Federal investigations and bankruptcy*

24. Defendant has not fulfilled Plaintiff's any demand of rendering hearing transcripts, video footages of the hearing and the surveillance footage of the lobby area.

25. Defense Attorney was in promise to help procure these video footages but he too stepped back from doing so. Defendant's denial to provide surveillance footage is a qualifying federal crime under several rules including 18 U.S.C. § 1519<sup>4</sup>

**SIXTH CLAIM FOR RELIEF**

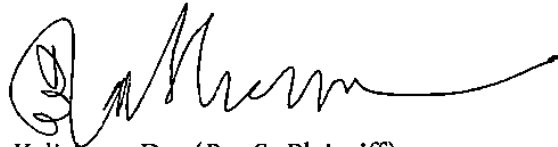
*for*  
A possible Attorney fees and Court Cost

26. Plaintiff hereby requests the Defendants be ordered to pay Plaintiff's court cost and reasonable attorney's fees in this action, if any.

WHEREFORE, Plaintiff requests an order to obtain and review the testimony of party-defendant Magistrate Ms. Colton regarding her controversial statement about the Plaintiff's interactions with federal agencies, as made during the courtroom hearing on April 14, 2022, **by comparing its entire video footage** to ensure the safety of the Plaintiff and his family, and to properly address the matter if the Plaintiff's claim is found to be true. Plaintiff, further requests in pursuant to federal and state laws for a proper action and justice in the matter of his **public insult and discrimination** by the Defendant that caused him irreparable loss and pain, and therefore, further requests for judgment against Defendant for actual damages, consequential damages, injunctive relief, in an amount to be determined at trial, interest at the applicable rate, the costs of this action, attorney fees and for such other and further relief as the court may deem just and proper.

Respectfully,

January 25, 2023



Kalishwar Das (Pro Se Plaintiff)

1505 The Crossing

Rock Hill, SC 29732

803-370-2344, 803-262-7737

[kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)

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<sup>4</sup> In addition to this, 18 U.S.C. § 1503 also recognizes it a crime to corruptly influence, obstruct, or impede, or endeavor to influence, obstruct, or impede, the due administration of justice. In South Carolina, it is illegal to destroy, conceal, remove, or alter any record, document, or other object with the intent to impair its integrity or availability for use in an official proceeding.

In the Honorable

**SUPREME COURT OF SOUTH CAROLINA**

**A WRIT OF MANDAMUS**

*Pursuant to Rule 221 of the South Carolina Rules of Appellate Procedure*

**Kalishwar Das**

**—Petitioner**

**Vs.**

**—Respondent**

**York County Court Administration**

**6, South Congress Street**

**York, South Carolina 29745**

**In Civil Action No. 2022-CP-46-01509**

**Evolving from York County Circuit Court**

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**‘Writ of Mandamus’**

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Pursuant to Rule 221 of the South Carolina Rules of Appellate Procedure, Petitioner files this Writ of Mandamus to compel Respondent to ensure that all relevant evidence is duly admitted and considered during the upcoming rehearing of Petitioner's case (2022-CP-46-01509), which was dismissed in its entirety. Petitioner alleges that the Respondent Court Administration controversially favored the defendant of the dispute, the City Magistrate of Rock Hill and allowed them to escape the charge of racial hate and discrimination with a rare charge of infringing on the Petitioner's security concern in a federal matter of investigation. Petitioner asserts that substantiation of these charges can only be established after the proper admittance of all evidence without compromise, unaltered, and without further delay, which the Respondent Court Administration controversially ignored before.

**PARTIES AND JURISDICTION**

- The Supreme Court of the State of South Carolina has the proper jurisdiction over the matter in hand, petitioner and over the “Respondent” court administration of the York County, South Carolina.
- “Kalishwar Das” a resident of Rock Hill is the “Petitioner”.
- “York County Circuit Court Administration” is “Respondent”.
- Magistrate Court of Rock Hill under York County Administration is the “Defendant” in the main dispute for Magistrate Ms. Jennifer Colton.
- “Civil action No.: 2022-CP-46-01509” is the case in hand and associated with the matter considered by the Respondent.

### **BACKGROUND**

Petitioner previously filed a writ of mandamus in this matter, which was denied due to a representational error. This amended petition is submitted to address this issue.

In the underlying case, Petitioner filed a civil complaint against the defendant, the City Magistrate of Rock Hill, alleging racial hate and discrimination and infringing on him in a federal matter of investigation. During the pre-trial, Petitioner attempted through motion for compel discovery and interrogatories demanding from the “Respondent” court administration and “defendant” Magistrate to release the Electronically Stored Information (ESI), which was totally ignored and the Respondent court administration without making any effort to obtain to verify the facts, dismissed the case assuming the charges “hypothetical”. Petitioner promptly alleges that his all charges are true and are relevantly stored with ESIs and which can also be glimpsed in email conversations. Inclusion, verification and a proper consideration of these evidence can easily substantiate the charges that the Respondent Court Administration ignored to dismiss and thus the defendant was favored to escape the charges.

Petitioner now seeks a writ of mandamus to compel the Respondent Court Administration to ensure that all relevant evidence is duly admitted and considered during the rehearing of this case. Petitioner asserts that the Respondent Court Administration's previous exclusion of this evidence violated Petitioner's due process rights and prejudiced the cause of case.

Particularity of the points which have been misapprehended by the court (pertaining to the rule 221(a), SCACR):

- Hon. Court of Mckinnan controversially ignored to take “ANY EVIDENCE” in cognizance for hearing, provided or demanded by the petitioner which the defendant refused to provide.
- Judge Mckinnan unreasonably believed the ‘avenging narrative’ set by the defense attorney and completely ignored the matter of defendant’s furious talk about Petitioner engagement in a federal terror investigation<sup>1</sup>. (A concise copy of the report provided to federal authorities is provided separately.)
- Judge Mckinnan controversially ignored the matter of depriving petitioner of his constitutional right of due process with a public insult on April 18, 2022, and
- Judge Mckinnan also ignored the matter of refusing the motion without hearing or providing any court order.

#### **REQUIRED ELEMENTS OF MANDAMUS**

Petitioner adheres that a writ of mandamus is an extraordinary remedy that could be granted as if, he as a Petitioner, shows that:

1. Respondent has a clear and undisputed legal duty to perform the act in question

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<sup>1</sup> This matter of investigation was reported to the FBI because the person involved had personally admitted to had helped Md. Atta the prime accused of 9/11 attack. Later a Pakistani national with other started a blackmailing spree on the person because they possessed him in picture with Md. Atta. Petitioner takes this matter seriously as this was literally mysteriously known to the defendant in this case which FBI refused to have reported her in any manner or reason. Judge McKinnon took no action on defendant for providing tampered audio recording to conceal the same conversation from it. By continuously refusing this writ of mandamus for a simple demand of proper hearing, petitioner is literally compelled to reveal the facts for his personal security. This court also has taken no action upon request to inquire the defendant as complaint filed in May 2022 and in October 2022 as well.

2. There is a Ministerial Nature of the Act
3. Petitioner has no other adequate remedy at law; and
4. Petitioner has a right to the performance of the act.

--Petitioner satisfies all of these requirements.

***A Duty of the Respondent to Perform the Act:***

"Respondent" York County Court Administration [whether or not through *Honorable Court of Judge William A. McKinnon, #2761, Resident Circuit Judge and Chief Admin. Judge for CP, 16th Cir.*] has a clear and undisputed legal duty to ensure that all relevant evidence is duly admitted and considered during a trial.

The South Carolina Rules of Evidence govern the admissibility of evidence in South Carolina courts. Rule 402 of the South Carolina Rules of Evidence states that "all relevant evidence is admissible except as otherwise provided by the Constitution of the United States, the Constitution of South Carolina, or by statute." Rule 401 of the South Carolina Rules of Evidence defines relevant evidence as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."

In the underlying case, Petitioner attempted to obtain unaltered audio recording and surveillance footage from the "Respondent" court administration, to support his claims of racial hate and discrimination against him, but after "defendant" refused to release them the "Respondent" too, by ignoring this crucial interruption to justice, dismissed the case instead.

Motion for rehearing of this matter was filed without delay by the Petitioner. "Respondent" York County Court Administration still without making any effort of releasing the demanded ESIs is scheduling the hearing and which is continuously extended in wait of the writ of Mandamus for the release of evidence (ESI).

However, the “Respondent” Court Administration allegedly controversially excluded this evidence. This exclusion of relevant evidence violated Petitioner's due process rights and prejudiced their case.

***The Ministerial Nature of the Act:***

The ministerial nature, as Petitioner observes, is of an act refers to tasks that are of a routine or administrative nature, requiring no discretion or judgment. In legal proceedings, certain actions are ministerial and should be performed as a matter of course without the need for judicial discretion.

In this case, the respondent, the Honorable Court of Judge McKinnon, had a ministerial duty to enforce the rules governing compulsory discovery and respond to the defendant's violation of said rules promptly. The refusal to perform this ministerial duty resulted in the interruption to justice and violation of the constitutional due process.

Petitioner also adheres the cruciality to differentiate between acts that are ministerial and those that involve judicial discretion. In cases where a duty is ministerial, adherence to established rules and procedures is paramount to maintain the integrity of the legal process and protect the rights of all parties involved without requiring court's personal discretion.

***The Petitioner's Specific Legal Right:***

Petitioner understands that he has a right to the performance of the act in question. He, as a Petitioner, has a right to a fair trial, which includes the right to present or obtain all relevant evidence to support his claims. The Respondent Court Administration's exclusion of relevant evidence by controversially holding it, violated Petitioner's right to a fair trial. This is in a grave controversy that all the required Electronically Stored Information (ESI) are possessed by the “defendant” and/or the “Respondent” and abandoning them from being represented is symptomatic to a corrupt ‘conflict of interest’ as well.

***Petitioner has no other adequate remedy at law***

Petitioner has no other adequate remedy at law. Petitioner cannot appeal the trial court's dismissal of their case because the Respondent Court

Administration's exclusion of relevant evidence was not a final order. Therefore, Petitioner's only available remedy is to seek a writ of mandamus to compel the "Respondent" York County Court Administration to ensure that all relevant evidence is released by them and duly admitted and considered during the rehearing of this case.

***Petitioner has a right to the performance of the act***

The Petitioner of this writ for Mandamus possesses the specific legal right to a court proceeding that firmly holds to the fundamental principles of fairness, impartiality, and equality, thus guaranteeing robust protection against any and all manifestations of racial discrimination or bias. This essential right is enshrined in the Constitutional legal framework to safeguard the integrity of the judicial process and ensure that justice prevails unconditionally, irrespective of race, ethnicity, or background.

**Legal Grounds:**

This request for a writ of mandamus is grounded in well-established legal principles and statutory provisions that underscore the duty of the "Respondent" York County Circuit Court to act fairly, impartially, and in accordance with the law. The following legal bases and relevant laws support the Petitioner's claim:

**1. Violation of Due Process:** The Fifth Amendment of the United States Constitution guarantees every individual the right to due process of law. This includes the right to a fair and impartial court proceeding, free from racial discrimination or bias. York County Circuit Court Administration's failure to consider critical evidence and its discriminatory treatment of the Petitioner violated this fundamental constitutional right.

**2. Failure to Compel Discovery:** The South Carolina Rule of Civil Procedure by also following the Federal Rules of Civil Procedure, particularly Rule 37, empower the court to compel discovery if requested, when a party fails to respond adequately to interrogatories. The "Respondent" York County Circuit Court refusal to exercise its authority to compel discovery on "defendant" contravenes these established rules

and principles. *See in Ross v. Bank of America*, 664 S.C. 310, 340 S.E.2d 500 (1986) where the Hon. South Carolina Supreme Court held that the trial court erred in refusing to compel discovery when the defendant failed to respond to interrogatories. The court found that the defendant's failure to respond was "willful and deliberate" and that the trial court should have imposed sanctions.

**3. Abuse of Judicial Authority:** Judges and magistrates are expected to exercise their authority judiciously and impartially. *See in re Roach*, 787 F.2d 1078 (6th Cir. 1986) and *in re Mistretta*, 518 U.S. 563 (1996): (The Supreme Court held that judges have a constitutional right to free speech, but that their speech must be consistent with their judicial role). The "Respondent" ignored to verify the "defendant" Magistrate's abuse of judicial and administrative authority in humiliating and infringing Petitioner's personal security and privacy during court proceedings, - violates the Code of Conduct for United States Judges and the ethical standards that govern judicial conduct.

**4. Preservation of Evidence:** The Federal Rules of Evidence, particularly Rule 1001, emphasize the importance of preserving and presenting original evidence in its unaltered format. The Petitioner's assertion of tampering with evidence raises concerns of obstruction of justice and is protected by these rules. *See in United States v. Tammaro*, 60 F.3d 1096 (2d Cir. 1995). "Respondent" by ignoring the Petitioner's claim of receiving tampered piece of audio recording from "defendant" is evidently the violation of law on preservation of evidence.

**5. Right to Equal Protection:** The Fourteenth Amendment of the United States Constitution guarantees equal protection under the law. The discriminatory humiliation suffered by the Petitioner at the hands of the "defendant" Magistrate and followed by the 'denying action' of "Respondent" Circuit court Administration constitutes a clear violation of this constitutional right. Based on these legal principles and statutory provisions, the Petitioner asserts the right to request a writ of mandamus to compel the "Respondent" to conduct a fair and impartial rehearing that addresses the aforementioned failures and abuses of discretion. This legal basis solidifies the Petitioner's claim for relief and the pursuit of justice.

**Explanation of the Default:**

***Failure of the “Respondent” York County Court Administration***

The “Respondent” Circuit court of York County presided over by the Hon. Resident Judge and Chief Administrator William A. McKinnon failed in its fundamental duty to uphold the principles of justice, equality, and non-discrimination. Specifically, the court's failures and abuses of discretion can be summarized as follows:

1. **Neglect of Crucial Evidence:** The Hon. “Respondent” York Circuit court, during the initial proceedings of the case, blatantly disregarded the demand of admittance of crucial evidence held by the “defendant” and/or in control of “Respondent”. These evidence included unedited audio recordings and unaltered surveillance footage, which were essential but were controversially neglected to get admitted to substantiat the Petitioner's claims.

2. **Refusal to Respond to Interrogatories:** The Hon. “Respondent” exhibited a lack of cooperation and impartiality by refusing to compel the “defendant” to respond to interrogatories which was the clear violation of Rule 37 of the SCRCF and the federal law. These interrogatories were vital for a comprehensive understanding of the case and to ensure transparency in the proceedings but which were not addressed for their proper justification.

