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SC SUPREME COURT

THE STATE OF SOUTH CAROLINA

In THE SUPREME COURT OF SOUTH CAROLINA

Glenda Couram, Appellant,

v

Lula N. Davis, Shirley Rivers, Constance "Connie" Rhett, Marcia Adams, Dottie Blankenship, Tosha Autry, Steven W. Lake, in their official and individual capacities, and the South Carolina Department of Motor Vehicles, Respondents.

Appellate Case No. 2012-213441
Lower Court Case No. 2011-CP-40-01734

APPELLANT/PETITIONER REQUEST FOR REHEARING EN BANC OF WRIT OF CERTIORARI

Petitioner, Glenda Couram, pro se, file this Motion for Rehearing En Banc for the following reasons:

I. DID THE RICHLAND COUNTY CIRCUIT OR THE COURT OF APPEALS HAVE SUBJECT MATTER OR PERSONAL JURISDICTION TO THE HEAR THIS MATTER?

Pro se makes this request because the attorney who wrote the writ neglected to place this question before this court, even after the pro se requested he do so several times and because **"Subject-matter jurisdiction, because it involves the court's power to hear a case, can never be forfeited or waived."** ***United States*** **v.** ***Cotton,*** **535 U. S. 625, 630.**

The only claims remanded from the federal court on August 20, 2012 and set for trial on November 6, 2012, were state pendant common law claims of civil conspiracy, outrage/IIED, gross negligence, defamation, etc., pursuant to SC common law three year statute of limitations pursuant to §15-3-545; S.C. Code Ann. § 15-3-530 and filed within the original statute of

limitations obtained when this pro se filed a verified claims on January 4, 2010 and date of injury November 13, 2008 as document in the official records thru the EEOC pursuant to S.C. Code of Laws Section 15-78-60 et seq., See Jinks v. Richland County, 538 U.S. 456, 462-63, 123 S.Ct. 1667, 155 L.Ed.2d 631 (2003); SC Supreme Court Jinks v Richland County, No, 25690 (2003)fnt. The original statute of limitations did not expire until November 13, 2011. Pro se filed her pleading on or about October 22, 2011 well within the statute of limitations.

There were no questions before the circuit court upon remand that related to discrimination based on federal law Title VII of the Civil Rights Act of 1964 (Title VII) if there had been the matter would not have been remanded back to state court because the federal court would have had jurisdiction.

When the defendants filed the Motion to Dismiss on October 29, 2012 they created a whole new pleading including new cause of injury - failure to promote - new injury dates December 8, 2008, they changed the pro se's complaint to one that had not been filed before the EEOC or SCHAC and dispensed with every legal ruling that took place since January 4, 2010 in violation of SCRCP Rule 11.

There was no exhaustion of administrative remedies the federal law states "A plaintiff must exhaust administrative remedies by filing a charge with the EEOC before pursuing a suit in federal court. Among other things, requiring a party to file a charge with the EEOC "ensures that the employer is put on notice of the alleged violations" and given "a chance to address the alleged discrimination prior to litigation." *Milles v. Dell, Inc.*, 429 F.3d 480, 491 (4th Cir. 2005); *EEOC v. United Road Towing, Inc.* docket number 10 C 6259, May 11, 2012.

See Sydnor v. Fairfax Cnty., Va., 681 F.3d 591, 593 (4th Cir. 2012) (noting that the ADA requires that a plaintiff must exhaust his administrative remedies by filing a charge with the

EEOC before pursuing a suit in federal court); *Jones v. Calvert Grp., Ltd.*, 551 F.3d 297, 300 (4th Cir. 2009) ("Before a plaintiff may file suit under Title VII or the ADEA, he is required to file a charge of discrimination with the EEOC.") or with the SC Human Affairs Commission who will duel fill with the EEOC or vise versa .

The exhaustion requirement is integral to the enforcement scheme for the federal discrimination statutes. *Sydnor,* 681 F.3d. at 593 (citing *Chacko v. Patuxent Inst.*, 429 F.3d 505, 510 (4th Cir. 2005)). Requiring a party to first file a charge with the EEOC ensures that the employer is given notice of the alleged claims, allowing the employer a chance to remedy discrimination before litigation commences, and provides the parties recourse to resolution in a more efficient and less formal manner. *Sydnor,* 681 F.3d. at 593. Failure to exhaust administrative remedies deprives a .... court of subject-matter jurisdiction over the claim. See Jones, 551 F.3d at 300.

Therefore, there is a question of jurisdiction that needs to be answered and if the pro se understands correctly the rules state that this question can be brought up at any time even in a Motion to Rehear. Note: Pro se did bring this question up in the Motion to Rehear En Banc with the SC Court of Appeals but they denied the Motion to Rehear pro se also believes that the question was in the Appeal.

Also when the state courts ruled on this matter they stepped in the domain of the Federal Court.

II. DID THE SC COURT OF APPEALS AND THE CIRCUIT COURT COMPLY WITH WELL ESTABLISHED LAW IN GRANTING THE DEFENDANTS 12(b) MOTION TO DISMISS?

The pro se also asked the attorney to question the Standard of Review in granting a 12(b) Motion to Dismiss again he did not comply.

Both the SC Court of Appeals and the Richland County Circuit Court were in direct conflict with State of South Carolina Supreme Court, all sister courts and the US Supreme Court when granting the Defendants' Motion to Dismiss.

In fact the trial court did not even acknowledge the pro se had a pleading before it. The pleading was filed and placed on record on or about September 9, 2012, shortly after the Remand from Federal Court August 20, 2012.

