

Rec'd 10/20/2014 FORM 4

EXHIBIT

Wed. #26

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

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2014CP2603911

Retha Pierce Sturdivant

Conway City Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: CLERK OF COURT

Attorney for:  Plaintiff  Defendant  
 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.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**
  - Rule 43(k), SCRPC (Settled);
  - Rule 12(b), SCRPC;
  - Rule 41(a), SCRPC (Vol. Worsuit);
  - Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**
  - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
  - Rule 40(j) SCRPC;
  - Bankruptcy;
  - Other: \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
  - Affirmed;
  - Reversed;
  - Remanded;
  - Other: \_\_\_\_\_

FILED  
HORRY COUNTY  
CLERK OF COURT  
OCT-6 PM 3:03  
JUDICIAL BUILDING-WARD

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:

Appeal dismissed. Formal order to follow by Atty Beverly.

ORDER INFORMATION

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

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)
N/A	N/A	N/A

If applicable, describe the property, including tax map information and address, referenced in the order:

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RPS  
10/27

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )  
Retha Pierce Sturdivant, )  
 ) Plaintiff, )  
 )  
vs. )  
 )  
City of Conway, )  
 ) Defendant. )

IN THE CIRCUIT COURT OF THE  
FIFTEENTH JUDICIAL CIRCUIT

**CERTIFICATE OF SERVICE**

Docket No.: 2014-CP-26-03911

**PERSONALLY APPEARED BEFORE ME**, Tara L. Haines, who being duly sworn, deposes and states that she is an employee of O. Terry Beverly, and that she has mailed the documents listed below, on the date set forth below, in the above entitled action to the following addressee with proper postage affixed thereto.

**DOCUMENTS:**  
**FINAL ORDER**

**ADDRESSEE:**  
**MS. RETHA PIERCE STURDIVANT**  
**412 32<sup>ND</sup> AVENUE SOUTH**  
**ATLANTIC BEACH, SOUTH CAROLINA 29582-4716**

**DATE OF MAILING:            OCTOBER 17, 2014**

SWORN to and Subscribed before me  
this 17th day of October, 2014.

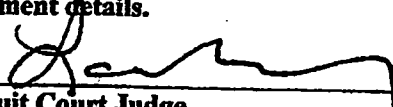
*O. Terry Beverly*  
Notary Public for South Carolina  
My Commission Expires: 12/28/16

*Tara L. Haines*  
Tara L. Haines  
Paralegal for O. Terry Beverly  
1202 Third Avenue  
Conway, South Carolina 29526  
Telephone (843) 248-7576  
Facsimile (843) 248-8829

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*RPL*

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.

  
Circuit Court Judge 2152 Judge Code 10/1/2014 Date  
**For Clerk of Court Office Use Only**

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

Retha Pierce Sturdivant 412 32Nd Ave S North Myrtle Beach, SC 29582

O. Terry Beverly 1202 3Rd Ave. Conway, SC 29526

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

**ATTORNEY(S) FOR THE DEFENDANT(S)**

**Court Reporter Natalie Dahl**

**Melanie Huggins-Ward - Clerk of Court**

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )  
RETHA PIERCE STURDIVANT, )  
Appellant )  
vs. )  
CITY OF CONWAY, )  
Respondent. )

IN THE CIRCUIT COURT OF THE  
FIFTEENTH JUDICIAL CIRCUIT

**FINAL ORDER**  
MELANIE HUGGINS-WARD  
CLERK OF COURT  
2014 OCT 16 PM 4: 17  
Horry County  
FILED

Docket No.: 2014-CP-26-3911

Appellant's Attorney: Pro Se  
Respondent's Attorney: O. Terry Beverly  
Trial Location: Conway, South Carolina

Hearing Date: October 1, 2014  
Judge: Larry B. Hyman, Jr.  
Court Reporter:

**THIS MATTER IS BEFORE THE COURT** on Notice of Appeal based upon the Appellant's arrest and conviction for the offense of Driving Under the Influence. After the Appellant's arrest, she made a timely demand for a jury trial. At a term of court scheduled for May 28 – 30, 2014, the Appellant's case was set and tried on May 30, 2014. The jury, after hearing the testimony and reviewing the evidence, returned a verdict of guilty of the offense of Driving Under the Influence. From that conviction, this appeal followed.

