

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Appellate Case No. 2014-002775

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SEP 25 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA

Respondent,

Vs.

Dameon Myers,

In Propria Persona, Sui Juris.

RESPONSE TO

MOTION TO DISMISS AND REJECT

I, Dameon Myers, am now demanding dismissal of the Motion to Dismiss and Reject submitted, written, and filed by Salley Elliot. The motion is in further of obstruction of justice, and in further of denial of substantive Rights and due process procedures; it and violates the fundamental principles of law- as will be shown.

First and foremost, pursuant to Trinsey v. Pagliaro, 229 F. Supp. 647, 1964, "The defendants' motion to dismiss for failure to state a claim unsupported by affidavits or depositions is incomplete because it requests this Court to consider facts outside the record Statements of counsel in their briefs or argument while enlightening to the Court are not sufficient for purposes of granting a motion to dismiss or summary judgment."

Salley Elliot has not placed sufficient facts and/or proof upon the record to prove that she proper standing and/or proper delegation of authority to act. She is not party to this matter and has no facts that can relied upon for a motion to dismiss or reject my initial brief.

My Initial of Appeal was filed in a timely manner. After filing this notice, I received correspondence from the Court of Appeals stating that my Appeal was premature because the

judgement or order was not written. I then wrote back with the text of the Rule 201, SCACR which states, "Appeal may be taken, as provided by law, from any final judgment, appealable order or decision..... Only a party aggrieved by an order, judgment, sentence or decision may appeal." Even after this, I could not proceed. For months I had my family members trying to obtain a copy of the written order that Alicia Richardson, solicitor in Georgetown, County, was ordered to prepare by Judge Hyman; and it was not produced. It was not until after a complaint had been filed with the Commission on Lawyer Conduct that an order was prepared. Even then, no notice was immediately sent as required by the Court's own rules. The order was received late and deprived me of substantive time. In addition, the record shows that the second notice of appeal states all of the obstruction, hindering, and/or due process violations, that I went through trying to obtain a copy of a written order, even though the rules do not state that an order, decision, and/or otherwise has to be written in order for me to appeal.

Moreover, once submitting my appeal and a copy of the order, I was delayed, hindered, and/or obstructed by the South Carolina Court of Appeals. My family members and I were inquiring about the status of my appeal for months- only to be notified by the South Carolina Court of Appeals that my appeal had been "lost". This is in direct violation of your oaths and law.

Title 18 USC-Crimes and Criminal Procedure, Part I-Crimes, Chapter 101- Records and Reports, Section 2071- (Concealment, removal, or mutilation generally)

1. (a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates or destroys, or attempts to do so, or with intent to do so, or takes and carries away ANY record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any

court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined under this Title, or imprisoned not more than three years, or both.

2. (b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States.

As used in this subsection, the term "office" does not include the office held by any person as a retired officer of the Armed Forces of the United States.

Revised Statutes of The United States, 1st Session, 43rd Congress 1873-1874.

Title LXX.—CRIMES—CH. 4. CRIMES AGAINST JUSTICE

Section 5403. (Destroying public records); Every person who willfully destroys or attempts to destroy, or with intent to steal or destroy, or takes and carries away any record, paper, or proceeding of a court of justice, filed or deposited with any clerk or officer of such court, or any paper, or document, or record filed or deposited in any public office, or with any judicial or public officer, shall, without reference to the value of the record, paper, document, or proceeding so taken, pay a fine of not more than two thousand dollars, or suffer imprisonment, at hard labor, not more than three years, or both: [See § 5408, 5411, 5412, 5412.1]

Section 5407. (Conspiracy to defeat enforcement of the laws); If two or more persons in any State or Territory conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce the right of any person, or class of persons, to the equal protection of the

laws, each of such persons shall be punished by a fine on not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment. See § 1977-1991, 2004-2010, 5506-55410.1

Section 5408. (Destroying record by officer in charge); Every officer, having the custody of any record, document, paper, or proceeding specified in § 5403, who fraudulently takes away, withdraws, or destroys any such record, document, paper, or proceeding filed in his office or deposited with him or in his custody, shall pay a fine of not more than two thousand dollars, or suffer imprisonment at hard labor not more than three years, or both, and shall, moreover, forfeit his office and be forever afterward disqualified from holding any office under the Government of the United States.

The South Carolina Court of Appeals and the General Sessions Court of Georgetown County have violated their own rules, oaths of office, and my substantive Rights. My material, substantive due process Rights and substantive procedural Rights have been deprived, obstructed, delayed, and hindered. By their own admission- within the motion, the attorneys in this matter are not familiar with the record and are attempting to perpetrate fraud by stating, "A hearing into the matter was convened on December 5, 2013". My Demand for Dismissal for Failure to State Proper Jurisdiction and Venue was heard on December 19, 2013 and an order was not written until August 12, 2014.