3. **Abuse of Judicial Authority:** The “defendant” (Magistrate) entrusted with upholding the law, abused its judicial authority by forcefully interrupting the Petitioner's court business with discriminatory humiliation. Such behavior not only violated the Petitioner's rights but also undermined the integrity of the court and justice system which was further ignored by the Hon. “Respondent” Circuit court, by dismissing the case instead.

4. **Tampering with Evidence:** There are substantial concerns regarding the tampering of evidence within the court administration. The Petitioner's claims that the audio recordings provided as one of the evidence was found tampered which required a thorough investigation, as

explained in the petition dated March 16, 2023 but which the Hon. "Respondent" Circuit Court of York County failed to initiate.

These failures and abuses of discretion by the Hon. "Respondent" Circuit court of York County not only impeded the pursuit of justice but also eroded the Petitioner's confidence in the legal system. It is imperative that these issues are addressed through the process of this writ of mandamus to ensure an impartial resolution of the case.

**Prayer for Relief:**

The Plaintiff, Kalishwar Das, humbly petitions this Honorable Court to issue a Writ of Mandamus, directing to the "Respondent" York County Circuit Court to:

**1. Obtain from its own trajectory (of ESI) and/or Compel the "Defendant" to Provide All Demanded Evidence:** Plaintiff earnestly implores this Court to issue an order compelling to the "Respondent" York County Circuit Court Administration to ensure all demanded evidence the ESI is obtained and/or "Defendant" promptly and comprehensively provides all forms of related evidence within their possession for a fresh and proper hearing. This shall encompass, but not be limited to, case documents, email exchanges, unedited audio recordings, and surveillance footage. The purpose of this directive is to facilitate an impartial rehearing that considers all available evidence. It is essential to determine whether the matter under consideration warrants federal prosecution, thereby ensuring that justice is served in the most equitable manner.

**2. Request for Any Other Just and Proper Relief:** Additionally, the Plaintiff respectfully requests any other relief that this Court, in its wisdom and discretion, deems just and proper under the unique circumstances of this case. This request is made with the firm belief in the Court's commitment to uphold principles of fairness, equity, and the pursuit of truth and justice.

**3. Request for the electronic communication:** Considering some rare security reason, Petitioner humbly urges to this highest court of the state to establish an electronic mail service using two of his personal emails

[kalishwardas@gmail.com](mailto:kalishwardas@gmail.com) and [kalishwar@me.com](mailto:kalishwar@me.com) for future communication.

The **primary focus of this writ of mandamus** is to seek an order from this highest court to compel the Circuit court of York County to perform their lawful duty without bias and to correct the misuse of discretion in conducting a fresh and proper hearing. **WHEREFORE**, Petitioner respectfully prays for the foregoing reasons, that this Court grant the Writ of Mandamus and compel the Respondent Court Administration to ensure that all relevant evidence is duly admitted and considered during the rehearing of Petitioner's case.

Respectfully submitted,

October 30<sup>th</sup>, 2023



**Kalishwar Das**  
1505 The Crossing  
Rock Hill, SC 29732  
803-370-2344, 803-262-7737  
[kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)

~~~~~  
A copy of this Mandamus will be served to the Defense attorney in this matter of dispute as well, after serving to the Hon. "Respondent".
~~~~~

Page 1 of 4

|                         |   |                                     |
|-------------------------|---|-------------------------------------|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS        |
|                         | ) |                                     |
| COUNTY OF YORK          | ) | CIVIL ACTION NO.: 2022-CP-46-01509  |
|                         | ) |                                     |
| Kalishwar Das,          | ) |                                     |
|                         | ) |                                     |
| Plaintiff,              | ) |                                     |
|                         | ) |                                     |
| vs.                     | ) | <b>ORDER DISMISSING PLAINTIFF'S</b> |
|                         | ) | <b>SECOND AMENDED COMPLAINT</b>     |
|                         | ) |                                     |
| York County,            | ) |                                     |
|                         | ) |                                     |
| Defendant.              | ) |                                     |

---

This matter came before me for a hearing on Defendant York County's Motion to Dismiss the Plaintiff's Second Amended Complaint pursuant to Rule 12(b)(6), SCRPC, and that Plaintiff's claims are barred by the doctrine of collateral estoppel and/or res judicata. For the reasons set forth below, the Court grants York County's motion.

#### **STANDARD OF REVIEW**

##### **RULE 12(b)(6)**

Rule 12(b)(6), SCRPC allows a party to move to dismiss a complaint "when the plaintiff fails to state facts sufficient to constitute a cause of action." *Cole Vision Corp. v. Hobbs*, 714 S.E.2d 537, 539 (S.C. 2011). The reviewing court must base its ruling on the allegations in the pleadings and should grant the motion when the plaintiff asserts a claim that South Carolina fails to recognize as an independent cause of action. *See id.*

#### **FACTS**

The basis for the allegations against the Defendant stems from Plaintiff's dissatisfaction with the rulings by the Magistrate Court in a commercial eviction initiated

Page 2 of 4

by his landlord Rawlinson Corner, LLC. The Magistrate Judge ruled in favor of the landlord in that commercial eviction. Plaintiff appealed the Magistrate Court rulings in the commercial eviction action by filing a Notice of Appeal with the Circuit Court on May 2, 2022, Civil Action Number 2022-CP-46-01367. Plaintiff then filed a *Withdrawal of Appeal* in that case on May 12, 2022. He then filed the present action of May 16, 2022, filed his Amended Complaint on October 3, 2022, and filed his Second Amended Complaint on January 25, 2023.<sup>1</sup>

### **ANALYSIS AND FINDINGS**

All of the allegations in Plaintiff's Second Amended Complaint arise out of the alleged conduct of the Magistrate Court in the commercial eviction action. Therefore, the proper means of challenging that conduct was by and through an appeal to the Circuit Court. Because Plaintiff withdrew his appeal, he is barred by *res judicata* from bringing this lawsuit asserting the same claims that could and should have been pursued in his appeal. Furthermore, the Plaintiff does not state facts sufficient to constitute any cause of action against the Defendant in his Second Amended Complaint.

In his *First Claim For Relief Upon Endangerment to Plaintiff*, Plaintiff cites "The Espionage Act, 18 U.S.C. §793", and "the Privacy Act, 5 U.S.C. §552(a)." The statute cited regarding "the Espionage Act" is a federal criminal statute and is not a viable civil cause of action in the South Carolina Common Pleas Court. The statute Plaintiff asserts under "the Privacy Act" is also a federal statute related to federal agencies making public

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<sup>1</sup>Both amended complaints were filed with leave of this Court pursuant to rulings on dismissal motions filed by the defendant.

Page 3 of 4

information available. Interestingly, the definition of “agency” under that statute does not include the courts of the United States, or the governments of the territories or possessions of the United States. See 5 U.S.C. §551(1)(B) and (C). This also is not grounds for a viable civil cause of action in South Carolina state courts. Furthermore, in paragraph 15 of the Plaintiff’s Second Amended Complaint, the alleged damages asserted are abandonment of Plaintiff’s “common public engagements for earning which is in excess of \$100,000 as of yet, incurring with the loss of unsold inventories of no less than \$25,000.” This is clearly an issue that was at issue in the commercial eviction for which Plaintiff dismissed his appeal.

Plaintiff’s *Second Claim for Relief for 18 U.S. Code § 242 - Deprivation of rights under color of law and 18 U.S.C. § 241 - Conspiracy against rights*, are also federal criminal statutes that do not serve as the basis for a civil cause of action in South Carolina. Plaintiff’s *Third Claim for Relief for Violation of constitutional provisions of “due process”*, which consists of a single sentence, alleges that “Defendant’s declaration of denying motions without conducting hearing was the evident violation of constitutional provisions of ‘due process.’” See Second Amended Complaint, ¶19. Once again, this is an issue that should have been addressed in an appeal from the decision of the Magistrate Judge in the underlying commercial eviction dispute. Nevertheless, there is nothing contained in the Plaintiff’s Third Claim for Relief which would constitute a cause of action.

In Plaintiff’s *Fourth Claim for Relief for Committing Hate crime (with discrimination) & public insult*, he alleges, once again, violations of several federal criminal statutes (18 U.S.C. § 245, 18 U.S.C. § 247, and 18 U.S.C. § 249). Plaintiff’s *Fifth Claim for Relief for*

Page 4 of 4

*A possible destruction of evidence* 18 U.S.C. Code § 1519 - *Destruction, alteration, or falsification of records in Federal Investigations* alleges a violation of a federal criminal statute. As stated earlier, these are not the basis for a viable civil cause of action in South Carolina state courts, and are subject to dismissal. Plaintiff's *Sixth Claim For Relief for A possible Attorney Fees and Court Cost* fails because it does not state facts sufficient to constitute a cause of action. Plaintiff has filed this case *pro-se*, so there is no issue of attorney's fees. Furthermore, §15-78-120 of the South Carolina Tort Claims Act prohibits, among other things, a plaintiff's recovery of punitive damages, attorneys' fees, or interest.

**RULING**

On January 10, 2023, I granted the Defendant's motion to dismiss the Plaintiff's Amended Complaint, but gave the Plaintiff thirty days to amend his complaint to assert a viable cause of action. A reading of the Plaintiff's Second Amended Complaint, filed on January 25, 2023, shows that he has failed to do so. I therefore find that none of the asserted causes of action in the Plaintiff's Second Amended Complaint are supported by any appropriate factual allegations, and I hereby dismiss the Plaintiff's Second Amended Complaint with prejudice.

**IT IS SO ORDERED.**

---

Judge's Electronic Signature Page to Follow



**York Common Pleas**

**Case Caption:** Kalishwar Das VS York County , defendant, et al

**Case Number:** 2022CP4601509

**Type:** Order/Dismissal

So Ordered

/s William A. McKinnon, #2761, Resident Circuit  
Judge and Chief Admin. Judge for CP, 16th Cir.

|                                       |   |                                     |
|---------------------------------------|---|-------------------------------------|
| CIRCUIT COURT OF YORK                 | ) | FILED-RECEIVED                      |
| COUNTY OF YORK                        | ) | 2023 MAR 30 PM 3: 20                |
| <u>YORK, SOUTH CAROLINA</u>           | ) | DAVID HAMILTON                      |
|                                       | ) | C.C.C.P. & GS                       |
| Kalishwar Das                         | ) | YORK COUNTY, SC                     |
|                                       | ) | Civil Action No.: 2022-CP-46-01509  |
| Pro Se Plaintiff                      | ) |                                     |
| Vs.                                   | ) | Motion for rehearing in pursuant to |
| York County (State of South Carolina) | ) | SCRCP Rule 59                       |
| Defendant                             | ) |                                     |
|                                       | ) |                                     |

---

I, Kalishwar Das, the Pro Se Plaintiff in this matter, come before this honorable court to request a rehearing (Pursuant to Rule 59 SCRCP) of this dispute by another higher court of having the Jurisdiction over this court jurisdiction to avoid a conflict of interest, which the Plaintiff believes, it has occurred while dismissing this case by rejecting the compel discovery to favor defendant, a sitting Magistrate.

1. The Court not only wrongly but also perversely disposed of the suit relating to public humiliation, discrimination and intimidation of the Plaintiff on the basis of erroneous presumption of collateral judicata and on the basis of a false invocation of Rule 12(b)6 by blocking Plaintiff's every attempts to expose the truth, conduct a jury trial, go through witness testimony, compel discovery and by avoiding that defendant already had defaulted in the case because of violating the Rule 37 of SCRCP. Defendant refused to respond interrogatories of July 14, 2022. The most egregious fact was that all this violation was being committed not by a common person but by a sitting Magistrate, the Partydefendant. It is, therefore, crucial to acknowledge this violation, and because the order lacks this assertion, Plaintiff intends to seek a necessary modification of order after reconsideration under SCRCP Rule 59 to conduct a ew trial in different court.
2. The order signed and entered, left 99.99% vital issues unaddressed i.e. how the justice can be achieved without investigating evidence? Why the concealment of evidence was not considered as a crime by the court? There was **no evidence nor the defense attorney provided any evidence** that Plaintiff charged Defendant of committing discrimination against, for the purpose to resettle his resentment on losing case with landlord. Why the court did not go through defendant's email conversation to see the first proof of public humiliation of Plaintiff by court constable

with Magistrate's order? Why the court refused to go through any witness testimony and Jury trial? ≈ and many more.

3. Finally, I would like to bring to the court's attention that the defendant had previously demanded interrogatories from me, which I diligently fulfilled within the given time frame. However, despite my own demands for interrogatories, the Defendant has shown a lack of cooperation and has failed to comply with requests. This arrogant disregard for the legal process is concerning and merits attention. I respectfully urge the Court to consider this as further evidence of the Defendant's non-compliance with the discovery process and their lack of respect for the legal system.
4. In light of the above, I respectfully request that this honorable court grant my request for a rehearing to fix the errors occurred in this matter by respecting my request to get this case be heard by higher court having jurisdiction over this court and subject.

Given the Defendant's failure to comply with my requests for interrogatories and the court's erroneous refusal to acknowledge this fact, I respectfully request that the Court vacate its order for a new trial. It is my sincere hope that the Hon. Court will give due consideration to my latest motion to preserve the evidence by obtaining from the captivity of the defendant, and ensure that justice is served.

Respectfully,



03/30/2023

Kalishwar Das (*Pro Se* Plaintiff)  
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[kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)

1 **YORK CIRCUIT COURT**  
2 **YORK, SOUTH CAROLINA**

3  
4 Civil Action No.: **2022-CP-46-01509**

5  
6 **Kalishwar Das, Pro Se Plaintiff**

7 **Vs.**

8 **York County, Defendant**

9 **[For party defendants]**  
10

11 **SUPPLEMENTARY TO**  
12 **MOTION FOR RECONSIDERATION**  
13 **HEARING SCHEDULED ON FEB. 13, 2024.**  
14 **{Pursuant to SCRCF Rule 60(b) and 60(b)(1)}**  
15

16 While the Plaintiff was approaching a joint stipulation for  
17 dismissal with one of the defendants to resolve the dispute, the  
18 other defendant Catawba/Ebenezer Magistrate Ms. Jennifer  
19 Colton, with the apparent aim of avoiding accusations of racial  
20 discrimination against Plaintiff and for deliberately committing  
21 other serious offenses by stepping out of her official duty, actively  
22 complicating the matters by deceitfully invoking the Tort Act<sup>1</sup>. This  
23 calculated maneuver by defendant aimed to achieve an unjust  
24 dismissal by attempting to categorize all allegations as 'false' and if  
25 proven 'true,' the intention was to justify them as part of her  
26 official conduct, thus seeking cover under judicial immunity.

