

ONELIA SINGLETARY  
Dictated by Mr. Hucks

1 Q: And did you see what his demeanor was when he  
2 was talking to Mr. Curry?

3 A: He was not happy.

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4 Q: He was angry?

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5 A: No, he just wasn't happy.

SC Court of Appeals

6 Q: Was he his usual self?

7 A: No.

8 Q: Okay. He was acting unusual, is that fair?

9 A: Well, he was unhappy.

10 Q: Did you hear what he said to Mr. Curry?

11 A: Yeah.

12 Q: What'd he say?

13 A: He said Mr. Curry, please leave if he didn't  
14 want to sign in.

15 Q: Well, he --

16 A: And --

17 Q: He was hollering at him, right?

18 A: Yeah.

19 **MR. O'LEARY:** Objection, Judge, he's leading.

20 **THE COURT:** Do you want --

21 **MR. HUCKS:** Yes, sir, I'll rephrase the question.

22 **THE COURT:** Rephrase.

23 Q: Was he hollering at him?

24 A: His voice was raised, yes.

25 Q: And did you see him lay his hands on him?



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ONE OF THE ORIGINALS  
DIRECT EXAMINATION BY MR. HUCKS

1 A: He -- Mr. Curry did not get up when he asked  
2 him to leave.

3 Q: Well, he didn't -- did he ask him to or did he  
4 tell him to?

5 A: He said please leave. I don't know if that's  
6 ask or what you would call -- you say please  
7 leave. Is that asking? I'm not -- I thought  
8 it was.

9 Q: Now, did you see him lay his hands on Mr.  
10 Curry?

11 A: Well, I saw him reach down and touch his hand  
12 and then I left the room.

13 Q: You left the room?

14 A: Yes.

15 Q: Now, did you see him touch his hand or did you  
16 see him grab him on the arm?

17 **MR. O'LEARY:** Objection, leading.

18 **MR. HUCKS:** I'm just asking to clarify. There's a  
19 difference in leading and clarification of the  
20 testimony.

21 A: Mr. Curry's hands were resting on the chair in  
22 the -- in the chair in the reception area, so  
23 he reached down.

24 Q: He reached down.

25 A: And his -- if his arm was on the chair, then he



ONEUP & SINGLETARY  
DIRECT EXAMINATION by Mr. Hucks

1 reached down and grabbed his arm.

2 Q: And then what happened?

3 A: And then I left the room.

4 Q: You left the room.

5 MR. HUCKS: Court's indulgence for a moment.

6 THE COURT: Okay.

7 MR. HUCKS: Court's indulgence just a moment.

8 THE COURT: Yes.

9 Q: Ms. Singletary --

10 A: Yes.

11 Q: -- I'm going to hand you your statement that  
12 you gave the police, do you recognize this?

13 A: Yes.

14 Q: And whose signature is at the bottom?

15 A: It is my signature.

16 Q: Okay. And is the statement that you gave to --

17 A: Yes.

18 Q: -- pardon me. Now, I want you to review your  
19 statement, okay.

20 A: I see where it says that I said I saw Mr. Webb  
21 grab Mr. Curry's arm while Paul was seated.

22 Q: Okay. And what did you tell in that statement  
23 as to what Mr. Webb said to Mr. Curry when Mr.  
24 Curry asked him do you have your hands on me?

25 A: It says next, Mr. Curry said are you putting



ONKUA DIRECTOR  
CROSS EXAMINATION by MR. DEARY

1 Q: Okay. And, in fact, how long have you been  
2 there? Over how many years?

3 A: This will be going on two years.

4 Q: Two years?

5 A: Uh-huh (affirmative response).

6 Q: After this incident, were you -- were you  
7 terminated by my client, Mr. Webb?

8 A: Yeah.

9 Q: And you were brought back by the new  
10 administration?

11 A: Yes.

12 Q: Okay. When were you terminated by Mr. Webb?

13 A: I think it had to be -- I'm not --

14 Q: That's fine. If you don't know, just --

15 A: I'm not sure of the date.

16 Q: But it was after the incident, after this  
17 incident?

18 A: Yeah.

19 Q: Okay. Let me ask you now, on the 31<sup>st</sup>, you  
20 actually were interviewed by the -- what's the  
21 Chief of Police name, Michael --

22 A: Gordon.

23 Q: And you were interviewed, is that correct?

24 A: (Inaudible)

25 Q: Do you recall in that interview you said you



~~WELLS~~ & WELLS A SINGLE-ENTRY  
CROSS EXAMINATION by MR. DEARNEY

SOUTH CAROLINA V. BENNY WEBB

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1 never saw him grab a clipboard or grab the left  
2 upper arm of the victim?

