

November 3, 2014

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S.C. Court of Appeals
PO Box 11629
Columbia SC

RECEIVED

NOV 04 2014

SC Court of Appeals

Dear Sir,

I was arrested for stalking in Marion SC on December 19, 2012. The arrest was based on telephone communications to Elmer's Products at 2020 West Front Street in Statesville, NC. There never was any type of physical stalking, just phone call answering machine messages. The arrest was based on 1-300 plus answering machine messages to Ms. Tina Computer Human Relations manager, yet not one or a group of messages was pointed out as having any type of stalking message or any type of threat.

Now, the offense occurred once this fear and emotional distress of bodily injury or death took place. Now we have established a violation of the stalking statute. But where was the location where the crime occurred? It's where this fear and emotional distress occurred to the victim of this crime. That would establish the proper county in SC or proper state if outside SC. That means SC had no jurisdiction over my arrest for stalking. That is interstate and that is a federal charge.

Suppose I was calling from California, and this fear and emotional distress of bodily injury or death occurred in Dillon County, SC. The proper jurisdiction for trial would be Dillon County, SC, not in California where the phone calls were sent from. You see, there was no victim in California that suffered this fear and emotional distress. That means no violation of California's stalking statute because the victim was not victimized in the state of California. The victim was victimized in Dillon, SC.

Suppose I was calling from Germany in Europe, and this fear and emotional distress of bodily injury or death occurred in Dillon, SC. Obviously, the victim would not fly over to a German courtroom for a trial. The defendant would be flown back to Dillon County SC in the U.S. for trial.

November 12, 2013, the solicitor and the public defender (name, unknown male subject) wanted me to plead guilty to

First Degree Harassment. However, First Degree Harassment involves 4 main issues, 1) following 2) visual and physical contact 3) surveillance 4) vandalism or property damage. This statute has nothing to do with any type of communication, especially telephone harassment, recorded messages. The statute Second Degree Harassment is strictly all types of communications. I did what the public defender and the prosecutor wanted me to do. Elmer's Products was also behind this idea to have me plead guilty to First Degree Harassment. The public defender had absolutely nothing in my defense, he should have demanded my extradition to Transylvania County, NC where the crime occurred. He also would have disclosed that there was not any single answering machine message pointed out which had any message concerning a stalking activity or any type of threat, any threat would be interstate communication threats, a federal charge. That means there is no case and the public defender should have requested a preliminary hearing. This was never done, he should have had me before the judge and instead of pleading guilty to Harassment, he should have sought dismissal of this charge because 1) it was not the proper jurisdiction 2) there was no stalking message or threat made.

Relief Requested

I want this felony stalking warrant and arrest vacated, I also want the plea to First Degree Harassment vacated. I want a ruling that I had ineffective assistance of counsel, I also want the state of South Carolina to recognize that I misplead to the charge of First Degree Harassment which has nothing to do with any type of communication. I want recognition that I was falsely imprisoned for 329 days in jail when the whole time the state had no jurisdiction because the fear and emotional distress of bodily injury or death never occurred to this victim in the state of South Carolina. Remember, the crime occurred and violation of stalking occurred when this victim had this fear and emotional distress of bodily injury or death, where was this victim when the violation happened? In Statesville, NC. The proper jurisdiction is in NC and never was in S.C.

An excellent clue I am correct for the proper jurisdiction is this:
16-3-1750 Action seeking a restraining order -

B An Action for a restraining order - must be filed in the county which;
(3) the plaintiff resides if the defendant is a non resident of the state.

PART TWO: The Probation Violation February 28, 2014

I received the maximum 3 years sentence with 5 years probation November 12, 2013. I started college January 2014, I was in Accounting and had Professor Hedges for English 155 Business Communications. I had Professor Hedges involved with me in developing a business letter address to several executive officers of Berwind Corporation. This letter was bringing to their attention Elmer's Products lied to the Equal Employment Opportunity Commission in a position statement document. This is a federal crime, false statements to federal authorities. I was requesting an executive officer to confront Tim Carpenter with this position statement. I was looking for information about names and positions of these executive officers. I called Chamber of Commerce and BBB of Philadelphia. Somebody gave me a phone number to call. I left a voice mail message at this phone number.

A confirmation was being made that Ms Carpenter was still employed with Elmer's Products. It was discovered Ms Carpenter no longer worked at Elmer's Products. After searching on the internet, Tim Carpenter was found employed at Ethmar Allen in Maiden, N.C. A withdrawal of \$200 was made from Dutch of American teller machine in Conway Tuesday evening. The next day I paid \$50⁰⁰ probation fee as instructed directly to probation officer Sanders February 26, 2014. On February 27, 2014, I met for the first time with the psychiatrist of SC Mental Health in Marion, SC. I told the psychiatrist I found Ms Tim Carpenter very recently. That she is involved in a write up with two other managers, and they lied to the EEOC in a position statement document which is a federal crime false statements to federal authorities 18-1001. And that I was going to expose this federal crime. As I left the psychiatrist office, she gave me the most dirtiest facial look I've seen.

The next day I paid the \$60 at the Marion County Records office and turned this receipt into the probation office early that morning. Around 4pm I was arrested for probation violation. The probation officer Sanders arrived later at the jail with a document for me. It had 3 reasons for the probation violation 1) I did not pay probation fees. I told this probation officer Sanders I paid her exactly what she said for me to pay. She said she will take care of this mistake. 2) I made contact with the victim. Probation Officer Sanders said she didn't know what this was about. 3) The psychiatrist stated that I said "I found

Tim and had a place for her. I told Snodgrass that it is a misunderstanding and I did nothing wrong. The next day I was denied bond and therefore destroyed my attempt to escape poverty and get a college degree.