---

<sup>1</sup> The South Carolina Tort Claims Act (SCTA) typically shields government employees, including magistrates, from personal liability for actions taken in their official capacity. However, if the Magistrate is personally accused and her actions are deemed outside the scope of official duties, the SCTA may not be applicable, allowing for potential personal liability.

FILED-RECEIVED  
2024 JAN 19 PM 4:39  
ANGIE H. BRYANT  
C.C.P. & GS  
YORK COUNTY, SC

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1. The honorable court's decision facilitated this move with dismissal of this case on January 10, 2023 as defendant had demanded but by adding an unexpected challenge, suggesting to the Plaintiff, -to refile the complaint by naming York County as the only defendant.
2. This directive, perceived as an unusual involvement by the Hon. Court, deviated from its expected neutral stance by placing pro se Plaintiff in a psychological trap to believe Defendant Magistrate actions within the purview of her judicial authority, -with a challenge to rewrite the entire case differently, but by excluding the same actual offender, -the Magistrate Ms. Jennifer Colton. While the court allowed Plaintiff to amend his complaint again, the Plaintiff demonstrated ultimately that the truth cannot be reshaped or be given a different color, especially in cases involving federal charges, where only plain truth holds validity.
3. The court eventually dismissed the case on March 29, 2023 by unexpectedly explaining a single reason of failing to comply SCRPC Rule 12(b)(6). Plaintiff requested reconsideration but confusingly in the light of the defendant's reluctance in releasing truthful piece of evidence including surveillance footage and other details to substantiate the actual charges made in complaint.
4. On recognizing that (i) 'the court, prematurely accepting the South Carolina Tort Act without examining the alleged acts of Magistrate, and particularly (ii) by suggesting Plaintiff to put York County as the only defendant, had actually interfered with justice', -the Plaintiff files this supplementary to motion to reconsider the dismissal from a different

perspective and set the dismissal aside pursuant to SCRCF Rule 60(b) and/or 60(b)(1) for a proper proceeding upon filing of an amended Complaint, free from prejudice and oversight.

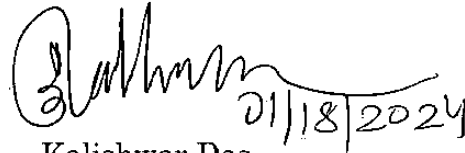
5. Plaintiff acknowledges that the charges outlined about infringing his personal security, fall within the purview of the federal court and assessment of the reasons for withdrawing his appeal in the circuit court is wrong and unrelated. [TNN-01]
6. With the dismissal of the case Hon. Court had allowed the modification of the initial complaint to remove the name of the outgoing defendant. The Plaintiff after removing all other defendants intended to pursue a single point conditional settlement with Magistrate, but her actions and the court's controversial suggestion to name York County as the only new defendant, hindered this course of action. As mentioned earlier, this situation created confusion for the Pro se Plaintiff, which inadvertently favored the defendant.
7. Given the FBI's refusal to have disclose any information to the Magistrate regarding the Plaintiff's prior involvement with them, and the defendant Magistrate's submission of a tampered recording instead of providing an accurate court recording, there arose an urgent need to escalate this matter. This involves reporting to higher authorities following the communication with the FBI, to address the security concern differently.
8. For the defendant and the Honorable Court, this matter was deemed irrelevant and considered unworthy of inquiry into the defendant's actions or scrutiny of court recordings and surveillance footages to substantiate the allegations. By adopting such a stance, a formidable challenge confronted the

1 Plaintiff, compelling him to contend with the perception that he  
2 is grappling with hateful bias from his adversary, who  
3 appeared to enjoying the court's favor despite alleged deception.

4 9. The premature application of the Tort Act by the Court seemed to  
5 exert psychological pressure on the plaintiff, implying that the  
6 Magistrate's actions were lawful, and consequently, the  
7 defendant was shielded by judicial immunity. This premature  
8 stance raises concerns. It was unwarranted to absolve the  
9 defendant from the scrutiny that is fundamental in a civilized  
10 society and within the judicial framework.

11 10. HENCE, the Plaintiff respectfully urges this Honorable  
12 Court to overturn its wrongful dismissal of the case, invoking  
13 the authority vested in it by SCRCF Rule 60(b) and/or  
14 60(b)(1). The purpose is to thoroughly reassess the  
15 contentions presented in this supplementary filing and grant  
16 the Plaintiff unrestricted liberty to amend the primary  
17 petition – a necessary step to steer this case back on the path  
18 of a judicious and fair proceeding.

19 Sincerely,

20   
21 01/18/2024

22 Kalishwar Das

23 1505 The Crossing

24 Rock Hill, SC 29732

25 F: 8033702344

26 [kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)

27  
28 For a lucid understanding of this case, a concise case history is attached herewith.  
29

A CONCISE CASE HISTORY OF THIS CASE

**Background of this dispute:**

The dispute originated when the Plaintiff, engaged twice in a disagreement with his landlord over rent issues, and was summoned to a hearing on April 12, 2022. The landlord had previously defaulted on December 30, 2021, by failing to attend the scheduled hearing. With the lease set to expire in a month, the Plaintiff, unwilling to extend it, sought ample time to vacate the premises, a request denied by the Magistrate without properly addressing the arrears issue and the matter of landlord's default.

The Plaintiff, noting irregularities before and during the hearing, was prepared to present evidence of payment missing from the initial hearing. However, the Magistrate, stepping out of her judicial role in frustration, obstructed the Plaintiff's efforts, which forms the essence of this case. It's important to highlight that there is no remaining dispute with the landlord, as evidenced by a joint stipulation of dismissal filed by both parties to resolve their issues on July 21<sup>st</sup>, 2022.

During the scheduled re-hearing on the crucial day of April 14, 2022, the Magistrate, seemingly to divert the Plaintiff's focus from the argument, compromised his safety by disclosing his involvement in a federal investigation without apparent justification, thus initiating a new and distinct dispute. The documents the Plaintiff attempted to present were rejected, as he became distracted and failed to present his argument effectively.

Left with no alternative, the Plaintiff on April 18, 2022 attempted to file a motion seeking merely an ample time to vacate the premise, but the court clerk in Magistrate instruction refused to docket the motion. At the same moment, Magistrate instructed court police to forcibly remove him from the court premises. Upon being requested on April 19, 2022, to clarify the reasons for her wrongful behavior towards him, the Plaintiff, the Magistrate once again disrespectfully responded in her email response, declaring that she had denied the Plaintiff's motions without a hearing. Prior to this, the Magistrate deliberately exhibited

1 a hateful attitude toward the Plaintiff's Hindu tradition. Subsequently, on April 29, 2022,  
2 she instructed court police to prevent the Plaintiff from entering the court premises with  
3 his cell phone.

4  
5 This prompted the Plaintiff to file a complaint in the Circuit Court, which holds personal  
6 jurisdiction over the defendant and the subject matter. The Plaintiff requested the  
7 procurement of surveillance footage, but the Magistrate provided only a tampered piece of  
8 audio recording. During the early stages of the case, the Plaintiff, concerned about the  
9 recording in the hands of the defendant, urged the court to seize the computer data.  
10 However, the court, without acknowledging its seriousness, dismissed the case without  
11 prejudice. This dismissal allowed the Plaintiff to refile the complaint but after substituting  
12 the current defendant with their employer, the York County.

13  
14 Adhering to the fact that the defendant Magistrate had no judicial immunity in this matter,  
15 naming her employer, the political subdivision, as the defendant party proved to be a  
16 clumsy step. Particularly, in specifying her actions, which were not judicial in nature, the  
17 court hindered the Plaintiff's ability to substantiate not only the actual wrongdoer but also  
18 the misconduct that gave rise to this dispute.

19  
20 Upon recognizing a fundamental defect in the order, the Plaintiff seeks the court's attention  
21 under SCRCF Rule 60(b) and/or 60(b)(1). The objective is to revisit the initially named  
22 defendant, the Magistrate, aiming for a concise and truthful substantiation of the alleged  
23 offense. This correction is deemed necessary, as changing the defendant to the political  
24 subdivision, as ordered by the Honorable court on March 29, 2023, becomes impossible  
25 without this foundational step.

26  
27 **Cause of this Action:**

28 Defense Attorney argued these offenses as the judicial action but the Plaintiff claims that  
29 none of them qualified so, but Magistrate personal actions:

30 (i)... Abusing court police to remove Plaintiff out from court premise to deprive  
31 Plaintiff to file motion (Interruption through abuse of power without a reasonable reason)

1 (ii).... Infringing Plaintiff's personal security by exposing his name in a matter of  
2 federal investigation

3 (iii) .... Demonstrating a racial hate toward Plaintiff's Hindu faith

4 (iv) .... Tampering with court recording

5 (v) ..... Denial to provide surveillance footages

6  
7 Defense Attorney by rejecting all or any allegation of Plaintiff, argued that he, the  
8 Plaintiff, in resentment of losing case in her court, -is revengeful to Magistrate is baseless.  
9 There was no resentment due to outcome of the case at all. Plaintiff was not willing to stay  
10 on the premise because of its bad location and so the slow business running in loss  
11 particularly due to Covid-19 effect. Landlord considering this situation personally  
12 provided ample time to vacate the place and filed a joint stipulation of dismissal to end  
13 their rent dispute. Defense Attorney purposely ignored to mention this fact to the court and  
14 the court believing him probably, decided to dismiss the case.

15  
16 **Legal Basis and Factual Allegations with Jurisdictional Allegations:**

17 Plaintiff acknowledges that judges and magistrates are generally protected by judicial  
18 immunity in South Carolina Courts, which shields them from civil liability for actions  
19 taken in their official capacity. However, it is contended that this immunity is not absolute  
20 and may be limited in certain situations, such as when a judge acts in clear absence of  
21 jurisdiction or engages in actions that are not judicial in nature. The Plaintiff asserts that  
22 there should be no judicial immunity given to Magistrate as none of action derived to any  
23 judicial steps or actions.

24  
25 Plaintiff asserts that there is no judicial dispute with the defendant. The Defendant  
26 Magistrate [Ms. Jenifer Colton], is alleged to have acted out of her official capacity as a  
27 judicial officer in the Ebenezer Magistrate Court under York County in Rock Hill, South  
28 Carolina. Charges against her are clear: (i) Jeopardizing the confidentiality of the  
29 complainant in the federal case for unknown reasons and (ii) personally obstructing him by  
30 ordering court police to remove him from court premises to prevent him from filing a  
31 motion, as evidenced by her email correspondence. Thereby, defendant deprived Plaintiff

1 from his right to file his motion. On being asked through email, Magistrate disrespectfully  
2 responded, declaring that the motions were declined by her even without getting docketed  
3 or heard. These charges are not within her judicial duties as falsely claimed by the defense  
4 Attorney.

5  
6 **Nature of the Error:**

7 The court order March 29, 2023 contains potential inconsistency. On one hand, it instructs  
8 the plaintiff to name 'York County' only as the agency or political subdivision and as a  
9 party defendant, seemingly excluding individual employees from liability. However, this  
10 conflicts with the subsequent statement dismissing all individually named defendants who  
11 were York County employees at the time of the alleged incident. Fact is that all defendants  
12 were relieved later except the Magistrate for her alleged attempt of falsifying the charges  
13 by abusing her position. The alleged offense were committed out of her official duty  
14 parameters which the South Carolina laws define and determine through legislation,  
15 following their limitation under preset ethical rule of Canons for judicial officers. Court's  
16 actions and order of changing the name of defendant, deviated this matter drastically and  
17 thus jeopardizing the root cause of this action.

18  
19 Plaintiff claims that the Magistrate's actions, including jeopardizing the confidentiality of  
20 the complainant in the federal case, showcasing racial hatred toward his Hindu faith  
21 matter, and on finding Plaintiff humbly ignoring, ordered court police to remove him from  
22 court premises, were not consistent with her official judicial duties. These actions are  
23 described as occurring outside the scope of her judicial role.

24  
25 This contradiction raises concerns about overlooking potential individual liability for  
26 government employees, particularly if the South Carolina Tort Claims Act allows for such  
27 accountability despite official duties. Additionally, the order appears to overlook the  
28 specific allegations against individual defendants, emphasizing employment status over the  
29 details of the alleged misconduct. Furthermore, procedural irregularities may arise if the  
30 order does not follow appropriate procedures. The court's failure to acknowledge the

1 correct legal procedure has denied the plaintiff the opportunity to address potential  
2 immunities and pursue suitable relief.

3  
4 Given the identified lapses in law within the provided orders, the plaintiff hereby requested  
5 through his supplementary petition, for the setting aside of the dismissal of this case under  
6 SCRPC Rule 60(b) and 60(b)(1) to revisit the root cause of this action and to begin a  
7 proper proceeding of this matter. The plaintiff has urged the court to reconsider, permitting  
8 a final amendment for the case to proceed with a proper trial.

9  
10 Re: enclosed with Main Supplementary filing.

11  
12 Kalishwar Das

13 F: 8033702344

14 [kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)  
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**YORK CIRCUIT COURT  
YORK, SOUTH CAROLINA**

Civil Action No.: 2022-CP-46-01509

**Kalishwar Das, Pro Se Plaintiff  
Vs.  
York County, Defendant  
[For party defendants]**

FILED-RECEIVED

2024 FEB -6 PM 3: 05

ANGIE M. BRYANT  
C.C.P. & GS  
YORK COUNTY, SC

*Supplement-2*  
ACQUAINTING

**Plaintiff's Skepticism about In-Person Hearing of MOTION FOR  
RECONSIDERATION Due to Trust Issues and Past Experience**

{HEARING IS SCHEDULED ON FEB. 13, 2024}

---

As a pro se litigant with lack of knowledge in court hearing matters and with some sort of language barrier due to his ethnicity, Plaintiff harbors concerns about participating in an in-person hearing with the same court who never addressed any of his crucial motions including the issue of recusal and went as far as threatening the Plaintiff with harsh consequences if the Plaintiff continued speaking during hearing. This case involved an egregious hate offense<sup>1</sup> committed by the Catawba-Ebenezer Magistrate Ms. Jennifer Colton,

---

<sup>1</sup> INCIDENT OF APRIL 18<sup>th</sup>, 2022 : The Plaintiff attempted to file a motion related to a prior case at the court. Despite the Plaintiff's insistence that it was a distinct case, the court clerk initially refused to accept the motion, claiming it had already been adjudicated. The clerk then referred the petition to the Magistrate for her consideration. Upon the clerk's return, the Plaintiff was told to await the Magistrate's decision on the motion's acceptance, leaving him bewildered. Suddenly, a court constable entered, addressing the Plaintiff by his last name and instructing him to leave the premises, citing Magistrate's orders. When questioned, the constable provided no rationale. The Plaintiff explained his wait for the stamped motion copy and requested the constable to verify with the clerk. The clerk, nonchalant, made no move. The constable then reacted brusquely, gripping the Plaintiff's arm and coercively escorting him out, leaving behind all documents with the court against the Plaintiff's will and rights.

