

RECEIVED

JAN 06 2016

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeal

APPEAL FROM Newberry COUNTY
Frank R. Addy, Circuit Court Judge

C/A#:13-CP-36-00321

Anthony Derone Richardson, ... Appellant,

v.

Jackie Swindler chief of Police

Newberry County Municipal Police Respondent .

RECORD ON APPEAL

Anthony Derone Richardson Pro. Se
P.O. Box 221
Newberry, SC 29108
Appellant

Anthony 1-5-16

RECEIVED

JAN 06 2016

SC Court of Appeals

Morrison Law Firm
7453 Irmo, Drive Suite B
Columbia, SC, 29212
(803) 661-6285
Attorney for Respondent

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[Set out the portions of the jury charge selection designated to be included. Where a portion of a page of the charge is to be included, include the entire page.]

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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Anthony Derone Richardson

P.O Box 221

Newberry, SC 29108

Pro. Se for Appellant

ADR date/- 5- 2016

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STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2013-CP-36-0236

RECEIVED

ANOTHONY D. RICHARDSON

STATE OF SOUTH CAROLINA JAN 06 2016

PLAINTIFF(S)

DEFENDANT(S)

SC Court of Appeals

Submitted by: COURT

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 12(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Applicant's post conviction relief hearing was heard on October 14, 2014. The hearing regarded applicant's pro se appearance during a bench trial on May 6, 2013 in Newberry City Court at which he paid a \$250 fine for trespass after notice. Applicant alleges he demanded a jury trial. The court now finds that the application should be dismissed and the state's summary judgment motion granted, as the appropriate avenue of recourse for the applicant is an appeal.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk:

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title instructors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

2159

Judge Code

10/14/2014

Date

For Clerk of Court Office Use Only

This judgment was entered on the 20th day of Oct, 20 14 and a copy mailed first class or placed in the appropriate attorney's box on this 20th day of Oct, 20 14 to attorneys of record or to parties (when appearing pro se) as follows:

Carson M. Henderson

199-B Oak Lane

Greenville, SC 29646

ATTORNEY(S) FOR THE PLAINTIFF(S)

Rutledge Johnson

PO Box 11549

Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Jackie S. Bowers

CLERK OF COURT

Court Reporter: Tara Scott

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number :

109-B OAK AVENUE

GREENWOOD, S.C. 29646

864-229-8000

Clerk of Court/Issuing Officer's Signature

Date

Print Name

Pro Se Litigant's Name, Address and Telephone Number :

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF NEWBERRY

ANTHONY DERONE RICHARDSON, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

STATE OF SOUTH CAROLINA, Defendant

Case Number: 2013-CP-36-00236

Pending in NEWBERRY County

TO: NEWBERRY POLICE DEPARTMENT
ATTENTION: RECORDS CUSTODIAN
CITY SAFETY COMPLEX
1507 NANCE STREET
NEWBERRY, S.C. 29108

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME , AM

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects:

THE POLICE DEPARTMENT'S COMPLETE FILE REGARDING ANTHONY DERONE RICHARDSON'S ARREST FOR TICKET #11842GF.

PLACE
THE HENDERSON LAW FIRM, P.C.
109-B OAK AVENUE
GREENWOOD, S.C. 29646
864-229-8000

DATE AND TIME FRIDAY, SEPTEMBER 27,
2013, AT 12:00 PM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature

08/28/13

Date

CARSON M. HENDERSON

Print Name



CITY OF NEWBERRY

S O U T H C A R O L I N A

POLICE DEPARTMENT

August 30, 2013

Carson Henderson, Esq.
109-B Oak Ave.
Greenwood, SC 29646

Dear Carson Henderson:

Enclosed you will find the following items you requested pursuant to a Subpoena. The letter was in reference to your client, Anthony Richardson. The items provided are as follows:

- Copy of Delinquent Payment Letter,
- Copy of two incident reports,
- Copy of Plea Agreement,
- Copy of Jury Selection Letter,
- Copy of Common Pleas Filing Fee,
- Copy of Civil Action Coversheet,
- Copy of Summons and Complaint,
- Copy of Certificate of Service,
- Copy of Jury Trial Request,
- Copy of Disposition Sheet,
- Copy of Receipt Number 48896,
- Copy of Bench Warrant,

I hope you found our response to your request prompt and efficient. If you have any additional questions or concerns please feel free to contact me at the Newberry Police Department during normal business hours.

Sincerely,

Captain Kevin Atkins
FBINA 236

"City of Friendly Folks"

1507 Nance Street • Newberry, South Carolina 29108 • Phone (803) 321-1010 • FAX (803) 321-1004
www.cityofnewberry.com www.visitnewberrysc.com

De NMFs Edmonds 1- 216-617-2350
6172350

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Appendix 2: A, B, C

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF NEWBERRY

ANTHONY DERONE RICHARDSON, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

STATE OF SOUTH CAROLINA, Defendant

Case Number: 2013-CP-36-00236

Pending in NEWBERRY County

TO: NEWBERRY POLICE DEPARTMENT
ATTENTION: RECORDS CUSTODIAN
CITY SAFETY COMPLEX
1507 NANCE STREET
NEWBERRY, S.C. 29108

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

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PLACE OF DEPOSITION

DATE AND TIME , AM

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THE POLICE DEPARTMENT'S COMPLETE FILE REGARDING ANTHONY DERONE RICHARDSON'S ARREST FOR TICKET #11842GF.

PLACE
THE HENDERSON LAW FIRM, P.C.
109-B OAK AVENUE
GREENWOOD, S.C. 29646
864-229-8000

DATE AND TIME FRIDAY, SEPTEMBER 27,
2013, AT 12:00 PM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME , AM

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I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature

08/28/13
Date

CARSON M. HENDERSON
Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number :

109-B OAK AVENUE

GREENWOOD, S.C. 29646

864-229-8000

Clerk of Court/Issuing Officer's Signature

Date

Print Name

Pro Se Litigant's Name, Address and Telephone Number :

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

CITY OF NEWBERRY
1507 NANCE STREET
NEWBERRY, SC 29108
(803) 321-1010

Appendix B
[Signature]

TO: ANTHONY DEROME RICHARDSON
914 GRAY ST
NEWBERRY SC 29108

DATE: 03/22/2013

SUBJECT: PAST DUE PAYMENT

WARRANT/TICKET NO.: 11842GF

AMOUNT DUE: 250.00

OFFENSE: TRESPASS AFTER NOTICE

YOUR PAYMENT TO THE COURT IS NOW DELINQUENT.

IF FULL PAYMENT IS NOT MADE WITHIN (10 DAYS) FROM THE DATE OF THIS NOTICE, A BENCH WARRANT WILL BE ISSUED FOR YOUR ARREST.

PAYMENT MUST BE MADE IN FULL TO AVOID YOUR ARREST.

IF MAILING IN YOUR FINE, PLEASE SEND A MONEY ORDER OR CASHIER'S CHECK.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THIS OFFICE AT THE NUMBER ABOVE.

SINCERELY,

[Signature]

FILED
NEWBERRY COUNTY
2013 JUN 24 PM 12 24
JACKIE S. BOWERS
CLERK OF COURT

Appendix A

I plead guilty
and agree to pay
\$2500. I will pay
by Nov 15, 2013

W

Frank R. Bowers

2013 JUN 24 PM 12 24
JACKIE S. BOWERS
CLERK OF COURT

FILED
NEWBERRY COUNTY

Appendix C

**Newberry Municipal Court
1507 Nance Street
Newberry, S. C. 29108**

**W. F. Partridge, Jr., Municipal Judge
Barry S. Koon, Asst. Municipal Judge**

**Phone: 803-321-3720
Fax: 803-321-1004**

February 7, 2013

FILED
NEWBERRY COUNTY
2013 JUN 24 PM 12 24
JACKIE S. BOWERS
CLERK OF COURT

**Mr. Anthony Derone Richardson
914 Gray Street
Newberry, S. C. 29108**

RE: Trespass after notice

Dear Mr. Richardson:

In preparation for a jury trial on the above referenced charge, the Court has scheduled a jury selection on Wednesday, February 20, 2013, at 2:30 p. m. The selection will be held in the municipal courtroom at the Public Safety Complex, 1507 Nance Street in downtown Newberry. It is imperative you be present at this time. If you are not present, you will forfeit your right to a jury trial and a bench trial will be scheduled.

Sincerely,

**Cella E. Dodgen
Secretary**

Common Pleas

Clerk : Jackie S Bowers
1226 College Street
Newberry, SC 29108
(803) 321-2110

Received From: Richardson, Anthony Derone

Date: 6/24/2013
Receipt #: 663215
Clerk: c36jtoby

Paying for: Self

Transaction Type: Payment

Payment Type: Cash

\$150.00

Total Paid:

\$150.00

Reference #:

Comment:

Non-Refundable

Total Received: \$150.00

Change Due: \$0.00

2013CP3600321	Anthony Derone Richardson VS Jackie Swindler	\$150.00	\$150.00	\$0.00 350
---------------	--	----------	----------	------------

Total Cases: 1

\$150.00 \$150.00 \$0.00

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

ANTHONY PERONE RICHARDSON

Plaintiff(s)

vs.

JACKIE SWINDLER, Chief of Police

Defendant(s)

(Please Print)

Submitted By: ANTHONY RICHARDSON

Address: 914 GARY ST.

NEWBERRY, S.C. 29108

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2013 -CP- 36 - 00321

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|---|
| ☐ Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | ☐ Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 -CP-
☐ Notice/ File Med Mal (230)
☐ Other (299) | ☐ Torts - Personal Injury
☐ Assault/Slander/Label (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☒ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | ☐ Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| ☐ Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | ☐ Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | ☐ Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
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☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Commission (990)
☐ Employment Security Commission (991)
☐ Other (999) |
| ☐ Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699)
☐ Sexual Predator (510) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Foreign Subpoenas (650)
☐ Motion to Quash Subpoena
in Out-of-County Action (660) | | |

Submitting Party Signature:

Anthony D. Richardson

Date:

6-24-2013

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FILED
NEWBERRY COUNTY
JACKIE S. SWINDLER
CLERK OF COURT
2013 JUN 24 PM 12 24

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS
COUNTY OF Newberry

Anthony Derone Richardson

2013-CP-36-00321

Summons and Complaint &

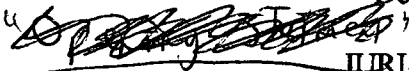
Plaintiff(s)

Appendix A, B, C

Vs.

Jackie Swindler,
Chief Of Police,
Newberry County Municipal Police

Defendant(s)



FILED
NEWBERRY COUNTY
2013 JUN 24 PM 12 24
JACKIE S. BOWERS
CLERK OF COURT

JURISDICTIONAL BASIS:

Plaintiff claims federal jurisdiction pursuant to Article III § 2 which extends the jurisdiction to cases arising under the U.S. Constitution.

Plaintiff brings this suit pursuant to Title 42 U.S. Code § 1983 for violations of certain protections guaranteed to him by the Fifth Amendment, Sixth and Fourteenth Amendments of the federal Constitution Right to Due Process, by the defendant under color of law in his/her capacity as a Chief Of Police in the County of Newberry.

Plaintiff brings this action against (Jackie Swindler), Chief of Police, pursuant to Title 42 U.S.C. § 1983, the challenged conduct must be committed "under color of law." This means that the defendant must have acted in an official, government capacity, clothed with the authority of the state, in order to be held liable. Miga v. City of Holyoke, 398 Mass. 343 (1986). Since cities and towns derive their authority from the state, local government actors are deemed to act "under color of law" whenever they commit acts within their official capacity.

Title 42 U.S. Code § 1983 reads as follows:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Chief of police Jackie Swindler engage in misconduct in acting as a Judge in conducting a bench trial and sentencing Plaintiff on 2/20/2013 to 250.00 Or thirty days in Jail, wavering plaintiff jury trial, and violating plaintiff right to confront witness, abuse his power, violating plaintiff right to be tried by fair and impartial juror, Chief of police had a bench warrant issued signed by Judge Frank Partridge to have me arrested illegally however the bench warrant is invalid when a chief of police conducts a bench trial, and denied the plaintiff the right to a public trial and denial of equal protection under the Fourteenth Amendment. Chief of Police violated my Right to Compel the Attendance of Witnesses (See S.C. Const. Art. I, §14, Right To Trial by Impartial Jury (See S.C. Const. Art. I, §13, Right of Confrontation. It is a crime for one or more persons acting under color of law willfully to deprive or conspire to deprive another person of any right protected by the Constitution or laws of the United States. (18 U.S.C. §§ 241, 242). Chief of police one or more persons *acting under color of law* willfully to deprive or conspire

to deprive another in canceling my jury trial and conducting a jury trial selection. Chief of Police waive my right to a jury trial and instead he sentence Anthony Richardson however deprived of me of my right to a jury trial.

(Opening of Statement)

May IT please the Court, and you. Ladies and Gentlemen of the Jury

FACTUAL BACKGROUND:

On Feb. 2, 2013 Anthony Richardson was in court at the Newberry Municipal court in Newberry County. Anthony pleaded not guilty to Trespassing after notice warrant/ticket no: 11842GF, before the Honorable Judge Frank Partridge Jr. Anthony filled out a form demanding Jury trial in the present of Judge Frank Partridge JR. After, the court date was on about or around Feb. 10, 2013. I receive a letter in the mail stating a Jury Trial selection was schedule for Feb. 20, 2013 at 1 p.m. I attended the Jury selection and I notice that there was no Juror present at all. Chief of Police Jackie Swindler took me in his office with no court reporter or no Judge. Chief of police stated to me that he is the one that handles the Jury selection. Chief of police stated to me that he had waived my Jury trial selection and that the Juror would found me guilty anyway if I was to have a jury trial. The right of trial by jury as heretofore enjoyed shall remain inviolate. Chief Jackie Swindler wrote on a folder in his own writing that I agreed to pay 250.00 dollars before 3/15/2013 or a bench warrant would be serve on me in his office without a Judge or court reporter constitutes a bench trial however when he prepared the agreement in his office and I sign the agreement in his office. This constitutes a sentence by Chief of Police and not by the Judge and no bench warrant should have been issued for my arrest. Chief of police took the sign folder in onto Judge Frank Partridge and he signed the bench warrant knowingly that a bench trial took place in on Feb. 20, 2013 in front of Chief of police in his office without a judge or court reporter was not present. After Judge Frank Partridge reviewed the sign folder that Chief of police sentenced me on 2/20/2013 he signed a bench warrant to arrest me and instead of going to jail, I had to pay 250.00 dollars. Judge Frank Partridge Jr. knew that there was a bench trial done on 3/20/2013 conducted by Chief Jackie Swindler and signed for a bench warrant for my arrest after he knew it was not illegal because he signed the bench warrant to arrest me. The police officer Looney came to my house with the bench warrant to arrest me but the police officer told me that if I would go pay 250.00 dollars he would hold on from arresting me until I go and pay the fine. Chief of police abuse his power in acting in the place of a Judge is misconduct, abuse of power. I was ordered to pay 250.00 dollars or thirty days after having a bench trial in front of the Chief of police instead of the Judge clearly violates my right in every state however there are two or more distinct sets of procedures used in criminal matters. The concept of a fair trial involves fairness to the prosecution and to the public as well as to the defendant: *DPP v Meakin* [2006] EWHC 1067. Anthony Richardson argues that there is not only that an abuse has taken place but that Anthony has been prejudiced in the presentation of his or her case as a result, so that a fair trial is no longer possible because of the bench trial by Chief of police. The chief of police violated Anthony Constitutional rights, when he allegedly held a bench trial and sentenced the plaintiff is illegal in all states. Chief of Police in violation of my Fourteenth Amendment secures the right to due process was violated by Chief of police Jackie

Swindler. The person accused of a crime must be allowed the opportunity to have a trial and should not be subjected to punishment without having been afforded the opportunity of the legal process however the Chief of police prevented Anthony Richardson from receiving a fair trial, and illegally been sentence by the chief, and he is not a Judge. Anthony Richardson is a victim of Police corruption may also involve depriving people of their legal rights to be tried by a jury trial as the Seventh Amendment however Anthony Richardson been tried by Chief of Police at his bench trial and waive my right to a jury trial without my consent in a jury selection result in police corruption when one or more persons acting "under the color of law" willfully attempt or succeed in depriving another person or persons of their legal rights. "Color of law" involves using the authority of their police status even if the acts exceed the officer's rightful power. Meaning of *Police Corruption and Misconduct* as a *legal* term. ... *Police* authority to *deprive* or conspire to *deprive another person* of any *right* ... of conduct that *deprives persons of their rights* (42 U.S.C.A. 14141 [2000]). Chief of police abuse his power in acting and was truly involved in police corruption. South Carolina has two ... Within the first **thirty (30) days** of ... the **judge** calls the **jury** back to the courtroom and with the **defendant present**, not the police or Chief of police. Chief Swindler misconduct in sentencing Anthony Richardson and canceling my Jury trial, and conducting a Jury trial selection without a Judge is clearly misconduct of police officer under the equal protection of the law is clearly violated... Chief Swindler is not a Judge and did not have any authority to sentence or even conduct a bench trial because he is not a Judge. Municipal judges are granted the same jurisdiction in traffic cases as magistrates, by S.C. Code Ann. § 14-25-45 of the South Carolina Code. Magistrates and municipal judges may impose sentences within these limits singularly or in the alternative not the police officer. As a result Anthony Richardson constitutes actual damages, and punitive damages. Anthony Derone Richardson is suing for \$2 million for abuse of process and fourth amendment violation and \$2 million Abuse of authority punitive damages the Fifth Amendment, Sixth and Fourteenth Amendments of the federal Constitution Right to Due Process and \$2 million for **Civil Rights Damages** committed *judicial misconduct* malicious prosecution and other abuses of power. **Chief of police clearly violates** Sixth and Fourteenth Amendment *rights* to a fair jury trial and *my* Fourteenth Amendment *right* to equal protection of the laws. Chief Jackie Swindler committed *judicial* and prosecutorial *misconduct* and other abuses of power in sentencing and waiving my jury trial however A defendant has the right to cross-examine a witness concerning bias under the Confrontation Clause under the Sixth Amendment right to confrontation was violated by Chief Of Police Jackie Swindler. Id. at 331, 563 S.E.2d at 317.