3 A: I'm not sure.

4 Q: Let me show you this. Did you give a written  
5 statement or is that -- was it just an oral --  
6 oral interview? Do you know?

7 A: I'm not sure.

8 Q: Did you ever see Mr. Webb grab a clipboard from  
9 him, from Mr. Curry?

10 A: I'm not sure.

11 Q: Okay. Now, how many people are in that  
12 building that you're in?

13 A: A small amount, myself, at the time Mr. Webb,  
14 I think Officer Jackson.

15 Q: How many days a week do you actually work?  
16 Three? Is it three days a week Town Hall's  
17 open or --

18 A: Three days a week the Town Hall is open.

19 Q: Just about everyday Mr. Curry would come in  
20 there, correct?

21 A: Yes.

22 Q: Have you seen him come in multiple times in one  
23 day?

24 A: Typically once a day.

25 Q: Once a day.



1 A: I have -- I had arrested a subject and he had  
2 drugs on him, but I had to enter some drugs  
3 into the evidence locker. I came back in after  
4 I got some sleep and I proceeded to do that.  
5 I had to weigh it. So while I was weighing it,  
6 there was a commotion up in the front and then  
7 the commotion that was going on in the front,  
8 they were screaming, Mike, Mike, Mike, which is  
9 my chief, his name is Mike Gordon. Sheila  
10 Singletary, which is a secretary, is screaming  
11 Mike, I need you to come up to the front. So  
12 Chief Gordon went up to the front. Whatever  
13 happened up in the front, I don't know because  
14 I wasn't up there. Then, all of a sudden, the  
15 Chief came back and told me hey, I need you to  
16 go up to the front. I said, what's going on.  
17 He said I need you to go up to the front. I  
18 said, I've got my drugs here. He said, I'll  
19 take care of that. I go up to the front and  
20 there's where Mr. Webb and Mr. Curry were  
21 having an altercation (inaudible). When I got  
22 there, all I could see was he was waving his  
23 finger at Mr. Curry and I said to him, I said,  
24 Mr. Webb, let him go outside. He said, I got  
25 this. And they proceeded to go outside and I



John JACKSON  
DIRECT EXAMINATION by Mr. Luckis

1 A: Oh, that's fine.

2 Q: -- if you testify from it.

3 A: Okay. In this report I have stated what I  
4 seen. I didn't hear the tape before I had  
5 testified. All I know is what I seen. So what  
6 I told my chief, I wrote an incident because  
7 Mr. Webb said that we all had to write an  
8 incident of what had happened.

9 Q: Okay.

10 A: In my statement I wrote that I had came up  
11 after the fact and all I could see was Mr. Webb  
12 and him arguing and Mr. Webb was shaking his  
13 hand at him.

14 Q: Okay.

15 A: And they both walked outside. Well, Mr. Curry  
16 and Mr. Webb walked outside and then I  
17 (inaudible) then I went outside.

18 Q: Did Mr. Curry -- was he standing or was he  
19 sitting when you first -- when they went  
20 outside, did you notice?

21 A: No, he was standing. Then when they went  
22 outside, he sat down on the bench.

23 Q: Let me show you this. I think this might be  
24 your first one. Take a look at the date on  
25 this.



UPMUCK JOHN JACKSON  
RE - DIRECT by MR. O'LEARY

1 A: I haven't been given a tape from anybody.

2 Q: You ain't got no tape from anybody.

3 A: No, sir.

4 Q: So -- but you say it's out there, right?

5 A: Oh, yes.

6 Q: And you did take the statement from Mr. Curry  
7 that day, though, didn't you? He handed you a  
8 statement and you put it on the Chief's desk,  
9 didn't you?

10 A: Yes, sir. And I signed it.

11 Q: You signed it and put it on the Chief's desk,  
12 right?

13 A: He gave me a copy --

14 Q: You gave him a copy back?

15 A: Right.

16 Q: Now --

17 **MR. HUCKS:** No further questions, Judge.

18 **THE COURT:** Okay.

19 **MR. O'LEARY:** Just -- just a couple.

