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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY  
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Appellate Case Number: 2014- 000621

**Unpublished Opinion No. 2015-UP-163**  
**Submitted February 1, 2015 – Filed March 25, 2015**

Joseph N. Grate, Appellant,  
v.  
Andrew J. Rodrigues, Respondent.

**MOTION FOR REHEARING, EN BANC**

April 6, 2015



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**MOTION FOR REHEARING**

Appellant hereby moves the Court to Rehear this case, on the basis that he has been deprived of Due Process. EN BANC Hearing requested.

**MEMORANDUM IN SUPPORT OF MOTION FOR REHEARING**

In the case before the lower court, the complaint comprised several counts of defamation; of which, the claim of Defendant having filed a trespassing claim against Appellant comprised only one of the claims; therefore, several were not addressed. (R. pp. 4-5, 10-16, 31-32. - p.10, item 3. -p.11, items 3-6, 9. -pp. 12-16. -p. 31 items 1-3)

The Statute of Limitation claim is questionable, given that the issue was raised in 2012 at Case No 2013-CP-22-00001 as well as raised on June 6, 2013. (R. p. 48 –p. 50, lines 16-25 –p. 51, lines 14-19 –p. 62, lines 7-8). Certainly, it did not apply to all items. The Defamation Action was dismissed March 6, 2014, without regard for Appellant’s U. S.

Constitutional Rights:

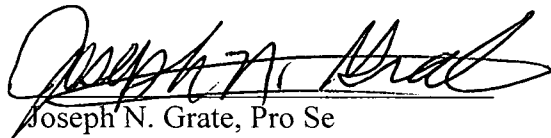
- 1. The right to present evidence, including the right to call witnesses.**
- 2. The right to cross-examine adverse witnesses.**
- 3. The right to decision based exclusively on the evidence presented.**

The point of contention presently is that other issues were involved but that the judge totally disregarded them and ruled on the matter of the trespass charge without permitting evidence to be presented. (R. p.48 -p. 61, lines 5-19). The case was dismissed, without consideration for due process. Appellant therein should have been granted an opportunity to have been heard on the Defamation allegations. (R. p.48 -p. 61, lines 5-19). He should have been allowed to present evidence and to have a decision based upon all of the evidence presented. (R. p.4 item 3. -p. 18, paragraph 4. -pp. 27-29. p.49, lines 15-25. -p. 51, lines 14-25. -p.58, lines 1-8, 7-25. -p. 60 lines 16-20) ; Amendment 14, US Constitution.

For the reasons stated, this Court should reverse the judgment of the circuit court.

Respectfully submitted,

April 6, 2015



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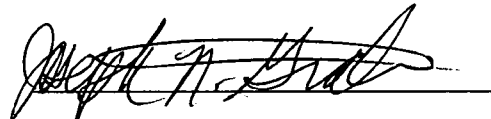
Respondent.

**CERTIFICATION OF SERVICE**

Appellant certifies that the Motion for Rehearing was served on Respondent  
via Certified U.S. Mail on the Date and at the Address indicated below.

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