

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

Appeal from Richland County

Court of Common Pleas

Honorable Daniel Coble

Appellate case No. 2025-000172

RECEIVED

JUL 07 2025

SC Court of Appeals

Michael T. Braxton

Appellant,

v.

Don A. Thompson

Respondent.

**REPLY BRIEF OF THE APPELLANT
MICHAEL T. BRAXTON**

**MICHAEL T. BRAXTON
4546 BROAD RIVER RD
COLUMBIA, SC 29210**

TABLE OF CONTENTS

Table of Authorities..... ii
Statement of Issues on Appeal.....iii
Statement of the Case.....iv
Standard of Reviewv
Statement of the Factsvi
ARGUMENT.....1-2
Requested Relief.....3
Conclusion3
Certificate of Service.....4

TABLE OF AUTHORITIES

	Pg
Administrative Law Court of South Carolina, ALC-20-ALJ-04-0325-A-Ap.....	2
Baird v. Charleston County, 333 S.C. 519,511 S.E. 2d 69 (1999).....	V
BRAXTON I, Appellate Case No. 8:18-cv-00959-HMH.....	1
Doe v. Marion, 373 S.C. at 395.....	V
Gentry v. Yance, 337 S.C. 1,5,522 S.E.2d177,139 (1999).....	V
Heck v. Humphrey, 512 U.S. 437,481 (1994).....	1
Michael T. Braxton v. S.C.D.M.H.S., Appellate Case No. 2023-000661.....	2
Michael T. Braxton v. South Carolina Department of Corrections, Appellate Case No. 2017-001964.....	2
Rayfield v. South Carolina Department of Corrections, 297 S.C. 95 374 S.E. 2d 910 (1988).....	V
Richland County Court of Common Pleas, Case No. 2017-CP-40-6376.....	1
Stiles v. Onorato, 318 S.C. 297,457 S.E. 2d 601 (1995).....	V
Strickland v. Washington, 466 U.S. 366,104 S.Ct 2052 (1984).....	1
United States v. Price, Supreme Court of the United States,783 U.S. 787* 86 S.Ct 1152**; 16 L Ed 2d 267*** (1966).....	2

UNITED STATES STATUTES

4 th Amendment	1
5 th Amendment	1
6 th Amendment	1
8 th Amendment	1
14 th Amendment	1

SOUTH CAROLINA STATUTES

S.C.Code Ann. 44-48-801
S.C. Code Ann. 44-48-901

COURT RULES

RULES OF PROFESSIONAL CONDUCT, RULE 407 SCACR, Rule 8.4,(a) (d)
& (e) 1

ISSUES ON APPEAL

1. Was the Defendant Attorney Don A. Thompson while acting in his Professional Capacity, under **COLOR OF STATE LAW**, Grossly Negligent and **INEFFECTIVE** in his role as a prominent impediment in the Infringement of the Appellant's 4th Amendment Right to a Constitutionally Adequate [**PROBABLE CAUSE**] determination; as well as the Abrogation of the Appellant's 5th,6th,8th and 14th United States Constitutional Due Process rights, by failing to provide him **EFFECTIVE** Assistance of counsel Pre-trial, which undermined the proper functioning of the Adversarial Process?

2. Did the **INEFFECTIVENESS** and **APATHY** of the Defendant **Don A. Thompson** cause his representation to fall Below the **OBJECTIVE STANDARD OF REASONABLENESS** thereby **SUBSTANTIALLY PREJUDICING** the Appellant, then provided the vehicle to **ILLEGALLY** confine him under an [act] that is **NOT** applicable to him?

STATEMENT OF THE CASE

The Pro se Appellant filed a **SUMMONS** and **COMPLAINT** on **April 11, 2024** in the **Richland County Court of Common Pleas**, alleging the Defendant was **NEGLIGENT** by **FAILING** to provide the Appellant with **EFFECTIVE** Assistance of counsel during (SVP) Proceedings.