As stated previously, and proven by the record, I sent in another notice of appeal. This notice detailed the entire ordeal, and how I was hindered and obstructed from the claim and exercise of my substantive Rights. After being duly notified and directed by me- my assistant and attorney in fact, Loushonda Myers, mailed this notice to the Court of Appeals. Ms. Myers is

not a bar licensed attorney, however, is and was acting under her substantive, fundamental common law Rights- which must be protected pursuant to the United States Constitution. As a party in interest and intervener, she has the Right to intervene and assist me in this matter. (Haines v. Kerner 92 S. Ct. 594; NAACP v. Button (371 U.S. 415); United Mineworkers of America v. Gibbs (383 U.S. 715); and Johnson v. Avery 89 S. Ct. 747 (1969); Brotherhood of Trainmen v. Virginia ex rel. Virginia State Bar (377 U.S. 1); Gideon v. Wainwright 372 U.S. 335; Argersinger v. Hamlin, Sheriff 407 U.S. 425; Federal Rules Civil Proc., Rule 17, 28 U.S.C.A. "Next Friend") A Private Attorney General is a person that vindicates Rights on behalf of others. (Title 42 U.S.C. § 1988; Wood v. Breier, 54 F.R.D. 7, 10-11 (E.D. Wis. 1972); Frankenhauser v. Rizzo, 59 F.R.D. 339 (E.D. Pa. 1973)) We have relied on prior decisions of the Supreme Court; and cannot be denied our Rights when they have clearly, belligerently, and plainly been asserted. (U.S. v. Bishop, 412 U.S. 346; Miranda v. Arizona, 384 U.S. 436; Howlett v. Rose, 496 U.S. 356) No state can make or enforce any law in degradation of the laws and principles of the United States Constitution. There is no law limiting a person to act under the Rights, Privileges, powers, and laws given to them by God. (U.S. v. Seeger, 380 U.S. 163, 172, 85 S. Ct. 850, 13 L. Ed. 2d 733 (1965); Marbury v. Madison, 5 US 137; Miller v. U.S., 230 F.2d. 486, 489) It is the duty of the People to protect one another from the stealthy encroachments of the government and all fraud perpetrated on them by the government. Moreover, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." (Ninth Amendment).

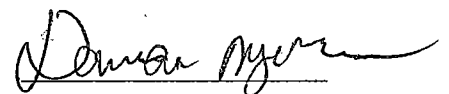
In addition, Ms. Myers never "appeared" as an attorney at law nor claimed to be licensed to practice law. Ms. Myers is not a "person" within the meaning of any state statute and does not "practice" law. I can choose anyone that I want to assist me with my matters. This is my Right.

“Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but, in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts.” (Yick Wo v. Hopkins 118 U.S. 356 (1886)).

Furthermore, I replied to the letter requesting the date I received notice of the written order. The conduct and actions of the officers and clerks of the court are beyond my control. This appeal is a substantive Right, not to be confused with a statutory Right. At any time the jurisdiction of a court can be challenged; and any proceeding that violates my substantive due process Rights are void. Even if this court were to entertain the motion submitted by the Salley Elliot, it would be void for substantive due process Rights violations. (Fed Rules Civ. Proc., Rule 60(b) (4), 28 U.S.C.A.; U.S.C.A. Const Amend. 5. Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985)) I cannot be forced to wait almost a year for an order to rectify a wrong, and then have the South Carolina Court of Appeals lose my Appeal, which obstructed me for several more months.

Thus, I am demanding immediate remedy, redress, and relief as follows: Denial of the Motion to Dismiss and Reject my Initial Brief; my immediate release from Lieber Correctional facility; and any and all remedy, relief, and redress due to the substantive procedural and Constitutional violations, as well as obstructions and hinderances that has occurred to me throughout this entire matter.

September 21, 2015.



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SC Court of Appeals

Dameon Myers #279666

In Propria Persona, Sui Juris

Lieber Correctional Institution

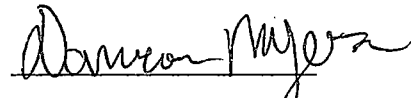
P.O. Box 205

Ridgeville, South Carolina 29472

Certificate of Service

I, Dameon Myers, certify that a copy of the foregoing motion has been served on the South Carolina Attorney General's Office by mailing a copy via USPS addressed to Salley Elliot, P.O. Box 11549, Columbia, South Carolina 29211.

September 21, 2015.



Dameon Myers #279666

In Propria Persona, Sui Juris

Lieber Correctional Institution

P.O. Box 205

Ridgeville, South Carolina 29472

MEON MYERS 279666
CT / P.O. Box 205
Edgeville S.C. 29472

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SC Court of Appeals

Enter Agency mail
Court of Appeals
P.O. Box 11549
Columbia S.C. 29211