1 in Rock Hill by disrupting the Plaintiff's motion filings by instructing  
2 court constables to forcibly remove him from the court premises. The  
3 following day, the Magistrate by emailing, using her personal iPhone,  
4 confirmed the denial of Plaintiff's motions without proper docketing  
5 or hearing. She prevented the Plaintiff from entering the court  
6 premises on April 29, 2022 to obtain the correct order copy, which the  
7 constable provided him a wrong copy of it at the door of the court  
8 premise without letting him enter the court premises as it was  
9 ordered by the same Magistrate in height of her hateful attitude  
10 toward Plaintiff. Considering all these truthful occurrences Plaintiff  
11 has determined to reject in-person hearing and to face any legal  
12 consequence of it but to ensure his personal security first.

13 **“The egregious mistreatment the Plaintiff endured**  
14 **at the hands of the defendant is not only rare but**  
15 **also utterly infuriating. Such behavior has no place**  
16 **within the judicial circle, and its sheer audacity is**  
17 **mind-boiling. This case represents a critical**  
18 **opportunity to bring this matter to justice, not just**  
19 **for the Plaintiff but to serve as a resounding**  
20 **deterrent against the repetition and detection of**  
21 **such injustices faced by vulnerable litigants**  
22 **anywhere in the state or the country.”**

23 Despite reporting these incidents, the court sided with the  
24 defendant's argument that the Plaintiff's actions were vengeful due  
25 to previous case loss. The court ignored the joint stipulation filed in  
26 the same case docket, -of an amicable resolution with the landlord,

1 and, astonishingly, granted the defendant's dismissal request with  
 2 the condition that the Plaintiff change the defendant's name from  
 3 Magistrate Ms. Colton to the York County. The court had overlooked  
 4 the evidence of doctored audio recording, wherein Magistrate can be  
 5 found contradicting on timestamps while omitting crucial portions  
 6 related to the infringement<sup>2</sup> of the Plaintiff's name as a  
 7 whistleblower in a federal investigation. In such a situation, court's  
 8 controversial suggestion to change the name of defendant, seemingly  
 9 aimed at letting the defendant evade all allegations, including hate  
 10 crime, violations of constitutional due process and moral conduct in  
 11 her personal capacity, which raised the significant concerns to compel  
 12 Plaintiff to request the court to set aside its wrongful dismissal and  
 13 let this case presided over by the different court which is yet to be  
 14 addressed.

---

<sup>2</sup> INCIDENT OF APRIL 14<sup>th</sup>, 2022 : During the case rehearing, the landlord hand-delivered a three-page response to the court, and the Magistrate granted Plaintiff a purportedly peaceful five minutes to read and respond. However, this tranquility was disrupted as the Magistrate engaged in unrelated one-way utterance, attempting to divert the Plaintiff's focus. When the Plaintiff objected, the Magistrate within a minute of hold, abruptly shifted the discussion to "a federal investigation involving someone named Das from Rock Hill", a clear attempt to distract from the ongoing proceedings. As the Plaintiff struggled to regain focus, the Magistrate prematurely ended the allotted time, leaving the Plaintiff disoriented and hindered in presenting a proper response. After the hearing ended, Plaintiff sought clarification from the Magistrate regarding her knowledge of the federal investigation. Instead, the Magistrate veered off-topic, by disrespectfully questioning the Plaintiff's ethical appearance, Hindu culture.

The filing of this case necessitated obtaining court recordings, especially since the FBI had denied reporting anything about the Plaintiff's involvement in their investigation to the Magistrate. Shockingly, the Magistrate provided a doctored audio recording, intentionally omitting that particular crucial portion where she discussed the Plaintiff as a whistleblower. This matter was reported to this court in full details but the court overlooked it and dismissed the case in hand.

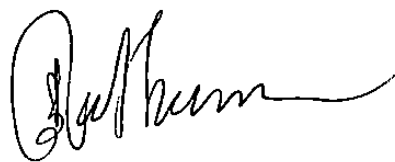
- 4 -

1 In conclusion, the Plaintiff earnestly requests the court, through the  
2 court clerk, to carefully consider the distressing facts surrounding  
3 this case. Given the controversial scourge during hearing, actions,  
4 suggestions, dismissal, and the refusal to recuse, the Plaintiff  
5 respectfully urges the court to opt for a remote hearing by a different  
6 court as already requested. The Plaintiff, under the current  
7 circumstances, finds attending an in-person hearing untenable,  
8 particularly with the inability to have friends accompany him to  
9 deter further exposure of the federal investigation matter which is to  
10 be obviously discussed in the court.

11 Plaintiff is taking this opportunity to reiterate his demand of setting  
12 aside of dismissal under SCRCF 60(b), 60(b)(1) and 60(b)(6) by  
13 recalling Chief Justice John Marshall's statement in United States v.  
14 Ralston, 13 F. Cas. 1222 (C.C.D. Ky. 1824), that reads: '*...courts*  
15 *should not be inflexible when justice clearly demands a change*.' This  
16 truthful statement immediately frames Rule 60(b) as not an absolute  
17 barrier but a flexible tool for justice, citing a powerful historical  
18 precedent which this court too, should respect. The Plaintiff  
19 adamantly trusts in the court's commitment to justice and fairness in  
20 determining the most suitable course of action.

21  
22 Respectfully,

23  
24 February\_5<sup>th</sup>\_, 2024



25 Kalishwar Das  
26 1505 The Xing  
27 Rock Hill, SC 29732  
28 F: 803-370-2344  
29 Email: [kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)  
30

31 Copy of this Acquaintance to the court has been mailed to the defendant.

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Certificate of Service

I hereby certify that I served a copy of the foregoing in the \_\_\_Honorable  
Circuit Court of York, York\_\_\_: **"ACQUAINTING Plaintiff's Skepticism  
about In-Person Hearing of MOTION FOR RECONSIDERATION Due to  
Trust Issues and Past Experience"** to the Defense Attorney on record to  
this action through certified mail.

February\_5th\_, 2024.



Kalishwar Das  
1505 The Xing  
Rock Hill, SC 29732  
P: 803-370-2344, 803-262-7737  
[kalishwardas@gmail.com](mailto:kalishwardas@gmail.com)

## FORM 4

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

## JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP4601509

Kalishwar Das  
PLAINTIFF(S)

York County  
DEFENDANT(S)

## DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);  
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;  
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):  
☐ Affirmed; ☐ Reversed; ☐ Remanded;  
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

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

Plaintiff's Motion to Reconsider is DENIED.

## ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

## For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/13/2024 .

Kalishwar Das for Kalishwar Das  
Kalishwar Das for Kalishwar Das

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCF.

---

ELECTRONICALLY FILED - 2024 Feb 13 11:26 AM - YORK - COMMON PLEAS - CASE#2022CP4601509



**York Common Pleas**

**Case Caption:** Kalishwar Das VS York County , defendant, et al

**Case Number:** 2022CP4601509

**Type:** Order/Electronic Form 4

So Ordered

/s William A. McKinnon, #2761, Circuit Judge

1 STATE OF SOUTH CAROLINA ) IN THE YORK COUNTY MAGISTRATE COURT  
2 COUNTY OF YORK ) COURT C.A NO..2022-CV-46-01509

3

4 York County, )

5 Plaintiff, )

6 Versus )

7 Kalishwar Das, )

8 Defendant. )

9

10 H E A R I N G

11

12 DATE: April 14, 2022

13

14 LOCATION: York County Magistrate Court

15

16 JUDGE: Jennifer S. Colton

17

18 TRANSCRIBED BY: ERIN REILLY

19

20 LEGAL EAGLE

21 Post Office Box 5682

22 Greenville, South Carolina 29606

23 864-467-1373

24 depos@legaleagleinc.com

25

1 all. And I left the tape running just -- I mean, not that it  
2 matters but I just want to make sure you all know that it's  
3 still running.

4 [OFF THE RECORD]

5 THE COURT: You all may approach. Mr. Rawl, I  
6 appreciate you preparing this for the Court.

7 MR. RAWL: Thank you.

8 THE COURT: You're welcome. All right. What's --  
9 I'm trying to think of the easiest way to do this. So, it's --  
10 if I'll -- and I'll let you all tell me what you think. I  
11 think the easiest way is for Mr. Das has 12 exceptions. And I  
12 do have your brief and I can reference -- I'll reference it as  
13 we go through each of the 12. I think it'll be much -- you  
14 know, it'll be easier to go through each individual basis and I  
15 don't disagree it's an extraordinary measure to reopen a case.

16 The Court was here had the benefit of assessing the  
17 witnesses testimony and credibility as they testified. And all  
18 the facts and evidence in front of the Court. I do will take  
19 issue with the fact that a counterclaim was not permitted to be  
20 filed. That the Court has no notice of that. I double-checked  
21 with the clerks. They did not deny any counterclaims being  
22 filed. It appears that that may have been -- well, I'll say  
23 this. That it's the practice of this court that, and it  
24 regularly happens that supporting documents from pro se  
25 litigants are accepted in the answer.

**Transcript-II**

1 STATE OF SOUTH CAROLINA ) IN SOUTH CAROLINA CIRCUIT COURT 16  
2 COUNTY OF YORK ) COURT C.A NO. 2022-CV-46-01509

3

4 Kalishwar Das )

5 Plaintiff, )

6 Versus )

7 Jennifer S. Colton )

8 Defendant. )

9

10 H E A R I N G

11

12 DATE: September 20, 2022

13

14 LOCATION: South Carolina Circuit Court 16

15

16 JUDGE: R. Scott Sprouse

17

18 TRANSCRIBED BY: ERIN REILLY

19

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21 Post Office Box 5682

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## APPEARANCES:

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Kalishwar Das (Pro Se)

Attorney for the Defendant.

Todd Darwin, Esquire

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PO Box 1897

Spartanburg, SC 29304

1

## INDEX

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Certificate of Transcriber. . . . 18

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## EXHIBITS

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(None marked)

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(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS

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REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

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1 that? I don't understand. We are not living in general, sir,  
2 we are living in the United States of America, and I want my  
3 court details. I have only one recording. My friend recorded  
4 this. Keep -- on -- okay. Let me explain you what happened on  
5 18th, why I'm aggravated on that part. On 18th, I went to  
6 court to request to a schedule -- sorry. On the 10 o'clock in  
7 the morning, I went to court to file a motion to stop the writ  
8 of ejectment. And because writ of ejectment were telling me  
9 that they will -- like no, sorry if I'm not doing mistake. On  
10 the -- in the morning, I went over there because I found an  
11 error in my old case. So, I requested the court to reconsider  
12 the case. And it was a huge fuss. Court clerk didn't have the  
13 duty to decide whether any motion is acceptable or not. But  
14 they accept -- they did not accept it. Same guy who refused to  
15 take my counterclaims. Mr. Darwin is not talking anything  
16 about the counterclaims. When 27,000 was charged on me again  
17 by the landlord, I had the counterclaim. And his staff, like a  
18 court staff, they refused two times. I have the proof of that,  
19 how they refused it. I have the same thing. If I file the  
20 counterclaim, this is the duty of magistrate to consider about  
21 that. And he told me, okay. Give that counterclaim paper  
22 inside the court. And he -- she will consider that. When I  
23 went there inside the court and gave the -- gave her the  
24 counterclaim paper, she refused it. And now I lost the case.  
25 So I went in the -- I was totally sought, sir. In the

1 | previously -- the same case it was. And I had the error -- I  
2 | found the error. That case was disposed wrongly. So, I went  
3 | on 18th of April in the morning, and I filed the case and the  
4 | motion and they, again, started fussing with me that, no, you  
5 | cannot do this. You cannot do that. Well, sir, hold on one  
6 | second. This is my case and your duty is to accept my paper.  
7 | Let the judge decide what is the best, what is the bad kind of  
8 | thing. So let the judge, judge. You are not the authority to  
9 | decide. So somehow, I got success in getting that. But what  
10 | happened on 18th of April in the morning, they put a sign  
11 | outside the court door that you cannot bring your phone or any  
12 | electronic device inside. Okay. So, I did not bring my phone  
13 | inside, but I saw other people, they were walking in, going  
14 | outside, inside, they had the phone. Only I was not allowed to  
15 | take my phone inside the court premise. I'm not talking about  
16 | the court room, sir. I'm talking about the court lobby. Lobby  
17 | area. And I was not allowed. So -- okay. Then I came to a  
18 | store, and in the store, I saw the sign that was saying that  
19 | within 24 hours you'll have to vacate the store. Oh my God.  
20 | How I can do that in 24 hours. So, I run back again in court.  
21 | And this time I had a friend. I gave them this device. And I  
22 | told him, please record my thing because they're not letting me  
23 | go inside the court with the phone. So, record them because  
24 | this fellow is fussing me and he's not taking any paper from me  
25 | to get considered in the court. Okay. So, he recorded

1 everything, but luckily -- like mistakenly, he, instead of  
2 putting this side -- like, you know, the -- like this way, he  
3 did this way. So instead of recording the court incidents, he  
4 recorded for a few minutes his own face. But voice is clearly  
5 recorded. Then he remembered, oh, mistake. Then he turned it  
6 this side. And everything is recorded. So, I had a problem in  
7 getting the file retrieved and playable. Everything is  
8 visible. I can see what happened. I can -- you can hear,  
9 everybody can hear what kind of conversation was going on over  
10 there. It was very clearly -- it is a false allegation that I  
11 disturbed the court. No sir. I was peacefully standing over  
12 there because she told me, the court clerk told me, let us ask  
13 the magistrate, she will decide whether your motion will be  
14 accepted or not, and I was simply waiting. And suddenly police  
15 came and he hold my hand -- Okay. Get out from here. Why?  
16 She's telling me my state is coming to answer me. But no, she  
17 told me to kick you out. And that is recorded here. That is  
18 recorded here. So --

19 THE COURT: Okay.

20 MR. DAS: I'm asking them, where is my recording?  
21 Where is the court recording? Where is my court transcript?

22 THE COURT: Mr. Das, let's back up.

23 MR. DAS: I'm sorry, sir. I'm sorry. [indiscernible]

24 THE COURT: Okay. I'm letting you go. I know you  
25 don't have an attorney and I won't -- I'm happy that you've

1 explained to me what happened because I'm -- I've been unclear  
2 about it. This is a motioned hearing and Mr. Darwin has moved  
3 that your case be dismissed because you made individual  
4 defendants out of governmental employees. That -- we have a  
5 law in South Carolina, the South Carolina Tort Claims Act. And  
6 he's brought this motion saying that since they were operating  
7 as government employees, that your proper case should have been  
8 against York County instead of individual defendants. So how  
9 do you respond to that argument?

