

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM OCONEE COUNTY  
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

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Case No. 13-CP-37-138

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LLOYD LASH ..... Appellant,

v.

OCONEE COUNTY SHERIFF'S DEPARTMENT, et al, ..... Respondent.

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**FINAL REPLY BRIEF OF APPELLANT**

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## ARGUMENT

The issue in this appeal is whether there were genuine issues of material fact unresolved at the time the circuit court judge granted respondents' summary judgment motion on the malicious prosecution claim.

There were. It was therefore improper for the judge to grant the summary judgment motion, and this case should be remanded back to the Court of Common Pleas for trial.

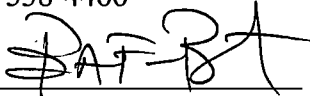
Whether there was probable cause for Lloyd Lash's arrest is an issue for the jury unless there is only one conclusion that can be drawn from the facts. *Law v. S.C. Dep't of Corr.*, 368 S.C. 424, 629 S.E.2d 642 (2006) (citing *Parrott v. Plowden Motor Co.*, 246 S.C. 318, 143 S.E.2d 607 (1965)). A jury should have the opportunity to assess the impact of Rory Jones's "threats" and "coercion" of witnesses in its assessment of whether probable cause existed to arrest Lash. This is precisely the error of law the circuit court judge committed—he appropriated this finding for himself, even when there were genuine issues of material fact outstanding. The trial court judge summarily concluded that there was probable cause to arrest Lash based on the issuance of the arrest warrant, the indictment, and the denial of the directed verdict motion. But all of this ignores Rory Jones's actions when he told certain witnesses that they would either stay in jail (unless they gave him a statement that implicated Lash), or that the Department of Social Services would take another witness's children unless she cooperated. Lash's counsel argued this at the summary judgment hearing, ROA 91, and reiterated that Jones stands accused of having committed "fraud in the investigation which was revealed at trial." ROA 92. *See also* Memorandum in Opposition to Defendants' Motion for Summary Judgment, pp. 4-7, and excerpts from Rory Jones' deposition, ROA 17-21. Lash maintains

Rory Jones committed fraud in securing this testimony; Defendants disagree but acknowledge Jones told two witnesses "that 'charges could follow' and that 'DSS could potentially get involved.'" Brief of Respondent, p. 7. This is a genuine issue of material fact that a jury must resolve. Summary judgment was therefore inappropriate, and Lash respectfully asks this Court to remand his case for trial.

Respectfully submitted,

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Columbia, SC.

August 10, 2015.

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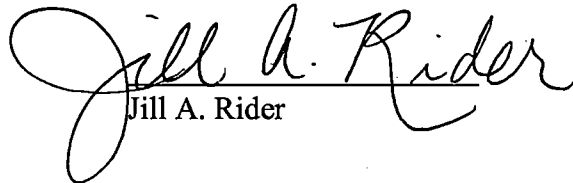
v.

OCONEE COUNTY SHERIFF'S DEPARTMENT, et al, ..... Respondent.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the Final Reply Brief of Appellant was served by first class United States mail, postage prepaid, this 14<sup>th</sup> day of September, 2015, upon the following:

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