Anthony Richardson was sentence without Judge Approval and waiving my jury trial without my consent is misconduct. Chief of police violated my right to a fair trial and due process. 42 U.S.C. Sec. 1983 (1970) provides: Anthony Richardson was deprived of his right to a trial and to be tried by impartial jury. Chief of Police Jackie Swindler had constitute *judicial misconduct*, the *police* had no reason to sentence me at all, even in a jury selection on 2/20/2013 because he is not a judge and only a Judge can sentence or even conduct a jury selection. It is the *duty* of the *judge* to protect citizens against improper and unwarranted ... *Control*. No person shall be . . . deprived of life, liberty, or property without due process of law . . ." (U. S. Const., Fifth Amendment; see S. C. Const. Art. I, Section 3, for similar language). Section 1983 because that is where

the law has been published, within Title 42, of the United States Code. Section 1983 makes it unlawful for anyone acting under the authority of state law to deprive another person of his or her rights under the Constitution or federal law. Chief Of Police is without *jurisdiction* to review a *sentencing* court's or to even sentence any person at a bench trial of any kind.

There is no crueler tyranny than that which is exercised under cover of law, and with the colors of justice ..."

- U.S. v. Jannotti, 673 F.2d 578, 614 (3d Cir. 1982)

Constitutional rights violations committed by Chief of police include: Right to a Lawyer Right to Cross Examine and Confront Witnesses, Right to Use Courts Subpoena Power to Compel Witnesses to Testify, Right to a Jury Trial and Presumption of Innocence. The defendant acted *with malice or with reckless indifference to the federally protected rights of an aggrieved individual*.

South Carolina Code Ann. section 15-78-70 specifically provides that government employees may be liable in tort actions:

(a) This chapter constitutes the exclusive remedy for any tort committed by an employee of a governmental entity. An employee of a governmental entity who commits a tort while acting within the *scope of his official duty* is not liable therefore except as expressly provided for in subsection (b).

(b) Nothing in this chapter may be construed to give an employee of a governmental entity immunity from suit and liability if it is proved that the employee's conduct was not within the *scope of his official duties* or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude.

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

The dividing line between the types of procedures is usually the misdemeanor/felony distinction: one set of procedures is used for misdemeanor trials and another set issued for felony trials. South Carolina has two distinct sets of procedures, but the dividing line is not the traditional misdemeanor/felony distinction. In this State, the difference is based on the jurisdictional line between courts of limited jurisdiction (magistrate's court) and the courts of general jurisdiction (circuit court). This jurisdictional line is the provision in S.C. Code Ann. §22-3-550 -- the \$500 or 30 days, or both clause. All offenses falling below this line are within the jurisdiction of the magistrates (and by implication, municipal courts), where one distinct set of procedures is used, and all offenses above this line are within the jurisdiction of the circuit courts where another set of procedures is used. The procedure used in the courts higher than magistrates' courts and municipal courts is not discussed in this book. The procedure which magistrates use is a "summary procedure." The General Assembly has adopted this definition of magistrate court procedure in §22-3-730: All proceedings before magistrates shall be summary or with only such delay as a fair and just examination of the case requires. Summary procedure

shall also be used in municipal courts, by virtue of §14-25-45, as amended. In brief, summary procedure means that the process is not elaborate, that the time between arrest and sentencing is relatively short. Of course, the fact that the proceedings lack many of the formalities required in the higher courts does not mean that various fundamental safeguards can be ignored in the magistrates' courts. When a defendant is found guilty, either by the judge or a jury, the magistrate or municipal judge must then sentence the defendant. The judge may use his discretion in sentencing as long as his decision conforms to the statutory requirements for the particular offense for which the defendant has been convicted. He may impose a fine or require imprisonment, or both within the statutory limitations. (§22-3-550). Where a statute prescribes a minimum sentence, the magistrate or municipal judge may not impose a lesser sentence, except in the case of a conviction for drawing a fraudulent check. (§22-3-800). (See CRIMES AND OFFENSES, Fraudulent Checks). Of course, the magistrate or municipal judge may not exceed the statutory limits with any sentence. Where separate charges have been alleged and proven, the magistrate or municipal judge may impose sentences to run concurrently or consecutively. The sentences will be served concurrently unless the judge specifically orders them to be served consecutively. Finley v. State, 219 S.C. 278, 64 S.E.2d 881 (1951); State v. DeAngelis, 257 S.C. 44, 183 S.E.2d 906 (1971). §22-3-550 prohibits a magistrate from sentencing any person to consecutive terms of imprisonment totaling more than ninety days (except for convictions resulting from violations of Chapter 11 of Title 34, pertaining to fraudulent checks, or violations of §16-13-110(B) (1), relating to shoplifting).

If, upon conviction, a defendant is sentenced to a term of imprisonment for three months or less, the defendant is placed in the custody of the county (or municipality) in which he was sentenced. If the county (or municipality) has facilities suitable for confining the defendant, his sentence should be served in that county or municipality. Any defendant who receives a term of imprisonment from a court of competent jurisdiction exceeding ninety days is placed in the custody of the Department of Corrections, which will then designate the facility at which the defendant will be incarcerated. There are several sections of the S.C. Constitution which concern the jury trial. Article I, Section 14 guarantees a "speedy and public trial by an impartial jury." Article I, Section 14 states that the right to a jury trial is "preserved inviolate." In addition, the right to a trial by jury, provided in the Sixth Amendment to the U.S. Constitution, has been made applicable to the states through the Fourteenth Amendment to the U.S. Constitution. Duncan v. Louisiana, 391 U.S. 145, 88 S. Ct. 1444 (1968).

My prayer is for this court to accept this summons and complaint including Appendix A which is the actual sentence signed by me and the Chief of police in his office on 2/20/2013 signed by Jackie Swindler, Appendix B amount past due payment agreed with the Chief of Police and not no Judge, however a bench warrant was issued, Appendix C Jury selection conducted by Chief of Police on 2/20/2013 on the day the sentence had taken place.

Pro. Se: Anthony Derone Richardson
914 Gray Street, Newberry, S.C. 29108

Signed Anthony Derone Richardson date 6-24-2013

2013-CP-36-00321

CERTIFICATE OF SERVICE

I, Anthony Derone Richardson, hereby certify that on, I

[Anthony Richardson] [5/20/2013]

Served copies of

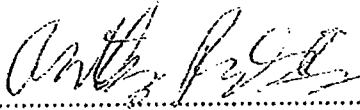
[Summons and Complaint] & Appendix A, Appendix B, Appendix C

On the following parties by way of:

[U.S. mail.]

[Chief of Police,
Jackie Swindler
City Safety Complex
1507 Nance Street
Newberry, SC, 29108-2740

Signed by



date

5-24-2013

FILED
NEWBERRY COUNTY
2013 JUN 24 PM 12 24
JACKIE S. BOWERS
CLERK OF COURT

CITY OF NEWBERRY

S O U T H C A R O L I N A

MUNICIPAL COURT

I request a jury trial on the below listed charge(s):

Anthony Richardson
Name

914 Gray Street
Address

1134, SC 29108

To Be ANNOUNCED
Name of attorney

Address

Phone number

If you fail to appear for your jury selection, you will forfeit your right to a jury trial and a bench trial will be scheduled.

[Signature]
Signature

Date

CITY OF NEWBERRY

1507 NANCE STREET
NEWBERRY, SC 29108

DISPOSITION SHEET

Date Printed: 02/20/2013

Case Type: Traffic Ticket 11842GF

Case #: 2012-10708

Name: ANTHONY DEROME RICHARDSON
914 GRAY ST
NEWBERRY, SC 29108

Violation: NT 00-00-0000 / 11-15
TRESPASS AFTER NOTICE

Trial Date: 02/20/2013

Offense Date: 12/11/2012

Disposition: 2 GUILTY BENCH TRIAL

Total Fine: 250.00 **Total Paid:**

Sentence: Fine to be paid on or before 03-15-2013

CITY OF NEWBERRY
1507 NANCE STREET
NEWBERRY SC 29108

Receipt Number: 48896

Date Paid: 05/06/2013

Paid By: ANTHONY DEROME RICHARDSON

Paid With: Cash ☒ M.O. ☐ Check ☐ Other ☐ Credit Card ☐ ☐ Visa ☐ American Express
Card # / Description: ☐ MasterCard ☐ Discover

Total Amount Applied: 250.00

Applied To	Number	Trial Date
T Traffic Ticket	11842GF	02/20/2013

Traffic Code: NT Statute: 00-00-0000 / 11-15
TRESPASS AFTER NOTICE

Received By: MARY

Date: 05/06/2013

Balance at Time of Receipt: 0.00

TRESPASSING NOTICE

TO: Anthony Richardson

ADDRESS: 521 Brantley St

Newberry SC 29105

FROM: 1430 Prayton St

DATE: 10-15-08

This letter is to advise you, Anthony Richardson,
that you are no longer allowed on my property located at 1430 Prayton
(Quick Stop), in the City of Newberry.

Should you violate this notice and visit this property, you will be prosecuted
for Trespassing After Notice.

M. M. G. Smith

Sworn to and subscribed before more
this 15th day of October, 2008.

R. M. Harker

Notary Public for South Carolina

My Commission Expires: 5-23-2018

SERVED BY: R. M. Harker

DATE SERVED: 10-15-08

AGENCY I.D.
SC0360100

CITY OF NEWBERRY
INCIDENT REPORT

CASE NUMBER

2008-10167

NCIC

INQ. ENTD.

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM	
1. INF - DISORDERLY CONDUCT		☒ YES ☐ NO	☐ YES ☐ NO	07		☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☒ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.	
2.		☐ YES ☐ NO	☐ YES ☐ NO				
3.		☐ YES ☐ NO	☐ YES ☐ NO				
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE		WEAPON TYPE	
1430 MAIN ST (QUICK STOP), NEWBERRY SC				29108			
INCIDENT DATE		24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK	
10/15/2008		1050		10/15/2008	1115	DISP. DATE DISP. TIME TIME ARRIVED DEPART. TIME	
						10/15/2008 1056 1100 1121	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT		LOCATION NO.	
SHEFCHICK, MICHAEL J				AQ		4	
ADDRESS				CITY		STATE	
380 WYSES FERRY ROAD				PROSPERITY		SC	
VICTIM'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT		DAYTIME PHONE	
SOCIETY, SOCIETY SOCIETY SOCIETY				J S O U		803-321-0105	
HEIGHT				WEIGHT		HAIR	
SOCIETY				SOCIETY		SOCIETY	
ADDRESS				CITY		STATE	
SOCIETY				SOCIETY		SO	
VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO EXPLAIN -							
VICTIM (NO. 1) USING: ALCOHOL: ☐ YES ☒ NO ☐ UNK. DRUGS: ☐ YES ☒ NO ☐ UNK.							
☐ TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED				J - This Jurisdiction S - State O - Out of State U - Unknown			
SUBJECT NAME (LAST, FIRST, MIDDLE)		RACE		SEX	AGE	ETH.	DATE OF BIRTH
JOHNSON, KENDRICK MARQUAEL		B		M	18	N	11/26/1989
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
MOTHER (TARA NANCE) CP# 768-5290							
ADDRESS		CITY		STATE		ZIP CODE	
632 BEISEL ROAD		NEWBERRY		SC		29108	
SUBJECT (NO. 1) USING: ALCOHOL: ☐ YES ☐ NO ☒ UNK.		ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST	
DRUGS: ☐ YES ☐ NO ☒ UNK. TYPE:		TOTAL # ARRESTED		10/15/2008		1050	
Offenses: DISORDERLY CONDUCT							
R/O WAS DISPATCHED TO THE ABOVE LOCATION IN REFERENCE TO A DISTURBANCE. R/O ARRIVED AND SPOKE TO SHEFCHICK (COMP) WHO STATED THAT TARA NANCE'S SON (JOHNSON) WAS AT HIS STORE CAUSING A DISTURBANCE. SHEFCHICK STATED THAT JOHNSON WAS IN FRONT OF HIS STORE PLAYING MUSIC VERY LOUDLY. HE THEN ASKED JOHNSON TO TURN IT DOWN DUE TO THE FACT THAT HE HAD OLDER CUSTOMERS IN THE LAUNDRYMAT IN WHICH HE COMPLIED.							
SHEFFCHICK STATED THAT A MINUTE LATER, JOHNSON BEGAN TALKING ON HIS CELL PHONE VERY LOUDLY USING PROFANE AND VULGAR LANGUAGE. SHEFFCHICK STATED THAT HE IMMEDIATELY WENT OUTSIDE AND ADVISED JOHNSON TO STOP USING THAT TYPE OF LANGUAGE OR LEAVE. JOHNSON THEN SHOVED SHEFCHICK STATING TO GET OUT OF HIS FACE AND HE WASN'T GOING ANYWHERE. SHEFCHICK THEN GRABBED A BROOM AND CHASED JOHNSON OFF OF THE PROPERTY AND CALLED POLICE.							
WHILE SPEAKING TO SHEFCHICK, RICHARDSON CAME INTO THE STORE TO PURCHASE A DRINK. HE THEN ASKED R/O "CAN I SAY SOMETHING?" RICHARDSON THEN STATED "HE (SHEFCHICK) CHASED THAT GUY (JOHNSON) ACROSS THE STREET AND THEN THREW A BROOM AT HIM...THAT'S ILLEGAL...HE CAN'T DO THAT...HE THINKS JUST BECAUSE HE'S WHITE AND OWNS A STORE IN THE HOOD HE CAN DO WHATEVER HE WANTS" SHEFCHICK STATED "I AM DEFENDING MY CUSTOMERS AND PROPERTY AND I CAN MAKE ANYONE LEAVE WHO I DON'T WANT ON MY PROPERTY THESE LADIES IN MY BUSINESS SHOULD NOT HAVE TO PUT UP WITH LISTENING TO OR							
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
P TYPE (GROUP)				TOTAL VALUE			
Burned							
Count/Forged							
Lost/Damaged							
Recovered							
Seized							
Stolen							
Unknown							
SUBJECT IDENTIFIED		SUBJECT LOCATED		☒ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18	
☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE:		1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED	
REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER	
MIKE HAWKINS		10/15/2008		323		JASON KYLE STUHR	
						DATE	
						10/15/2008	
						UNIT NUMBER	
						314	
						FOLLOW-UP INVESTIGATION OFFICER	
						☐ YES ☐ NO	

AGENCY I.D.
SC0360100

CITY OF NEWBERRY
INCIDENT REPORT

CASE NUMBER		NCIC	
INO.	ENTO.		
2,008-10167			

OBSERVING THAT TYPE OF CONDUCT."