10 MR. DAS: Okay. Your Honor, let me explain that  
11 part. I'm confused on that part. And this is why I want your  
12 decision, like, you know, your decision, what to do or what not  
13 to do. My state, Colton, she wrote me about her decision to  
14 dismiss my motion without conducting hearing -- from her home  
15 and using her cell phone. And she promised me on my email that  
16 she's going to give me the official letter of this rejection.  
17 That letter never came. Okay. That confused me to file this  
18 case against -- directly against her or going against the court  
19 or the authority that what happened. This is confusing part.  
20 But what -- rest part of the incident, like, you know, the two

21 clerks, they stopped me going inside the courtroom. One clerk,  
22 he stopped me taking my counterclaims two times. And you know,  
23 the constable, he hold my hand and he put me out outside. So,  
24 these things are the court part, but you know, my state,  
25 Colton, she wrote me later from her home, she used her iPhone.

1 And she promised me -- and she told me that my motion is  
2 rejected without hearing. So, this is why I got confused and  
3 file a case against her. But yesterday and before on 15th, I  
4 filed a supplement and plus the, you know, motion to let me  
5 correct this mistake and I will refile again the main  
6 complaint. And so that we will then go ahead. Because I have  
7 the proof of this. And I have something -- very drastic things  
8 she did in the court. I was the witness in the FBI court and  
9 she has started talking about that case in the courtroom. I  
10 want that court recording. That is very urgent. I asked the  
11 FBI that they -- did they provide the details to my state about  
12 my case? Why they're talking? Why they talked about my  
13 previous case. If I'm the whistleblower in some serious  
14 security related case, how somebody knows about that. This is  
15 just dangerous to my life. So many things happened in the  
16 court. So, I was so confused. I filed a case against her,  
17 that is true. And if I did a mistake, I'm ready to correct it.

18 THE COURT: Okay. Well, that's -- Mr. Das, that's  
19 what I'm going to order. I'm going to grant the motion in that  
20 these individuals are dismissed as parties, but I'm going to  
21 allow you to amend your complaint.

22 MR. DAS: Thank you, sir.

23 THE COURT: And you need to do that within 10 days.

24 MR. DAS: Okay.

25 THE COURT: But the -- all of these people that you

**Transcript-III**

1 STATE OF SOUTH CAROLINA ) IN SOUTH CAROLINA CIRCUIT COURT 16

2 COUNTY OF YORK ) COURT C.A NO. 2022-CV-46-01509

3

4 Kalishwar Das, )

5 Plaintiff, )

6 Versus )

7 York County, )

8 Defendant. )

9

10 H E A R I N G

11

12 DATE: January 5, 2023

13

14 LOCATION: South Carolina Circuit Court 16

15

16 JUDGE: William McKinnon

17

18 TRANSCRIBED BY: ERIN REILLY

19

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## APPEARANCES:

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Kalishwar Das ( Pro Se)

Attorney for Defendant.

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INDEX

Certificate of Transcriber . . . . . 23

EXHIBITS

(None marked)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS  
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 PROCEEDINGS

2 THE COURT: All right. So, Mr. Das, you have a  
3 motion for entry of default and a motion to -- a motion for  
4 expedite. So, let's start with your motion for default. Go  
5 ahead.

6 MR. DAS: Yes, Your Honor, actually, I'm here to  
7 request you to send this matter to TSA -- SCTSA so that they  
8 may compute my compensation amount. The defendant county has -  
9 -

10 THE COURT: You want me to do what? To send it where?

11 MR. DAS: S-C-T-C-T-S-A, if I'm not wrong, but you  
12 know, the --

13 THE COURT: The TSA, the Transportation Security  
14 Administration?

15 MR. DAS: No, no, no. This is a -- Mr. Darwin, you  
16 know, the TSA.

17 MR. DARWIN: I may, Your Honor, I believe he may be  
18 referring to the Tort Claims Act.

19 MR. DAS: Oh, TCA, I'm sorry. TCA.

20 THE COURT: Well, the -- Mr. Das the Tort Claims Act  
21 is a statutory framework for how claims are handled against  
22 governmental entities. I -- if you -- I don't understand what  
23 you mean by send it to the Tort Claims Act.

24 MR. DAS: No problem. So that --

25 THE COURT: So, let me -- the motion I have in front

1 of me is a motion for entry of default.

2 MR. DAS: Yeah, entry of default because, sir, Mr.  
3 Darwin never provided any document kind of thing to prove that  
4 he's the attorney, the need defendant in York County and York  
5 County defendant is Michael Kendree, and I reported him, I  
6 provided him all the documents and he never responded me. So,  
7 for that reason, he's defaulting at one place. And another  
8 thing is that the -- Mr. Darwin served me the copy through  
9 email. An email copy never opened as after seven days; I came  
10 to know that he sent me some email. I went to the docket seat  
11 to see and I found that -- and I found with the -- you know,  
12 it, it was totally wrong thing. He's referring this case is a  
13 hundred percent case of discrimination against by Mr. Colton.  
14 And he's referring something which is not relating to this case  
15 anyway and second thing you know the physical copy, I never is  
16 --

17 THE COURT: Mr. Das, let me stop you. Okay. How did  
18 you serve? York County is a defendant, right?

19 MR. DAS: York County is a defendant. New defendant,  
20 sir.

21 THE COURT: Okay. Well -- but the defendant you're  
22 trying to hold in default is York County, correct?

23 MR. DAS: Yes, sir.

24 THE COURT: Okay. How did you serve York County?

25 MR. DAS: York County attorney.

1 THE COURT: You -- so what did you do exactly?

2 MR. DAS: I sent the certified copy of the file and  
3 the case.

4 THE COURT: So, you mailed a copy to the attorney?

5 MR. DAS: Yes, sir. And yesterday I met Mr. Mike ---

6 THE COURT: Mr. Das, please don't speak over me.

7 Okay. That's not proper service. I mean, did you review the  
8 rules of civil procedure?

9 MR. DAS: Okay. So, what is the rules of civil  
10 procedure, sir?

11 THE COURT: Yeah, Mr. Das, I can't coach you on a --  
12 the rules of civil procedure, Rule 4, governs service to  
13 process. So let me hear from Mr. Darwin on this, but if that's  
14 how you serve the county, I don't think that's proper service.  
15 Let me hear from Mr. Darwin.

16 MR. DARWIN: Thank you, Your Honor. May I please the  
17 Court. Mr. Das originally filed his complaint and named  
18 magistrate Judge Colton, a couple of her constables and other  
19 courtroom staff with the magistrate's court. I filed a motion  
20 to dismiss them individually based on the Tort Claims Act that  
21 was granted. And Mr. Das was granted leave to file an amended  
22 complaint naming only York County as to defendant, Your Honor.  
23 He did so and within the proper time, I filed and served an  
24 answer to the amended complaint on October the 18th and a  
25 motion to dismiss on October.

1           THE COURT: So, the alleged default is an amended  
2 complaint, not the original complaint?

3           MR. DARWIN: That is correct, Your Honor. And also,  
4 I served Mr. Das by mail. I sent him the answer to the amended  
5 complaint and motion to dismiss you'll see the certificate of  
6 service I filed on October the 18th, 2022. And then because  
7 Mr. Das and I have been exchanging emails throughout this case,  
8 Your Honor. I did the next day as a courtesy also send him an  
9 email attaching those. But I did serve them by mail as well on  
10 the day I filed them, the very following day is when I sent  
11 them the email with them just as a courtesy,

12           THE COURT: Your Honor, Mr. Das, I'm looking at an  
13 answer filed October the 18th.

14           MR. DAS: Yes, Your Honor. Let me speak on this  
15 matter because this is little bit --

16           THE COURT: Mr. Das, please do not cut me off. Okay?

17           MR. DAS: I'm so sorry, sir.

18           THE COURT: I'll call on you when it's time for you  
19 to speak, okay?

20           MR. DAS: Okay.

21           THE COURT: You understand? So, let's see -- so the  
22 amended complaint was -- the answer wasn't even -- was filed 15  
23 days after the amended complaint was filed with, so what's your  
24 basis for arguing your --- did you receive the answer?

25           MR. DAS: It's me to answer?

1                   THE COURT: Yes, sir. I'm asking, did you receive  
2 the answer that York County filed and served?

3                   MR. DAS: I received not a single answer from the  
4 York County.

5                   THE COURT: You didn't?

6                   MR. DAS: Yeah.

7                   THE COURT: Did you receive the electronic filing  
8 notice that told you that there -- that it had been filed  
9 electronically?

10                  MR. DAS: Not from York County.

11                  THE COURT: From the clerk of court?

12                  MR. DAS: No, sir. Which you notice you're talking  
13 about? Can you specify the notice, sir?

14                  THE COURT: I'm talking about the answer to the  
15 amended complaint

16                  MR. DAS: Answer from the amended complaint it came  
17 only from Mr. Darwin in email, an email never got opened that  
18 was an error in email it was never opened. So, I got the  
19 answer from the docket. I printed it and I told him, because  
20 of the technical reason, I'm not going to consent your answer.  
21 And also, you are not the declared attorney of the York County  
22 new defendant, so please take care of this part and he never  
23 provided any kind of document.

24                  THE COURT: Sorry, you said he's not the attorney?

25                  MR. DAS: Yeah, he's not because Court told me, sir.

1 I went to the Court and I asked them like, you know, who is the  
2 attorney for the York County? And I went to the website also, I  
3 saw clearly that York County attorney is Mr. Michael Kendree.  
4 And yesterday I met him, I meet Mr. Michael Kendree, I met him  
5 personally. I handed over the supplementary document and he  
6 told me this, yes, I am the York County attorney. It was very  
7 clear to me, I did no mistake anywhere. And he -- I was  
8 requesting him to provide the, you know, document that York  
9 County hired you or you were retained by the York County, so  
10 that I will consent your email or whatever he sent me I will  
11 consent it. But he never provided me anything and they passed  
12 so I claimed for the default judgment, but my problem was  
13 something else also but it was totally ignored by the Court and  
14 the -- by Mr. Darwin.

15 THE COURT: Mr. Das, my turn. Okay. I have a  
16 certificate of service dated October 18th, where Rhonda  
17 Mitchell, who's a paralegal at Holcombe Bomar says she's swear  
18 the answer to amend -- amended complaint. It's filed with the  
19 Court, so I found that sufficient evidence that there was an  
20 answer and motion for default is denied.

21 MR. DAS: But sir, I never received that from -- what  
22 do you call? The mail -- in my mail in my home, and also  
23 because [indiscernible].

24 THE COURT: Okay, did -- okay. I've ruled. Okay,

25 MR. DAS: This is not -- I'm not -- I'm sorry,

1 | because I'm not a good speaker but I'm trying to specify one  
2 | thing that Mr. Darwin never cleared it that he's hired or  
3 | retained by the York County, so that I will guess it. He's the  
4 | attorney of the York County and I will respond it. He never  
5 | did that and I was requesting him from Dave Hust and he's not  
6 | telling me. Rather -- two days ago he told me -- he wrote me  
7 | an email that says that I was retained to represent York County  
8 | in this case by the South Carolina Insurance Fund, the  
9 | insurance carrier for York County. Therefore, I am the  
10 | attorney of the -- of record in this case of York County. That  
11 | makes no sense.

12 |               THE COURT: Mr. Das, stop. Okay. Mr. Darwin, are  
13 | you the counsel of record in this matter for York County?

14 |               MR. DARWIN: Yes, I'm Your Honor. I have been since  
15 | --.

16 |               THE COURT: Okay. Mr. Das, Mr. Darwin is an officer  
17 | of the Court. He has filed pleadings on behalf of York County.  
18 | He's affirmed, he's a counsel of record. So, we're going to  
19 | move on, the motion for default is denied.

20 |               MR. DAS: No, sir. Let me speak I'm not done here,  
21 | so please do not --

22 |               THE COURT: Mr. Das, you are done on that issue.

23 |               MR. DAS: One more thing I need to say here.

24 |               THE COURT: Mr. Das, if you speak over me again, you  
25 | -- I will consider holding you in contempt. Do you understand?

1 Stop speaking over me. I will tell you when you may speak, do  
2 you understand? Do you understand?

3 MR. DAS: Okay, sir.

4 THE COURT: Okay. I don't want to have to send the  
5 Sheriff's deputy to arrest you for contempt. Okay? This is a  
6 court proceeding, all the rules of court apply as if we were in  
7 actual court do not speak over me. Right? Motion for default  
8 is denied, your motion to dismiss. Go ahead, Mr. Darwin.

9 MR. DARWIN: Thank you, Your Honor. May I please the  
10 Court. And Your Honor, I'm not going to belabor what's in just  
11 the two-page motion to dismiss the amended complaint, but I do  
12 want to go into the fact that all of the allegations and the  
13 amended complaint stemmed from the rulings that Mr. Das  
14 disagrees with that Judge Colton made in a commercial eviction  
15 in which he was a defendant, she found in favor of the landlord  
16 and ruled for the eviction. Mr. Das then filed an appeal as I  
17 set forth in my motion, Your Honor and that appeal was to the  
18 Circuit Court. He filed that on May 2nd, 2022. He then would  
19 filed a notice of withdrawal of that appeal on May 12th, 2022,  
20 and then filed his lawsuit initially on May 16th, 2022, and  
21 then amended it at -- on October the 3rd, 2022 based on the  
22 ruling of the Court that he needed to amend to add York County  
23 as the proper defendant.

