

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
JUL 23 2015
SC Court of Appeals

Appeal From Pickens County
The Honorable Letitia H. Verdin, Circuit Court Judge

Appellate Case No: 2014-001880

THE STATE,

Respondent,

v.

PAUL TAT,

Appellant.

**MOTION TO COMPEL APPELLANT TO SERVE AND FILE AN AMENDED RECORD
ON APPEAL AND TO HOLD THE TIME FOR FILING RESPONDENT'S FINAL BRIEF
IN ABEYANCE PENDING APPELLANT'S COMPLIANCE WITH THE REQUESTS OF
THIS COURT**

Respondent herein seeks to amend the Record on Appeal, pursuant to Rule 210, SCACR, on the following grounds.

While attempting to prepare the Brief of Respondent, Respondent received additional pages from Appellant requesting the Court substitute pages in the Record on Appeal.¹ The substitution pages include matter cited by Respondent in its Initial Brief. Furthermore, Respondent discovered that certain matter regarding the issue under appeal had not been designated. The

¹ In a letter of July 9th 2015, Appellant requested this Court accept his modifications of the Record of Appeal to include the same Petition For Motion To Amend Judgement, as a replacement for the Record on Appeal's current pages 31-40 (Petition for a Motion to Reconsider Judgement.) A review of C-Track indicates the Record on Appeal does not contain the requested revision. The Respondents consent to Appellant's request

undersigned counsel submits this matter is necessary and useful to this Court's full understanding of the issues involved in this appeal. Counsel has received the Court's Letters of Deficiency for Appellant's Final Reply Brief and Record on Appeal.

Respondent would respectfully request this Court grant the Motion to include State v. Paul Tat, Transcript of Record, dated October 7, 2013, 2013-CP-01178, before the Honorable G. Edward Welmaker, page 1 and page 16. Respondent consents to Appellant's request to substitute pages to the Record on Appeal and also requests the Court direct Appellant to include his Petition For Motion To Amend Judgement, stamped received September 3, 2013, pages 1-8, upon his revision of the Record on Appeal. Respondent respectfully requests the Court instruct Appellant to file an "Amended Record on Appeal" for purposes of clarification.

Further, Respondent moves this Court to hold the time for filing the final brief of Respondent in abeyance until Appellant complies with the directives of the Court and serves Respondent with the Amended Record on Appeal.


WHEREFORE, Respondent moves this Court to compel Appellant to file and serve an Amended Record on Appeal that includes the Appellant's substituted pages and Respondent's additional pages and hold the time for filing and serving Respondent's Final Brief in abeyance pending Appellant's compliance with this Court's directives.

Respectfully submitted,

ALAN WILSON
Attorney General

SUSANNAH COLE
Staff Attorney

S.C. Bar No: 68383

BY: 
Susannah R. Cole

Office of the Attorney General
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(803) 734-3727

ATTORNEYS FOR RESPONDENT

July 23, 2015

Paul I. Tat
518 Fond Du Lac Drive
Central SC 29630

July 9th, 2015

JENNY ABBOTT KITCHINGS - CLERK
1015 Sumter Street, Columbia SC 19630

Re: The State v. Paul I. Tat
Appellate Case No. 2014-001880

Dear Mrs. Kitchings:

Appellant, Paul I. Tat, respectfully ask the Clerck of Court to accept the following modifications within the Record of Appeal and Appellant Final Brief:

1. Replacing in The Record of Appeal pages 31 to 40 "Petition for a Motion to Reconsider Judgement" of September 3rd 20113 with "Petition for a Motion to Amend Judgement" of September 3rd 2013.

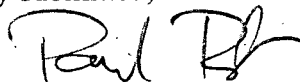
Explanation: There were 2 petition submitted to Magistrate Court during the process of asking reconsideration of judgement and subsequently appeal to the dismissal for untimely on initial petition. The second petition, to appeal the dismissal of the first, is not in the file of the Magistrate Court and is basically the same, however, but includes the reason for appeal, the second petition does not make the subject of the current appeal and I would like to replace it with the first petition to avoid confusion on the court.

