

FORM 13  
BRIEF OF APPELLANT\*

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

RECEIVED

MAY 28 2015

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

SC Court of Appeals

The Honorable R. Markley Dennis, Jr.  
Chief Administrative Judge, Ninth Judicial Circuit

Case No. 2014-CP-10-2385

Derrell Beckley

Appellant,

v.

City of Charleston, Charleston  
Police & Fire Departments

Respondent.

INITIAL BRIEF OF APPELLANT

Derrell Beckley  
1501 Manley Ave,  
North Charleston, SC 29405  
(240) 498-5766  
Pro Se Appellant

Christopher T Dorsel, Esquire  
3 Wesley Drive  
Charleston, SC 29422  
(843) 556-4045

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## STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR IN DISMISSING THIS CASE?
2. DO THE RULES OF DISCOVERY APPLY IN THIS MATTER?

## STATEMENT OF THE CASE

April 10, 2014, I Derrell Beckley ("I") brought this action alleging (1) Color of Law, (2) Conspiracy, (3) Due Process and (4) Police Misconduct against The City of Charleston, Charleston Police and Fire Departments ("The City"). I'm asking for \$50,000,000. The City answered alleging that Pro Se didn't file a tort claim in the two year statute of limitations. Their right, But;

## FACTS

June 14, 2011, on the corner of Meeting Street and Mary Street I was on Meeting Street getting ready to cross Mary Street (heading up town). There was a man standing next to waiting for the light to change. When the walk light came on, we left the side walk. On my bike I entered into the crosswalk. That's when I was hit by a white dodge pickup truck. It knocked me off of the bike and out of the crosswalk into the intersection. Landing on my right

side I got my bike and got to my feet. The driver asked if I was ok. He was about six feet, 165 pounds, blond hair and about 20 to 25 years old.

I said I'm ok and asked him to turn around and park across the street, he did. By the time we got across the street, the police was pulling up and parked behind the truck. The Officer said a few things to the driver and then came over to me. **"Are you hurt?"** Well I don't see any blood and there are no broken bones. **"Let me see your ID. Where are you coming from?"** That is my business. **"Where are you going?"** That is my business too. He said, **"Have you been drinking? I can tell you have been drinking just by looking at you. I can take you to jail for that."**

What in that case my bike was drinking, you going to take it to jail too? Look I'm the victim here. I'm the one that got hit. There were two guys there, who said they seen it happen. The officer told them to leave. The fire department showed up. The officer asked, **"Are you hurt?"** I'm not bleeding and there are no broken bones that I can tell. I just go hit by that truck. The officer walked over to the driver of fire truck. Said a few things to the driver and they left the scene. (They never got out of the truck or asked me anything).

I asked, why are they leaving? **"Because you refused help."** I didn't refuse help, I said I don't see any blood and don't think I have any broken

bones. **"They are not coming back."** What the hell is going on here? I need an accident report. **"You don't get one."** Why? **"You refused help."** No I didn't and I should get a report. **"You are not going to get a report, so you can get on your bike and leave, or I will take you to jail."** That would be funny, I get hit by a fucking truck and you take me to jail.

He then walked over to the driver and told him he could leave. I went to my book bag to get something to write with. **"What do you want, you want my card?"** I do. He gave me his card. I looked at it and turned it over and wrote down the plate number of the truck (Tenn. 219VKR). The driver of the truck drove away. The officer came over to me and said. **"Where do you live?"** I stay at 55 Jackson Street. **"This is over so get on your bike and leave. If I see you out here later on, I will take you to jail for drinking in public."**

He got in his car and left. June 15, I went to the police station to get an accident report. He filled out an event report, saying nothing but truck verse bike, that's it. A lady Sgt. Seen the report and said, **"This is not right, he works under Me."** You taught him well. **"This is not like him. I'll show this to my supervisor."** I told her to give me that one and you take what you want to him. I retained The Clore Law Group ("The Lawyer"). He told me he would take care of this. June 16, I go to the doctor. After the doctor, I moved out of town thinking the officer was going to come after me.