24 But all of the allegations that amended complaint,  
25 Your Honor, are challenging what Judge Colton's actions in that

1 underlying commercial eviction. And the only property remedy  
2 for Mr. Das would've been to have appealed and prosecuted that  
3 appeal. So, any errors that he claims she made, anything he  
4 says she didn't allow him to file any pleadings, counterclaims,  
5 those sorts of things all arose out of that litigation on the  
6 commercial eviction, and the remedy should have been an appeal.  
7 Furthermore, Your Honor, if you look at what he asserts as or  
8 sets forth as causes of action, which are discrimination and  
9 corrupt court practices, personal loss of livelihood and other  
10 losses, procurement of hearing transcript slash video footage  
11 issue and cost of this action. None of those are viable causes  
12 of action, not only under the Tort Claims Act but under the  
13 common law or statutory laws of South Carolina, as far as I can  
14 tell from the best reading, I can make of that amended  
15 complaint, Your Honor.

16           Furthermore, and I put these in my answer and base  
17 that on the motion to dismiss. Pursuant to the Tort Claims  
18 Act, Your Honor set forth 157860 Paragraph 1 that a  
19 governmental entity is not liable for loss resulting from  
20 legislative judicial -- quasi-judicial action or in inaction.  
21 Again, it stems from Judge Colton's ruling and an underlying  
22 commercial eviction and Your Honor, again, not to belabor the  
23 point, but just for the record also set forth under Court  
24 Claims Act 157860 Subsection 2, Subsection 3, and Subsection 5,  
25 Your Honor, for all of those, and even if you liberally

1   construe the complaint -- the amended complaint, excuse me.  
2   There's just no cause of action set forth in this case and he  
3   should be precluded from asserting any causes of action because  
4   he dismissed or withdrew his appeal, which would've been the  
5   property avenue for any relief he sought, Your Honor.

6               THE COURT:   Okay, Mr. Das, I need you to listen  
7   carefully.   Okay? The defendant, York County, their attorney is  
8   arguing that everything in your complaint is your -- about you  
9   being unhappy with the rulings by Magistrate Judge Colton in an  
10   eviction action, okay? And those actions are not -- cannot  
11   support a tort action under the Tort Claims Act.   So, my  
12   question to you is, do you have any claims against York County  
13   that are not based on what Judge Colton did in your eviction  
14   lawsuit? Okay? That's my question.

15              MR. DAS:   Do I have right to put my opinion in the  
16   statement?

17              THE COURT:   Yes, sir.   I'm asking you to tell me, do  
18   you have any claims in your lawsuit that are not based on what  
19   Judge Colton did as a judge in your eviction case?

20              MR. DAS:   Okay, sir.   Ms. Colton did an eviction case  
21   and that was fine, gone and forgotten.   The main thing is that  
22   she threw me out of the court lobby, that was the case of  
23   discrimination.   Plus, in her rehearing case in -- on 14th of  
24   April, she talked about a case which FBI case she discussed  
25   about that involves the name of Mohamed Atta.   He was the



1 mastermind behind the 911 attack and I was reporting to FBI and  
2 they are not giving me the video recording

3 THE COURT: Mr. Das, I -- you have completely lost  
4 me, I'm afraid. I don't understand the connection between Mr.  
5 Atta or any of that in your case?

6 MR. DAS: I also don't understand why she talked  
7 about that in the Court. And I wanted a video copy so that I  
8 will give that to FBI. I asked to FBI did -- why he tell her -  
9 - told her and they told me no, I never told them. So how  
10 she's talking about FBI case and Mohamed Atta where my former  
11 employer pondered him for anything. Why she was talking in the  
12 court and what Mr. Darwin is talking about is totally  
13 forgotten. That is not the case, actually. Amended case is  
14 about my 100% discrimination. On 18th of April, 2022, when I  
15 was attempting to file a motion in the court, she threw me out  
16 of the court premise. And next day she sent me an email  
17 confirming that what she did, she did in mistake or whatever,  
18 she is declining my two motions on phone via her personal  
19 iPhone not involving any kind of conduct or hearing. She did  
20 that and that is truthful, that is provided to the Court.

21 THE COURT: Mr. Das --

22 MR. DAS: And during that, Mr. Darwin is claiming --

23 THE COURT: Mr. Das, let me speak, please. Okay? But  
24 again, these are the actions of Judge Colton as a judge. If  
25 you don't like what a judge does in your case, the way you

1 challenge that is you appeal to the higher court. So my  
2 question to you is, again, is there anything in your lawsuit  
3 that does not involve Judge Colton's actions as a judge?

4 MR. DAS: Anything Judge Colton did in the court sir,  
5 that is forgotten. Gone. I lost my store, I lost my business  
6 but my question of my dignity loss is here. This is what my  
7 16th of May petition is done. I did not charge anything about  
8 my loss in business, I charge only because she discriminated  
9 me.

10 THE COURT: How did she discriminate against you? I'm  
11 still not understanding your claim.

12 MR. DAS: Okay. Let me explain. Thank you, sir for  
13 giving me this option to tell you. I went on 18th of April  
14 after case was ended, everything was done. I went on April  
15 18th to the Court and I was trying to file an old motion, not  
16 the new motion, old motion to just let her see what happened in  
17 that case. And she ordered the Court constable to throw me out  
18 of the Court premise. This is what the complaint is all about.  
19 And Mr. Darwin is wrongly referring that, no, no this is the  
20 case of Judge Colton is wrong. No, no, no, I'm not disputing  
21 that at all. I'm not disputing what judge did that day to  
22 evict me. I'm disputing only one thing that she discriminated,  
23 threw me out, no human rights. Where is my human rights? Why  
24 she threw me out of the court premise?

25 THE COURT: Mr. Das, your claim is that Judge Colton

1 removed you from the courtroom for a discriminatory reason?

2 MR. DAS: No from the courtroom, sir. From the court  
3 lobby.

4 THE COURT: From the lobby?

5 MR. DAS: Yes. So, Judge Colton ordered security to  
6 remove you from the lobby?

7 MR. DAS: Court lobby. She interrupted me filing the  
8 motion and she threw me out of the court permit. Next day, she  
9 put a sign outside that I cannot come inside the court, and I  
10 was not allowed to go inside the court to collect my own order.  
11 And why Mr. Darwin is lying, just giving you the deceptive like  
12 information to the court that this case is relating to that  
13 eviction suit. No, there is no eviction suit remaining here,  
14 there is not. So read the case properly. It is not relating  
15 to anything about the -- like a eviction thing. This is 100%  
16 discrimination case. She threw me out, she asked me some  
17 derogatory questions. She talked about Mohamed Atta, and she  
18 was talking about to like it should just to distract me from  
19 reading the book. The petition, which was given to me five  
20 minutes peaceful to read it through.

21 I was reading and she was trying to distract me and  
22 she talked about those things. I say, give me the video to  
23 verify what she was talking about, why she talked about that?  
24 This case is not relating to Mohamed Atta. This case is not  
25 relating to my employer, whether he provided the point to

1 Mohamed Atta or not. Why she's talking about that is  
2 endangering my life. And they're not taking this seriously,  
3 they're trying to drive the case in two different direction  
4 that oh, yeah, this is the eviction case. This is not the  
5 eviction case at all. This is a discrimination case. She's  
6 racist -- she has a racist feeling. She don't have any kind of  
7 respect for the Indians. I had the red spot -- okay, let me  
8 turn my video on.

9 I had a red spot on my forehead, and she asked me,  
10 what is on your forehead? I said, this is the symbol of my like  
11 I -- when I pray, I put the red symbol on here. And she told  
12 me, oh, I thought like your women wear that. I don't care  
13 about that. What you all do that and she just ignored it. So,  
14 I say, please take the video off of 14th of April and just go  
15 through the video. Truth is truth you can see what happened.  
16 You can see what happened. Don't believe me, I say maybe I'm a  
17 liar. Maybe I'm not giving you right information, but video  
18 can tell you everything. Take the video of 18th, take the  
19 video of 14th and see the fact what happened.

20 THE COURT: Mr. Das, let me stop you, so what you  
21 want is to be -- see the courthouse security video?

22 MR. DAS: Yes, sir.

23 THE COURT: Have you made a foyer request for that  
24 video?

25 MR. DAS: I did that. Mr. Darwin also told me and he

1 wrote me an email that he's going to provide me that. This is  
2 why I was providing he said, no, I can give you the video.

3 THE COURT: Mr. Das that's okay. Do you understand  
4 there's a Freedom of Information Act process, and if the county  
5 doesn't respond in a way you think is appropriate, you can file  
6 a civil action. But let me hear Mr. Darwin what about -- was  
7 Mr. Das excluded from the courthouse?

8 MR. DARWIN: Your Honor? Yes. Judge Colton has --  
9 I'm advised that because of his behavior in the waiting area,  
10 he was removed because he was disturbing other patrons from  
11 trying to file documents with the Court. So, he was instructed  
12 to leave that --

13 THE COURT: As a -- she -- as a judicial officer, she  
14 instructed --

15 MR. DARWIN: Absolutely, Your Honor. That's my  
16 argument. Everything she did, she did as her role as a  
17 magistrate judge for York County, every collection that she  
18 did.

19 MR. DAS: Your Honor, I request prove it.

20 THE COURT: You're the plaintiff, sir. You have to  
21 prove the case.

22 MR. DAS: Okay. So, I have my video. So should have  
23 --

24 THE COURT: Mr. Das, let me speak. Okay? My -- that  
25 Mr. Darwin is telling me that -- and I'm beginning to believe

1 | that he's correct, that everything in your complaint relates to  
2 | actions that Ms. Colton took as a magistrate judge within her  
3 | judicial authority, which would include telling someone they  
4 | have to leave the courthouse lobby. She's a judge, she can do  
5 | that

6 |           MR. DAS: She told the Court Constable to throw him  
7 | out. He hold my hand tight and threw -- dragged me out of the  
8 | Court. What? And, and -- okay. And if he's saying that I was  
9 | disturbing anybody? Okay. Saw the video. I have my own video,  
10 | you saw your video, okay? Saw your video come to the proof,  
11 | come to the proof and come to the truth. Truth must prevail,  
12 | she is discriminating person she doesn't deserve this kind of  
13 | post. I request you, please verify this. If I'm lying this,  
14 | please verify

15 |           THE COURT: Mr. Das my jo --. I'm not a roving  
16 | inspector of the judicial department. Okay? If you believe  
17 | you're mistreated by a judge, there are ways for you to make  
18 | that complaint. But I'm a civil judge hearing a civil  
19 | complaint, okay? I'm not -- I don't go around and evaluate  
20 | other judges and decide whether someone's doing something wrong  
21 | or right. That's not my role. So, based on this, I'm going to  
22 | grant the motion to dismiss the complaint. So, Mr. Das, I'm  
23 | going to give you one more chance to come up with a complaint  
24 | that states a cause of action. Okay? That means a some kind of  
25 | law or right, that has been violated, okay? You can't just say

1 discrimination, you need to say something like I don't know you  
2 applied for a job and you didn't get it or something. I mean,  
3 that you -- a specific allegation there's some law that's being  
4 violated. Okay? So, I'm going to grant a motion to dismiss,  
5 but I'm going to give you 30 days. I'm going to give you one  
6 more chance to come up with a complaint that states a cause of  
7 action. All right? You understand?

8 MR. DAS: I completely understand, sir.

9 THE COURT: Okay. So, motion to dismiss is granted  
10 with leave to file an amended complaint within 30 days.

11 MR. DAS: Okay. Your Honor, can I request one thing,  
12 sir?

13 THE COURT: I don't know if I can grant it but you  
14 can request. Yes, sir.

15 MR. DAS: Yes. because of the 14th of April she was  
16 discussing about, you know, some case where I was engaged with  
17 the FBI, and I wanted that video to be provided so that, you  
18 know, there will be a case filed with the FBI. I spoke with  
19 the FBI fellow and they told me, you know, they need that  
20 evidence. So, either I will have to file against -- the case  
21 against her or I need the video footage. So, can you pass the  
22 order to provide me with the video of 14th of April?

23 THE COURT: No, sir. I cannot. The case is  
24 dismissed, you can refile, you can ask for it as part of the  
25 discovery process. You can use them for your process, but I

1 can't just do a -- you know, understanding order. That video  
2 needs to be provided to you. So, no I cannot do that.

3 MR. DAS: Your Honor, that case was that the request  
4 for the procurement of transcript and the video footage was  
5 kept in on September 4th -- 20 and kept was --

6 THE COURT: Was kept where?

7 MR. DAS: It was kept on evidence. I already  
8 requested to the court and court put that in evidence.

9 THE COURT: Okay, Mr. Das, again, the case is  
10 dismissed, so I cannot do any discovery orders on your behalf.  
11 Okay? You have 30 days. Your motion to this motion dismiss is  
12 granted, you have 30 days to refile a complaint that states  
13 what we would call a recognizable cause of action, meaning a  
14 specific legal wrong that was done to you, that the law  
15 provides a remedy for and you need to be very specific as to  
16 what happened to you and why a lawsuit is appropriate. Do you  
17 understand?

18 MR. DAS: Yeah, I understand.

19 THE COURT: Okay. That'd be the order of the Court.  
20 We'll do a form for Motion to dismiss granted, 30 days to  
21 refile one last time.

22 MR. DARWIN: Thank you, Your Honor.

23 THE COURT: Yes, sir.

24 [End of hearing]

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I, ERIN REILY, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 16, South Carolina, on the 5th day of January, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 28<sup>th</sup>, 2024

ERIN REILLY

TRANSCRIBER

## Transcript-IV

1 STATE OF SOUTH CAROLINA ) IN SOUTH CAROLINA CIRCUIT COURT 16

2 COUNTY OF YORK ) COURT C.A NO. 2022-CV-46-01509

3

4 Kalishwar Das, )

5 Plaintiff, )

6 Versus )

7 York County, )

8 Defendant. )

9

10 H E A R I N G

11

12 DATE: March 9th, 2023

13

14 LOCATION: South Carolina Circuit Court 16

15

16 JUDGE: William McKinnon

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18 TRANSCRIBED BY: ERIN REILLY

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INDEX

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EXHIBITS

(None marked)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS  
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 PROCEEDINGS

2 THE COURT: Kalishwar Das Versus York County.

3 MR. DAS: Are you hearing me, sir?

4 THE COURT: I can hear you.

5 MR. DAS: Yes, sir. Is it my chance to speak?

6 THE COURT: No, sir. It's Mr. Darwin's because Mr.  
7 Darwin had filed a motion to dismiss the amended complaint.

8 MR. DARWIN: Thank you, Your Honor. May I please the  
9 Court?

10 THE COURT: Yes, sir.

11 MR. DARWIN: Your Honor, may I recall this? You heard  
12 a motion to dismiss an amended complaint, excuse me, back on  
13 January the fifth of this year. Five days later on January  
14 10th, you granted that motion to dismiss Mr. Das amended  
15 complaint, but allowed him 30 days, excuse me, to file a second  
16 amended complaint to attempt to assert a viable cause of action  
17 against York County. Your Honor, he filed a second amended  
18 complaint on January the 25th. I filed an answer to that  
19 amended -- second amended complaint and a motion to dismiss on  
20 February the second. And Your Honor, I would just assert, I'm  
21 not going to beat up what we did last time. It's set forth in  
22 my motion, but there's still no viable cause of action, Your  
23 Honor. This time Mr. Das attempts to assert six causes of  
24 action.