20 **MR. JACKSON - RE-DIRECT EXAMINATION BY MR. O'LEARY:**

21 Q: But you never saw Mr. Webb hit him, strike him,  
22 in any way?

23 A: No, sir.

24 Q: Okay. Now, as a patrolman, can a store owner  
25 ask somebody to leave the property?



~~DENNY WEBB~~  
DIRECT EXAMINATION by MR. O'LEARY

- 1 Q: Sitting, okay. And what did you do?
- 2 A: Seeing that he had refused to sign in, seeing
- 3 that he had refused to give Sheila any
- 4 information, I told him to leave.
- 5 Q: Okay.
- 6 A: And I pointed my finger just like this and it
- 7 was in a strong voice. I said, Paul leave.
- 8 Leave now.
- 9 Q: Okay. Let me ask you this. Now, what's your
- 10 authority to ask him to leave?
- 11 A: Yes. I had the authority to ask him to leave.
- 12 Q: Because you're the Town Manager?
- 13 A: I am the Town Manager and I'm responsible for
- 14 the well-being of not only the building, but
- 15 the people within the building.
- 16 Q: Okay. And in there -- after asking him to
- 17 leave, he didn't leave, did he?
- 18 A: He did not leave.
- 19 Q: Okay. And what happened at that point?
- 20 A: I continued to tell him to leave.
- 21 Q: Okay.
- 22 A: Leave. That's when John Jackson came around.
- 23 He then got up and went out.
- 24 Q: Okay.
- 25 A: I went out behind him and the reason I went out



1 behind him was because a couple -- about six to  
2 eight months earlier, I read a report, and I  
3 want to make sure -- I read a report --

4 MR. HUCKS: Your Honor, the report's hearsay, Your  
5 -- Honor.

6 THE COURT: Yes, I don't know where he's going with  
7 this.

8 Q: Stay away from that.

9 A: Okay.

10 Q: But --

11 A: But so anyway --

12 Q: Whoa, whoa, whoa, just don't answer. You went  
13 to the door after he went out, is that correct?

14 A: That's correct.

15 Q: Okay. Now, you heard the tape today and is  
16 that what really occurred?

17 A: No, again, when I first heard that tape, I knew  
18 that that tape was altered. I knew it.

19 Q: Why is that?

20 A: Because I knew what I said to him. I knew I  
21 never told him that -- that I touched him or I  
22 was putting my hand on him. I will admit to  
23 what I said to him outside. But I never put my  
24 hand on him and I never told him that I put my  
25 hand on him. That tape was altered from the



1 time I saw it.

2 Q: Is that -- and the tape in here today wasn't

3 the complete tape, was it?

4 A: It was not the complete tape.

5 Q: Okay. Now, let me ask you this, you -- you

6 went to the doorway and did you go outside? We

7 don't know -- maybe the jury doesn't know. I

8 know I don't know the layout of the building:

9 Do you physically go out into like a courtyard

10 or what is that?

11 A: It's a little walkway.

12 Q: Okay.

13 A: And it has a bench that you walk out the front

14 door on the right-hand side.

15 Q: Okay.

16 A: I walked out --

17 Q: Uh-huh (affirmative response).

18 A: -- because I wanted to make sure that he left.

19 Q: Okay.

20 A: Instead of leaving, he walked out and went and

21 sat on the bench --

22 Q: Okay.

23 A: -- so I continued to tell him to leave.

24 Q: Okay.

25 A: To leave.



1 Q: Okay.

2 A: He went and sat on the bench.

3 Q: Okay.

4 A: As though he was --

5 Q: How did -- how did he leave the building? Did  
6 you -- did he -- did you have to escort him  
7 out or did -- how did that happen?

8 A: I did not escort him out. He walked out. I  
9 walked out behind him to ensure the safety of  
10 the people in the building, to ensure my  
11 safety, to ensure that he would leave the  
12 premise because the things he was asking for,  
13 he had already asked for them about ten times  
14 and they were not in the building. He was  
15 aware of that.

16 Q: Okay. Now, Mr. Curry then after Mr. Jackson  
17 asked him to leave, he left, correct?

18 A: He did. He left.

19 Q: And what did you do?

20 A: I went back in the office. I told Ms.  
21 Singletary that she needed to write a  
22 statement.

23 Q: Okay.

24 A: I told Mr. Jackson he needed to write a  
25 statement. And -- and then Ms. Singletary's



BENNY WEBB

DIRECT EXAMINATION BY MR. O'LEARY

1 statement was that she -- the first statement,  
2 and I don't know what happened to it, that I  
3 didn't put my hand on him, which I know I  
4 didn't.