RICHARDSON THEN STARTED SAYING "THAT DON'T MATTER YOU CAN'T BE CHASING PEOPLE...SOMEBODY'S GONNA END UP DEALING WITH YOU." SHEFCHICK THE HANDED RICHARDSON HIS MONEY BACK AND ADVISED HIM TO TAKE HIS BUSINESS ELSEWHERE THAT HE WAS NOT WELCOME IN HIS STORE. RICHARDSON THEN STATED "I AIN'T GOTTA GO NOWHERE... YOU CAN'T MAKE ME LEAVE...I AINT ON NO TRESPASS." SHEFCHICK THEN ADVISED R/O THAT HE WOULD LIKE TO PUT RICHARDSON ON TRESPASS NOTICE BECAUSE HE IS TRYING TO RUN A BUSINESS AND ALL THESE PEOPLE CAUSING DISTURBANCES ARE RUNNING OFF HIS GOOD CUSTOMERS.

R/O PLACED RICHARDSON ON TRESPASS FOR THE QUICK STOP AT SHEFCHICK'S REQUEST. WHILE R/O WAS LEAVING, R/O WAS STOPPED BY DENISE H LEVI AND SHIRLEY WERTS WHO STATED THAT SHEFCHICK WAS IN THE RIGHT. THEY STATED "THAT BOY (JOHNSON) WAS SHOWING OUT...BEING REAL NASTY...AND WE FELT REAL UNCOMFORTABLE BEING IN HERE...I AM GLAD HE RUN HIM OFF...AND THAT BOY (RICHARDSON) NEEDS TO SHUT HIS MOUTH...ACTING LIKE THAT...HE'S JUST A FOOL TOO...I AM GLAD SHEFCHICK WAS LOOKING OUT FOR US...AIN'T NOBODY ELSE AROUND THIS NEIGHBORHOOD WILL."

R/O CLEARED.

				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
						TOTAL VALUE	
P R O P E R T Y	TYPE (GROUP)						
	Burned						
	Count./Forged						
	Dest./Damaged						
	Recovered						
	Seized						
A D M I N I S T	Stolen						
	Unknown						
SUBJECT IDENTIFIED		SUBJECT LOCATED		☒ ACTIVE	☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY							
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER
MIKE HAWKINS		10/15/2008	323	JASON KYLE STUHR		10/15/2008	314
				FOLLOW-UP INVESTIGATION OFFICER			
				☐ YES ☐ NO			

AGENCY I.D.
SC0360100

CITY OF NEWBERRY
SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	2008-10167	NCIC	INQ.	ENTO.
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☐ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE 1
☐ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☒ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

V I C T I M S S U B J O V E R F L	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH			
	☐ VICTIM #	RICHARDSON, ANTHONY DEROME			#1	#2	#3	J	S	O	U	B	M	35	07/24/1973	N
	☒ SUBJECT # 02	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.										
	☐ RUNAWAY	5-10	160	BLK	BRO	POSSIBLY AT 510 BOUNDARY ST										
	☐ WANTED	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE						
	☐ WARRANT	521 BRANTLY STREET			NEWBERRY	SC	29108	4	321-9260	H	B	H	B			
	☐ ARREST	☐ VICTIM NO. _____ VISIBLE INJURY: ☐ NO ☐ YES			☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK			☐ TWO-MAN VEH. ☐ DETECTIVE/SPLASMIT ☐ ALONE								
	☐ JAIL	EXPLAIN:			DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK			☐ ONE-MAN VEH. ☐ OTHER ☐ ASSISTED								
	☐ SUMMONS	☒ SUBJECT NO. 02			USING ALCOHOL: ☐ NO ☐ YES			☐ TWO-MAN VEH. ☐ DETECTIVE/SPLASMIT ☐ ALONE								
	☐ _____				USING DRUGS: ☐ NO ☐ YES TYPE: ☒ UNKNOWN											

A D M I N I S T	SUBJECT IDENTIFIED		SUBJECT LOCATED		☒ ACTIVE	☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
	☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY							
	REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER
	MIKE HAWKINS		10/16/2008	323	JASON KYLE STUHR		10/16/2008	314
				FOLLOW-UP INVESTIGATION OFFICER				
				☐ YES ☐ NO				

THE STATE OF SOUTH CAROLINA
NEWBERRY MUNICIPAL COURT
BENCH WARRANT

2013B3620200044

T 11842GF

2012-10708

To any Lawful Constable or Officers:

WHEREAS: One ANTHONY DEROME RICHARDSON
was convicted in this court of TRESPASS AFTER NOTICE
with sentence imposed of 30 DAYS OR \$250.00

on the 20 day of February, 2013

This order is to command you to take and convey him/her to the common jail. This keeper of the said jail is hereby commanded to receive the said defendant and to safely keep until he/she shall be thereof discharged by due course of law; And for so doing, this shall be your good and sufficient warrant.

Witness: The due execution of this warrant on the 5 day of April, 2013

JUDGE, NEWBERRY MUNICIPAL COURT

COPY

OFFICER'S RETURN
THE STATE OF SOUTH CAROLINA
NEWBERRY MUNICIPAL COURT

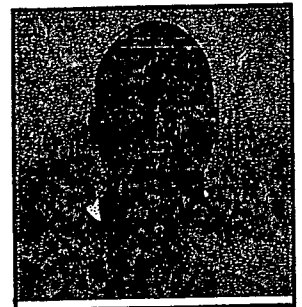
I hereby certify that pursuant to the command of the within warrant, I have placed the said ANTHONY DEROME RICHARDSON in the jail this 6 day of May, 2013

WITHDRAWN

OFFICER'S NAME

Address: 914 GRAY ST
NEWBERRY, SC 29108

Height: 5 ft. 10 in.	Race: B	SSN: 251-47-4765
Weight: 235	Sex: M	St. Lic: SC
Hair: BLK	Age: 39	Dr. Lic: 004048122
Eyes: BRO	DOB: 07/24/1973	Phone: 321-9260



Withdrawn 5/6/13

AGENCY I.D.
SC0360100

CITY OF NEWBERRY
INCIDENT REPORT

CASE NUMBER

2012-10708

NCIC

INO. X
ENTD.

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM							
1. 90J - TRESPASS OF REAL PROPERTY		☒ YES ☐ NO	☐ YES ☐ NO	07		☒ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.							
2.		☐ YES ☐ NO	☐ YES ☐ NO										
3.		☐ YES ☐ NO	☐ YES ☐ NO										
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE		WEAPON TYPE							
1430 DRAYTON STREET (QUICK STOP), NEWBERRY SC				29108									
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK		LOCATION NO.						
12/11/2012	1656		12/11/2012	1715	DISP. DATE DISP. TIME TIME ARRIVED DEPART. TIME		4						
					12/11/2012 1656 1656 1715								
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE			
LOYNES, MAJOR LESLIE		ST		0	S	O	U	B	M	00	N		
ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO.					
1507 NANCE ST		NEWBERRY		SC		29108		99					
VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE			
SHEFCHICK, MICHAEL J				J	S	O	U	W	M	46	N	(803) 321-0105	
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
6-1	201	BLK	BRO										
ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO.					
380 WYSES FERRY RD		PROSPERITY		SC		29127		99					
VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO EXPLAIN -													
VICTIM (NO. 1) USING: ALCOHOL: ☐ YES ☒ NO ☐ UNK DRUGS: ☐ YES ☒ NO ☐ UNK													
☐ TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED J - This Jurisdiction S - State O - Out of State U - Unknown													
SUBJECT NAME (LAST, FIRST, MIDDLE)		RACE		SEX	AGE	ETH	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES		
☒ SUSPECT		B		M	39	N	07/24/1973	5-10	235	BLK	BRO		
☐ RUNAWAY		FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.											
☐ WANTED		POSSIBLY AT 510 BOUNDARY ST											
☐ WARRANT		ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO.			
☐ ARREST		914 GRAY ST		NEWBERRY		SC		29108		99			
☐ JAIL		SUBJECT (NO. 1) USING: ALCOHOL: ☐ YES ☒ NO ☐ UNK		ARRESTED NEAR OFFENSE SCENE ☒ YES ☐ NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST					
☐ SUMMONS		DRUGS: ☐ YES ☒ NO ☐ UNK TYPE:		TOTAL # ARRESTED 1		12/11/2012 1656		12/11/2012 1702					
Offenses:													
TRESPASS OF REAL PROPERTY													
WHILE ON PATROL ON DRAYTON STREET AND THE CORNER OF CROSSON STREET I NOTICED AN INDIVIDUAL FAMILIAR TO ME BY THE NAME (ANTHONY DERONE RICHARDSON) STANDING IN THE PARKING AREA IN FRONT OF THE QUICK STOP CONVENIENCE STORE.													
I ALSO KNOWN MR RICHARDSON TO HAVE AN ACTIVE TRESPASS NOTICE AT THAT LOCATION. I HAD POLICE OFFICIALS VERIFY THE NOTICE ON MR RICHARDSON (STATUS ACTIVE).													
I THEN APPROACHED MR RICHARDSON AND INFORMED HIM HE WAS UNDER ARREST FOR TRESPASS. MR RICHARDSON WAS HANDCUFFED DOUBLE LOCKED. THE SEARCHED INCIDENT TO ARREST (NO CONTRABAND FOUND).													
I THEN TRANSPORTED MR RICHARDSON TO THE N.C.D.C WHERE HE ISSUED A CITATION.													

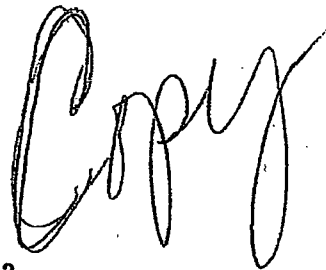
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY								
P	TYPE (GROUP)					TOTAL VALUE						
R	Burned											
O	Count / Forged											
P	Dest / Damaged											
E	Recovered											
R	Seized											
T	Stolen											
Y	Unknown											
A	SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18			
D	☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☒ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER			
M	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY											
I	REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		UNIT NUMBER	
N	MAJOR LOYNES		12/11/2012		332		MIKE WOOD		12/11/2012		319	
I	FOLLOW-UP INVESTIGATION OFFICER											
S	☐ YES ☐ NO											

I plead guilty
and agree to pay
\$250.00. I will pay
by March 15, 2013

Frank Fursten

9/11

CITY OF NEWBERRY
1507 NANCE STREET
NEWBERRY, SC 29108
(803) 321-1010



TO: **ANTHONY DEROME RICHARDSON**
914 GRAY ST
NEWBERRY SC 29108

DATE: **03/22/2013**

SUBJECT: **PAST DUE PAYMENT**

WARRANT/TICKET NO.: **11842GF**

AMOUNT DUE: **250.00**

OFFENSE: **TRESPASS AFTER NOTICE**

YOUR PAYMENT TO THE COURT IS NOW DELINQUENT.

IF FULL PAYMENT IS NOT MADE WITHIN (10 DAYS) FROM THE DATE OF THIS NOTICE, A BENCH WARRANT WILL BE ISSUED FOR YOUR ARREST.

PAYMENT MUST BE MADE IN FULL TO AVOID YOUR ARREST.

IF MAILING IN YOUR FINE, PLEASE SEND A MONEY ORDER OR CASHIER'S CHECK.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THIS OFFICE AT THE NUMBER ABOVE.

SINCERELY,

**Newberry Municipal Court
1507 Nance Street
Newberry, S. C. 29108**

**W. F. Partridge, Jr., Municipal Judge
Barry S. Koon, Asst. Municipal Judge**

**Phone: 803-321-3720
Fax: 803-321-1004**

February 7, 2013

**Mr. Anthony Derone Richardson
914 Gray Street
Newberry, S. C. 29108**

RE: Trespass after notice

Dear Mr. Richardson:

In preparation for a jury trial on the above referenced charge, the Court has scheduled a jury selection on Wednesday, February 20, 2013, at 2:30 p. m. The selection will be held in the municipal courtroom at the Public Safety Complex, 1507 Nance Street in downtown Newberry. It is imperative you be present at this time. If you are not present, you will forfeit your right to a jury trial and a bench trial will be scheduled.

Sincerely,

**Celia E. Dodgen
Secretary**

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STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

EIGHTH JUDICIAL CIRCUIT
IN THE COURT OF COMMON PLEAS

RECEIVED

SEP 18 2015

SC Court of Appeals

ANTHONY D. RICHARDSON)

PLAINTIFF,)

-VS-)

JACKIE SWINDLER)

DEFENDANT.)

2013-CP-36-00321
TRANSCRIPT OF RECORD

NOVEMBER 5, 2014
NEWBERRY, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR.

A P P E A R A N C E S:

ATTORNEY FOR PLAINTIFF:
ANTHONY RICHARDSON, APPEARED PRO SE

ATTORNEY FOR DEFENDANT:

KASSI B. SANDIFER, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

INDEX**WITNESS****PAGE NO.**

HEARING

4

CERTIFICATE OF REPORTER

15

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
-----------	--------------------	-----------	-----------------

(No exhibits were presented during this hearing)

1 THE COURT: I think that we are on the record on case
2 13-CP-36-321. This is Anthony Richardson vs Jackie Swindler
3 in his capacity as Chief of Police, and the Newberry Police
4 Department. This is, I believe, the Defendant's Motion for
5 Summary Judgement. Is it Motion for Summary Judgement or is
6 it Motion to Dismiss? I've got -

7 MS. SANDIFER: It's a Motion for Summary Judgement, Your
8 Honor.

9 THE COURT: And it's Ms. Sandifer?

10 MS. SANDIFER: It is.

11 THE COURT: Mr. Richardson is also present pro se. It's
12 your motion. You have the floor.

13 MS. SANDIFER: Your Honor, I filed an amended motion
14 after the Plaintiff's PCR hearing went forward. Did you get
15 a copy of that?

16 THE COURT: It is in the file. I have not seen it until
17 just now.

18 MS. SANDIFER: I just gave Mr. Richardson a copy of my
19 amended memo in support of the Motion for Summary Judgement.
20 Can I hand that up to you?

21 THE COURT: Sure. Go ahead.

22 MS. SANDIFER: Mr. Richardson sued Chief Swindler
23 alleging that Chief Swindler violated his due process rights
24 to a jury trial. In October of 2008, Mr. Richardson was
25 involved in an incident in the Quick Stop in Newberry. As a

1 result of that, the owner issued a Notice of Trespass
2 against Mr. Richardson. Mr. Richardson received the notice
3 and it was never lifted or withdrawn. Then in December 2012
4 Mr. Richardson went back on the property and he was issued a
5 citation for trespass after notice. He originally pled not
6 guilty to that and requested a jury trial. The Clerk's
7 office sent Mr. Richardson a notice informing him that jury
8 selection would take place on February 20th. He showed up
9 for that jury selection. Instead of selecting a jury, Mr.
10 Richardson met with Chief Swindler, pled guilty to the
11 offense, and agreed to pay \$250 by March 15. He signed a
12 document to that effect. During the meeting, he knew he had
13 a right to a jury trial. He testified to that in his
14 deposition. He also testified that Chief Swindler did not
15 threaten or coerce him in order to get him to abandon that
16 right. The Plaintiff ultimately paid the fine, the \$250, in
17 May 2013. He did not directly appeal his conviction.
18 Instead he filed a petition for PCR, which I've been
19 informed was denied. We're moving to dismiss his complaint
20 on two grounds. The first ground is that he waived his
21 right to a jury trial. He pled guilty knowing that he had
22 the right to a jury trial. He abandoned his right
23 voluntarily as there was no coercion or threat, and he paid
24 the fine. He could have chosen to pursue the jury trial.
25 He didn't and we believe he waived his right to that and the

1 complaint should be dismissed. Also, the second ground is
2 that his complaint is not cognizable under Heck v Humphrey.
3 According to Heck, when a Plaintiff seeks money damages for
4 a Constitutional violation pursuant to 1983, the Court must
5 consider whether the judgement in favor of the Plaintiff
6 would necessarily imply the invalidity of the conviction or
7 the sentence. He is seeking damages. He is seeking four
8 million dollars pursuant to 1983. If the judgement in the
9 Plaintiff's favor -- then the complaint must be dismissed if
10 the judgement in the Plaintiff's favor would necessarily
11 imply the invalidity of the conviction unless he can show
12 that the conviction has already been invalidated. Okay.
13 Well, first a judgement in his favor here would necessarily
14 imply the invalidity of his conviction because he's
15 challenging the process by which the conviction was
16 obtained. He's saying he didn't get a right to a jury
17 trial. A judgement in his favor here is agreeing with that
18 and that does imply the invalidity of the conviction. He
19 can't show that his conviction has already been invalidated.
20 He didn't appeal it. He filed a PCR and that was denied, so
21 I've been informed. The time for him to direct --

22 THE COURT: I think I may have been the judge on that
23 PCR. Was I the judge on that PCR?

24 MR. RICHARDSON: Yes, Your Honor.

25 THE COURT: Okay. You looked a little familiar. Go

1 ahead.