2. The Appellant Brief page two to be replaced to reflect the changes to the Record on Appeal.

Dated: 07.09.2015

Respectfully submitted,

Paul I. Tat



518 Fond Du Lac Drive

Central, SC 29630

1.864.207.3485

CC: Sussanah R. Cole, Alan Wilson

5cc
RCV
OAG
7/13/2014

THE SOUTH CAROLINA COURT OF APPEAL

THE STATE, RESPONDEND I APPELATE CASE NO. 2014-001880

v.

PAUL I. TAT, APPELLAT I CASE NO. 2013CP3901329

NOTICE FOR MODIFICATION OF THE RECORD ON APPEAL

AND APPELLANT FINAL BRIEF

Appellant, Paul I. Tat, respectfully ask the Clerck of Court to accept the following modifications within the Record of Appeal and Appellant Final Brief:

1. Replacing in The Record of Appeal pages 31 to 40 “ Petition for a Motion to Reconsider Judgement” of September 3rd 20113 with “Petition for a Motion to Amend Judgement” of September 3rd 2013.

Explanation: There were 2 petition submitted to Magistrate Court during the process of asking reconsideration of judgement and subsequently appeal to the dismissal for untimely on initial petition. The second petition, to appeal the dismissal of the first, is not in the file of the Magistrate Court and is basically the same, however, but includes the reason for appeal, the second petition does not make the subject of the current appeal and I would like to replace it with the first petition to avoid confusion on the court.

2. The Appellant Brief page two to be replaced to reflect the changes to the Record on Appeal.

Dated: 07.09.2015

Respectfully submitted,

Paul I. Tat



518 Fond Du Lac Drive

Central, SC 29630

1.864.207.3485

CC: Sussanah R. Cole, Alan Wilson

8. October 14th, Judge S. Michael Gillespie denies for the second time the Motion to Reconsider Judgement. No reason given; Magistrate Court Order ; R.14;
9. October 23th Appellant introduces Notice of Appeal and the Motion to Appeal Conviction Judgement in the Pickens County Civil Court; Judge S. Michael Gillespie response to Motion is missing from the County Clerck Case file; R.13; R.6;
10. July 25th 2014, Judge Letitia Verdin, presides the hearing on the Motion to Appeal Judgement. Present: Appellant and District Att. Ass. Cleveland Baker for the State.R.41;
11. District Attorney Ass, Cleveland Baker introduced The State brief: “Magistrate Second Response”, an untimely 251 days late response from Judge S. Michael Gillespie to the case. The Response appears to address the Motion of October 14th, 2013 to Amend/Reconsider Judgement and do not address the Motion to Appeal Conviction Judgement in the Circuit Court of October 23th, 2013. The State Brief is missing from the Pickens County Clerck of Court case file. Appellant copy attached. R.4
12. On August 1st, 2014 Judge Letitia H. Verdin affirms sentence; R.2;
13. Appellant receive Judgement on August 5th, 2014. R.3;
14. Appellant file Notice of Appeal and receive notice in September 30th, 2014;
- 15 Appellant files Brief and Record of Appeal on October 29th, 2014,

Statements of the Case and Arguments

1. Circuit Court Error

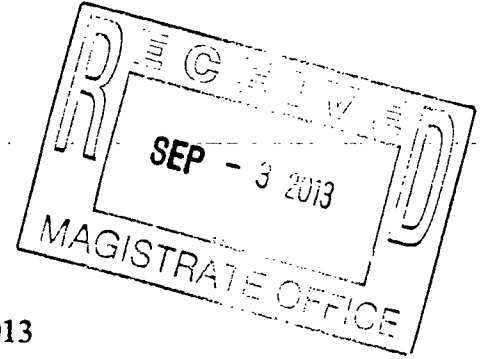
- A. The Judge erred stating the Appeal Notice should state the ground and the Motion does not state the ground for appeal. R.7(2), R.8(g)(j), R.11(B),R.12(2),R.32(2)(B),R.34(4)(5)(6),R.38(2)
- B. The Circuit Court accepted the introduction of the “Magistrate’s Second Response”