5 Q: Okay.

6 A: And so then Mr. Jackson wrote a statement, and  
7 that was pretty much it.

8 Q: Okay. Now, when did you first hear the tape of  
9 this thing?

10 A: I first heard the tape when it was sent by Mr.  
11 Curry to the Sumter Daily Item in Sumter, South  
12 Carolina.

13 Q: And that's because you live in Sumter?

14 A: I live in Sumter. Matter of fact, I was a  
15 candidate for sheriff at the time.

16 Q: Okay. So --

17 A: And it was sent to Sumter Item by Paul Curry to  
18 arrive at Sumter Item.

19 Q: Okay.

20 A: And when I listened at it, I knew it was  
21 altered. I told my wife and daughters when I --  
22 and I was embarrassed about some of the  
23 verbiage I used, but I knew I never put my hand  
24 on him, so I was embarrassed by that, but I  
25 told them immediately this tape is altered.



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BENNY WEBB  
CROSS EXAMINATION by MR. HUCKS

1 A: I did.

2 Q: You told him to leave the building, right?

3 A: I asked him to leave the building.

4 Q: Okay. Now, you told him to leave and you got  
5 over there and you say you never touched him,  
6 right?

7 A: Never touched him.

8 Q: But either way, he got up out of the chair and  
9 he left the building, didn't he?

10 A: That's correct.

11 Q: So he complied with what you told him to do,  
12 didn't he?

13 A: Yes.

14 Q: When you first started hollering at him, he  
15 complied with what you told him to do, didn't  
16 he?

17 A: He left the building, but he didn't leave the  
18 premise.

19 Q: But you followed him out there, screaming and  
20 hollering and acting like a banshee, didn't  
21 you?

22 A: Well, I wasn't acting like a banshee, but I was  
23 defending -- I was defending the Town; I was  
24 defending my family; I was defending myself.

25 Q: From this little fellow right here? You were



1           **THE COURT:** The next case on the roster is Benny Webb  
2 v. South Carolina, The State of South Carolina.

3           **MR. O'LEARY:** Good afternoon, Judge.

4           **THE COURT:** Afternoon. How are you doing, Mr.  
5 O'Leary?

6           **MR. O'LEARY:** Pretty good.

7           Judge, I'm submitting to the Court -- there's a  
8 Memorandum of Law. Essentially, they're the same thing.  
9 The difference is that one of them was based upon a  
10 transcript that was incomplete, and then they came back  
11 and they got a regular transcript. Judge, essentially,  
12 this is an appeal.

13           **THE COURT:** All right. Let me hear from you, Mr.  
14 O'Leary.

15           **MR. O'LEARY:** This is an appeal from a conviction of  
16 assault and battery down at -- in the magistrate's court.  
17 What happened was, there was a mix up on the transcripts.  
18 They provided us with some kind of a -- some kind of a CD  
19 or something. It didn't work. It was incomplete. They  
20 went back, and then we got the real one and sent it to the  
21 clerk. Now we've got -- got this.

22           But the first issue that was raised on this appeal  
23 was about the tape recordings. It was a tape recording  
24 that was admittedly not complete. It had been altered.  
25 It wasn't the total.

1           It was eight minutes. It was a twenty-eight minute  
2 tape. That tape recording, admitted by the person who  
3 made it, that it had been altered. You know, we objected  
4 to the admission of the tape recording, and we felt that  
5 was reversible error to put that tape recording in in that  
6 condition.

7           The second issue was we requested a jury charge with  
8 reference to Benny Webb, who was the City Manager at the  
9 time. He had an altercation with a man who came into the  
10 building. I asked the Court to charge -- to charge the  
11 jury that as the manager, he had a right to maintain the  
12 property. He had a right to put somebody off of the  
13 property, and that jury charge was denied.

14           Along with that jury charge, we asked that the  
15 manager would have -- pardon me, I have a cold -- would  
16 have the right to use reasonable force to put the person  
17 off. So, it was really two defenses. One, defense of  
18 property. Property owner can put somebody off after  
19 notice of asking the persons to leave, they have to leave.

20           The Court felt that the manager didn't have the  
21 authority to ask somebody to leave the property. And I  
22 think clearly that jury charge should have gone to the  
23 jury about the right of a person in charge of property to  
24 ask a person to leave from that property and that that  
25 person would have the right to use reasonable force to

1 remove a person from that property.