2 MS. SANDIFER: Okay. So anyway the time for him to
3 appeal the conviction directly has expired so therefore
4 under Heck his complaint is not cognizable and under these
5 circumstances it should be dismissed.

6 THE COURT: Mr. Richardson, I'm happy to hear anything
7 that you want to tell me about your motion, please.

8 MR. RICHARDSON: Greetings, Your Honor. Something I
9 think that opposing counsel and I agree on that to compel a
10 motion for summary judgement one should be granted. I don't
11 think that either one should be granted which one should be
12 disposed. I may be talking out of turn, but I think we both
13 think they should be granted. I'm trying to get to the
14 point where one of them should be granted.. Thank you, Your
15 Honor. May it please the court. I represent myself pro se.
16 I am Anthony Richardson. I know the court has had an
17 opportunity to read the motions already in progress. As a
18 little bit of factual background in the case, Your Honor,
19 this matter come before the court when I, Mr. Richardson,
20 sued Mr. Swindler for violation of the Seventh Amendment
21 need for monetary damage as part of a Constitutional
22 Amendment Six and Seventh Amendment guarantee to a right to
23 a trial by jury. Mr. Swindler, the Defendant, waived the
24 Plaintiff's right to have a jury trial and resulted in a
25 constitutional violation and the right to question the

1 facts, the right to confront a witness, the right to
2 question my witness, and be tried by an impartial jury for
3 violating the Plaintiff's request in writing and then later
4 on tried by Mr. Swindler, which is Chief of Police, violated
5 the Plaintiff's rights under the Seventh Amendment and the
6 code of SC Code of Laws 14-25-45 and imposed a sentence upon
7 the Plaintiff within these limits according to Exhibit 1.
8 An imposed sentence upon a Plaintiff after a jury trial was
9 requested resulted in being waived by the Defendant rights
10 in criminal courts and all courts. The Defendant will
11 agree, according to Exhibit one, to sign my name that is Mr.
12 Swindler's initials and that I pled guilty to in front of
13 Mr. Swindler constituting a bench trial being conducted by
14 Mr. Swindler without the presence of a judge, court
15 reporter. State courts are bound by the second amendment
16 that a jury trial is to be sentenced by a judge. I will
17 prove that the Plaintiff pled guilty before Mr. Swindler,
18 the Chief of Police, in his office, and imposed a sentence
19 at bench trial agreed by the Defendant in 2013. I will
20 prove that Mr. Swindler prepared the sentencing sheet and
21 when Mr. Swindler's initialed beside the Plaintiff's name
22 constitutes imposed bench trial which is fact finding
23 because he found me guilty. Mr. Swindler waived the
24 Plaintiff's rights, and as soon as we had the bench trial
25 according to Exhibit E. The Plaintiff, which I will prove

1 by evidence which I intend to show the jury. At a later
2 point the Defendant sought a bench warrant to have me, the
3 Plaintiff, arrested and impose sentence as a result of
4 arrest. Mr. Swindler argued that there was no jury trial
5 taking place and jury selection is not a trial. However, it
6 is imposed sentence of a bench trial conducted by Mr.
7 Swindler rather than the judge. The request for the jury
8 trial was in writing by the Plaintiff, which I intend to
9 show the jury. When the Plaintiff requested a jury only one
10 person that can waive his rights is only the Plaintiff in
11 this case. I will prove to the court that the Defendant
12 undisputed evidence that the Defendant has not shown proof
13 that the Plaintiff had the right to a jury trial and will
14 prove why the Plaintiff did not get a jury trial after
15 requesting a jury trial in writing and being sentenced by
16 the Defendant in a bench trial. A bench trial consists of a
17 judge, court reporter, clerk of court. However, in this
18 case, it was the Chief of Police conducting a bench trial.
19 After he admitted he initialed his name beside me at the
20 bench trial. Monetary relief for ordinary compensatory
21 damages is fundamental to legal relief subject to the right
22 to a jury trial. Indeed, the text of the Seventh Amendment
23 reflects the need for monetary damages as part of the
24 controversy. U.S. Constitution Amendment VII and the
25 Seventh Amendment guarantees the right to a trial by jury.

1 State courts are bound by the Seventh Amendment. This is
2 when Mr. Swindler decided to impose sentence and conduct a
3 bench trial upon the Plaintiff and waive the rights to
4 confront witnesses and accusers without the consent of the
5 Plaintiff of which I will prove according to Exhibit C there
6 was no trial and initials at bench trial and imposed
7 sentence. Bench trial and clearly a waiver of the
8 Plaintiff's rights under the Seventh Amendment, which all
9 state courts are governed by. Mr. Swindler waived my rights
10 according to the exhibits after he initialed his name beside
11 my name. Clearly a bench trial was being conducted by Mr.
12 Swindler. Plaintiff suffered because Mr. Swindler had
13 violated the Plaintiff's right to a jury trial. The
14 Defendant imposed sentencing upon the Plaintiff. Mr.
15 Swindler sought a bench trial to have the Plaintiff arrested
16 in front of the Honorable Judge and without the Plaintiff
17 being present and without the Plaintiff's consent.
18 According to Exhibits A, B, and C, Your Honor, that Mr.
19 Swindler admitted to signing his initials and not signature
20 on the plea agreement. If the court finds some way to
21 defend a motion that the Defendant lacks standing, then
22 certainly there will be a summary judgement. That will be a
23 motion to dismiss or civil procedure Rule 56(f). The
24 Plaintiff the Defendant's motion denied and the issue
25 continued so to conduct discovery to oppose. Federal Rules

1 of Civil Procedure 56@ the defendant's motion for summary
2 judgement which have been filed simultaneously. The
3 Plaintiff was arrested on December 11. However, because
4 the plaintiff's appeal is still pending, there was no final
5 dissent as to whether the Plaintiff was entitled to a jury
6 trial. However, the Post Conviction Relief has actually
7 been appealed at this point in time. However, according to
8 Exhibits A, B, and C I am entitled to a jury trial as
9 requested in writing. Mr. Swindler waived his jury trial
10 request. That it was undisputed that Mr. Swindler initialed
11 beside my name at a bench trial being conducted by Mr.
12 Swindler, the Chief of Police, rather than a Municipal
13 Judge. According to the civil cause of action, the Plaintiff
14 argues that summary judgement is not appropriate without
15 inquiring into the facts of the case. And should not be
16 granted even when there is no dispute. Plaintiff argues
17 that he needs entire video transcript and discovery in order
18 to demonstrate the party's true intentions. The Plaintiff
19 argues that the transcript video evidence is admissible in
20 this case, so discovery is relevant. In determining the
21 Chief of Police conducted a bench trial is not appropriate.
22 Plaintiff argues, number two, under a rule 56 requesting an
23 affidavit that tells what is being sought. Special reasons
24 why this evidence is presently unavailable. This evidence
25 is reasonable and expected to create triable issues under

1 The State Permissibility Services, Incorporated vs Bank of
2 America National Trust, 23F211-66. The parties may not rely
3 on vague assertions of specific facts. Video transcripts
4 will create a triable issue. I will tell you that I, Mr.
5 Richardson, have the burden here to prove and ability to
6 determine that to the terminology in this situation. Under
7 Rule 56 it is proper for the Court to make a summary
8 judgement because there are no facts in dispute. The judge
9 did not sentence me, is one issue. The Defendant did, which
10 is the Chief of Police, Mr. Swindler. Now, when everything
11 is determined, the right to a speedy trial --

12 THE COURT: Let me ask you this, Mr. Richardson. Not to
13 interrupt you, sir. I do understand the law that you're
14 citing to me and I am very familiar with that.

15 MR. RICHARDSON: Yes, Your Honor.

16 THE COURT: The matter stands though that you did not
17 file a direct appeal for the conviction for trespassing;
18 correct?

19 MR. RICHARDSON: Yes, Your Honor. That's what you ruled
20 on.

21 THE COURT: The PCR was previously dismissed; correct?

22 MR. RICHARDSON: Actually, the sentence itself is being
23 challenged through an appeal.

24 THE COURT: At this stage of the proceedings then, Mr.
25 Richardson, I'm going to tell you quite honestly that it

1 appears it is appropriate under Heck v Humphrey to grant the
2 Defendant's Motion for Summary Judgement. Obviously you
3 would be able to appeal this decision as well.

4 MR. RICHARDSON: Your Honor?

5 THE COURT: Yes.

6 MR. RICHARDSON: Your Honor, I please the Court under
7 Young v Harris I think if an appeal is pending the case will
8 be governed by Young v Harris. The actual appeal of the PCR
9 is pending under the state court right now. It's actually
10 being appealed by the Carson Law Firm. Young v Heck
11 wouldn't apply under Heck because the appeal is still
12 pending. The appeal is of the decision that you imposed.
13 It's actually in the appeal process right now.

14 THE COURT: This will be dismissed without prejudice.
15 Obviously, if the appeal process were to be reversed and you
16 were to be granted a new PCR then at that time -- but what I
17 want to avoid, quite honestly Mr. Richardson, it appears to
18 me that Heck does apply. I am struggling -- I was the judge
19 at the PCR. I don't see where there is any possible way
20 that this action would be going forward or would be able to
21 go forward, the one we're here on today, under Heck. So I
22 will be dismissing this action without prejudice. That's
23 kind of what I am inclined to do, because obviously no
24 direct appeal was taken at the time of the conviction. You
25 should've appealed the trespassing at the time that you were

1 convicted of trespassing.

2 MR. RICHARDSON: Well, Your Honor, Young v Heck states
3 that the appeal is pending the case is governed under Young
4 v Harris which the State intervening it will allow that the
5 case be stayed until the decision is made under PCR appeal.
6 I think this case is governed under Young v Harris because
7 appeal is pending your decision you impose in Greenwood so
8 that's what I am arguing that this case is totally governed
9 by Young v Harris because this case is pending the decision
10 you imposed in Greenwood.

11 THE COURT: Very good.

12 MR. RICHARDSON: That's what I'm arguing.

13 THE COURT: I appreciate your position. Thank you, sir.
14 Very good. Y'all have a good day. Thank you.

15 ***END OF REQUESTED TRANSCRIPT OF RECORD***

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RECEIVED

SEP 18 2015

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Certificate of Reporter **SC Court of Appeals**

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I, the undersigned, Tara T. Scott, CVR, Official Court
Reporter for the Eighth Judicial Circuit of the State of
South Carolina, do hereby certify that the foregoing is a
true, accurate, and complete transcript of record of all the
proceedings had and evidence introduced in the hearing of
the captioned case, relative to appeal, in the Court of
Common Pleas for Newberry County, South Carolina, on the 5th
day November of 2014.

I do further certify that I am neither of kin, counsel,
nor interest to any party hereto.

August 25, 2015

S/ Tara T. Scott

Circuit Court Reporter

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2013-CP-36-0236

ANOTHONY D. RICHARDSON

STATE OF SOUTH CAROLINA

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: COURT

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 12(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Applicant's post conviction relief hearing was heard on October 14, 2014. The hearing regarded applicant's pro se appearance during a bench trial on May 6, 2013 in Newberry City Court at which he paid a \$250 fine for trespass after notice. Applicant alleges he demanded a jury trial. The court now finds that the application should be dismissed and the state's summary judgment motion granted, as the appropriate avenue of recourse for the applicant is an appeal.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

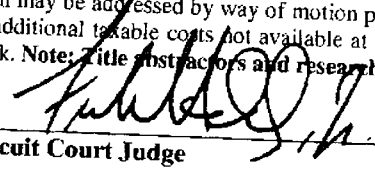
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title instructors and researchers should refer to the official court order for judgment details.


Circuit Court Judge

2159

Judge Code

10/14/2014

Date

For Clerk of Court Office Use Only

This judgment was entered on the 20th day of Oct, 20 14 and a copy mailed first class or placed in the appropriate attorney's box on this 20th day of Oct, 20 14 to attorneys of record or to parties (when appearing pro se) as follows:

Carson M. Henderson

199-B Oak Lane

Greenville, SC 29646

ATTORNEY(S) FOR THE PLAINTIFF(S)

Rutledge Johnson

PO Box 11549

Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Jackie S. Bowers

CLERK OF COURT

Court Reporter: Tara Scott

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2013-CP-36-00321

CERTIFICATE OF SERVICE

I, Anthony Derone Richardson, hereby certify that on, I
[Anthony Richardson] [5/20/2013]

Served copies of

[Summons and Complaint] & Appendix A, Appendix B, Appendix C

On the following parties by way of:

[U.S. mail.]

[Chief of Police,
Jackie Swindler
City Safety Complex
1507 Nance Street
Newberry, SC, 29108-2740

Signed by Anthony Richardson date 5-24-2013

FILED
NEWBERRY COUNTY
2013 JUN 24 PM 12 24
JACKIE S. BOWERS
CLERK OF COURT



Southern Reporting, Inc.

Transcript of the
Deposition of

Anthony Richardson

3/24/2014

Richardson vs. Swindler, et al
13-CP-36-00321

COPY

Southern Reporting, Inc.

Phone: 803.749.8100

Fax: 803.749.9991

Email: Depos@southernreporting.net

1 State of South Carolina)
2 County of Newberry)
3) 13-CP-36-00321
4 Anthony Derone Richardson,)
5)
6 Plaintiff,)
7) Deposition
8 vs.)
9) of
10 Jackie Swindler, Chief of)
11 Police, Newberry County) Anthony Richardson
12 Municipal Police,)
13 Defendant.)
14
15
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25

Deposition of Anthony Richardson, taken before
Vickie M. Hester, a notary public in and for the State
of South Carolina, commencing at the hour of 10:07 a.m.,
Monday, March 24, 2014, at Lake & Lake Attorneys, LLC,
1325 Main Street, Newberry, South Carolina.

Reported by
Vickie M. Hester

1

APPEARANCES

2

For the Plaintiff:

Plaintiff Appearing Pro Se

3

4

For the Defendant:

Kassi B. Sandifer, Esq.

Morrison Law Firm, LLC

7453 Irmo Drive, Suite B

5

Columbia, South Carolina 29212

6

7

Also present:

Delinda Turner

8

9

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1 A. It's irrelevant. I object once again. It's
2 irrelevant to why we're here. Irrelevant to the
3 reason, the purpose is --

4 Q. No, it's not.

5 A. -- the state claim -- I object. It's irrelevant to
6 why I'm here.

7 Q. Are you going to do this the whole entire time, or
8 are you going to answer my questions that I'm
9 entitled to know?

10 A. I object. It's irrelevant to why we're here.

11 Q. Okay. Are you familiar with the Quick Stop on
12 Peyton Street in Newberry?

13 A. Yes.

14 Q. All right. Do you know who owns that Quick Stop?

15 A. No.

16 Q. All right. Do you recognize the name Shefchick?

17 A. I don't know him.

18 Q. All right. Let me make this an exhibit.

19 (Defendant's Exhibit Number 1

20 Marked)

21 EXAMINATION BY MS. SANDIFER RESUMED:

22 Q. I'm showing you what's been marked as Exhibit 1, if
23 you want to go ahead and take a look at that. Were
24 you involved in an incident at the Quick Stop on
25 October 15th, 2008?

1 A. I don't remember the date. But I recall the
2 incident.

3 Q. Okay. And as a result -- let me go ahead and show
4 you Exhibit 2 of that incident.

5 (Defendant's Exhibit Number 2
6 Marked)

7 EXAMINATION BY MS. SANDIFER RESUMED:

8 Q. You were put on a trespass notice, right?

9 A. Yes.

10 Q. Yes?

11 A. Yes, I was.

12 Q. And that trespass notice was served on you at your
13 home, right?

14 A. I object to leading the plaintiff.

15 Q. Was the trespass notice served on you at your home?

16 A. Once again, I object to leading the plaintiff.

17 Q. That's not a leading question.

18 A. I object -- the plaintiff object on these terms --
19 the deposition on the grounds that it is vague,
20 unclear, unspecific. There's no answer that can be
21 fashioned.

