

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2014 CP-40-3750

Anna Dillard Wilson

SC Department of Motor Vehicles

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: John D. Elliott	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

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(b), 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
- 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:

ORDER INFORMATION

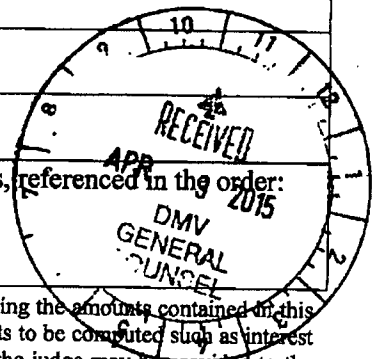
This order  ends  does not end the case.  
 Additional Information for the Clerk :

RECEIVED

APR 21 2015

SC Court of Appeals

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		



The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

*[Signature]*  
 Circuit Court Judge  
 SCRPC Form 4C (12/2011)

2061 32315  
 Judge Code Date

SCANNED

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this 26 day of Mar 2015 to attorneys of record or to parties (when appearing pro se) as follows:

John D. Elliott  
P.O. Box 607  
Columbia SC 29202  
**ATTORNEY(S) FOR THE PLAINTIFF(S)**

Frank L. Valenta, Jr.  
P.O. Box 1498  
Blythewood SC 29016-0020  
**ATTORNEY(S) FOR THE DEFENDANT(S)**

**Court Reporter:** Crystal M. Holmes

**CLERK OF COURT**  
*Jeanette W. [Signature]*

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS

Anna Dillard Wilson, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
S.C. Department of Motor Vehicles, )  
 )  
Defendants. )

Civil Action No. 2014-CP-40-3750

**ORDER**

2015 MAR 23 AM 11:36  
JENNIFER M. MCNEICE  
C. CLERK  
RICHLAND COUNTY  
FILED

DATE OF HEARING: January 20<sup>th</sup>, 2015  
PRESIDING JUDGE: Hon. L. Casey Manning  
PLAINTIFF'S COUNSEL: John D. Elliott, Esquire  
DEFENDANT'S COUNSEL: Frank L. Valenta, Jr., Esquire  
COURT REPORTER: Crystal M. Holmes

This is an order granting injunctive relief to the plaintiff, a South Carolina motorist, enjoining the defendant Department of Motor Vehicles from suspending her license to drive.

The parties appeared with their counsel on the date above. After entertaining the evidence and exhibits introduced by the parties, this court arrived at the following findings and conclusions.

1. Plaintiff is a citizen and resident of South Carolina, with a license to drive issued by the South Carolina Department of Motor Vehicles, No. 8137XXX.
2. On June 11<sup>th</sup>, 2009, the plaintiff pleaded guilty to first offense driving under the influence of alcohol in the Irmo, South Carolina Municipal Court.
3. The plaintiff timely paid her fine of \$1,026.91. On June 18<sup>th</sup>, 2009, the plaintiff enrolled in the Alcohol and Drug Safety Action Program, or ADSAP, and successfully completed the program.
4. The plaintiff's privilege to drive was suspended by the Department of Motor Vehicles for her failure to comply with the implied consent statute, S.C.Code Ann. § 56-5-2950

**SCANNED**

(Supp.2009), beginning August 29<sup>th</sup>, 2009, and reinstated on November 11<sup>th</sup>, 2009 after the expiration of the requisite 90 day period.

5. The week following her conviction, the plaintiff contacted the Irmo Town Clerk to inquire about whether the record of conviction had been sent to the Department of Motor Vehicles so that her suspension required by conviction would commence. A notation on the record of the conviction maintained by the Irmo Town Clerk asserts the "ticket" was sent to the Department of Motor Vehicles on July 1<sup>st</sup>, 2009.

6. The plaintiff contacted the Department of Motor Vehicles to inquire about the further suspension of her driver's license required by her entry of a plea to driving under the influence. She received no response to her inquiries. The plaintiff also contacted her long-time insurance agent, who went to a branch of the Department of Motor Vehicles to inquire about the suspension and the plaintiff's need for auto insurance in the wake of her conviction for driving under the influence. These inquiries occurred in August and September, 2009. The records of the Department of Motor Vehicles apparently did not reflect a record of conviction and officers of the department informed both the plaintiff and her agent there was no such record.

7. Audits routinely conducted by the Department of Motor Vehicles for traffic citations issued by the Town of Irmo for the years 2010, 2011 and 2013 showed the plaintiff's citation for driving under the influence as "outstanding."

8. Apparently at some juncture after the last audit, the department's records were updated to show the status of the citation. On May 27<sup>th</sup>, 2014, nearly five years to the day after pleading guilty to the offense, the department notified the plaintiff of the suspension of her license to drive.

9. The plaintiff maintains she suffer significant immediate hardship and irreparable harm with the imposition of a suspension after this lapse of time. The plaintiff is in the medical

field and has a license as a registered nurse. She testified that she lost her job in the wake of her conviction and it was months before she could find employment. The plaintiff is now employed with a company which does not know of her conviction and which requires that she operate a motor vehicle in connection with her employment, without limitations. The plaintiff also now carries mortgages on two separate residences, as she tries to sell her former residence. The plaintiff has a reasonable fear that her job will be jeopardized by any suspension of her driver's license at this juncture, or upon disclosure of her conviction at this late date.


10. The department argues that it is blameless in the lapse between the entry of the conviction for driving under the influence and the imposition of the suspension of the plaintiff's license to drive. While this may be true, the test is whether the plaintiff will be deprived of fundamental fairness required by due process of law in the suspension of her driver's license after a significant lapse of time. *See, Hipp v. S.C. Department of Motor Vehicles*, 381 S.C. 323, 673 S.E.2d 416 (2009). There, the court held that both the driver and the department were blameless in the 12 year lapse of time between the conviction there and its recording with the Department of Motor Vehicles, triggering suspension. *Id.*, at fn. 2.

11. The department argues that the plaintiff should have done more to impose the requisite suspension on herself, but it is difficult to see how much more she could have done after she and her insurance agent made several inquiries of the department about the suspension without success. Nor was it incumbent on the plaintiff's lawyer to see to it his client's license was suspended. The attorney owed his client a duty of loyalty, not the department.

12. This court finds and concludes that the lapse of time of five years between the plaintiff's conviction for driving under the influence and her suspension will deprive the plaintiff fundamental fairness of the law required by due process and cause the plaintiff hardship. The plaintiff has no other remedy at law.

NOW THEREFORE, based on the foregoing, it is accordingly  
ORDERED, ADJUDGED and DECREED that the South Carolina Department of Motor  
Vehicles is permanently enjoined from suspending the plaintiff's license to drive for her  
conviction for driving under the influence entered June 11<sup>th</sup>, 2009.

AND IT IS SO ORDERED.

  
HON. L. CASEY MANNING  
Circuit Judge, Court of Common Pleas  
for Richland County

Columbia, South Carolina

March 23 2015