While in Orlando I tried to keep in touch with The Lawyer, but every time I would call. He would tell me **“Call me back in a few months.”** Or **“We found the truck, but they won’t tell us who was driving.”** he would put me on hold until I would hang up. That number and every number I used would be blocked. The Lawyer stopped talking to me. I moved back to Charleston in 2013, I go to see The Lawyer. To find out he had done nothing. Is he a part of this too? He asked, **“Give me another week I have somebody in that area.”** So I took it upon myself to get some justice. I go to City Hall to see what form I would need to sue police and fire. No one could tell me. All they wanted to know was who did it. After three trips to City Hall they sent me over to their legal department. I ask for the form I need to sue police and fire. I don’t get what I’m looking for, but I get two phone numbers. One is to fire, other police. I told them I’ll start with the police. I called the number for the police and the (assistant to the Chief of Police) said “I just got an email about you.”

We set up a time to meet with detectives on June 10, 2013, no call no show. June 11, I get a letter from The Lawyer. The letter stated (**“Clare Law Group will no longer be representing you on this matter and will not be protecting your statute of limitation. Please note that in South Carolina, actions such as these are subject to a three year statute of limitations. Therefore you need to file and serve a lawsuit within three**

years of the incident or your case may be forever barred.”) I’m not a lawyer, now I’m thinking I have another year to file, because The Lawyer burned up two years.

June 12, the police were ignoring my calls so I emailed The Mayor then one or two hours later I get a call from the officer’s lieutenant then I get a call from his sergeant stating, **“I have two officers that said they heard you refuse help.”** Their lying there was only one officer there. **“Well I believe them.”** I called Professional Standards to set up a time and date to file a complaint, and to meet in the lobby at the police station (on Lockwood). I was sitting in the lobby, and then about five officers started standing around me showing their badges. I been in that lobby many times and never seen one officer hanging out in that lobby.

When my name was called they all left. Before Professional Standards turned on the tape recorder, I was told. **“I checked on the other officer and he was on another call.”** Then turned on their tape recorder. On June 18 I go to City Hall to thank the lady who helped me. That’s when I was told about The Tort Claim Act and was given a tort claim form. I filed it the next day June 19, 2013. Five days pass the statute of limitations. Now I see why The Lawyer asked me for another week. The Tort Claim was denied on June 25, five days later. I filed in Federal Court; it was dismissed on March 28, 2014. So I filed this case on April 10; on April 16, it’s approved *In Forma*

*Paupers.* Two months within the three year limit.

The Sheriff served The City and The Police Department on April 24. The Fire Department was served on April 25. On May 28, The City filed a Motion to Dismiss, thirty three days later. Seven days later on June 4, I filed an Affidavit of Default because nobody contacted me within thirty two days. I get a letter to answer to the Motion to Dismiss on September 11. The Motion to Dismiss was granted September 16, 2014.

Did the trial court err in granting summary judgment because the action was brought outside the two year statute of limitations?

I assert even if, S.C. Code Ann. § 15-78-70 (a) applies, summary judgment was inappropriate because, when I tried to explain that I had The Lawyer for all, but one week of the two year statute of limitations. The Court cut me off, see court transcripts, page 4) line 22 & 23) "I had a lawyer at that time, sir." Never got another chance to say one word, see court transcripts, page 4) lines

24 & 25) and page 5) lines 1 thru 8). The Court and The Defendant knew I'm Pro Se.

§ 15-78-90. (b) Whether or not the claim is filed, the claimant is entitled to institute an action against the appropriate agency or political subdivision. Provided, however, if a claimant files a claim, he may not institute an action until after the occurrence of the earliest of one of the following three events: (1) the passage of one hundred eighty days from the filing of the claim with the governmental entity, (2) the governmental entity's disallowance of the claim, or (3) the governmental entity's rejection of a settlement offer

§ 15-78-100. (a) Except as provided for in Section 15-3-40, an action for damages under this chapter may be instituted at any time within two years after the loss was or should have been discovered.

§ 15-78-110. Except as provided for in Section 15-3-40, any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered;

Now I understand when the statute of limitations started to run. In this case does it start to run on the date I received the letter from The Lawyer? June 11, 2013 or does it start the day I discovered it? That was on June 18 2013.

One more does the rule of discovery applies in this case? I would like to know because; I was not allowed to ask these questions.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the circuit court.

Respectfully submitted,



March 14, 2015

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STATE OF SOUTH CAROLINA)  
COUNTY OF CHARLESTON )

COURT OF COMMON PLEAS

DERRELL BECKLEY )  
PLAINTIFF, )

v. )

TRANSCRIPT OF RECORD  
14-CP-10-02385

CITY OF CHARLESTON, )  
CHARLESTON POLICE AND )  
FIRE DEPARTMENTS )

DEFENDANTS.)