25 Four of those, Your Honor. The first, second, fourth

1 and fifth, he cites the 18 US code, which from my reading of  
2 those are all criminal statutes, certainly not appropriate for  
3 a civil cause of action. As to the third claim from -- for  
4 relief, it says he is a -- trying -- trying to assert a claim  
5 for the defendants denying motions without conduct --  
6 conducting a hearing. And as Your Honor may recall, this  
7 underlying case arose in the magistrate court of a commercial  
8 eviction.

9 And Mr. Das was upset about the ruling of the Court in  
10 that commercial eviction, which found for the landlord, and  
11 actually filed an appeal of that to the Circuit Court, then  
12 withdrew that appeal and filed a lawsuit in Circuit Court  
13 attempting to assert causes of action under the South Carolina  
14 Tort Claims Act. Your Honor, so again that cause of action  
15 would -- should have been on the appeal. And that's a  
16 collateral estoppel issue, which and res adjudicata, which I've  
17 asserted in the motion not only back in January but this new  
18 one. And finally, the sixth cause of action or claim for  
19 relief is simply says for a possible attorney's fee and court  
20 costs. Of course, Mr. Das does not have counsel. So that's  
21 not a viable cause of action either, Your Honor. So, for those  
22 reasons, there reasons asserted in my motion, I'd ask that the  
23 Court dismiss the second amended complaint.

24 THE COURT: All right. Mr. Das, now it's your turn,  
25 sir.

1 MR. DAS: Yes, Your honor. Defense --

2 THE COURT: I can't see you.

3 MR. DAS: I have a -- okay. So can I turn it on  
4 temporarily -- I will turn it off again.

5 THE COURT: Sure.

6 MR. DAS: Okay. You can see me here now, are you?

7 THE COURT: Not yet sometimes it takes a few seconds  
8 for it to pop up, but I don't -- there we go. Okay. Now I see  
9 you.

10 MR. DAS: Okay, sir. Thank you, sir.

11 THE COURT: Never mind.

12 MR. DAS: Yeah. Mr. Darwin is -- Mr. Defense  
13 attorney is repeatedly telling only one thing to Court that I  
14 had of dispute with the landlord. And landlord dispute is  
15 already [indiscernible]. There is no like a dispute left and  
16 he's repeating, and I'm telling that there is only one case  
17 left that is a discrimination and it doesn't mean in the --  
18 during the Court hearing and for approving that I wanted the  
19 surveillance of footage and they are not providing me. That is  
20 the real cause of action here and as you directed last hearing,  
21 sir, that applied through the FOIA and I applied and they  
22 provided me very little piece of evidence like a 10%, 5% only  
23 and that is also only the audio recording, not the video  
24 recording. So, if any claim, he's claiming that I am doing  
25 this and anyway in the wrong way, that can be proven only by

1 providing the real video, which is not provided. So, I came to  
2 request for the compelled discovery under Rule 37, and that is  
3 why I'm here. And whatever he's applying for this dismissal  
4 without the proper hearing, no dismissal can be granted. This  
5 is why I came here, sir.

6 THE COURT: Okay. Well, Mr. Das I don't even think  
7 your motion to compel is on the docket. I think you sent an  
8 email asking me to continue the hearing on Mr. Darwin's  
9 motion. Is that correct?

10 MR. DAS: That is also correct. I wanted to continue  
11 because I'm not trying to -- I'm not trying to be like on the  
12 wrong side whether I'm right requesting for the dismissal. I  
13 say no continue it and if this is anything, if he thinks like,  
14 you know, there is a viability of this case that must be heard  
15 properly. So first bring the evidence up and then you conduct  
16 the hearing. That's why is he requesting for the dismissal? If  
17 he's innocent, his client innocent, then he must bring the  
18 proof evident like bring the evidence in front of the Court why  
19 he's concealing?

20 THE COURT: Mr. Das I've looked at your amended  
21 complaint I just don't see any causes of action that can  
22 proceed. Mr. Das, please don't interrupt me.

23 MR. DAS: My mistake, sir.

24 THE COURT: Okay. Mr. Das, I mean, in order to get  
25 discovery, you have to have a complaint that states at least

1 | probable causes of action. Meaning that at least if the all  
2 | the things you say are true, then you might have some recovery.  
3 | But I mean as Mr. Darwin pointed out, you keep citing the  
4 | Title 18 of the United States Code, which is Crimes and  
5 | Criminal Procedure. So, I mean these are not causes of action,  
6 | certainly not causes of action under the Tort Claims Act. I  
7 | mean --

8 | MR. DAS: Can I speak?

9 | THE COURT: You can speak but speak on that issue  
10 | because I -- that -- that's what I'm asking because what I'm  
11 | looking at your complaint right now and it --

12 | MR. DAS: Okay. So, my point is that if he's  
13 | referring to the United States Rule 18 which is the criminal  
14 | lawman thing, and I referred that, I refer -- did not refer it  
15 | like, you know, the crime thing. I say if it is proven that,  
16 | you know, the evidence had been concealed and I was  
17 | discriminated, I was publicly humiliated then that is a crime.  
18 | That is not a civil case. If somebody hold my hand and throw  
19 | me out of the Court premise, that is a crime. No matter who is  
20 | he sees my state, of course, it's my state. So that's a crime.  
21 | So, while referring that incident, I use this log, this section  
22 | of law and many things, sir, like, you know, if I'm  
23 | discriminated, how this is not the cause of action and if I'm  
24 | claiming I'm discriminated and I'm requesting for the evidence  
25 | and evidence is in the hand of defendant then how -- where I

1 will go? I don't know.

2 THE COURT: Mr. Das, anything else?

3 MR. DAS: So, my case cannot be dismissed, sir. I  
4 request you to please compel the discovery, bring the evidence  
5 up like in front. And if you find that there is nothing  
6 happened, which I claim then this case may -- can be dismissed  
7 not before that. This is what I say.

8 THE COURT: Okay. Mr. Das, I'm going to grant the  
9 motion to dismiss. And again, it's not -- the issue is that  
10 even if what you assert in the complaint is true, there's no,  
11 there's no recovery there. I mean, you -- you've not asserted  
12 a valid cause of action. So, I'm going to grant the motion to  
13 dismiss. Mr. Darwin, can you prepare me an order?

14 MR. DARWIN: Yes, Your Honor.

15 MR. DAS: One question, sir?

16 THE COURT: Okay.

17 MR. DAS: Can I -- okay. Hold on one second. Okay.  
18 So, my question is like, you know, am I allowed to appeal this  
19 case?

20 THE COURT: Sure, the appeal from my decision is to  
21 the South Carolina Court of Appeals. You absolutely can  
22 appeal.

23 MR. DAS: Yes, sir. Thank you, sir.

24 THE COURT: You're very welcome. All right. Thank  
25 you, counsel. Mr. Das thank you.

1                   MR. DAS:   Honorable judge, I have one question asked  
2   -- to ask you.

3                   THE COURT:   Okay.

4                   MR. DAS:   About how -- what about my compelled  
5   discovery that is on the docket you say?

6                   THE COURT:   Well, because the case is dismissed and  
7   your discovery motion is muted.   So, there you -- does that  
8   make sense? The case is over.

9                   MR. DAS:   Okay.   So, I need to go to appeal court,  
10   okay? All right.

11                   THE COURT:   Correct, you need to file an appeal.

12                   MR. DAS:   Yes, sir.   Thank you.

13                   [End of hearing]

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## 1 CERTIFICATE OF TRANSCRIBER

2 I, ERIN REILY, a court-approved transcriber, do hereby certify  
3 that the foregoing is a true, accurate and complete Transcript  
4 of Record of the proceedings had and evidence introduced in the  
5 trial of the captioned case, relative to appeal, in the South  
6 Carolina Circuit Court 16, South Carolina, on the 9th day of  
7 March, 2023.

8  
9 I do further certify that I am neither of kin, counsel, nor  
10 interest to any party hereto.

11 March 28<sup>th</sup>, 2024

12 ERIN REILLY

13 TRANSCRIBER  
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**Transcript-V**

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE COURT OF COMMONS PLEAS  
CASE NO. 2022-CP-46-01509

KALISHWAR DAS, )  
 )  
Plaintiff, )  
 )  
-vs- )  
 )  
YORK COUNTY, et al, )  
 )  
Defendants. )  
\_\_\_\_\_ )

TRANSCRIPT OF RECORD

February 13, 2024  
Rock Hill, South Carolina

B E F O R E:

Honorable William McKinnon, Judge.

A P P E A R A N C E S:

Mr. Kalishwar Das  
Pro Se Plaintiff (telephonically)

Mr. A. Todd Darwin  
Attorney at Law  
Attorney for Defendant York County  
Spartanburg, South Carolina

Shannon E. McGilberry, CVR-M  
Court Reporter

1 THE COURT: Mr. Das?

2 MR. DAS: Yes, sir.

3 THE COURT: This is Judge McKinnon

4 MR. DAS: Is this the Court?

5 THE COURT: This is Judge McKinnon. Yes, sir. We're  
6 in court.

7 MR. DAS: Yes, sir. Good morning, sir. How are you?

8 THE COURT: Good morning.

9 Can we put it under the microphone, Ms. Foster, so that  
10 the court reporter can hear it well?

11 MS. FOSTER: With the --

12 THE COURT: Yeah. Just kind of bend the microphone  
13 down like we do sometimes.

14 MR. DAS: Are we ready?

15 THE COURT: Mr. Das, we're ready. I just -- can you  
16 hear me okay? This is Judge McKinnon. Can you hear me?

17 MR. DAS: I can hear you, but it's not (audio dropped)  
18 --

19 THE COURT: I'm sorry?

20 MR. DAS: -- distance.

21 THE COURT: Mr. Das, I couldn't hear what you just  
22 said.

23 MR. DAS: I hear you from great distance.

24 THE COURT: From great distance. Okay.

25 Ms. Foster, is that -- can you move that microphone up

1 to my Judge's Bench here?

2 MS. FOSTER: I can't that one, but I can--

3 THE COURT: Let's do this one. Okay.

4 MS. FOSTER: ---this one.

5 THE COURT: So we don't get feedback, I'm going to turn  
6 off the mic on my bench.

7 COURT REPORTER: Okay.

8 THE COURT: And then we'll just use -- will that work  
9 for you?

10 COURT REPORTER: Yes, sir.

11 THE COURT: Okay.

12 COURT REPORTER: It should.

13 THE COURT: Okay. Mr. Das, how about now?

14 MR. DAS: Yeah. Very good, sir.

15 THE COURT: Okay. All right. So I just want to put on  
16 the record first that you requested to do this hearing  
17 telephonically and so I've done that. I mean, you requested  
18 that because that you had some -- you had issues with your  
19 English; you wanted to do it telephonically. Is that  
20 correct?

21 MR. DAS: Yeah. That is correct, and--

22 THE COURT: Okay.

23 MR. DAS: ---another issue left now, because, you know,  
24 you and I are talking on phone. That's the way --

25 THE COURT: Okay.

1 MR. DAS: So that is not a problem, sir.

2 THE COURT: Okay. Well, --

3 MR. DAS: I was most concerned about technically how  
4 (indiscernible) of the hearing that would be not good for me  
5 and for anybody for the case --

6 THE COURT: Okay.

7 MR. DAS: -- was to give me a chance to attend the  
8 court some other way and, again, a remote hearing on the  
9 telephone, since he provided the -- you actually ordered  
10 that it could go on phone and that's --

11 THE COURT: Okay. So I'm allowing you to go by phone,  
12 so you're --

13 MR. DAS: Yes, sir.

14 THE COURT: I'll be happy to hear -- this is your  
15 motion to reconsider, so go right ahead.

16 MR. DAS: Yes, sir. The (indiscernible) is to request  
17 you to set aside this (indiscernible) case, because other --  
18 there's so many, you know, the obvious thing like a  
19 disadvantage on March 29 by the Judge -- by the Judge --  
20 what his name -- Sprouse -- on 27<sup>th</sup> of last year -- I'm  
21 sorry -- 2022. He -- like, he forced me to me to change the  
22 name of the defendant. That is -- that is not lawful.  
23 Nobody can dictate me to change the defendant name and I  
24 changed the name and since then everything has started  
25 (indiscernible). The main question was that I was

1     humiliated. I was infringed. My personal security was  
2     infringed by the magistrate and that total (indiscernible)  
3     litigation came on the York County. York County is not the  
4     defendant actually. Myself believe that what I mentioned  
5     the name of Ms. Colton as the defendant is my main reason I  
6     want to retain that and anything that was ordered on 27<sup>th</sup> of  
7     20- -- 2022 must be re-addressed. There's no issue left of  
8     previous -- other defendant regarding the --- you also  
9     mentioned in your order that, what do you call, tort claim  
10    and the, you know, the -- the matter of (indiscernible) aid  
11    that obtained. That was not relative to this case at all  
12    so -- for (indiscernible). So when -- when I see that order  
13    and proceeding according to that order and your order of  
14    dismissing, that did not mismatching -- that is mismatching.

15           So on an effort to make a case, if this is dismissed in  
16    the big court, what are they tell them? That is a big case  
17    here, that I was -- I was totally tortured. I was  
18    humiliated and my personal safety was infringed and the  
19    defendant --

20           THE COURT: You were tortured by the magistrate court?

21           MR. DAS: The magistrate (indiscernible) --

22           THE COURT: You were tortured by the magistrate court?  
23    What do you mean by that?

24           MR. DAS: Yeah. The magistrate actually ordered the  
25    court constable to remove me from the court premise and

1 later she barred me to enter in the court premise. When I  
2 was filing motion, they did not allow me to take the motion  
3 and when I asked her on my email, she technically answered  
4 me that she dismissed both the motions without giving --  
5 without docketing it, without hearing it, without any kind  
6 of hearing. Then when I went to court after ten days to get  
7 the order of that, I was not allowed to go inside the court  
8 and I was stopped at the door. Court officer went inside to  
9 bring the order and he gave me the wrong order, so there was  
10 no order, because this was not documented, sir, and I have  
11 -- I provided all the documents to the Court and your court  
12 and previous court also totally ignore it, denied it  
13 (indiscernible) to discuss it and --

14 THE COURT: Mr. Das, just try -- this is a motion made  
15 by you to reconsider my ruling, so try to focus on what you  
16 think I got -- what I was incorrect about in my earlier  
17 ruling. Okay?