**PETITION FOR A MOTION TO AMEND JUDGEMENT
TO THE MAGISTRATE COURT**

**THE STATE OF SOUTH CAROLINA
PICKENS COUNTY CENTRAL MAGISTRATE COURT**

**APPEAL TO CENTRAL
MAGISTRATE COURT
HONORABLE JUDGE**

S. MICHAEL GILLESPIE



MAGISTRATE COURT, filed August 30, 2013

Paul Ioan Tat

Defendant,

PETITION FOR MOTION TO AMEND JUDGEMENT

Paul Ioan Tat *Paul Tat*
**518 Fond Du Lac Drive
Central, South Carolina 29630
(864) 207-3485
Defendant**

CERIFICATE OF PETITIONER

The petitioner certifies that hearing and the case was fully ruled by the Central, Magistrate Court on August 21, 2013

QUESTIONS PRESENTED

1. Has the Detective, JERRY LEE GARDO, committed perjury?
2. Has the Detective, JERRY LEE GARDO, conducted the case CDV 2013A3910300068 ... investigation without prejudicing the parties involved in the case?
3. Has the Interpreter ANGELINA SHARYY committed perjury?
4. Has the Defendant, PAUL IOAN TAT abused and injured ANJELIKA TAT?

STATEMENT OF THE CASE

On February 20, 2013, Detective Jerry Lee Gardo brought this action for CDV against Anjelika Tat and arrested the Defendant, Paul Ioan Tat, at the AnMed Hospital in Anderson, Anderson County, South Carolina. The Defendant was charged with CDV and release from the Pickens County Jail on February 21, 2013 on Bail Bond Form I and order scheduled for trial at by MAGISTRATE COURT at Pickens County Summary Court on March 11, 2013. The Defendant pleaded NOT GUILTY and the case was transferred to CENTAL SUMMARY COURT for August 21, 2013 on the court presided by Honorable Judge S. Michael Gillespie. The Defendant represented himself and the STATE was represented by Detective Jerry Lee Gardo.

A) The PROSECUTION introduced:

3 (three) witnesses:

STEVEN TACKNOR - Pickens County Dep. Sheriff
 DEBORAH WELCH - Victim Advocacy Program
 ANGELINA SHARRY- AnMed Health Medical Interpreter

3 (three) evidence documents:

- #1. Anjelika Tat AnMed medical records,
- #2. 3 (three) pages of computer-printer generated pictures of Anjelika Tat,
- #3. Angelina Sharry translation of Anjelika Tat Voluntary Statement.

B) The DEFENDANT asked the Court for continuation of the case to have time to prepare the response for the evidence and statements introduced by the PROSECUTION. The request was denied.

- C) The DEFENCE introduced:
1 (one) witness:
 JERRY LEE GARDO - Pickens County Detective
- 1(one) evidence documents
 Pictures of Anjelika Tat prone, computer and of the Defendant injuries
- D) The Defendant, Paul Ioan Tat, took the stand and sustain his innocence on abusing and beating Angelika Tat.
- E) The Honorable Judge S. Michel Gillespie found the Defendant GUILTY OF CHARGES. The Honorable Judge S. Michael Gillespie sentenced the Defendant to 30 days in the County Jail with suspension if the Defendant agrees to enroll and complete twenty six session Behavioral Changing Program within the next 6 months.

ARGUMENT

Question No. 1. Has the Detective, JERRY LEE GARDO, committed perjury?

JERRY LEE GARDO, deposition at the hearing on August 21, 2013

1. Witness testified that Pickens County Sheriff Office called him at about 7-7:30 AM on February 20, 2013 and arrived at AnMed Hospital ER at about 9 AM. *See: Court Voice Record.*

Medical Records show Detective Jerry Lee Gardo at the AnMed location at 7:34 AM.
See: Medical Records page 5, paragraph 8, Ginn, Michelle RN entry.