2 Those are essentially the issues. Hopefully it's not  
3 too confusing in that Memorandum of Law, because the pages  
4 differ from the two transcripts. That's why I want to  
5 make sure that you've got the right one.

6 But I tried to put in there the issues as to the tape  
7 recording. We thought the court rules, as well as the  
8 case law, says you've got to authenticate it, and  
9 basically, it -- it wasn't in its original condition.

10 It actually was a tape recording that was edited by  
11 the person that made it, sent to a radio station, and that  
12 in turn came back to the police department, and it wasn't  
13 the original. It was altered and edited, and we felt that  
14 that was -- that was -- that should be reversible error by  
15 using that tape recording.

16 Judge, it's set forth in the memorandum the cases  
17 that support both of those propositions. And the statute  
18 for a municipality says that the manager has pretty broad  
19 authority. The statute is to be interpreted broadly.

20 It doesn't specifically say that he can put somebody  
21 off the property, except if they're an employee. But I  
22 think you can infer in that that if he's in charge of that  
23 property, he has a duty to protect the property. And if  
24 he's wrong, the man who was ejected from the property  
25 could bring a lawsuit or different avenue for him.

1           And we felt it was error for the Court -- for the  
2 Court not to issue those jury charges to the jury, as well  
3 as reversible error from the -- I was just trying to read  
4 this -- from the tape recording itself, Judge.

5           **THE COURT:** All right.

6           Yes, sir? Mr. Thomas?

7           **MR. THOMAS:** Please the Court, Your Honor? As far as  
8 the first argument, the admissibility of the tape  
9 recording, the judge, trial court judge found that the  
10 only editing done by the victim in this case who made the  
11 recording on a digital recorder and subsequently  
12 transferred that recording to a disk, the judge found that  
13 it was only -- the only portions removed were portions  
14 subsequent to this encounter with the defendant in this  
15 case, the appellant in this matter, and after the  
16 confrontation ended. That's supported by the evidence in  
17 this case. It's supported by the testimony of the victim  
18 in this case.

19           He stated under oath that the entire encounter was on  
20 the tape. The only thing that was edited out was excess  
21 after the encounter.

22           He put it onto a disk, and he did send it out to  
23 various outlets, including directly to the police station  
24 and the solicitor's office, and that's where that tape  
25 came from. That was all set forth through testimony, and

1 the tape was allowed into evidence.

2 As far as the second argument goes, failure to charge  
3 defense of property laws, Your Honor, the Castle Doctrine  
4 is the protection of the home, automobile, business.  
5 These are all places where you have a right to exclude  
6 others and sole enjoyment. This is a case where they're  
7 at a town hall, a public place where the victim in this  
8 case was exercising a right.

9 In this case it was to obtain information through the  
10 Freedom of Information -- Freedom of Information Act. He  
11 actually came in there armed with an order from a circuit  
12 court judge saying that he did not have to go through  
13 certain procedures, as far as they had a procedure where  
14 you have to sign in and do A and B before you could  
15 request this information.

16 He simply requested the information, as per the order  
17 from the judge, as he was allowed to do, and then that's  
18 when this confrontation took place. He was in a public  
19 place where he had the right to be.

20 I believe the appellant's argument here is that a  
21 Town Administrator has a right, I guess, has authority  
22 over the whole town and can say: You have to leave.  
23 You're no longer allowed here.

24 And then have the right to escort him out, get him  
25 out of the town, no matter where they are. I guess their

**CERTIFICATE OF SERVICE OF AMENDED FINAL BRIEF and AMENDED DESIGNATION OF MATTER ON  
APPEAL**

**THE STATE OF SOUTH CAROLINA**

**In The Court of Appeals**

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**APPEAL FROM HORRY COUNTY**

**Court of Common Pleas**

**D. Craig Brown, Circuit Court Judge**

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**Case No, 2013-CP-26-00432**

**The State**

**Respondent**

**vs.**

**Benny L. Webb**

**Appellant**

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**CERTIFICATE OF SERVICE OF INITIAL BRIEF**

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I Certify that I have served the amended final brief of appellant and amended designation of matter on appeal on Salley W. Elliott by depositing one copy of the same in the United States mail, postage prepaid, addressed to Office of South Carolina Attorney General, P.O. Box 11549, Columbia, South Carolina 29211.

I further certify that all parties required by Rule have been served. This 9<sup>th</sup> day of November, 2015.

**Benny L. Webb**

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