September 11, 2014  
Charleston, South Carolina

**BEFORE :**

THE HONORABLE R. MARKLEY DENNIS, JUDGE

**APPEARANCES:**

DERRELL BECKLEY  
Appearing Pro Se

CHRISTOPHER T. DORSEL, ESQ.  
Attorney for Defendants

FRANCES BAKIS-RAY, RPR  
Circuit Court Reporter

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(There were no exhibits submitted.)

1 THE COURT: You're Derrell Beckley?

2 MR. BECKLEY: Yes, sir.

3 THE COURT: Mr. Dorsel, this is your  
4 motion, sir?

5 MR. DORSEL: Yes, Your Honor.

6 THE COURT: Okay.

7 MR. DORSEL: I'm Chris Dorsel here on  
8 behalf of the City of Charleston, Police, City of  
9 Charleston, and the Fire Department.

10 THE COURT: Okay.

11 MR. DORSEL: We — this is a case that  
12 was, involved an accident that occurred on  
13 April 14th, 2011. Suit was filed on April 16th,  
14 2014. This was filed pursuant to the Tort Claims  
15 Act, two year statute for that, obviously filed  
16 outside of that. And it was also filed outside of  
17 the three year statute so we filed a motion to  
18 dismiss based on filing outside of any applicable  
19 statute.

20 THE COURT: Okay. Mr. Beckley, I'll happy  
21 to hear from you, sir. There's a statute of  
22 limitations that's unfortunately a very strict one  
23 effecting the Tort Claims Act.

24 MR. BECKLEY: Yes, sir, but I filed this  
25 claim on the 10th of April. I filed it with the

1 court.

2 THE COURT: Filed on the 10th of April of  
3 what year, sir?

4 MR. BECKLEY: Of 2014, sir.

5 THE COURT: Yeah, well, the problem ---

6 MR. BECKLEY: And, Judge, I went to a  
7 proceeding and the judge granted it on the 16th.

8 THE COURT: He granted you the right to  
9 proceed pro se in forma pauperis, Judge McDonald  
10 did. But in looking at the pleading itself, it  
11 alleges that the accident, the incident occurred on  
12 April 14th, 2011.

13 MR. BECKLEY: Yes, sir.

14 THE COURT: That means on April the 13th,  
15 2013, your statute of limitations in bringing this  
16 expired. It had to be brought before that date for  
17 you to proceed by law.

18 MR. BECKLEY: '13, sir?

19 THE COURT: 2013, yes, sir.

20 MR. BECKLEY: Statute of limitations?

21 THE COURT: Yes, sir, there is.

22 MR. BECKLEY: I had a lawyer at that time,  
23 sir.

24 THE COURT: Sir, go talk to your lawyer.  
25 Your lawyer, whatever -- find out from the lawyer

1 why, but your lawyer is not here today. I'd be  
2 happy to tell him he's made the same mistake; but  
3 there's a two year statute of limitations, sir, in  
4 the Tort Claims Act, and that's what this clearly  
5 is.

6 Your motion is granted, Mr. Dorsel.

7 MR. DORSEL: Thank you, Your Honor.

8 THE COURT: Thank you, sir.

9 MR. DORSEL: Your Honor, there's another  
10 case on the roster where a voluntary dismissal has  
11 been entered. It is Jackson, Rodney Jackson versus  
12 Charleston County, Charleston County Sheriff's  
13 Office.

14 THE COURT: Do you have the number?

15 MR. DORSEL: I don't have the number, I  
16 apologize.

17 THE COURT: We'll find it. Thank you very  
18 much.

19 MR. DORSEL: May I hand this up?

20 THE COURT: Yes, thank you.

21 MR. BECKLEY: How do I appeal this  
22 decision?

23 THE COURT: You'll have a right of appeal,  
24 yes, sir, and you'll get an order that says motion  
25 to dismiss.

1 I'm gonna — if you will prepare the  
2 appropriate order.

3 You'll get that order and when you receive  
4 that order you'll have 30 days in which to file your  
5 appeal, sir.

6 MR. BECKLEY: Thank you, sir.

7 THE COURT: Thank you, sir.

8

9 \* \* \* END OF REQUESTED TRANSCRIPT OF RECORD \* \* \*

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

RECEIVED

MAY 28 2015

SC Court of Appeals

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 1st day of February, 2015.

Frances B. Ray  
FRANCES BAKIS-RAY, RPR