2. Witness testified he does not recall talking to the Defendant in the AnMed waiting room on February 20, 2013. *See: Court Voice Record.*

Medical Records show Detective Jerry Lee Gardo at the AnMed location speaking to Jeannette Kinsley MD and defendant at 9:20. *See: Medical Records page 5, paragraph 16, Alexander, Leigh entry.*

3. Witness denied he had conversation with the Defendant about the case on March 11, 2013 at the Pickens Magistrate Court in the presence of Honorable Judge Benjamin A. Dow, Deborah Welch and court Clerk. *See: Court Voice Record.*

This argument is mainly exemplified by the attached fax send by the Defendant, Paul Ioan Tat, on February 23, to Honorable Judge Benjamin A. Dow, however, Honorable Judge S. Michel Gillespie could very easy verify the authenticity of the testimony with the Honorable Judge Benjamin A. Dow office.

Question No. 2. Has the Detective, JERRY LEE GARDO, conducted the case CDV 2013A3910300068 investigation without prejudicing the parties involved in the case?

4. Witness testified that the Defendant asked for pictures to be taken of him at the Pickens County Jail on February 21, 2013 at his release and that he used his phone to take pictures. *See: Court Voice Record.*

Detective Jerry Lee Gardo testimony August 21, 2013.

4. Witness admitted taking pictures showing the injuries on the Defendant neck, arms, legs, face and chest. *See: Court Voice Record.*

Detective Jerry Lee Gardo testimony August 21, 2013.

5. Witness admitted withholding evidence and not including them into the case as finding for the C/CDV case 2013A3910300068, SC State vs. Paul Ioan Tat. *See: Court Voice Record.*

Detective Jerry Lee Gardo testimony August 21, 2013.

6. Witness stated that in his opinion the pictures he took of the Defendant, on February 21, 2013, were not important for the C/CDV case 2013A3910300068 of SC State vs. Paul Ioan Tat and for supporting his claim of Domestic Abuse against Anjelika Tat. *See: Court Voice Record.*

Detective Jerry Lee Gardo testimony August 21, 2013.

7. Witness objected when the Defense tried to introduce as evidence pictures taken on the morning of February 21, 2013 of the Defendant body injuries. *See: Court Voice Record.*

Detective Jerry Lee Gardo testimony August 21, 2013.

8. Witness denied the pictures show bruises and wounds, body injuries. *See: Court Voice Record.*

Detective Jerry Lee Gardo testimony August 21, 2013.

9. Witness testified the pictures show only scratches on face, neck, chest, both outside of the Defendant arms. *See: Court Voice Record.*

Detective Jerry Lee Gardo testimony August 21, 2013.

The Detective, Jerry Lee Gardo, stated that he had no intention of taking those pictures and were taken at Defendant request at the Pickens County Jail. The detective also stated that on February 20, 2013 he left with the copy of the medical records which show no injuries on Anjelika Tat neck and chest and he had no pictures of the head "mild swell" recorded at 1:34 AM.

It is possible they were not observable anymore at around 12 PM same day when the pictures of Anjelika Tat injuries were taken by: "right before the interpreter arrived" (see: Court Voice Record, Deborah Welch recalling the interpreter arrived just before she took pictures of Anjelika Tat legs, arms, neck, chest.)

It is also noted that the Detective spoke several times between 7:33 and 12:45 with various phone operators trying to obtain an incriminating statement and an agreement to be hosted at Safe Harbor. Only to be refused. (See: Medical Records page 5, paragraphs: 9, 12, 16 and 17.) After Angelina Sharry obtained a signed Voluntary Statement (VS) and release of the Medical Records showing no evidence of intentional injuries on Anjelika Tat body, to sustain the VS beating statement the Detective he probably realize that the pictures of the injuries on the Defendant Paul Ioan Tat body are not helping his case to indict the Defendant for CDV and decided to withhold them from the Court.