At the call of the hearing on this appeal, the Appellant was given wide latitude in arguing her exceptions before this Court. During her argument, Appellant admitted that at trial she was given an opportunity to present evidence and cross-examine the witness against her. She also admitted that the jury heard the evidence that Appellant's Datamaster result was .00% and that there was a refusal to give a urine sample. Appellant also admitted that the jury heard the evidence presented by the City and viewed the in-car and Datamaster videos taken at the time of her arrest.

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The purpose of an appeal is not to conduct a retrial of the case heard below. " In a criminal appeal from the municipal court, the circuit court does not review the matter de novo; rather, the court reviews the case for preserved errors raised by appropriate exception. S.C. Code Ann. § 14-25-105 (Supp 2012); Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 341, 713 S.E.2d 278, 282 (2011). In criminal appeals from the municipal court, the circuit court is bound by the municipal court's findings of fact if there is any evidence in the record which reasonably supports them. See Rogers v. State, 358 S.C. 266, 269 n. 1, 594 S.E.2d 278, 279 n. 1 (Ct.App.2004)." City of Greer v. Humble, 402 S.C. 609,611, 742 S.E. 15, 17 (Ct. App. 2013)

"Any party has a right to appeal from the sentence or judgment of the municipal court to the Court of Common Pleas of the County in which the trial is held. Notice of intention to appeal, setting forth grounds of appeal, must be given in writing and served on the municipal judge or the clerk of the municipal court within ten days after sentence is passed or judgment rendered, or the appeal is considered waived. The party appealing shall enter into a bond, payable to the municipality, to appear and defend the appeal at the next term of the Court of Common Pleas or shall pay the fine assessed." S.C. Code-Ann. §14-25-95 (Supp.2010).

The record on appeal in this case consists of the Appellant's Notice of Intent to Appeal and the Return of the Municipal Court. There being no transcript or tape from the municipal court, and there being no challenge to the return in reciting the factual findings of the municipal court, the review shall be based upon the facts as contained in the municipal court's return. See City of Greer, 402 S.C. 609,611, 742 S.E. 15, 17 (Ct. App. 2013).

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There are three (3) exceptions filed by the Appellant. The first exception challenges the conviction based upon a Datamaster result of .00% and the Appellant's denial that she had consumed alcohol or illegal drugs. However, the return of the Municipal Court indicates that prescription pain pills were found in the Appellant's possession and that the Appellant refused to give a urine sample. The officer also testified as to the Appellant's erratic driving.

The second exception in the Appellant's Notice of Appeal objects to her ill treatment leading up to the trial and during the trial. The return of the Municipal Court indicates that her request for a continuance in order to be able to attend a funeral was granted and her trial was set for May 30, 2014. Also Appellant's handwritten Motion for Dismissal was heard and denied prior to the trial on May 30, 2014.

The final exception challenges the testimony of Officer Josh Scott. Appellant now objects to the testimony of Officer Scott as a drug expert and challenges his credibility. There is no record indicating that a timely objection was made at trial concerning the testimony of Officer Josh Scott. The determination of the credibility and believability of the testimony of a witness is the role of the jury.

Section 56-5-2930(A) of the South Carolina Code (Supp. 2013) provides:

"It is unlawful for a person to drive a motor vehicle within this State while under the influence of alcohol to the extent that the person's faculties to drive a motor vehicle are materially and appreciably impaired, under the influence of any other drug or a combination of other drugs or substances which cause impairment to the extent that the person's faculties to drive a motor vehicle are materially and appreciably impaired, or under the combined influence of alcohol and any other

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drug or drugs or substances which cause impairment to the extent that the person's faculties to drive a motor vehicle are materially and appreciably impaired. A person who violates the provisions of this section is guilty of the offense of driving under the influence..."

Based upon the Appellant's exceptions, and the record before me, I find that the Appellant failed to establish any errors of law by the Trial Judge. The Record also clearly indicates that there is sufficient evidence to support the jury's verdict of guilty of the offense of Driving under the Influence.

Therefore, it is:

**ORDERED** that the appeal by the Appellant be, and hereby is, dismissed.

**AND IT IS SO ORDERED.**



\_\_\_\_\_  
LARRY B. HYMAN, JR.  
Circuit Court Judge

Dated this 16 day of Oct, 2014  
at Conway, South Carolina

*Handwritten notes:*  
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