22 Q. Did you receive that trespass notice that's Exhibit
23 2?

24 A. Could you rephrase the question?

25 Q. Did you know -- all right, let's read -- let's read

1 the trespass notice together. It's addressed to
2 you, Anthony Richardson. And it says, "This letter
3 is to advise you, Anthony Richardson, that you are
4 no longer allowed on my property located at 1430
5 Drayton Street," which is the Quick Stop, "in the
6 City of Newberry. Should you violate this notice
7 and visit this property, you will be prosecuted for
8 trespassing after notice." And it's signed. Did
9 you receive this trespass notice?

10 A. I object to you -- rephrase the question you want
11 me to answer first.

12 Q. Yeah. Did you receive this trespass notice, this
13 Exhibit 2? Did you receive this?

14 A. Yes, I received it.

15 Q. Okay. So you knew you were not supposed to go on
16 the property at 1430 Drayton Street in the City of
17 Newberry?

18 A. I don't think I remember exactly. Could --

19 Q. Can you read?

20 A. I object. The question is irrelevant.

21 Q. No, it's not. Can you read? Were you able to read
22 this trespass notice?

23 A. Yeah, I can read. Yes. Yes, I can read it.

24 Q. Okay. So you knew you weren't supposed to go on
25 the property, right?

1 A. I don't quite -- could you clarify your question a
2 little bit? I don't quite understand what -- I
3 object. It's -- to be it's leading the plaintiff.
4 So I object to the question as leading. It's a
5 leading question, trying to lead me to incriminate
6 myself. So I object.

7 Q. Do you agree that this trespass notice that I just
8 showed you as Exhibit 2 says, "This letter is to
9 advise you, Anthony Richardson, that you are no
10 longer allowed on my property located at 1430
11 Drayton, (Quick Stop)" in parentheses, "in the City
12 of Newberry?"

13 A. I object. I asked and answered the question.

14 Q. No, that's a totally different question.

15 A. I object. I asked and answered the question.

16 Q. All right. What does this paragraph -- I'm going
17 to mark it. What does this paragraph right here
18 say? Read that for me.

19 A. I object. You're leading the plaintiff once again.

20 Q. That's not a leading question. What does that that
21 I've marked say on Exhibit 2?

22 A. What does it say? "This letter is advising Anthony
23 Richardson that you are no longer allowed on my
24 property located at 1430 Drayton Street, Quick Stop,
25 in Newberry, South Carolina."

1 Q. Thank you. Did you ever receive any notice that
2 that trespass notice had been withdrawn?

3 A. No.

4 Q. Okay. And is it still active today?

5 A. I don't -- I don't remember.

6 Q. Okay. But you haven't received any notice that
7 it's been withdrawn?

8 A. Once again I object. I asked -- you asked it and I
9 answered the question.

10 (Defendant's Exhibit Number 3
11 Marked)

12 EXAMINATION BY MS. SANDIFER RESUMED:

13 Q. I'm showing you what's been marked as Exhibit 3.
14 And that's another incident report listing you as
15 the subject. And it's dated December 11th, 2012
16 where you were picked up for being on that
17 location. Do you recall being on that location?

18 A. Can you clarify that question?

19 Q. Yeah. Did you go back on the Quick Stop after the
20 trespass notice?

21 A. I object. Multiple questions. I object to
22 compound question.

23 Q. That's not a compound question.

24 A. I object because the question could mean more than
25 one -- or have more than one answer to the

1 Q. Did you ask him anything about this, anything about
2 this agreement?

3 A. No.

4 Q. When you went to the complex on February 20th did
5 you have your ticket with you?

6 A. Yeah.

7 Q. Okay. And that ticket was for trespass after
8 notice?

9 A. Yeah.

10 Q. For being on the Quick Stop property?

11 A. Right, at the Quick Stop store. Correct.

12 Q. Right. Okay. Back in 2012, December 2012?

13 A. I can't remember the date. I -- I can't remember
14 the date, exactly what date I was --

15 Q. Well, the incident report that records the incident
16 says that the trespass after notice was on December
17 11th, 2012.

18 A. Right.

19 Q. Do you dispute that?

20 A. No, I don't dispute that.

21 Q. Okay. Now, did you have to present that ticket to
22 Chief Swindler?

23 A. No.

24 Q. Do you know why he thought that you were going to
25 be found guilty anyway?

1 A. I object. Causing speculation.

2 Q. Okay, so you don't know?

3 A. I object. It cause me to narrate.

4 Q. Okay, I'm showing you again Exhibit 3 which is the
5 incident report. Do you dispute that you were on
6 that property?

7 A. No.

8 Q. And at the time that trespass notice was active?

9 A. I don't know. I don't remember.

10 Q. Well, you hadn't received any notification that
11 that guy had withdrawn it, did you?

12 A. Not that I -- no. Because I -- if -- I don't -- I
13 don't think that -- if he did, I had no knowledge
14 of it, you know.

15 Q. So when you were in Jackie Swindler's office in
16 February 2013 had you represented yourself in legal
17 proceedings before that date?

18 A. Objection. That's irrelevant to why we're here.

19 Q. No, it's not.

20 A. I mean, you're asking me a question, you know,
21 about did I represent myself before. That's
22 irrelevant. I object to it being -- dealing with
23 the issue here. I object to the irrelevancy.

24 Q. Well, it is relevant.

25 A. That's a matter for the court to decide.

1 Tricky is not a ground. And it's not tricky. You
2 say, "Anthony pled guilty to trespassing after
3 notice. Warrant Ticket Number 11842GF." Right?
4 Did you receive a ticket for trespass after notice?

5 A. Yeah.

6 Q. Okay. Do you still have that ticket?

7 A. Yes, I do. But I don't have it on file, no, right
8 here at the deposition.

9 Q. Was there a fine on that ticket?

10 A. I don't -- I don't think I remember. I don't think
11 so. I don't have the ticket handy with me at the
12 moment.

13 Q. All right. Further -- your complaint further
14 states that you filled out a form demanding a jury
15 trial in the presence of Judge Partridge. Did you
16 get a copy of that form?

17 A. In the court system they don't give you copies.
18 You just fill them out, they file them with the
19 Clerk.

20 Q. All right. Explain to the best of your
21 recollection what was on that form.

22 A. Requesting a jury trial. Simple.

23 Q. So was it just, "I request a jury trial," and you
24 check a box or you sign something?

25 A. You go in front of the judge. The just asks you,

1 Q. Tell me what happened that led to you suing Jackie
2 Swindler.

3 A. You asked -- I object. She asked. I answered.
4 Repeated question.

5 Q. All right. Your complaint states that on February
6 2nd, 2013 you were in court before Frank Partridge.
7 Is that true?

8 A. Can you clarify the question?

9 Q. Well, were you in court before Frank Partridge on
10 February 2nd, 2013?

11 A. That's right. Yes.

12 Q. What were you -- what were you there for?

13 A. As written in the complaint, "Anthony pleaded not
14 guilty to trespassing after notice."

15 Q. And did you get a ticket for the charge of trespass
16 after notice?

17 A. I object. It's a tricky question.

18 Q. It's not a tricky question. You said in your
19 complaint -- you've mentioned -- you referenced in
20 the second sentence --

21 A. I object. You asked and I answered you.

22 Q. I haven't -- you haven't answered this question.

23 A. I object. I stated for the record that it was
24 tricky. That is the answer. That's the answer.

25 Q. There's not an objection. That's not a ground.

1 trial?

2 A. Yeah.

3 Q. Okay. Tell me about that process.

4 A. Well, that process is when you appear in front of a
5 judge on the day of on the docket, that you're
6 scheduled to go on the ticket to appear before a
7 judge. When you appear before the judge you -- the
8 judge calls you and asks you how do you plead. You
9 tell him -- he said, "Do you want to plead guilty
10 or not guilty -- guilty or not." I told him not
11 guilty. He said, "How do you wish to -- to plead -
12 -" I mean, "Do you wish to be tried in front of the
13 judge or the juror." I said, "The juror." He
14 said, "Okay, sign off on the paper and we'll send
15 you through the mail when the jury selection will
16 take place." That procedure's been here forever.

17 Q. I know. But what I'm asking you is have you ever
18 represented yourself at trial before?

19 A. I represented myself in another case too presently.

20 Q. Okay. But have you ever gone through the trial
21 process?

22 A. Yes, I have.

23 Q. Okay. Where you were either found guilty, not
24 guilty --

25 A. I mean, it's irrelevant because it's -- I object

1 A. You have this?

2 Q. Yeah, we're going to talk about that.

3 A. Okay.

4 (Defendant's Exhibit Number 5

5 Marked)

6 EXAMINATION BY MS. SANDIFER RESUMED:

7 Q. All right. I'm showing you Exhibit 5. And is that
8 what you just showed me to clarify -- or to explain
9 what after the court date -- your statement, "After
10 the court date was on or about February 10, 2013?"

11 A. I actually received a jury trial letter on February
12 20, 2013 to appear before a jury selection.

13 Q. Okay. I'm going to go ahead and --

14 A. February 20th.

15 (Defendant's Exhibit Number 6

16 Marked)

17 EXAMINATION BY MS. SANDIFER RESUMED:

18 Q. All right. I'm showing you Exhibit 6. Is this
19 what you received?

20 A. "In preparation for a jury trial on the above
21 referenced charge, the Court has scheduled a jury
22 trial selection on February 20th at 2:30 p.m."
23 Yeah.

24 Q. Okay. Now, at this point no trial had been
25 scheduled, right? Just jury selection?

1 because it's irrelevant to -- to why I'm here.

2 Q. Well, no, it's not. I want to make --

3 A. I object. I -- you -- I object. You asked and I

4 answered.

5 Q. Do you know what a jury selection is?

6 A. Yeah.

7 Q. Explain jury selection to me.

8 A. I object. It is argumentative. I object it is

9 argumentative.

10 Q. What -- what do you do --

11 A. Argumentative question.

12 Q. What do you do during jury selection?

13 A. I object. I -- you asked and I answered. Asked

14 and answered the question. I object.

15 Q. Do you know what you do during jury selection?

16 A. Once again I object. You -- you asked and I

17 answered.

18 Q. No, that's a different question.

19 A. I already gave an answer.

20 Q. Do you know what you do during jury selection?

21 A. I object. I -- you asked and I answered.

22 Q. Did you go to the Newberry -- the Public Safety

23 Complex on February 20th, --

24 A. Yeah.

25 Q. -- 2013?

1 A. Yeah.

2 Q. Where did you go?

3 A. To the municipal courtroom at the municipal court
4 complex right down here, Newberry Public Safety
5 Complex.

6 Q. All right. What room did you go to?

7 A. When I entered the room I went to Jackie Swindler's
8 office.

9 Q. So when you entered the complex who was the first
10 person that you saw?

11 A. The lady in the front. I think she's the secretary
12 or the clerk. That's the first lady that I met.
13 She said, "Hold on. Jackie Swindler is the one
14 that conducts jury selection." Said, "He will be
15 out in a moment." I waited there until he came
16 out. He took me back to the back of his office.

17 Q. All right. Tell me what happened.

18 A. Went back to the back of his office. He stated to
19 me these words, that I should waive the jury and,
20 "You're not going to win the jury anyway. So
21 therefore, I'm going to --" let me find my paper
22 here "-- get you to sign off on this paper. I'm
23 going to get you to plead guilty and agree that
24 you'll pay \$250." And I said, "Okay, I will pay
25 you March the 15th, 2013," on record. I signed my

1 A. My question -- your answer and question state the
2 same I said five minutes ago. You asked me what I
3 did when I went into the office. I told you
4 earlier. You're -- you asking -- I object to the
5 asked and answered the question.

6 Q. You told me what he said. You haven't told me
7 anything that you said. And I'm entitled to know
8 the whole conversation from your point of view.

9 A. According to Exhibit 7, after he wrote, "I plead
10 guilty and agree to pay \$250, I will pay by March,"
11 I signed the form.

12 Q. Did you ask him any questions?

13 A. Did I ask him any questions? Could you clarify
14 that, rephrase that a little?

15 Q. Yeah. I mean, here -- did you know what you were
16 signing?

17 A. According to Exhibit 7, "I agree -- I plead guilty
18 and agree to pay \$250, I will pay by March 15th,
19 2013."

20 Q. Right. Did you understand what that was saying?

21 A. My signature.

22 Q. I understand that your --

23 A. Clarify did I understand what I was reading.

24 Q. Okay.

25 A. Yeah.

1 Q. Okay. So you didn't get the bench warrant --

2 A. In my hand, no. He -- after I had talked to him,

3 you know, he told me, said, "Look, you can turn

4 yourself in or however, you know, but you've got

5 two choices, turn yourself in or pay the money."

6 So I ended up paying the money. But he came to the

7 laundromat looking for me. That how I knew that he

8 had a bench warrant for my -- after I called him on

9 the phone at the -- through the city dispatch.

10 Q. Okay. So did you physically go pay the \$250?

11 A. I sent my wife and my mother.

12 Q. All right.

13 A. And once they paid it, and then that's when they

14 brought me the ticket and said, "You have the proof

15 that you paid it. That what lift the bench warrant

16 off of you."

17 (Defendant's Exhibit Number 8

18 Marked)

19 EXAMINATION BY MS. SANDIFER RESUMED:

20 Q. All right, this is Exhibit 8. Is that what she

21 brought you, the receipt for the payment?

22 A. No, because I don't see the number on here. I

23 don't think this is right.

24 Q. That's not right.

25 A. This is something else. I don't know what that is.

1 I appeared at the jury selection, once again, Mr.
2 Swindler had stated to me that the jury selection
3 had -- he waived the jury selection in his words.
4 "There won't be no jury because you're not going to
5 win anyway." This is verbally what he's saying.
6 What -- my intention was to come on February the
7 20th to be at the jury selection, to -- to clarify
8 your question.

9 Q. How long -- when you -- after you got there how
10 long did you have to wait for Chief Swindler to
11 come out?

12 A. Well, I object. I don't want to do hypothetically.

13 Q. Was it a long time.

14 A. Because I object to -- to speculation.

15 Q. So you're saying --

16 A. I don't want speculation.

17 Q. -- you can't remember exactly. And I don't care
18 exact.

19 A. I do not -- I object to -- I do not remember
20 exactly because -- I object. I do not want to
21 speculate.

22 Q. Do you recall whether it was a long time? If you
23 sit here and think back, do you think it was a very
24 long time that you had to wait?

25 A. Once again I objection, causing me to speculation -

1 Q. Okay. The document says, "I plead guilty." Did
2 you intend to plead guilty?

3 A. Did I intend to plead guilty? According to what
4 Jackie Swindler wrote. I was intending to have a
5 jury trial which I filed in front of Jackie
6 Swindler requesting a jury trial written in
7 documents. I don't know why you don't have that in
8 a exhibit right now when I filed the form to
9 request a jury selection I have not yet received
10 through discovery.

11 Q. Well, why did you then plead guilty instead of
12 asserting your right to a jury trial?

13 A. I object to the question. Lack of foundation.

14 Q. You can still answer.

15 A. Could you rephrase -- rephrase the question?

16 Q. Instead of signing this agreement why didn't you
17 assert your right to a jury trial?

18 A. My intention was when I first -- when I first
19 received the letter in the exhibit to attend a jury
20 selection. This right here was never on my mind to
21 even plead guilty in front of the chief of police.
22 I was expecting a jury selection which is normal
23 process when he stated to me inside to fill the
24 form out, that, "We will notify you through mail
25 when a jury will be selected." My intention was

1 never to - to plead guilty. That was his decision.
2 When I approached the desk at the complex, Jackie
3 Swindler is the one that handled the jury
4 selection. Then after a period of time, I can't
5 give you exact time, he told me to come back to the
6 back of his office. And that's when he stated to
7 me that, "Well, you're not going to win the jury
8 trial anyway, so I done waived it for you. So you
9 just sign right here. I'm going to give you to
10 dah, dah, dah, dah, dah." He signed it and signed
11 this thing saying that you agree to what I wrote.
12 My document speaks for itself. That document does.

13 Q. So why didn't you -- well, what did you say in
14 response to that? Did you say anything to him?

15 A. No. Other than I signed. Only response I got from
16 him is I signed my name after he signed his name.

17 Q. Okay. Why did you sign that document?

18 A. Because we was in his office. He asked me -- once
19 again, he stated to me I would plead guilty -- for
20 the record, it's written on regular paper with his
21 signature in Exhibit 7 exhibit.

