

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas  
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2013-000449

Raymond W. Carter

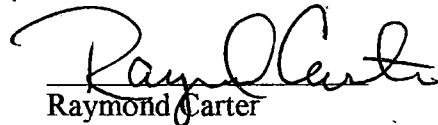
Appellant,

v.

Donnie Myers, Solicitor, Lexington County, Tracey Carroll, Asst. Solicitor, Lexington County, Brian Buck, Irmo Police Department, Scott Franklin, Irmo Police Department, Timothy E. Stephenson, SC Law Enforcement Division, (SLED), The Estate of George D. White, Ex father in law, Tammy Carter (AKA: Tammy Kidd, AKKA: Tammy Scrogham, Ex Wife, Barbara Keadle (AKA: Diane Hinkle) Investigator, LCDSS, Francis Ross, LCDSS, Paulette Jolly, Guardian Ad Litem,

Appellees,

FINAL BRIEF OF APPELLANT



Raymond Carter  
2219 Leesburg Road  
Columbia, SC 29209

APPELLATE PRO SE

THE STATE OF SOUTH CAROLINA  
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Appellant,

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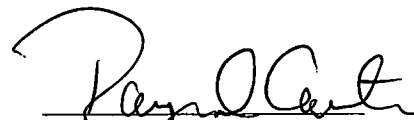
Donnie Myers, Solicitor, Lexington County, Tracey Carroll, Asst. Solicitor, Lexington County, Brian Buck, Irmo Police Department, Scott Franklin, Irmo Police Department, Timothy E. Stephenson, SC Law Enforcement Division, (SLED), The Estate of George D. White, Ex father in law, Tammy Carter (AKA: Tammy Kidd, AKKA: Tammy Scrogam, Ex Wife, Barbara Keadle (AKA: Diane Hinkle) Investigator, LCDSS, Francis Ross, LCDSS, Paulette Jolly, Guardian Ad Litem,

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APPELLATE PRO SE

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**STATEMENT OF ISSUES ON APPEAL**

1. **DID THE TRIAL COURT ERR BY DISMISSING ALL OR PART OF THE COMPLAINT DUE TO THE STATUTE OF LIMITATIONS HAD EXPIRED?**
  
2. **DID THE TRIAL COURT ERR IN FAILING TO PROPERLY RECOGNIZE THE STATUTE OF LIMITATIONS TOLLED AFTER JUDGMENT OR ORDER ISSUED?**

## STATEMENT OF THE CASE

On May 13, 2003, Appellant pleads guilty to 1-Count of Attempting or Committing a Lewd or Lascivious Act on a Minor, S.C. Code. Ann. § 16-15-140 in Lexington County and was sentenced before the late Honorable Judge Marc Westbrook to a maximum of 15 years in the Department of Correction.

After service of seven (7) years and eight (8) months and three (3) days, the Appellant, without notice or having previous knowledge of the fact, was transferred back to Lexington County Detention Center with a charge from the Attorney General's Office stating the State of South Carolina had reason to believe that the Appellant was by means of statute a sexually violent predator, S.C. Code Ann. § 44-48-(10-170). Appellant was compelled beyond his control to face a jury trial to make this determination.

Appellant remained in the custody of the Lexington County Detention Center another year and two (2) months and eight (8) days where he was forced to a jury trial to determine if he met the statutory criteria of the statute at the behest of the S.C. Attorney General's Office.

On November 2-3, 2008, a trial was conducted and because the Appellant had denied allegations that were transferred from the criminal court that brought him before this civil commitment trial, he was found to meet the states criteria and therefore the jury's verdict found that based solely on the evidence of the criminal court that the Appellant met the criterial to be committed to the S.C. Department of Mental Health for long-term control, care and treatment.

During the civil commitment of Appellant, he had appealed the decision of the civil commitment trial court and was attempting to exhaust his internal remedies. However, on January 8, 2010 and again on September 23, 2010, chief psychologist for the S.C. Department

of Mental Health determined on both occasions that Appellant “did not currently meet diagnostic criteria for a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence”. Further adding Appellant is “in the lowest possible risk category for sexual recidivism, one that is lower than the typical sexual offender”.