On **January 20, 2025**, the Honorable Daniel Coble **IMPROPERLY DISMISSED** the Appellant's Complaint on grounds that are **DRASTICALLY CONFLICTIVE** with the **FACTS** entrenched within the record.

The Appellant filed his **NOTICE OF APPEAL** on **January 30, 2025**, and he filed his **INITIAL BRIEF** before this Honorable Court on **May 21, 2025**.

STANDARD OF REVIEW

In reviewing the dismissal of an action “the question is whether in the light most favorable to the Plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief”. Doe v. Marion, 373 S.C. at 395 (Citing Gentry v. Yance, 337 S.C. 1,5, 522 S.E. 2d 137,139 (1999))

“ If the facts alleged and inferences reasonably deducible therefrom, viewed in light most favorable to the plaintiff, would entitle the Plaintiff to relief on any theory, then dismissal under Rule 12 (b)(6) is improper”. Doe v. Marion, 373 S.C. at 395 (Citing Baird v. Charleston County, 333 S.C. 519,511 S.E. 2d 69 (1999); Stiles v. Onorato, 318 S.C. 297,457 S.E. 2d 601 (1995))

(“It is presumed that the legislature was familiar with prior legislation, and that if it intended to repeal existing laws it would have expressly done so”.) Further in Rayfield v. South Carolina Department of Corrections, 297 S.C. 95,374 S.E. 2d 910 (1988) this court stated:

[w]e are able to derive a test for determining when duty created by statute will support an action for negligence in order to show that the defendant owes him duty of care arising from statute, **the Plaintiff must show (2) TWO things: (1) that the essential purpose of the statute is to protect from the kind of harm the Plaintiff has suffered; and (2) that he is a member of a class of persons the statute is intended to protect.**

STATEMENT OF THE FACTS

The Appellant has asserted his consistent claim that he is a Prisoner of the State of South Carolina, in the custody of the South Carolina department of Mental Health.

The **FACT** remains **UNRECOGNIZED** that he is confined under an **[act]** that is **INAPPLICABLE** to him, due to the Gross **INEFFECTIVENESS** of the Defendant Don A. Thompson.

The Appellant asserted **NUMEROUS** Constitutional Claims Pre-trial, During and Post-trial, beginning with being deprived of a **Constitutionally Adequate** **[PROBABLE CAUSE]** Determination.

Further, the Appellant Proof is Substantiated of the Defendant's Capacity as a **STATE GOVERNMENT EMPLOYEE**, when he was appointed to represent the Appellant.

ARGUMENT

The Appellant comes before this honorable court on his reply to defendant's assertion that he failed to state a claim, his inability to plead requisite elements, and his failure of claims based on res judicata and improper form.

The Appellant begs the court's pardon as he concedes to the understanding that he is **FAR** from a legal professional.

Nevertheless, in his Limited capacity he has placed before the court his **NUMEROUS** Constitutional Claims, which exhibit the **CLEAR** degradation of **DUTY** that is **MANDATORY** under **Strickland v. Washington, 466 U.S. 866, 104 S.Ct 2052 (1984), the 4th, 5th, 6th, 8th and 14th Amendments of the United States as well as S.C.Code Ann. 44-48-80/ 44-48-90; not to exclude the Rules of Professional Conduct, Rule 407 SCACR, Rule 8.4 (a) (d) and (e).**

The defendant has abandoned contest of the Appellant's factual contentions prevalent throughout the record, instead the defendant has positioned its scope on the previous filings of the Appellant; **NONE** of which have been relegated as being **FRIVOLOUS** or **MALCIOUS**.

If it may please the court, the Appellant would like to have it noted that of **ALL** the submissions the defendant listed in its attempt to portray the Appellant as a Vexatious litigant, **NO** mention was made of the Appellant's **INITIAL** Filing in the **Richland County Court of Common Pleas on October 17, 2017, Case No. 2017-CP-40-6376.**

On **June 18, 2018** this honorable court **DISMISSED** the Appellant's petition as being "**PREMATURE**", due to his actions pending at the time in the South Carolina Court of Appeals.