22 Q. You don't seem to --

23 A. The document speak for itself.

24 Q. You don't seem to me to be shy about asserting your
25 rights. So why didn't you say, "I have a right to

1 Q. Okay. But wait, now. You've seen him do jury
2 selection before?

3 A. Right. I've seen him do it numerous times.
4 Actually I done been down there before and I done
5 watched him conduct jury selections numerous times.

6 Q. Okay. Tell me how that process works when he
7 conducts it.

8 A. Well, legally he don't supposed to conduct it
9 anyway. But he selects the people. He calls the
10 jury in. He sits it down and start at the public
11 complex and say, you know -- sits right here in a
12 regular desk and say, "You select -- you have the
13 right as pro se to select your people -- six people
14 to dah, dah, dah, dah, dah." No judge present.

15 Q. Okay. So but he --

16 A. I done watched him do it. But since we did not
17 make it to that part because he voluntarily waived
18 my rights and signatures, documents before himself.
19 And I haven't got all my discovery from you all. I
20 can't really present something that I don't have.

21 Q. Okay. Do you know Chief Swindler aside from this
22 encounter you had with him on February 20th?

23 A. Your question lacks foundation. Can you rephrase
24 that? I object.

25 Q. Before February 20th, 2013 did you know Chief

1 Anthony Richardson and canceling my jury trial and
2 conduct a jury selection without a judge is clearly
3 misconduct of a police officer under the equal
4 protection of the law is clearly violated."

5 Q. But you all didn't have --

6 A. And numerous other things.

7 Q. But you all didn't have a jury selection?

8 A. He violated my right to a jury selection in waiving
9 -- which I am entitled to. At that time I was a
10 criminal, which I'm entitled to the right to a jury
11 trial selection. Which is a fact. The document
12 speaks for itself. I object. The document speaks
13 for itself. And I object that I don't have to
14 really plead my case in a deposition. I have to
15 plead my case in the trial.

16 Q. No. Again, you have to let us know your --

17 A. Grounds?

18 Q. -- grounds for why you think you're entitled to
19 four million dollars. And you can object, which
20 you've done. But you still have to answer.

21 A. "The jurisdictional line is the provision in South
22 Carolina 22-3-550 or both. All offenses falling
23 below the line are the jurisdiction of the
24 magistrate and implication municipal court where
25 one distinct set of procedures is used and all

1 offenses above this line are within the
2 jurisdiction of the circuit courts where another
3 set of this procedure is used. The procedure used
4 in this court higher than magistrate's court and
5 municipal court is not discussed in this book. The
6 procedure which magistrates use is a summary
7 procedure. The General Assembly has adopted this
8 definition." You can finish reading it. The
9 document speaks for itself.

10 Q. All right. Now, what are your actual damages? I
11 know that you paid \$250. Is there any -- do you
12 have any other actual damages?

13 A. Constitutional violation. Basically in the factual
14 background specifically tells you -- states the
15 official reason why I'm suing for that amount. I
16 mean, where it's a Constitutional violation I
17 believe I can sue whatever amount I desire to sue
18 for. If I can prove within a court of law that it
19 is a clearly Constitution established statutory
20 violation, then I'm entitled to -- it all depends
21 on what the jury awards the plaintiff with.

22 Q. Okay. But what I want to know is aside from the
23 \$250 and the Constitutional violation, how -- how
24 else have you been damaged?

25 A. "Anthony Richardson was deprived of his right to a

1 trial and to be tried by an impartial jury. Chief
2 of Police Jackie Swindler has constituted judicial
3 misconduct and police have no reason to sentence me
4 at all, even in a jury selection on 2/20/2013
5 because he is not a judge and only a judge can
6 sentence or even conduct a jury selection. It is
7 the duty of the judge to protect citizens against
8 improper and unwarranted control. No person shall
9 be deprived of life, liberty or property without
10 due process of the law (U.S. Constitution, Fifth
11 Amendment). Constitutional rights violations
12 committed by chief of police include right to a
13 lawyer, right to cross examination, right to
14 confront a witness, right to use court subpoena
15 power to compel a witness to testify, right to a
16 jury trial and presumption of innocence. Defendant
17 acted with malice or with reckless indifference to
18 federal protected rights on an aggrieved
19 individual. South Carolina Section 15-78-70
20 provides that government employees may be liable in
21 tort actions."

22 Q. You don't think Jackie Swindler owed you an
23 attorney, do you?

24 A. I object to hypothetical or speculation in your
25 question.

1 Q. I think that's --

2 A. Oh, that's Common Pleas Court. Okay.

3 Q. Yeah.

4 A. No, this is not it. I know the ticket number is
5 the same thing on this one. I don't think that's
6 the ticket number on it. If it don't match the
7 ticket number, that's not it.

8 Q. Here we go.

(Defendant's Exhibit Number 9
Marked)

10
11 EXAMINATION BY MS. SANDIFER RESUMED:

12 Q. Is this what she brought you?

13 A. Yes, this is -- I think this is it. Like I don't
14 see the ticket number on it to really classify it
15 as the exact -- but it appear to be the same.

16 Q. Okay. I think the ticket number is right there.

17 A. Oh, yeah, I see it now. Yeah, that's it. This is
18 it then. All right.

19 Q. Okay. Do you have an appeal on file regarding this
20 matter, this -- your -- your pleading guilty?

21 A. Yeah.

22 Q. Okay.

23 A. And it's about to be overturned, yeah.

24 Q. Okay. Is an attorney handling that for you?

25 A. Yeah.

1 Q. All right. And can you tell me the grounds that
2 you're appealing it on? Is it post conviction
3 relief?

4 A. Well, that's -- I object because that's client and
5 -- privileged -- client and attorney privileged.

6 Q. No, I don't want to know what you all have --

7 A. That's irrelevant. I object for the record.
8 Attorney/client privilege for the trial in court.

9 Q. I don't want to know what you all have talked
10 about. Is it classified as post conviction relief?
11 Do you know?

12 A. It's PCR.

13 Q. Okay.

14 A. Right.

15 Q. Do you know what stage that appeal is in?

16 A. Once again, I object. It's attorney/client
17 privilege. You have to call my attorney.

18 Q. You don't know. Okay, that's fine.

19 A. Right. Call my attorney that's representing me in
20 the case.

21 Q. Now, your complaint alleges that you're seeking
22 four million dollars for this lawsuit.

23 A. Yeah.

24 Q. Why do you think you're entitled to four million
25 dollars?

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STATE OF SOUTH CAROLINA)

COUNTY OF NEWBERRY)

IN THE COURT OF COMMON PLEAS

C/A #: 13-CP-36-00321

Anthony Derone Richardson,)

Plaintiff,)

v.)

Jackie Swindler, Chief of Police,)
Newberry County Municipal Police,)

Defendant.)

**DEFENDANT'S MEMORANDUM IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT**

This memorandum is filed in support of Defendant Jackie Swindler's Motion for Summary Judgment previously filed with the Court.

I. FACTUAL BACKGROUND

On or about October 15, 2008, the Plaintiff was involved in an incident that occurred at Quick Stop located at 1430 Drayton Street in Newberry, South Carolina. (Deposition of Anthony Richardson, ("Plaintiff's Dep.," pp. 7-8)).¹ As a result of the incident, the owner of the establishment placed the Plaintiff on a trespass notice, which the Plaintiff admittedly received. (Plaintiff's Dep., p. 9); (See also, Trespassing Notice, Exhibit 2 to Plaintiff's Dep., attached hereto as Exhibit 2). In the notice, the owner of Quick Stop informed the Plaintiff that he was no longer allowed on the property located at 1430 Drayton Street, Newberry, South Carolina known as Quick Stop. (Plaintiff's Dep., p. 10); (See also, Exhibit 2).

Although the Plaintiff never received notification that the trespass notice had been withdrawn, he returned to the Quick Stop property on or about December 11, 2012. (Plaintiff's Dep., pp. 11, 33-34). The Plaintiff was consequently issued a citation for trespass after notice.

¹ All excerpts from the Deposition of Anthony Richardson are attached hereto as Exhibit 1).

(Plaintiff's Dep., pp. 21, 33); (*See also*, City of Newberry Incident Report, Exhibit 3 to Plaintiff's Dep., attached hereto as Exhibit 3).

On or about February 2, 2013, the Plaintiff appeared before Judge Partridge and pled not guilty to the offense of trespass after notice and requested a jury trial. (Plaintiff's Dep., pp. 20-21, 25). The Plaintiff received a letter to appear at the Public Safety Complex on February 20, 2013 at 2:30 p.m. for jury selection. (Plaintiff's Dep., p. 23); (*See also*, Letter dated February 7, 2013 from Cella Dodgen to the Plaintiff, Exhibit 6 to Plaintiff's Dep., attached hereto as Exhibit 4). The Plaintiff appeared at the Public Safety Complex and met with Chief Swindler. (Plaintiff's Dep., pp. 26-27). The events that occurred during that meeting are disputed. However, it is undisputed that the Plaintiff signed a form pleading guilty and agreeing to pay \$250.00 by March 15, 2013. (Plaintiff's Dep., p. 32); (*See also*, Exhibit 7 to Plaintiff's Dep., attached hereto as Exhibit 5).

The Plaintiff did not pay the \$250.00 fine for his trespass after notice offense, and the City of Newberry sent the Plaintiff a notice advising that his payment was delinquent and that failure to make the payment in ten days would result in the issuance of a bench warrant against him. (Exhibit 5 to Plaintiff's Dep., attached hereto as Exhibit 6). The Plaintiff ultimately paid the fine on May 6, 2013 after learning a bench warrant had been issued against him. (Plaintiff's Dep., p. 62); (*See also*, Exhibit 9 to Plaintiff's Dep., attached hereto as Exhibit 6).

On June 24, 2013, the Plaintiff filed a Complaint against Chief Swindler pursuant to 42 U.S.C. §1983 alleging that Chief Swindler violated his procedural due process right to a jury trial by "waiving" that right on behalf of the Plaintiff. (*See* Plaintiff's Complaint); (*See also*, Plaintiff's Dep., pp. 30, 50-51, 53, 66-68). However, sometime within one month before or after filing his Complaint in civil court, the Plaintiff also filed a petition for post conviction relief

arising out of the alleged procedural due process violation and subsequent conviction. (Plaintiff's Dep., pp. 63-64). The Plaintiff's appeal is still pending. The Defendant moves for summary judgment on the grounds that there is no deprivation of the Plaintiff's right to a jury trial and that the Plaintiff is barred from bringing the present civil suit unless and until his conviction is overturned.

II. ARGUMENT

A. *THE PLAINTIFF HAS NOT SUFFERED AND WILL NOT SUFFER A DEPRIVATION OF HIS RIGHT TO A JURY TRIAL.*

The Plaintiff filed a petition for post conviction relief contesting his conviction in the underlying criminal case, and the appeal is currently pending. The Plaintiff's appeal challenges the process by which his criminal conviction was obtained; specifically, whether his right to a jury trial was violated. That is the exact issue that forms the basis of the present civil lawsuit he filed in State Court pursuant to 42 U.S.C. § 1983. However, because the issue is currently under appeal, there has not been a deprivation of the Plaintiff's right to a jury trial at this time. Furthermore, regardless of whether or not the Court of Appeals determines the Plaintiff's right to a jury trial was violated, there still will be no deprivation of the right to a jury trial. If the Court of Appeals determines the Plaintiff was entitled to a jury trial in the underlying criminal case, he will be allowed to have a jury trial on the matter.

If, on the other hand, the Court of Appeals determines he was not entitled to a jury trial, then there can be no deprivation of a right to which he was not entitled. In other words, depending on the determination of the Court of Appeals, the Plaintiff will either get the remedy he is seeking, which is his right to a jury trial, or the conviction will stand, which is tantamount to a determination that there was no violation of his right to a jury trial. In either event, there is no deprivation of his right to a jury trial.

B. THE PLAINTIFF'S CLAIM PURSUANT TO 42 U.S.C. §1983 FOR VIOLATION OF HIS DUE PROCESS RIGHT TO A TRIAL BY JURY IS BARRED BY HECK V. HUMPHREY

The Plaintiff's claim is barred by *Heck v. Humphrey*, 517 U.S. 477 (1994). The Plaintiff filed his Complaint pursuant to 42 U.S.C. § 1983 for the alleged violation of his procedural due process right to a jury trial. He is seeking monetary damages in the amount of \$4,000,000 for this alleged violation. In *Heck*, the United States Supreme Court held that:

[i]n order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a §1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus. A claim for damages bearing relationship to a conviction or sentence that has not been so invalidated is not cognizable under § 1983.

512 U.S. @486-87. The Supreme Court established a test to determine the appropriateness of the dismissal of a § 1983 suit seeking damages. When damages in a § 1983 are being sought, the Court "must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated." *Id.* However, if the Court determines that, even if successful, the plaintiff's action will not demonstrate the invalidity of any outstanding criminal judgment against the plaintiff, the action should be allowed to proceed, in the absence of some other bar to the suit. *Id.*

The Supreme Court's ruling echoes the "strong judicial policy against the creation of two conflicting resolutions arising out of the same or identical transaction." *Id.* at 485. Furthermore, it prevents a convicted criminal defendant the opportunity to collaterally attack the conviction by way of civil suit. *Id.*

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Anthony Derone Richardson,

Plaintiff,

v.

Jackie Swindler, Chief of Police,
Newberry County Municipal Police,

Defendant.

IN THE COURT OF COMMON PLEAS

C/A #: 13-CP-36-00321

CERTIFICATE OF SERVICE
RECEIVED

JAN 06 2016

SC Court of Appeals

The undersigned employee of Morrison Law Firm, LLC, attorney for the Defendant does hereby certify that service of the **Defendant's Memorandum In Support of Motion and Motion for Summary Judgment** in the above-captioned action was made upon all counsel of record by placing same in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 5th day of September, 2014, addressed as follows:

Anthony Derone Richardson
914 Gray Street
Newberry, South Carolina 29108

Callie M. Morrison

Callie M. Morrison

Columbia, South Carolina

1

APPEARANCES

2

For the Plaintiff:

Plaintiff Appearing Pro Se

3

4

For the Defendant:

Kassi B. Sandifer, Esq.

Morrison Law Firm, LLC

7453 Irmo Drive, Suite B

5

Columbia, South Carolina 29212

6

7

Also present:

Delinda Turner

8

9

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10 Examination by Ms. Sandifer:

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Defendant's Exhibit No. 1, 10/15/08 Incident Report.

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8

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11

16

17

Defendant's Exhibit No. 4, Complaint.

14

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Defendant's Exhibit No. 5, Letter from City of Newberry Regarding Delinquent Payment.

23

19

Defendant's Exhibit No. 6, Letter Regarding Jury Selection.

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Defendant's Exhibit No. 7, Handwritten Statement.

28

22

Defendant's Exhibit No. 8, 6/24/13 Receipt for Payment of Fine.

62

23

24

Defendant's Exhibit No. 9, 5/8/13 Receipt for Payment of Fine.

63

25

CITY OF NEWBERRY
1507 NANCE STREET
NEWBERRY SC 29108

Receipt Number: 48896

Date Paid: 05/06/2013

Paid By: ANTHONY DEROME RICHARDSON

Paid With: Cash ☒ M.O. ☐ Check ☐ Other ☐ Credit Card ☐ ☐ Visa ☐ American Express
Card # / Description: ☐ MasterCard ☐ Discover

Total Amount Applied: 250.00

Applied To	Number	Trial Date
T Traffic Ticket	11842GF	02/20/2013

Traffic Code:NT Statute: 00-00-0000 / 11-15
TRESPASS AFTER NOTICE

Received By: MARY

Date: 05/06/2013

Balance at Time of Receipt: 0.00

INDEX: 2 - Pg: 2

Appendix A

I plead guilty
and agree to pay
\$2500
by March 15, 2013

116

Jackie Bowers

JACQUE S. BOWERS
CLERK OF COURT

2013 JUN 24 PM 12 24

FILED
NEWBERRY COUNTY

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EXHIBIT #1

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry
County Municipal Police*

Case Number: 13-CP-36-00321

AGENCY I.D.
SC0360100

CITY OF NEWBERRY
INCIDENT REPORT

CASE NUMBER

2012-10708

NCIC

INQ. X
ENTD.