10. Witness denied having conversations with Defendant about the case on March 11, 2013 at the Pickens Magistrate Court in the presence of Honorable Judge Benjamin A. Dow, Deborah Welch and court Clerk. See: Court Voice Record

This argument is mainly exemplified by the attached fax send by the Defendant, Paul Ioan Tat, on February 23, to Honorable Judge Benjamin A. Dow, however, Honorable Judge S. Michel Gillespie could very easy verify the authenticity of the testimony with the Honorable Judge Benjamin A. Dow office.

Question No. 3. Has the Interpreter ANGELINA SHARYY committed perjury?

ANGELINA SHARRY deposition at the hearing on August, 21, 2013

11. Witness testified that, she was born in Kiev, Ukraine in 1932, that during the WWII she lived in Ukraine, that she left Ukraine with her family deported by German occupation troops in 1945 and testified that in 1945 her family decided to emigrate from Germany to Venezuela. See: Court Voice Record

In WWII Ukraine was invaded by the German Army in June 22, 1941, fully occupied by by September 1941 and liberated in November 1943 by the USSR Army.

See: http://en.wikipedia.org/wiki/Ukrainian_collaborationism_with_the_Axis_powers.

Angelina Sharry, was borne in 1932 to Ivan and Pauline Severin. (See: <http://www.legacy.com/obituaries/aspstarchronicle/obituary.aspx?n=ruisa-grubica&pid=147147216>) She was 9 years old on June of 1941 and probably a 2nd grader graduate when the German Army invaded Ukraine. In November 1943, when Ukraine was liberate by USSAR, if she left for Germany she could have been 11 with a 3rd grader russian language education.

12. Witness testified that she is a certified russian interpreter and that she learned russian in Ukraine in elementary and high-school. See: Court Voice Record

Angelina Sharry claimed her entire family was deported to Germany by the Germans, in 1945, which is impossible. The Germans were long gone out of Ukraine.

During the German occupation of Ukraine all schools above 4th grade were closed. However, if she left with the Germans in 1943 it is hard to assume she continued her Russian language education in Germany so she had only a 3rd grade Russian education at the time of her emigration to Venezuela. She is committing perjury stating that she learned Russian in elementary and high- school between 1932 – 1945 in Ukraine. See: <http://www.infonet.com/history/ww2/page-13.html>.

Koch versus Rosenberg by Andrew Gregorovich:

"During a visit to Ukraine in 1942 Hitler said Ukrainians "should be given only the crudest kind of education necessary for communication between them and their German masters." Erich Koch ordered: "I expect the General Commissars to close all schools and colleges with students over 15 years of age and send all teachers and students, irrespective of sex, in a body to Germany for work... I require that no school except four-grade elementary schools should function." All schools above grade four were closed in January 1942 and also all universities were closed as well."

13. Witness testified that she was called first time to the case, the morning of February 20, 2013 at about 11-12 AM and that she arrived about one hour and a half later to the hospital. See: Court Voice Record.

This entry is important because it contradicts the Medical Record and rises question about credibility of the Voluntary Statement sign by Angelica Tat. The Interpreter by her own statement did not reach the hospital until late that day.

See Medical Records page 6, paragraph 4, Ginn, Michelle RN entry, Anjelika Tat VS start and end time.

14. Witness testified that the patient hands were red.

No similar entry in any of the previous entries so those must be her introduced stories in the testimony not events related by Anjelika Tat.

See Medical Records page 3, paragraph 1, Steadman-Chester, Kerry RN, page 4, paragraph 1, Williamson, Tonya RN, page 6, paragraph 10, Kinsey, Jeanette MD and Anjelika Tat Voluntary Statement.

13. Witness testified that she translated "step by step" as related by Anjelika Tat the events and wrote them in the Voluntary Statement for Anjelika Tat to sign.

The Voluntary Statement (See Prosecution exhibit #3) is not a translation of Anjelika Tat words but an Affidavit of Angelina Sharry. Angelina Sharry describes what she did, observed and knew about the case.

The Defendant stated that Anjelika Tat does not lie so the claim that the Defendant was "biting" her every week (probably refers to beating, there were no biting reported) can not be true since she stated the Defendant travels a lot. The Defendant was most of the 2012 in Philippine and home for a week every 4 weeks. The same stand for been locked in her room without food. It is obvious that Anjelika Tat will NOT say was beaten every week when she stated the Defendant travels a lot. So there had to be mistranslation or lie on the Interpreter part.

