

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Court of Common Pleas

Judge Hayes, J. Mark II

Case No. 2013CP2304330

Tommy J. Moore.....Respondent,

v.

Thomas T. Perkins.....Appellant.

[INITIAL] BRIEF OF APPELLANT

Transcript(s) not yet ordered

December 25, 2013

Thomas T. Perkins  
Apartment: 2G  
415 North Main Street  
Greenville, South Carolina 29601  
(864) 630-6363  
*Pro Se*

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2. The defendant did not motion to require the Plaintiff to elect on the trial, to proceed on the ground of breach of contract or to proceed on tort.....3
3. Although there were eight corroborating exhibits, which could substantiate another error of fact, In addition to Plaintiff's testimony even if the Defendant had more witnesses it does not mean the Defendant's perception of the Truth was better.....3
4. In contrast to Plaintiff's testimony, eight exhibits, and Plaintiff catching the Defendant In numerous contradicting statements of the facts during the bench trial; Plaintiff introduced proper evidence in exhibits 2 through 7 of facts that Defendant caused Simple Assault and Battery regarding two pokes, then aggravated the damages through stare-downs over a period of approximately ten months. Defendant did not introduce any proper evidence that tends to controvert the facts of poking the Plaintiff's face and arm nor stare-downs other than denials. To the contrary evidence of the Defendant's behavior my testimony should have upheld the truth of the Simple Assault and Battery, and stare-down(s).....3
5. Witness(es) for the defendant did not corroborate Plaintiff's claims although Plaintiff during cross examination of witness Michael R[au] proved that this witness's opinion is hearsay because Michael R[au] was not even present during either the presumption of fact of Defendant having AIDS, the Simple Assault and Battery incident of two pokes, or the stare-down stalkings; neither was the other witness, the fiancée of the Defendant, however the magistrate allowed the simple presence of these witnesses and one of their testimonies to be considered as greater evidence even though they were biased and hearsay. One witness is the fiancée of the defendant, the other witness personally dislikes the cause of the presumption of fact: Steve Tipton so much that he has a vendetta against him..3

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### STATEMENT OF ISSUES ON APPEAL

- Are there ERRORS OF FACT, ABUSE OF DISCRETION? Are there ERRORS OF LAW, PREJUDICE OF THE PLAINTIFF?
- Was the Defendant's presumed disease a considered deadly weapon per se by Plaintiff?
- Did the Defendant commit Simple Assault and Battery per poke?
- Were the nominal physical damages solely caused and aggravated by the defendant?
- Are the emotional damages sustained by the Plaintiff proximately caused

by the Defendant?

- Is there a causal relationship between Plaintiff's damages, aggravation of those damages by the Defendant, and Defendant's malicious acts and/or negligence?
- Are the damages needed to win a judgment for Simple Assault and Battery for this case although S.C. Law indicates otherwise in *Mellen v. Lane*, 659 S.E.2d 236 (S.C. Ct. App. 2008) on page 13 [of brief submitted to Circuit Court on 09/12/2013]?
- Did the Magistrate Court err and abuse its discretion by dismissing appellant's case for Simple Assault and Battery and/or Simple Assault and Battery with a deadly weapon *per se*, since appellant proved a probable tort in his pleadings submitted, at trial, and testified in court as to experiencing probable injuries thereby establishing sufficient grounds to impose a judgment at least by Preponderance of the Evidence for monetary compensation per each Simple Assault and Battery **and**/or if evidence is deemed as clear and convincing, award punitive damages, as an injunction for up to 180 days in jail, 30 days per poke, both of which were requested to be trebled.
- Did Magistrate have jurisdiction for the punitive damages of jail time for the defendant, as indicated in Plaintiff's pleading on pages 3 and 13 of S.C. Code: 23-3-560, [of initial pleadings submitted to Magistrate: Gabriel Gibson, Yolanda] and as also requested for jail time at trial?
- Did Circuit Court Judge J: Mark Hayes violate United States Constitution/South Carolina Constitution of Article 3, Section 2 (2) by not enforcing a jury trial? Same with Amendment VII?
- Did Magistrate: Gabriel Gibson, Yolanda violate United States Constitution/South Carolina Constitution of Article 3, Section 2 (2) and Amendment VII by not enforcing a jury trial?
- Did Circuit Court Judge: Hayes, J. Mark II error and/or violate United State Constitution/ South Carolina Constitution of Article 3, Section 2 (2) by dismissing case and giving reason: not Rule 40 J of which I did not set-forth in my argument(s).
- Did Circuit Court Judge: Hayes, J. Mark II error and/or violate United States Constitution/ South Carolina Constitution of Article 3, Section 2 (2) by not providing written notice of Judgment mailed to me, although I requested it several times, just after his ruling, 11/11/2013, by calling (864) 467- 8551?

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the Circuit Court- in the Court of Common Pleas.

Respectfully submitted,

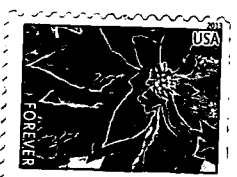
December 25, 2013

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