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. 90J - TRESPASS OF REAL PROPERTY	☒ YES ☐ NO	☐ YES ☐ NO	07		☒ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
2.	☐ YES ☐ NO	☐ YES ☐ NO			
3.	☐ YES ☐ NO	☐ YES ☐ NO			

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE		WEAPON TYPE									
1430 DRAYTON STREET (QUICK STOP), NEWBERRY SC				29108											
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME	LOCATION NO.						
12/11/2012	1656		12/11/2012	1715	12/11/2012	1656	1656	1715	4						
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE			
LOYNES, MAJOR LESLIE			ST			0	S	O	U	B	M	00	N		
ADDRESS			CITY			STATE		ZIP CODE		LOCATION NO.					
1507 NANCE ST			NEWBERRY			SC		29108		99					

VICTIM'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE			
SHEFCHICK, MICHAEL J						J	S	O	U	W	M	46	N	(803) 321-0105H	944-1007B
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.											
6-1	201	BLK	BRO												
ADDRESS			CITY			STATE		ZIP CODE		LOCATION NO.					
380 WYSES FERRY RD			PROSPERITY			SC		29127		99					

VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO EXPLAIN -													
VICTIM (NO. 1) USING: ALCOHOL: ☐ YES ☒ NO ☐ UNK. DRUGS: ☐ YES ☒ NO ☐ UNK.													
☐ TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED J - This Jurisdiction S - State O - Out of State U - Unknown													
☒ SUSPECT SUBJECT NAME (LAST, FIRST, MIDDLE) RACE SEX AGE ETH DATE OF BIRTH HEIGHT WEIGHT HAIR EYES													
RICHARDSON, ANTHONY DEROME B M 39 N 07/24/1973 5-10 235 BLK BRO													
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.													
POSSIBLY AT 510 BOUNDARY ST													
ADDRESS			CITY			STATE		ZIP CODE		LOCATION NO.			
914 GRAY ST			NEWBERRY			SC		29108		99			
JAIL SUBJECT (NO. 1) USING: ALCOHOL: ☐ YES ☒ NO ☐ UNK. ARRESTED NEAR OFFENSE SCENE ☒ YES ☐ NO DATE/TIME OF OFFENSE DATE/TIME OF ARREST													
DRUGS: ☐ YES ☒ NO ☐ UNK. TYPE: TOTAL # ARRESTED 1 12/11/2012 1656 12/11/2012 1702													

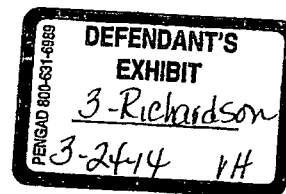
Offenses:
TRESPASS OF REAL PROPERTY

WHILE ON PATROL ON DRAYTON STREET AND THE CORNER OF CROSSON STREET I NOTICED AN INDIVIDUAL FAMILIAR TO ME BY THE NAME (ANTHONY DERONE RICHARDSON) STANDING IN THE PARKING AREA IN FRONT OF THE QUICK STOP CONVENIENCE STORE.

I ALSO KNOWN MR RICHARDSON TO HAVE AN ACTIVE TRESPASS NOTICE AT THAT LOCATION. I HAD POLICE OFFICIALS VERIFY THE NOTICE ON MR RICHARDSON (STATUS ACTIVE).

I THEN APPROACHED MR RICHARDSON AND INFORMED HIM HE WAS UNDER ARREST FOR TRESPASS. MR RICHARDSON WAS HANDCUFFED DOUBLE LOCKED. THE SEARCHED INCIDENT TO ARREST (NO CONTRABAND FOUND).

I THEN TRANSPORTED MR RICHARDSON TO THE N.C.D.C WHERE HE ISSUED A CITATION.



				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
								TOTAL VALUE			
PROPERTY	TYPE (GROUP)										
	Burned										
	Count/Forged										
	Dist/Damaged										
	Recovered										
	Seized										
Type	Stolen										
	Unknown										
SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE		ADM. CLOSED		ARRESTED UNDER 18		EX-CLEAR UNDER 18	
☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☐ UNFOUNDED		☒ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY											
REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		UNIT NUMBER	
MAJOR LOYNES		12/11/2012		332		MIKE WOOD		12/11/2012		319	
						FOLLOW-UP INVESTIGATION OFFICER					
						☐ YES ☐ NO					

EXHIBIT #2

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry
County Municipal Police*

Case Number: 13-CP-36-00321

1 State of South Carolina)
2 County of Newberry)
3) 13-CP-36-00321
4 Anthony Derone Richardson,)
5 Plaintiff,)
6 vs.) Deposition
7 Jackie Swindler, Chief of) of
8 Police, Newberry County) Anthony Richardson
9 Municipal Police,)
10 Defendant.)

10 Deposition of Anthony Richardson, taken before
11 Vickie M. Hester, a notary public in and for the State
12 of South Carolina, commencing at the hour of 10:07 a.m.,
13 Monday, March 24, 2014, at Lake & Lake Attorneys, LLC,
14 1325 Main Street, Newberry, South Carolina.

15
16 Reported by
17 Vickie M. Hester
18
19
20
21
22
23
24
25

1 APPEARANCES

2 For the Plaintiff: Plaintiff Appearing Pro Se

3 For the Defendant: Kassi B. Sandifer, Esq.
4 Morrison Law Firm, LLC
5 7453 Irmo Drive, Suite B
6 Columbia, South Carolina 29212

7 Also present: Delinda Turner

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10 Stipulations: 3
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15 Defendant's Exhibit No. 3, 12/11/12 Incident Report. 11
16 Defendant's Exhibit No. 4, Complaint. 14
17 Defendant's Exhibit No. 5, Letter from City of Newberry Regarding Delinquent Payment. 23
18 Defendant's Exhibit No. 6, Letter Regarding Jury Selection. 23
19 Defendant's Exhibit No. 7, Handwritten Statement. 28
20 Defendant's Exhibit No. 8, 6/24/13 Receipt for Payment of Fine. 62
21 Defendant's Exhibit No. 9, 5/8/13 Receipt for Payment of Fine. 63
22
23
24
25

TRESPASSING NOTICE

TO: Anthony Richardson

ADDRESS: 521 Brantley St.
Newberry SC 29105

FROM: 1430 Prayton St.

DATE: 10-15-08

This letter is to advise you, Anthony Richardson,
that you are no longer allowed on my property located at 1430 Prayton
(Quick Stop), in the City of Newberry.

Should you violate this notice and visit this property, you will be prosecuted
for Trespassing After Notice.

Ming D. H. H.

Sworn to and subscribed before more
this 15th day of October, 20 08.

R. H. H.
Notary Public for South Carolina
My Commission Expires: 5-23-2018

SERVED BY: R. H. H.

DATE SERVED: 10-15-08

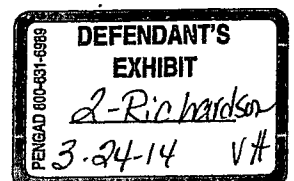


EXHIBIT #3

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry
County Municipal Police*

Case Number: 13-CP-36-00321



Southern Reporting, Inc.

Transcript of the
Deposition of

Anthony Richardson

3/24/2014

Richardson vs. Swindler, et al
13-CP-36-00321

COPY

Southern Reporting, Inc.

Phone: 803.749.8100

Fax: 803.749.9991

Email: Depos@southernreporting.net

1 State of South Carolina)
2 County of Newberry)
3) 13-CP-36-00321
4 Anthony Derone Richardson,)
5 Plaintiff,)
6 vs.) Deposition
7 Jackie Swindler, Chief of) of
8 Police, Newberry County) Anthony Richardson
9 Municipal Police,)
10 Defendant.)

11 Deposition of Anthony Richardson, taken before
12 Vickie M. Hester, a notary public in and for the State
13 of South Carolina, commencing at the hour of 10:07 a.m.,
14 Monday, March 24, 2014, at Lake & Lake Attorneys, LLC,
15 1325 Main Street, Newberry, South Carolina.

16 Reported by
17 Vickie M. Hester
18
19
20
21
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24
25

1

APPEARANCES

2

For the Plaintiff:

Plaintiff Appearing Pro Se

3

4

For the Defendant:

Kassi B. Sandifer, Esq.

Morrison Law Firm, LLC

7453 Irmo Drive, Suite B

5

Columbia, South Carolina 29212

6

7

Also present:

Delinda Turner

8

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Stipulations:

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Examination by Ms. Sandifer:

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8

15

Defendant's Exhibit No. 3, 12/11/12 Incident Report.

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17

Defendant's Exhibit No. 4, Complaint.

14

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19

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23

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Defendant's Exhibit No. 7, Handwritten Statement.

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Defendant's Exhibit No. 8, 6/24/13 Receipt for Payment of Fine.

62

23

Defendant's Exhibit No. 9, 5/8/13 Receipt for Payment of Fine.

24

63

25

AGENCY I.D.
SC0360100

CITY OF NEWBERRY
INCIDENT REPORT

CASE NUMBER

2,0,1,2,-1,0,7,0,8

NCIC

INQ. X ENTD.

E V E N T	INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM ☒ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
	1. 90J - TRESPASS OF REAL PROPERTY				☒ YES ☐ NO	☐ YES ☐ NO	07		
	2.				☐ YES ☐ NO	☐ YES ☐ NO			
	3.				☐ YES ☐ NO	☐ YES ☐ NO			
V I C T I M	INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)							ZIP CODE	WEAPON TYPE
	1430 DRAYTON STREET (QUICK STOP), NEWBERRY SC							29108	
	INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK		LOCATION NO.	
	12/11/2012	1656		12/11/2012	1715	DISP. DATE	DISP. TIME	TIME ARRIVED	
					12/11/2012	1656	1656	1715	
	COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	
	LOYNES, MAJOR LESLIE				ST		SO	U	
	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	
	1507 NANCE ST				NEWBERRY	SC	29108		
	VICTIM'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	
SHEPCHICK, MICHAEL J					SO	U	W		
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
6-1	201	BLK	BRO						
ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.		
380 WYSES FERRY RD				PROSPERITY	SC	29127	99		
#	VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO EXPLAIN -								
	VICTIM (NO. 1) USING: ALCOHOL: ☐ YES ☒ NO ☐ UNK. DRUGS: ☐ YES ☒ NO ☐ UNK.								
	☐ TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED J - This Jurisdiction 8 - State O - Out of State U - Unknown								
	S U B J E C T	SUBJECT NAME (LAST, FIRST, MIDDLE)				RACE	SEX	AGE	ETH.
		RICHARDSON, ANTHONY DEROME				B	M	39	N
		FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
		POSSIBLY AT 610 BOUNDARY ST							
	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	
	914 GRAY ST				NEWBERRY	SC	29108	99	
	SUBJECT (NO. 1) USING: ALCOHOL: ☐ YES ☒ NO ☐ UNK. ARRESTED NEAR OFFENSE SCENE ☒ YES ☐ NO				DATE/TIME OF OFFENSE		DATE/TIME OF ARREST		
DRUGS: ☐ YES ☒ NO ☐ UNK. TYPE:				TOTAL # ARRESTED		12/11/2012 1656 12/11/2012 1702			

Offenses:

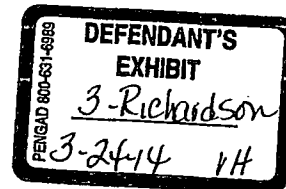
TRESPASS OF REAL PROPERTY

WHILE ON PATROL ON DRAYTON STREET AND THE CORNER OF CROSSON STREET I NOTICED AN INDIVIDUAL FAMILIAR TO ME BY THE NAME (ANTHONY DERONE RICHARDSON) STANDING IN THE PARKING AREA IN FRONT OF THE QUICK STOP CONVENIENCE STORE.

I ALSO KNOWN MR RICHARDSON TO HAVE AN ACTIVE TRESPASS NOTICE AT THAT LOCATION. I HAD POLICE OFFICIALS VERIFY THE NOTICE ON MR RICHARDSON (STATUS ACTIVE).

I THEN APPROACHED MR RICHARDSON AND INFORMED HIM HE WAS UNDER ARREST FOR TRESPASS. MR RICHARDSON WAS HANDCUFFED DOUBLE LOCKED. THE SEARCHED INCIDENT TO ARREST (NO CONTRABAND FOUND).

I THEN TRANSPORTED MR RICHARDSON TO THE N.C.D.C WHERE HE ISSUED A CITATION.



				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
P R O P E R T Y	TYPE (GROUP)										TOTAL VALUE
	Burned										
	Count/Forged										
	Dest/Damaged										
	Recovered										
	Seized										
M I N I S T	SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER		
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY										
REPORTING OFFICER(S)				DATE		UNIT NUMBER		APPROVING OFFICER			
MAJOR LOYNES				12/11/2012		332		MIKE WOOD			
								DATE			
								12/11/2012			
								UNIT NUMBER			
								319			
								FOLLOW-UP INVESTIGATION OFFICER			
								☐ YES ☐ NO			

EXHIBIT #4

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry
County Municipal Police*

Case Number: 13-CP-36-00321

1 State of South Carolina)
2 County of Newberry)
3) 13-CP-36-00321
4 Anthony Derone Richardson,)
5)
6 Plaintiff,)
7) Deposition
8 vs.)
9) of
10 Jackie Swindler, Chief of)
11 Police, Newberry County) Anthony Richardson
12 Municipal Police,)
13 Defendant.)
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Deposition of Anthony Richardson, taken before
Vickie M. Hester, a notary public in and for the State
of South Carolina, commencing at the hour of 10:07 a.m.,
Monday, March 24, 2014, at Lake & Lake Attorneys, LLC,
1325 Main Street, Newberry, South Carolina.

Reported by
Vickie M. Hester

1

APPEARANCES

2

For the Plaintiff:

Plaintiff Appearing Pro Se

3

4

For the Defendant:

Kassi B. Sandifer, Esq.

Morrison Law Firm, LLC

7453 Irmo Drive, Suite B

5

Columbia, South Carolina 29212

6

7

Also present:

Delinda Turner

8

9

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11

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19 Defendant's Exhibit No. 4, Complaint.

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Payment of Fine.

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29 Defendant's Exhibit No. 9, 5/8/13 Receipt for
Payment of Fine.

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STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS
COUNTY OF Newberry

Anthony Derone Richardson

2013-CP-36-00321

Summons and Complaint &

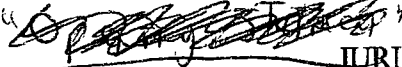
Plaintiff(s)

Appendix A, B, C

Vs.

Jackie Swindler,
Chief Of Police,
Newberry County Municipal Police

Defendant(s)



JURISDICTIONAL BASIS:

Plaintiff claims federal jurisdiction pursuant to Article III § 2 which extends the jurisdiction to cases arising under the U.S. Constitution.

Plaintiff brings this suit pursuant to Title 42 U.S. Code § 1983 for violations of certain protections guaranteed to him by the Fifth Amendment, Sixth and Fourteenth Amendments of the federal Constitution Right to Due Process, by the defendant under color of law in his/her capacity as a Chief Of Police in the County of Newberry.

Plaintiff brings this action against (Jackie Swindler), Chief of Police, pursuant to Title 42 U.S.C. §1983, the challenged conduct must be committed "under color of law." This means that the defendant must have acted in an official, government capacity, clothed with the authority of the state, in order to be held liable. Miga v. City of Holyoke, 398 Mass. 343 (1986). Since cities and towns derive their authority from the state, local government actors are deemed to act "under color of law" whenever they commit acts within their official capacity.

Title 42 U.S. Code § 1983 reads as follows:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Chief of police Jackie Swindler engage in misconduct in acting as a Judge in conducting a bench trial and sentencing Plaintiff on 2/20/2013 to 250.00 Or thirty days in Jail, wavering plaintiff jury trial, and violating plaintiff right to confront witness, abuse his power, violating plaintiff right to be tried by fair and impartial juror, Chief of police had a bench warrant issued signed by Judge Frank Partridge to have me arrested illegally however the bench warrant is invalid when a chief of police conducts a bench trial, and denied the plaintiff the right to a public trial and denial of equal protection under the Fourteenth Amendment. Chief of Police violated my Right to Compel the Attendance of Witnesses (See S.C. Const. Art. I, §14, Right To Trial by Impartial Jury (See S.C. Const. Art. I, §13, Right of Confrontation. It is a crime for one or more persons acting under color of law willfully to deprive or conspire to deprive another person of any right protected by the Constitution or laws of the United States. (18 U.S.C. §§ 241, 242). Chief of police one or more persons *acting under color of law* willfully to deprive or conspire

FILED
NEWBERRY COUNTY
2013 JUN 24 PM 12 24
JACKIE S. BOWERS
CLERK OF COURT

to deprive another in canceling my jury trial and conducting a jury trial selection. Chief of Police waive my right to a jury trial and instead he sentence Anthony Richardson however deprived of me of my right to a jury trial.