Question No. 4. Has the Defendant, PAUL IAN TAT abused and injured ANJELIKA TAT?

The medical report show no evidence of cranial injuries, broken fingers or joint abnormality. Dr. Kinsey, physical examination showed:

Neck: no injuries.

Face: no injuries.

Chest wall: no tenderness, no redness, no bruising

GI Abdomen: no bruising.

Legs: no injury because no bruises

Skin: good color, no rash, no lesions.

The only injury showing injuries is:

Arms : tenderness and swelling, multiple bruises on both arms, dime to dollar size.

See Kinsey, Jeanette MD, Medical Records page 7 and 8, and Lab and Radiology report page 3 and 4:

The size and position of the arm injuries introduced by Detective Jerry Lee Gardo as (Prosecution Exhibit #3) shows wrist bruises consistent with the Defendant statement that he had to take hold, ("grab" see Court Voice Record) of Anjelika Tat's wrist to stop her from hurting him and herself and the arms bruises not documented in the exhibits as resulted from the Defendant getting hold of her arms to lift her off the floor, getting her dressed or carrying her to the toilet, to the car for driving her to the ER. Anjelika Tat is only 42 lbs, has very little body fat to protect her from fast bruising when heavy hold on her limbs is required to help her dress and move.


Since the Detective Jerry Lee Gardo choose to withhold from the court the picture he took of the Defendant upper body, head, face and limbs, evidence he collected on February 21, 2013 at the Defendant release from the Pickens County Jail, the Defendant was prejudiced from be able to document through the Police investigation the injuries he sustained trying to prevent Anjelika Tat to hurt her self and him during the day of February 19, 2013, injuries consistent with his claim of non aggression and abuse of Anjelika Tat.

CONCLUSION

1. Detective Jerry Lee Gardo, committed perjury and willingly withheld relevant information to the case.
2. By withholding information and evidence the Prosecution infringed the Defendant right for equal treatment, guaranteed in the 14th Amendment to The USA Constitution. (*Brady v. Maryland*, 373 U.S. 83 (1963) a landmark United States Supreme Court case in which the prosecution had withheld from the criminal defendant certain evidence)
3. The alleged Anjelika Tat Voluntary Statement (VS) is hand written by Angelina Sharry and describes her own activity at the hospital and describes injuries to chest and legs of Anjelika Tat not found in the medical records which precede the VS.
4. The previously reported facts of the incident translated by various interpreters not further present in the VS and no russian translation or deposition written by Angelika Tat, indicate there is not evidence that Anjelika Tat understood what was written in the Voluntary Statement she signed.
5. There are conflicting translations on records that show no cause and evidence of abuse to cause injuries and do not explain the injuries on Anjelika Tat as results of been assaulted by Paul Ioan Tat, there is no evidence that the Defendant, Paul Ioan Tat, has abused and violated Anjelika Tat.

Respectfully submitted,

AUGUST 28, 2013

Paul Ioan Tat 
518 Fond Du Lac Drive
Central, South Carolina 29630
(864) 207-3485
Petitioner

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Pickens County
The Honorable Letitia H. Verdin, Circuit Court Judge

Appellate Case No: 2014-001880

RECEIVED
JUL 23 2015
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THE STATE,

Respondent,

v.

PAUL TAT,

Appellant.

PROOF OF SERVICE

I, Anne Mueller, certify that I have served the Motion To Compel Appellant To Serve And File An Amended Record On Appeal And To Hold The Time For Filing Respondent's Final Brief In Abeyance Pending Appellant's Compliance With The Requests Of This Court on Appellant by depositing one (1) copy of the same in the United States mail, postage prepaid, addressed to his address of record: 518 Fond Du Lac Drive, Central, South Carolina 29630.

I further certify that all parties required by Rule to be served have been served.

This 23rd day of July, 2015



ANNE MUELLER
Legal Assistant
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727