On October 25, 2010, the Director for the S.C. Department of Mental Health officially notified Appellant and authorized his attorney of record to motion the court for his release.

A trial was conducted on June 30, 2011, where the court concluded that the State had not met its burden to the continued confinement of Appellant in the S.C. Department of Mental Health. Before the jury was allowed to deliberate, the judge dismissed the jury and granted the directed verdict motion of the Appellant’s attorney and granted by order, the immediate release of Appellant.

On June 22, 2012, Appellant filed (unknown to the Appellant at that time) what amounts to a claim for relief pursuant to S.C.R.C.P Rule 60(b) seeking relief from a judgment or order.

On February 7, 2013, a motions hearing was conducted before the Honorable Frank Addy, Jr. in Lexington County Court of Common Pleas, where the judge dismissed the case due to the statute of limitations had expired.



## ARGUMENT

1. **DID THE TRIAL COURT ERR BY DISMISSING ALL OR PART OF THE COMPLAINT DUE TO THE STATUTE OF LIMITATIONS HAD EXPIRED?**

Pursuant to SCRCP Rule 60(b), the Appellant may seek relief from judgment or order based on “mistakes, inadvertence, excusable neglect, newly discovered evidence” etc., and specifically lays out a reasonable time for subsection “(1), (2) and (3) of not more than one year after the judgment, order or proceeding was entered or taken”.

However, there are multiple parts and charges to the Complaint filed by the Appellant. All actions complained about and all charges related to the original case on record should be filed pursuant to S.C. Code Ann. § 15-3-530 giving the Appellant three (3) years in which to commence an action based on the Appellee’s actions.

2. **DID THE TRIAL COURT ERR IN FAILING TO PROPERLY RECOGNIZE THE STATUTE OF LIMITATIONS TOLLED AFTER JUDGMENT OR ORDER ISSUED?**

Due to the fact that because the Writ of Coram Nobis has been abolished under South Carolina Law, SCRCP 60(b) and because Appellant was released and not able to further his attempt in exhaustion of administrative remedies or right to Habeas Corpus decision, Appellant filed the complaint within the one (1) year statute as prescribed by SCRCP 60(b) and therefore renders Honorable Judge Addy’s decision invalid.

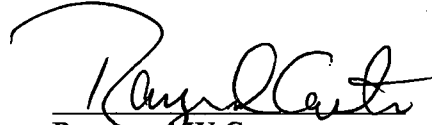
The Appellant believes the Honorable Judge Addy did not take into consideration in light of the most recent decision in the case or the facts based on the judgment and imminent order

to release the Appellant from custody. Nor, did the judge take into consideration what the complaint had clearly identified that the administrative remedies had not been completely exhausted upon the trial court's decision to release Appellant.

CONCLUSION

For the above stated reasons and pursuant to the law and rules of court, this Honorable Appellant Court should reverse the judgment of the Court of Common Pleas.

Respectfully Submitted,



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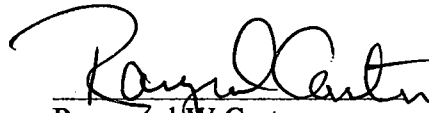
March 26, 2015  
Columbia, SC

APPELLANT PRO SE

CERTIFICATE OF COMPLAINE

I, Raymond W Carter, certify that the Final Brief of Appellant complies with the Supreme Court's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings issued April 15, 2014.

March 26, 2015  
Columbia, SC



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SC Court of Appeals

PROOF OF SERVICE

I, Raymond W Carter, certify that I have served the Final Brief of Appellant on March 26<sup>th</sup> 2015 by depositing a copy of same in the United State Mail, postage Paid addressed to:

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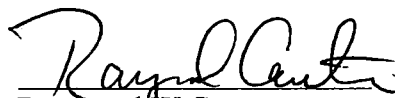
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