(Opening of Statement)

May IT please the Court, and you. Ladies and Gentlemen of the Jury

FACTUAL BACKGROUND:

On Feb. 2, 2013 Anthony Richardson was in court at the Newberry Municipal court in Newberry County. Anthony pleaded not guilty to Trespassing after notice warrant/ticket no: 11842GF, before the Honorable Judge Frank Partridge Jr. Anthony filled out a form demanding Jury trial in the present of Judge Frank Partridge JR. After, the court date was on about or around Feb. 10, 2013. I receive a letter in the mail stating a Jury Trial selection was schedule for Feb. 20, 2013 at 1 p.m. I attended the Jury selection and I notice that there was no Juror present at all. Chief of Police Jackie Swindler took me in his office with no court reporter or no Judge. Chief of police stated to me that he is the one that handles the Jury selection. Chief of police stated to me that he had waived my Jury trial selection and that the Juror would found me guilty anyway if I was to have a jury trial. The right of trial by jury as heretofore enjoyed shall remain inviolate. Chief Jackie Swindler wrote on a folder in his own writing that I agreed to pay 250.00 dollars before 3/15/2013 or a bench warrant would be serve on me in his office without a Judge or court reporter constitutes a bench trial however when he prepared the agreement in his office and I sign the agreement in his office. This constitutes a sentence by Chief of Police and not by the Judge and no bench warrant should have been issued for my arrest. Chief of police took the sign folder in onto Judge Frank Partridge and he signed the bench warrant knowingly that a bench trial took place in on Feb. 20, 2013 in front of Chief of police in his office without a judge or court reporter was not present. After Judge Frank Partridge reviewed the sign folder that Chief of police sentenced me on 2/20/2013 he signed a bench warrant to arrest me and instead of going to jail, I had to pay 250.00 dollars. Judge Frank Partridge Jr. knew that there was a bench trial done on 3/20/2013 conducted by Chief Jackie Swindler and signed for a bench warrant for my arrest after he knew it was not illegal because he signed the bench warrant to arrest me. The police officer Looney came to my house with the bench warrant to arrest me but the police officer told me that if I would go pay 250.00 dollars he would hold on from arresting me until I go and pay the fine. Chief of police abuse his power in acting in the place of a Judge is misconduct, abuse of power. I was ordered to pay 250.00 dollars or thirty days after having a bench trial in front of the Chief of police instead of the Judge clearly violates my right in every state however there are two or more distinct sets of procedures used in criminal matters. The concept of a fair trial involves fairness to the prosecution and to the public as well as to the defendant: *DPP v Meakin* [2006] EWHC 1067. Anthony Richardson argues that there is not only that an abuse has taken place but that Anthony has been prejudiced in the presentation of his or her case as a result, so that a fair trial is no longer possible because of the bench trial by Chief of police. The chief of police violated Anthony Constitutional rights, when he allegedly held a bench trial and sentenced the plaintiff is illegal in all states. Chief of Police in violation of my Fourteenth Amendment secures the right to due process was violated by Chief of police Jackie

Swindler. The person accused of a crime must be allowed the opportunity to have a trial and should not be subjected to punishment without having been afforded the opportunity of the legal process however the Chief of police prevented Anthony Richardson from receiving a fair trial, and illegally been sentence by the chief, and he is not a Judge. Anthony Richardson is a victim of Police corruption may also involve depriving people of their legal rights to be tried by a jury trial as the Seventh Amendment however Anthony Richardson been tried by Chief of Police at his bench trial and waive my right to a jury trial without my consent in a jury selection result in police corruption when one or more persons acting "under the color of law" willfully attempt or succeed in depriving another person or persons of their legal rights. "Color of law" involves using the authority of their police status even if the acts exceed the officer's rightful power. Meaning of *Police Corruption and Misconduct* as a *legal* term. ... *Police* authority to *deprive* or conspire to *deprive another person* of any *right* ... of conduct that *deprives persons of their rights* (42 U.S.C.A. 14141 [2000]). Chief of police abuse his power in acting and was truly involved in police corruption. South Carolina has two ... Within the first thirty (30) days of ... the **judge** calls the **jury** back to the courtroom and with the **defendant present**, not the police or Chief of police. Chief Swindler misconduct in sentencing Anthony Richardson and canceling my Jury trial, and conducting a Jury trial selection without a Judge is clearly misconduct of police officer under the equal protection of the law is clearly violated... Chief Swindler is not a Judge and did not have any authority to sentence or even conduct a bench trial because he is not a Judge. Municipal judges are granted the same jurisdiction in traffic cases as magistrates, by S.C.Code Ann. § 14-25-45 of the South Carolina Code. Magistrates and municipal judges may impose sentences within these limits singularly or in the alternative not the police officer. As a result Anthony Richardson constitutes actual damages, and punitive damages. Anthony Derone Richardson is suing for \$2 million for abuse of process and fourth amendment violation and \$2 million Abuse of authority punitive damages the Fifth Amendment, Sixth and Fourteenth Amendments of the federal Constitution Right to Due Process and \$2 million for **Civil Rights Damages** committed *judicial misconduct* malicious prosecution and other abuses of power. **Chief of police clearly violates** Sixth and Fourteenth Amendment *rights* to a fair jury trial and *my* Fourteenth Amendment *right* to equal protection of the laws. Chief Jackie Swindler committed *judicial* and prosecutorial *misconduct* and other abuses of power in **sentencing and waiving my jury trial however** A defendant has the right to cross-examine a witness concerning bias under the Confrontation Clause under the Sixth Amendment right to confrontation was violated by Chief Of Police Jackie Swindler. Id. at 331, 563 S.E.2d at 317.

Anthony Richardson was sentence without Judge Approval and waiving my jury trial without my consent is misconduct. Chief of police *violated my right* to a fair trial and *due process*. 42 U.S.C. Sec. 1983 (1970) provides: Anthony Richardson was deprived of his right to a trial and to be tried by impartial jury. Chief of Police Jackie Swindler had constitute *judicial misconduct*, the *police* had no reason to sentence me at all, even in a jury selection on 2/20/2013 because he is not a judge and only a Judge can sentence or even conduct a jury selection. It is the *duty* of the *judge* to protect citizens against improper and unwarranted ... *Control*. No person shall be . . . deprived of life, liberty, or property without due process of law . . ." (U. S. Const., Fifth Amendment; see S. C. Const. Art. I, Section 3, for similar language). Section 1983 because that is where

the law has been published, within Title 42, of the United States Code. Section 1983 makes it unlawful for anyone acting under the authority of state law to deprive another person of his or her rights under the Constitution or federal law. Chief Of Police is without *jurisdiction* to review a *sentencing* court's or to even sentence any person at a bench trial of any kind.

There is no crueler tyranny than that which is exercised under cover of law, and with the colors of justice ..."

- U.S. v. Jannotti, 673 F.2d 578, 614 (3d Cir. 1982)

Constitutional rights violations committed by Chief of police include: Right to a Lawyer Right to Cross Examine and Confront Witnesses, Right to Use Courts Subpoena Power to Compel Witnesses to Testify, Right to a Jury Trial and Presumption of Innocence. The defendant acted *with malice or with reckless indifference to the federally protected rights of an aggrieved individual*.

South Carolina Code Ann. section 15-78-70 specifically provides that government employees may be liable in tort actions:

(a) This chapter constitutes the exclusive remedy for any tort committed by an employee of a governmental entity. An employee of a governmental entity who commits a tort while acting within the *scope of his official duty* is not liable therefore except as expressly provided for in subsection (b).

(b) Nothing in this chapter may be construed to give an employee of a governmental entity immunity from suit and liability if it is proved that the employee's conduct was not within the *scope of his official duties* or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude.

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

The dividing line between the types of procedures is usually the misdemeanor/felony distinction: one set of procedures is used for misdemeanor trials and another set issued for felony trials. South Carolina has two distinct sets of procedures, but the dividing line is not the traditional misdemeanor/felony distinction. In this State, the difference is based on the jurisdictional line between courts of limited jurisdiction (magistrate's court) and the courts of general jurisdiction (circuit court). This jurisdictional line is the provision in S.C. Code Ann. §22-3-550 -- the \$500 or 30 days, or both clause. All offenses falling below this line are within the jurisdiction of the magistrates (and by implication, municipal courts), where one distinct set of procedures is used, and all offenses above this line are within the jurisdiction of the circuit courts where another set of procedures is used. The procedure used in the courts higher than magistrates' courts and municipal courts is not discussed in this book. The procedure which magistrates use is a "summary procedure." The General Assembly has adopted this definition of magistrate court procedure in §22-3-730: All proceedings before magistrates shall be summary or with only such delay as a fair and just examination of the case requires. Summary procedure

shall also be used in municipal courts, by virtue of §14-25-45, as amended. In brief, summary procedure means that the process is not elaborate, that the time between arrest and sentencing is relatively short. Of course, the fact that the proceedings lack many of the formalities required in the higher courts does not mean that various fundamental safeguards can be ignored in the magistrates' courts. When a defendant is found guilty, either by the judge or a jury, the magistrate or municipal judge must then sentence the defendant. The judge may use his discretion in sentencing as long as his decision conforms to the statutory requirements for the particular offense for which the defendant has been convicted. He may impose a fine or require imprisonment, or both within the statutory limitations. (§22-3-550). Where a statute prescribes a minimum sentence, the magistrate or municipal judge may not impose a lesser sentence, except in the case of a conviction for drawing a fraudulent check. (§22-3-800). (See CRIMES AND OFFENSES, Fraudulent Checks). Of course, the magistrate or municipal judge may not exceed the statutory limits with any sentence. Where separate charges have been alleged and proven, the magistrate or municipal judge may impose sentences to run concurrently or consecutively. The sentences will be served concurrently unless the judge specifically orders them to be served consecutively. Finley v. State, 219 S.C. 278, 64 S.E.2d 881 (1951); State v. DeAngelis, 257 S.C. 44, 183 S.E.2d 906 (1971). §22-3-550 prohibits a magistrate from sentencing any person to consecutive terms of imprisonment totaling more than ninety days (except for convictions resulting from violations of Chapter 11 of Title 34, pertaining to fraudulent checks, or violations of §16-13-110(B) (1), relating to shoplifting).

If, upon conviction, a defendant is sentenced to a term of imprisonment for three months or less, the defendant is placed in the custody of the county (or municipality) in which he was sentenced. If the county (or municipality) has facilities suitable for confining the defendant, his sentence should be served in that county or municipality. Any defendant who receives a term of imprisonment from a court of competent jurisdiction exceeding ninety days is placed in the custody of the Department of Corrections, which will then designate the facility at which the defendant will be incarcerated. There are several sections of the S.C. Constitution which concern the jury trial. Article I, Section 14 guarantees a "speedy and public trial by an impartial jury." Article I, Section 14 states that the right to a jury trial is "preserved inviolate." In addition, the right to a trial by jury, provided in the Sixth Amendment to the U.S. Constitution, has been made applicable to the states through the Fourteenth Amendment to the U.S. Constitution. Duncan v. Louisiana, 391 U.S. 145, 88 S. Ct. 1444 (1968).

My prayer is for this court to accept this summons and complaint including Appendix A which is the actual sentence signed by me and the Chief of police in his office on 2/20/2013 signed by Jackie Swindler, Appendix B amount past due payment agreed with the Chief of Police and not no Judge, however a bench warrant was issued, Appendix C Jury selection conducted by Chief of Police on 2/20/2013 on the day the sentence had taken place.

Pro. Se: Anthony Derone Richardson
914 Gray Street, Newberry, S.C. 29108

Signed Anthony Derone Richardson date 6-24-2013

2013-CP-36-00321

CERTIFICATE OF SERVICE

I, Anthony Derone Richardson, hereby certify that on, I

[Anthony Richardson] [5/20/2013]

Served copies of

[**Summons and Complaint**] & Appendix A, Appendix B, Appendix C

On the following parties by way of:

[U.S. mail.]

[Chief of Police,

Jackie Swindler

City Safety Complex

1507 Nance Street

Newberry, SC, 29108-2740

Signed by Anthony Richardson date 5-24-2013

F

F

FILED
NEWBERRY COUNTY
2013 JUN 24 PM 12 24
JACKIE S. BOWERS
CLERK OF COURT

EXHIBIT #5

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry
County Municipal Police*

Case Number: 13-CP-36-00321



Southern Reporting, Inc.

Transcript of the
Deposition of

Anthony Richardson

3/24/2014

Richardson vs. Swindler, et al
13-CP-36-00321

COPY

Southern Reporting, Inc.

Phone: 803.749.8100

Fax: 803.749.9991

Email: Depos@southernreporting.net

1 State of South Carolina)
2 County of Newberry)
3) 13-CP-36-00321
4 Anthony Derone Richardson,)
5 Plaintiff,)
6 vs.) Deposition
7 Jackie Swindler, Chief of) of
8 Police, Newberry County) Anthony Richardson
9 Municipal Police,)
10 Defendant.)

11 Deposition of Anthony Richardson, taken before
12 Vickie M. Hester, a notary public in and for the State
13 of South Carolina, commencing at the hour of 10:07 a.m.,
14 Monday, March 24, 2014, at Lake & Lake Attorneys, LLC,
15 1325 Main Street, Newberry, South Carolina.

16 Reported by
17 Vickie M. Hester
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1

APPEARANCES

2

For the Plaintiff:

Plaintiff Appearing Pro Se

3

4

For the Defendant:

Kassi B. Sandifer, Esq.
Morrison Law Firm, LLC
7453 Irmo Drive, Suite B
Columbia, South Carolina 29212

6

7

Also present:

Delinda Turner

8

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CITY OF NEWBERRY
1507 NANCE STREET
NEWBERRY, SC 29108
(803) 321-1010

A handwritten signature in black ink, appearing to be 'Cory', is located in the upper right corner of the document.

TO: ANTHONY DEROME RICHARDSON
914 GRAY ST
NEWBERRY SC 29108

DATE: 03/22/2013

SUBJECT: PAST DUE PAYMENT

WARRANT/TICKET NO.: 11842GF

AMOUNT DUE: 250.00

OFFENSE: TRESPASS AFTER NOTICE

YOUR PAYMENT TO THE COURT IS NOW DELINQUENT.

IF FULL PAYMENT IS NOT MADE WITHIN (10 DAYS) FROM THE DATE OF THIS NOTICE, A BENCH WARRANT WILL BE ISSUED FOR YOUR ARREST.

PAYMENT MUST BE MADE IN FULL TO AVOID YOUR ARREST.

IF MAILING IN YOUR FINE, PLEASE SEND A MONEY ORDER OR CASHIER'S CHECK.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THIS OFFICE AT THE NUMBER ABOVE.

SINCERELY,

EXHIBIT #6

*Anthony Richardson v. Jackie Swindler, Chief of Police, Newberry
County Municipal Police*

Case Number: 13-CP-36-00321

1 APPEARANCES

2 For the Plaintiff: Plaintiff Appearing Pro Se

3 For the Defendant: Kassi B. Sandifer, Esq.
4 Morrison Law Firm, LLC
5 7453 Irmo Drive, Suite B
6 Columbia, South Carolina 29212

7 Also present: Delinda Turner

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25

**Newberry Municipal Court
1507 Nance Street
Newberry, S. C. 29108**

**W. F. Partridge, Jr., Municipal Judge
Barry S. Koon, Asst. Municipal Judge**

**Phone: 803-321-3720
Fax: 803-321-1004**

February 7, 2013

**Mr. Anthony Derone Richardson
914 Gray Street
Newberry, S. C. 29108**

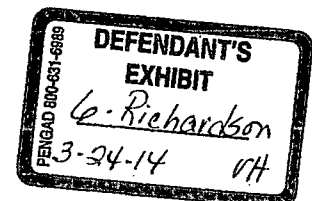
RE: Trespass after notice

Dear Mr. Richardson:

In preparation for a jury trial on the above referenced charge, the Court has scheduled a jury selection on Wednesday, February 20, 2013, at 2:30 p. m. The selection will be held in the municipal courtroom at the Public Safety Complex, 1507 Nance Street in downtown Newberry. It is imperative you be present at this time. If you are not present, you will forfeit your right to a jury trial and a bench trial will be scheduled.

Sincerely,

**Cella E. Dodgen
Secretary**



Page 3

Certificate of Appellant.....3

RECEIVED
JAN 06 2016
SC Court of Appeals

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Anthony Derone Richardson

P.O box 221
Newberry, SC 29108

.....date.....