The United States District Court of South Carolina also Summarily **DISMISSED** the Appellant's claim as being "**PREMATURE**", since the Appellant's imprisonment that was in violation of the Constitution, had not been successfully challenged; and he had not yet exhausted his state court remedies. **Heck v. Humphrey, 512 U.S. 437, 481 (1994)**

The Honorable District Court noted within its Order that a "**RIGHT OF ACTION**" had **NOT** yet accrued, the limitations period will **NOT** run until the cause of action accrues! **8:18-cv-00959-HMH, BRAXTON I.**

The Appellant's "RIGHT OF ACTION" accrued officially on **July 1, 2020**, when the **UNRECOGNIZED INVALIDATION** of the Appellant's sentence occurred by ORDER of the **South Carolina Court of Appeals**.

The South Carolina Department of Corrections contacted the Administrative Judge **AFTER the REMITTITUR** had issued, Insisting that their calculations were correct; then after being admonished and redirected, this arrogant agency **REFUSED** to abide by the order of the South Carolina Court of Appeals and the South Carolina Administrative Law Court. **Michael T. Braxton v. SCDC, Appellate Case No. 2017-001964, Michael T. Braxton v. SCDC, ALC-20-ALJ-04-0325. (EX-C & C-1)**

ALL of the court's rulings subsequent to the effect of the **INVALIDATION** of the Appellant's sentence have been **AMBIGUOUS**, but what is Transparent throughout the Appellant's cause is the defendant's (Don A. Thompson) addenda to deprive the Appellant of his Due Process Rights.

The Defendant continues to amplify the he is **NOT** a Government employee, however his SWORN Testimony at the Appellant's **July 1, 2024** Habeas Proceeding **COFIRMS** his capacity while representing the Appellant as a **CONTRACTED STATE EMPLOYEE. TR-EV pg. 101 L5 (EX-N) Appellate Case No. 2023-000661**

The defendant was contracted through the South Carolina Commission of Indigent Defense, and **UNDER THE COLOR OF STATE LAW** the defendant was a **PAID WILLING PARTICIPANT** in a joint activity with the State or its agents. **United States v. Price, Supreme Court of the United States, 783 U.S. 787*,86 S.Ct 1152**; 16 L Ed 2d 267***(1966)**

The record corroborates that the defendant's representation fell **BELOW THE OBJECTIVE STANDARD OF REASONABLENESS**, as he **FAILED** to render reasonably **EFFECTIVE** assistance under prevailing professional norms, the defendant conduct during his representation of the Appellant was **OUTSIDE THE TRADITIONAL FUNCTIONS OF COUNSEL**, and the **IMPEDIMENT** of the defendant's representation inflicted **SUBSTANTIAL PREJUDICE** which has manifested into **IRRAPARABLE, IRREVERSABLE Injury!**

REQUESTED RELEIF

The Appellant **MICHAEL T. BRAXTON** humbly request that this honorable court enter a judgement granting:

1. A declaration by **ORDER** that the acts and omissions described herein violated the Appellant's rights under the **U.S. Constitution and the State Laws of South Carolina.**
2. That the county of **RICHLAND** located in **Columbia, South Carolina**, be granted **SUBJECT MATTER JURISDICTION** in resolution of this cause.
3. That the Appellant be reimbursed for **ALL** Fees and Expenses related to this cause.
4. Jury trial on **ALL** issues.
5. Any Additional relief the court deems Just, Appropriate and Equitable; **South Carolina Code Ann. 15-53-120.**

CONCLUSION

The Appellant comes before this honorable court on his **Plausible, Non-Frivolous, Cognizable, Constitutional Claims** that require an Equitable review.

The accrued **CAUSE OF ACTION** on Sequential exhibition throughout the record, necessitates that **CLARITY** be appointed in this obdurate condemnatory deprivation of Due Process.

Respectfully Submitted,

Michael T. Braxton

MICHAEL T. BRAXTON
4546 BROAD RIVER RD
COLUMBIA, SC 29210