18 MR. DAS: Okay. Very -- okay. So let me restart then,  
19 because, now, you mentioned in your order that the case is  
20 regarding the previous dispute with the landlord, and  
21 because of the landlord dispute, I appealed and because that  
22 appeal was withdrawn, so this case is totally related to  
23 that, that dispute.

24 You did not mention anything about what happened  
25 between -- in the magistrate court, how magistrate

1 personally humiliated me, throw me out of the court and then  
2 infringed in my personal security by exposing my name in the  
3 federal investigation. You mentioned not a single line  
4 about that in your order and that was a main issue. The  
5 issue was not about withdrawing the case, were we going to  
6 appeal the dispute, the landlord. Landlord -- landlord  
7 already had part of the (indiscernible) declaration of  
8 settlement on July 21<sup>st</sup>, 2022 and your order is coming from  
9 after eight months and you are still mentioning the same  
10 thing, which is not existing at that time. So this  
11 erroneous order actually (indiscernible) from the order from  
12 the Judge Sprouse, who changed -- who ordered me to change  
13 the name to York County. York County did not humiliate me.  
14 York County did not expose my name. This was a personal  
15 offense committed by magistrate, sir. This is what I was  
16 saying, sir. This is why your order is wrong and this is  
17 why I request of you to set aside this order and let  
18 proceeding the normal way to allow me to (indiscernible) my  
19 (indiscernible) again. I will try to correct name of the  
20 defendant and proceeding normally. That's it.

21 THE COURT: Okay. Let me hear from the defendant for  
22 York County -- from the attorney for York County.

23 MR. DARWIN: Thank you, Your Honor. May it please the  
24 Court. Todd Darwin on behalf of York County.

25 Your Honor, I --

1 MR. DAS: I can't --

2 THE COURT: Mr. Das, can you hear what Mr. Darwin is  
3 saying?

4 (No audible response)

5 THE COURT: Okay. Mr. Das, I'm going to move the phone  
6 to in front of Mr. Darwin so you can hear what he says, but  
7 just -- okay. So if you don't mind, --

8 Go ahead, Mr. Darwin.

9 MR. DARWIN: Thank you, Your Honor. May it please the  
10 Court.

11 Your Honor, I believe let's -- let's just start off  
12 with this --

13 MR. DAS: It's still not coming clear. It's a little  
14 bit clear of -- (indiscernible) talking, who they are.

15 MR. DARWIN: May I approach?

16 THE COURT: That will be fine. Let's do that, Mr.  
17 Darwin.

18 MR. DARWIN: Thank you, Your Honor.

19 Mr. Das, can you hear me now?

20 MR. DAS: Yeah. Now I can hear you.

21 MR. DARWIN: Okay. Perfect. Thank you.

22 MR. DAS: Yes, sir.

23 MR. DARWIN: Your Honor, first of all, this is a Rule  
24 59(E) motion, as you know, to reconsider you March 29<sup>th</sup>,  
25 2023 order dismissing the plaintiff's second amended

1 complaint that you had given him leave to amend. Judge  
2 Sprouse did once and then Your Honor did a second time. So  
3 this was the second amended complaint to state a viable  
4 cause of action in this case.

5 As Your Honor knows, the second amended complaint  
6 brought six causes of action, four of which were federal  
7 criminal statutes, obviously not viable causes of action in  
8 civil court in South Carolina. The other was a one-sentence  
9 cause of action for violation of denied motions without  
10 conducting a hearing and I think what Mr. Das was just  
11 stating is Judge Colton, in a lower court, the magistrate's  
12 court, Mr. Das had made a motion to reconsider, she denied  
13 it by just sending a text order from her phone. Nothing  
14 wrong with that, Your Honor. Most of the time this -- it's  
15 rare that we get a hearing on a motion to reconsider; most  
16 of the time you just get a Form 4 order and normally it's  
17 denying it. So there's nothing wrong with that conduct.

18 Even if there were something wrong with that conduct,  
19 which is what I argued on that issue before you last time,  
20 it's barred by res judicata, because he could have filed an  
21 appeal of that, which he did, of her rulings from the lower  
22 court, then he withdrew that appeal, so the circuit court  
23 never got to hear that. So that's where the one issue of  
24 res judicata comes into play and the last claim that he had  
25 was for attorney's fees, which first of all, he's

1 representing himself pro se, he would not be entitled to,  
2 but also, as Your Honor knows, under the Tort Claims Act, he  
3 or anyone else would not be entitled to attorney's fees in  
4 this case, which is brought under the Tort Claims Act.

5 As far as, I guess what he's arguing, Judge Sprouse had  
6 him substitute York County for the individually named  
7 defendants, again, pursuant to the Tort Claims Act, so York  
8 County is the proper defendant. He never appealed Judge  
9 Sprouse's ruling, so that's the law of the case. York  
10 County is the proper defendant, but it really is irrelevant,  
11 Your Honor.

12 None of those six causes of action Mr. Das brought in  
13 his second amended complaint are viable at all under the  
14 laws of South Carolina and I don't think there's certainly  
15 anything wrong with your ruling, Your Honor.

16 Again, a motion to reconsider can't be brought just  
17 because a party is dissatisfied with the order of the Court.  
18 He's got to give specific reasons. He hasn't done so in his  
19 motion or in oral argument and, Your Honor, I'd cite just  
20 for the record the case of *Elam versus South Carolina*  
21 *Department of Transportation*, that's 602 Southeast 2<sup>nd</sup> 772,  
22 for that proposition.

23 If the Court has any questions, I'll be glad to answer.  
24 If not, I'll sit down and be quiet.

25 THE COURT: All right. Mr. Das, I'll be happy to hear

1 from you in reply, sir.

2 MR. DAS: Thank you, Your Honor. I would oppose this  
3 argument and totally opposing, because something I missed  
4 which he mentioned, I received that, but I would oppose this  
5 because he did not mention anything about the main cause of  
6 the action. Main cause of the action is my public  
7 humiliation, able to come to court and infringing my  
8 personal security in the courtroom, which she hid -- she  
9 concealed by giving me a wrong piece of recording of the  
10 recordings. That is the main issue. He's not mentioning  
11 anything about that and I am not disputing whether my cons-  
12 -- my motion was not (indiscernible). I'm not disputing  
13 that at all because that was linking to the dispute with the  
14 landlord and landlord already had the (indiscernible) in the  
15 court on 21<sup>st</sup> of July, 2022.

16 If he's bringing up again and, again, with the recall  
17 of fee, that is \*\*\*\* of this matter from one thing to  
18 another thing, which is not a matter of cause actually. So  
19 this is why I'm opposing this, it is wrong. It's totally  
20 wrong.

21 And second thing, sir, when Judge Sprouse ordered me to  
22 change the defendant's name, I actually -- he made a  
23 clerical mistake. A mistake was that he found -- he found  
24 -- blaming anybody. If I'm alleging somebody that -- that  
25 he did something wrong with me and she did something wrong

1 with me and I certainly am changing the name of the -- sorry  
2 -- the defendant. In that name change, how York County  
3 could be held responsible for my public humiliation, how  
4 York County could be held responsible for infringing my  
5 personal security. It was only magistrate Colton, not the  
6 York County. Then he if he want -- (indiscernible) if he  
7 based on another thing of main cause of action is totally  
8 here, so I say don't bring that up. That is already  
9 resolved and do not -- that wasn't the case in the tort  
10 claim or this claim or that claim. Come to the straight  
11 line that I was infringed -- my personal modesty was  
12 (indiscernible) in the court and that is not -- that is why  
13 the defense and defendant York County. This is why I'm  
14 telling you this is a wrong order and when Judge Sprouse  
15 told me to change the name of the defendant, that is a very  
16 (indiscernible) kind of order. That was not allowed and no  
17 law allow -- nobody can dictate the plaintiff to change a  
18 defendant's name. If defendant name is spelled wrong, you  
19 simply dismiss the case. Court has order -- the Court has  
20 the authority to dismiss the case if the if the defendant's  
21 wrong. That's it. The Court cannot order me, tell me,  
22 dictate me to go and change the name of the defendant and  
23 that (indiscernible) in that case and the wrong statement.

24 So what I'm requesting (indiscernible) defendant, the  
25 county and to the court also \*\*\*\* what happened wrong, fix

1 it and let me proceed the case in the right place. This is  
2 what I'm here for. I'm not blaming anybody. I'm not  
3 alleging any -- any kind of charge \*\*\*\*. I simply say allow  
4 me to correct my application so that it can be on the proper  
5 track. If you're not allowing me, the case will be in the  
6 wrong track and that would be another issue that I was not  
7 given the justice. That's it. (Indiscernible) There's no  
8 dispute left for (indiscernible) claim or fix anything. I'm  
9 not bringing anything up here. I accept I did some mistake  
10 because I was given the wrong order to change the name of  
11 the defendant. That happened because of that change and  
12 that was not my mistake, that was the mistake on the Court.  
13 Yes, Your Honor.

14 THE COURT: Okay. Can you pass the phone up here one  
15 more time, Ms. Foster?

16 (Phone placed on the Bench.)

17 THE COURT: Okay. So Mr. Das, I want to make sure I  
18 understand what you're argu- -- you're saying that you were  
19 forced by Judge Sprouse to take the name of the magistrate  
20 judge out of the Complaint and substitute York County and  
21 you believe --

22 MR. DAS: That's correct, sir.

23 THE COURT: -- and you believe the outcome would be  
24 different if you had named the magistrate judge personally.  
25 Is that correct?

1 MR. DAS: Yes, sir.

2 THE COURT: Okay.

3 MR. DAS: That is correct, sir.

4 THE COURT: In the Court's view that the name of the  
5 defendant would not effect the validity of these causes of  
6 action; the magistrate is a state official acting -- you  
7 know, is a county official acting on behalf of the  
8 government, so I'm going to deny the motion.

9 MR. DAS: (Indiscernible) changing. It is changing,  
10 sir. Let me explain a little bit more about, communicate  
11 that.

12 THE COURT: Okay. Mr. Das, --

13 MR. DAS: (Indiscernible)

14 THE COURT: Mr. Das? Mr. Das? Mr. Das? I gave you a  
15 chance, sir. I'm denying your motion to reconsider. Okay?

16 MR. DAS: Okay.

17 THE COURT: If you want to say one last thing, I'll  
18 give you -- I'll give you a minute or so here. Okay?

19 MR. DAS: What I'm saying that this is a personal  
20 offense of the magistrate. This is the county, it's not the  
21 state. This is not government mistake. There's no  
22 government law to infringe my name.

23 THE COURT: Yes, sir. Mr. Das, --

24 MR. DAS: (Indiscernible)

25 THE COURT: But, Mr. Das, -- Mr. Das, please don't talk

1 over me. Mr. Das.

2 MR. DAS: (Indiscernible)

3 THE COURT: Mr. Das. Mr. Das. Mr. Das, stop talking.  
4 Okay? Mr. Das, you are bringing a case or trying to bring  
5 a case against a magistrate judge for actions that she  
6 carried out as part of her official job duties.

7 MR. DAS: She did not. I oppose that. It was her  
8 personal offense. It was not offense of -- if you're  
9 (indiscernible) it was not the official offense. By naming  
10 it official offense, this is another layer of torture on me.  
11 This is not official offense. Her forcing a person who is  
12 hiding the motion on the counter is an offense of the  
13 magistrate (indiscernible) I was doing over there. Can you  
14 show me one proof that I was doing anything wrong?  
15 I was tortured. Is that a state law? To torture me?

16 THE COURT: Mr. Das, thank you, sir. Your motion is  
17 denied, so --

18 MR. DAS: Okay. No problem. I'll be doing appeal.  
19 So can I -- can you, sir, provide me the transcript of this  
20 hearing?

21 THE COURT: Sir, I can't provide it, I'm a judge, but  
22 you could order a transcript from the court reporter. If  
23 you contact the clerk's office, they'll tell you how to get  
24 that, okay, but you need -- or look at the court rules, but  
25 as a judge, I -- I'm not the court reporter. I can't just

1 give you a transcript.

2 MR. DAS: Yeah; yeah. I'm sorry, sir. I thought that  
3 you would allow the transcript record.

4 THE COURT: Yes, sir.

5 MR. DAS: I know the process.

6 THE COURT: Okay. Thank you, Mr. Das.

7 MR. DAS: Thank you, sir. You have a great day, sir.

8 THE COURT: You, too. Bye, bye. I've already done the  
9 Form 4.

10 MR. DARWIN: I appreciate that. Thank you.

11 THE COURT: Yes, sir. Thank you, Mr. Darwin.

12 MR. DARWIN: Thank you, Judge.

13 (END OF REQUESTED TRANSCRIPT)

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STATE OF SOUTH CAROLINA )

) C E R T I F I C A T E

COUNTY OF YORK )

I, the undersigned Shannon E. McGilberry, official Court Reporter for the Sixteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of the record of all proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Common Pleas Court for York County, South Carolina, on the 13<sup>th</sup> day of February, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

In witness whereof, I have hereunto subscribed my name, this 20<sup>th</sup> day of May, 2024.

---

Shannon E. McGilberry, CVR-M

My Commission Expires:

April 26, 2027

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**Nov 26 2024**

**SC Court of Appeals**

### **Certification of Compliance of Record on Appeal**

I hereby certify that the Record on Appeal contains all documents, transcripts, and exhibits necessary for the appellate court's review, as required under Rule 210, SCACR. All materials are true and accurate copies of the filings and evidence presented in the lower court proceedings.

**Kalishwardas**

**November 26, 2024**

Kalishwar Das (Plaintiff-Appellant)  
1505 The Crossing  
Rock Hill, SC 29732

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Nov 26 2024

SC Court of Appeals

## Certificate of Service

I hereby certify that on this November 26, 2024, I served a copy of the Record on Appeal in case #2024000269 upon the Defendant-Appellee through their designated Attorney by USPS Certified Mail:

|                       |
|-----------------------|
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*Kalishwardas*

November 26, 2024

Kalishwar Das (Plaintiff-Appellant)  
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