

**FINAL
BRIEF OF APPELLANT***

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

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

Case No. 2014-CP-10-2385

City of Charleston,
Charleston Police and
Fire Departments,

Respondent,

v.

Derrell Beckley,

Appellant.

[FINAL] BRIEF OF APPELLANT

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SC Court of Appeals

TABLE OF CONTENTS

Table of Authorities ii

Statement of Issues on Appeal 1

Statement of the Case 1

Facts 1

Arguments

 1. DID THE CIRCUIT COURT ERR IN DISMISSING THIS CASE?.....6

 2. DOES THE RULE OF DISCOVERY APPLY IN THIS CASE?6

Conclusion7

STATUTES

S.C. Code Ann. § 15-78 90..... 8

S.C. Code Ann. § 15-78-100 8

S.C. Code Ann. § 15-78-110 8

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, 2011 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, (see R. p. 20). 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, 2011 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.”) (see R. p.22 paragraph 2&3) I’m not a lawyer, now I’m thinking I have another year to file, because The Lawyer burned up two years.

June 12, 2013 the police were ignoring my calls so I emailed The Mayor, then one or two hours later I get a call from the officers 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 hangout 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 turn on her tape recorder. On June 18, 2013 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 (see R. p. 23) 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, 2013 five days later. I filed in Federal Court December 20, 2013. It was dismissed March 28, 2014. So I filed this case on April 10, 2014 (see R. top of p.10)

On April 16, 2014 it's approved *In Forma Paupers*. Two months within the three year limit (see R. bottom of p.10). The Sheriff served The City and The Police on April 24, 2014. (see R. pp. 25 and 26). The Fire Department was served on April 25, 2014. On May 28, 2014 The City filed a Motion to Dismiss, thirty three days later (see R. p.11). Seven days later I filed an Affidavit of Default because nobody contacted me within thirty two days (see R. p. 28). I get a letter to answer to the Motion to Dismiss on September 11, 2014. The Motion to Dismiss was granted September 16, 2014.

ARGUMENTS

Did The Trial Court Err in granting Motion to Dismiss because the action was brought outside of the two year statute of limitations?

I can prove everything in my compliant, but we're not here to decide on that matter. We're not here to discuss any of the allegations. We're here to decide on the statutes of limitations which lead to the Motion to Dismiss. Now I had The Lawyer working on this case from June 15, 2011. I left town, when I returned to Charleston I went to see The Lawyer. To find out that The Lawyer had done nothing. After he dusted off the file, copies were made. Before I left asked for a letter stating he is no longer The Lawyer. He sent it; I got it about a week later on June 11, 2013. (see R. p. 22).

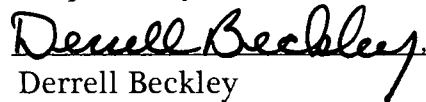
I went to work on this case, because I could not find a lawyer. My argument is I have everything here to prove that I had a lawyer that was not working for me. It took eight (8) days find out about the Tort claim Act and filed the form. I filed this action as soon as I had it ready. I get a Motion to Dismiss, we go to court, and it wasn't very nice. I tried to tell The Court that I had a lawyer at that time and explain my case when The Court cut me off. (see R. p.16, lines 24 & 25. R. p.17 lines 1 to 6). Yet The Court turned right around and was very nice to The Responded. (see R. p.17 lines 9 to 20). The Court and The Responded knew I was Pro Se.

CONCLUSION

For all of the reasons I stated, this Court should reverse the judgment of the Circuit Court. Thank you.

June 15, 2015

Respectfully submitted



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SECTION 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.

SECTION 15-78-100. (a) 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. Provided, that if a claim for damages was filed and disallowed or rejected an action for damages filed under this chapter, based upon the same occurrence as the claim, may be instituted within three years after the loss was or should have been discovered.

SECTION 15-78-110. Statute of limitations. 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; provided, that if the claimant first filed a claim pursuant to this chapter then the action for damages based upon the same occurrence is forever barred unless the action is commenced within three years of the date the loss was or should have been discovered.

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THE STATE OF SOUTH CAROLINA
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The Honorable R. Markley Dennis, Jr.
Chief Administrative Judge

Case No. 2014-002243

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Derrell Beckley

Appellant.

PROOF OF SERVICE

I certify that I have served the Proof of Service on City of Charleston, Charleston Police and Charleston Fire Departments by depositing a copy of it in the United States Mail, postage prepaid, on July 16, 2015, addressed to his attorney of record, Christopher T. Dorsel, Esquire. 3 Wesley, Charleston, SC 29422

July 16, 2015



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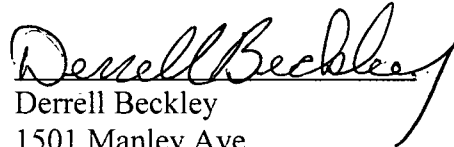
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