I saw the public defender May 2, 2014. He had not done anything at all. I told him to make sure he calls my father and have him in the courtroom with my receipts where I paid these probation fees. May 7, 2014 I was in court and asked the public defender where was my father. He said he did not call my father. This public defender lied to me. Probation Officer Snodgrass lied to the judge that I did not pay the probation fees. The Elmer's Products attorney said that the contact with the victim was an answering machine message I left on a Berwind phone number. The public defender stated that there was no misunderstanding with the SC Mental Health psychiatrist in which I found Tim Computer and I was going to have a Berwind executive officer confront Ms Computer with a position statement sent to the EGDC in which Elmer's lied to this federal agency.

I confronted Snodgrass that I did pay her fees and she did not have my computer print out of my payment history. I confronted Elmer's Products attorney that he did not have the phone number called to Berwind Corporation. I explained to the judge that this phone number was given to me and I had no idea that phone number was for Berwind Corporation. That phone number was an unlisted desk phone number and I was unaware of this fact and the contact was accidental. I told the judge the public defender didn't have my phone record to confirm the phone calls to the Chamber of Commerce and BBB along with the phone call to this unlisted Berwind phone number which would confirm my story. The judge said he had to take a break. He came back and said for me to reappear in court May 23, 2014. I was sent back to court the next day May 8, 2014. The public defender said the judge had made a decision. The judge came out and I said to this judge that I did pay everything the probation officer said to pay. I told the judge that answering machine message to Berwind Corporation was accidental. The judge said he was just concerned with these two issues. He was only concerned with the Mental Health Department issue. The judge issued a document from SC Mental Health which stated I was dropped from the program due to threatening behavior and I violated probation. This is definitely recorded into the transcript. I asked the judge if I could appeal. He said yes. I said I'm appealing. The judge said "Talk to your attorney." I did

as the judge instructed. I said to this public defender to file the appeal. This public defender said I'd be released from prison before the appeal. I told him to file the appeal but I was taken away before I could say anything else.

Well, there is a problem. I had a Sony micro cassette tape recorder inside my pocket while in the psychiatrist office. The main reason why I had this recorder is because I wanted to record what she would say and what I said about this subject. I told the psychiatrist that the judge set the condition of coming to this Mental Health office and there were no grounds for this condition. That there was nothing wrong with me and I didn't need to come here. I told the psychiatrist I'll come back for 2 more visits and if she didn't put a stop to this I'll go to the VA hospital and they will put a stop to it. I wanted to see what this psychiatrist would say. She did not respond back. This psychiatrist is caught lying and I never said anything threatening. Notice there is no police report or any arrest for threats. That means I never committed any crime and I did not violate my probation.

Notice how this public defender did nothing at all on my defense.

- 1) He did not contact my father and have my payment receipts for the probation office or court. He actually held it to me.
- 2) He had not one witness on my side such as Professor Hedges
- 3) He did not have any document to show to the court such as a copy of my letter to Bernard Cooperative phone record etc
- 4) He did not file my subpoenas on any body whatsoever.

5) A critical witness should have been subpoenaed. This was for Ms Tina Carpenter. This is the so called victim of the stalking charge in SC December 19, 2012. I could have had the truth out under oath in court that 1) Elmer's Producty lied to a federal agency, the EEOC which is a violation of 18-1001 false statements to federal authorities. 2) she would have told the truth there never was any stalking and there was no fear of emotional distress or bodily injury or death. The plea to first degree harassment would have been void unentered and that would have stopped everything involved in the original arrest. This public defender told me to my face May 2, 2014 he would not subpoena Tina Carpenter. He made very sure Ms Carpenter did not appear in Marion County General Sessions Court.

6) He did not obtain any documents from any body such as SC Probation and Parole, SC Mental Health, Bernard Cooperative, Elmer's

Products, etc.

7) The public defender did not contact anybody for any information such as what they knew, any existing documents, etc.

It seems like the public defender would have contacted the SC Probation and Parole and SC Mental Health. He would have discovered I was dropped from the mental health program and had me get back on the program or just go to the VA hospital which would satisfy my judge. Or visa versa, these agencies contact the public defender and provide all information and documents, especially the Mental Health document stating I was dropped from the program due to "threatening behavior." No excuse why my probation was violated.

The public defender did not file any appeal. I have a serious issue. You must obtain a complete copy of the Marion General Sessions Court Transcript for May 7, 2014 and May 8, 2014. I said "Can I appeal?" The judge said "yes." I said "I'm appealing." Right there in this transcript I have appealed verbally with the court transcript as proof. The public defender did not file this appeal to stop me from proving my innocence, expose a railroad job and to vacate the sentence. His failure to file with the clerk of court shows ineffective assistance of counsel.

I am bringing this to your immediate attention. Please check and confirm my appeal was filed for Robin Lynn Burns. I have told others to get this unapproved micro cassette tape recorder out documented in a police report. This psychiatrist is lying and is enough lying to violate my probation. I have actually served all the time right now. I am still in prison because my entire jail credit is not on record with SCDC.

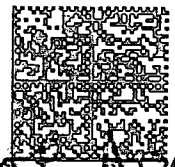
329 days is not showing, only 70 days jail credit showing. Please contact Marion County Jail 2714 E. Hwy 76 Suite D Mullins SC 29574. Get their records on me for arrest Dec 19, 2012 to Nov 12, 2013 and arrest Feb 28 to transfer to jail and May 16, 2014 for total of 78 days in jail also.

Please assist in getting the Harassment plea (misplaced) vacated and the probation violation vacated. And contact me back in writing as to what to do about this appeal which I verbally told this judge and the public defender failed to do for his client. The court is a witness.

Robin Burns 

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