Both the Circuit Court and the Court of Appeals made its ruling purely on the Motion to Dismiss filed on October 29, 2012, days away from the trial that was scheduled for November 6, 2012. The Motion was heard on November 5, 2012 with the pro se only having 2 days notice November 2, 2012.

In granting a 12(b) Motion to dismiss this court in Wilkinson v East Cooper Community Hospital, etc., stated "On appeal from the dismissal of a case pursuant to Rule 12(b)(6), an appellate court applies the same standard of review as the trial court." *Rydde v. Morris*, 381 S.C. 643, 646, 675 S.E.2d 431, 433 (2009). "That standard requires the Court to construe the complaint in a light most favorable to the nonmovant and determine if the facts alleged and the inferences reasonably deducible from the *pleadings* would entitle the plaintiff to relief on any theory of the case." *Id.* (internal quotations omitted). Four corners of the pleading.

This matter is similar to this court's ruling in Baird v Charleston County, Op. No. 24885, dated January 18, 1999.

III. DID THE COURT OF APPEALS PROPERLY APPLY THIS COURT'S RULING IN *I'ON, L.L.C. V. TOWN OF MT. PLEASANT*, 338 S.C. 406, 419, 526 S.E.2D 716, 723 (2000)

The Court hears Cases when Lower Courts Disregard past Supreme Court decisions: If a lower court blatantly disregards a past Supreme Court decision, the court may hear the case to correct the lower court, or alternatively, simply overrule the case without comment.

The SC Supreme Court ruling states ("Under the present rules, a respondent—the 'winner' in the lower court—may raise on appeal any additional reasons the appellate court should affirm the lower court's ruling, regardless of whether those reasons have been presented to or ruled on by the lower court. It would be inefficient and pointless to require a respondent to return to the judge and ask for a ruling on other arguments to preserve them for appellate review.").

The key is that the defendants had to have been the "winner" they were not in the matter that was before the Circuit Court and the Court of Appeals. If there was a prevailing party it was the pro se as her state pendant claims were remanded back to the state court. Doesn't that mean the Defendants lost?

There was no hearing or trial only an Order of remand therefore there could not have been any winners on the merits of the case. Therefore, the court of appeals misapplied, misstated or misunderstood this Court's ruling in *I'on.* See Ann Dreher v SC Department of Health and Environmental Control, No. 2013-000364, Op 27507 filed March 2015.

The defendants did not appeal the Orders of Judge Perry or Judge Seymour evoking the Law of the Case Doctrine which states pursuant to SC Supreme Court ruling in Ann Dreher v SC Department of Health and Environmental Control - "An unappealed ruling is the law of the case and requires affirmance." *Shirley's Iron Works, Inc. v. City of Union*, 403 S.C. 560, 573, 743 S.E.2d 778, 785 (2013). Thus, should the appealing party fail to raise all of the grounds upon which a lower court's decision was based, those unappealed findings—whether correct or not—become the law of the case. *Cf. Judy v. Martin*, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009) ("Under the law-of-the-case doctrine, a party is precluded from relitigating . . . , [*inter alia*,] matters that were [] not raised on appeal, but should have been . . . .").

IV. PROCEDURAL REQUIREMENTS

This court has allowed rehearing pursuant to SCRCP 221 and this rule says that if a ruling ends a case such a request is appropriate.

1. IN RE: Cynthia E. COLLIE, Respondent; Case No. 2012–213164. October 17, 2013 (Petition for Rehearing)

2. Michael Cunningham v Anderson County, Opinion No. 27568 Denied Petition for Rehearing Employment Case

3. Herron v Century BMW, Case No. 26805- Case filed to US Supreme Court after filing Request for Rehearing Case enclosed

4. Wilkinson v East Cooper Community Hospital – Motion to Rehear filed. October 2014 Case No. 2012-213464

In order for this pro se to file a writ petition to the United States Supreme Court she must file a Motion to Rehear to the lower court which would the State of South Carolina Supreme Court and to meet the procedural requirement to file to the US Supreme Court[1] this pro se request a Rehearing of the Denial of her writ dated February 12, 2016.[2]

Also the rehearing is necessary to assure the US Supreme Court that this ruling is the final judgment on this matter.

In conclusion, this pro se seeks this Court's rehearing of this matter because of its mandates that to go before this court the matter must be of exceptional importance. This matter is of exceptional importance. The lower courts' denial of rights to a population of citizen of this State of South Carolina and their seemingly lack of concern that this group will ever be before any superior court speaks volumes of the necessity that this court take up this matter.

South Carolina courts appears to be the only court that has no standards for dealing with pro se litigants to ensure they receive the same protection as those who have attorneys that is

[1] Pro se understand it is the same process as she completed to gain access to this honorable court.
[2] The Advance Sheet of this court does not indicate that pro se writ had been denied (see attached)

what makes this matter of *exceptional importance* for this court to allow a rehearing in this matter.

Thus this petitioner respectfully ask that this court rehear this matter to ensure substantial justice is done in this matter and or to provide the ruling and institute procedures necessary to allow this pro se to file this matter to the US Supreme Court and allow other pro se litigants access to the superior courts putting the lower courts on notice.[3]

Respectfully submitted by,

Glenda R. Couram
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grcouram@hotmail.com
803 358-0127

Dated this 21st day of February 2016
Lexington South Carolina

[3] Note: Pro se take this moment to apologize to the Court of Appeals for the tone of her Motion to Rehear there running was such a shock and just so left field and she also ask this court to excuse any typos or grammatical mistakes and apply the pro se standard.

DECLARATION

I, the undersigned, declare under penalty of perjury that the statements made in the motions and other documents are true and correct to the best of my knowledge, information, and belief.

Respectfully submitted by;

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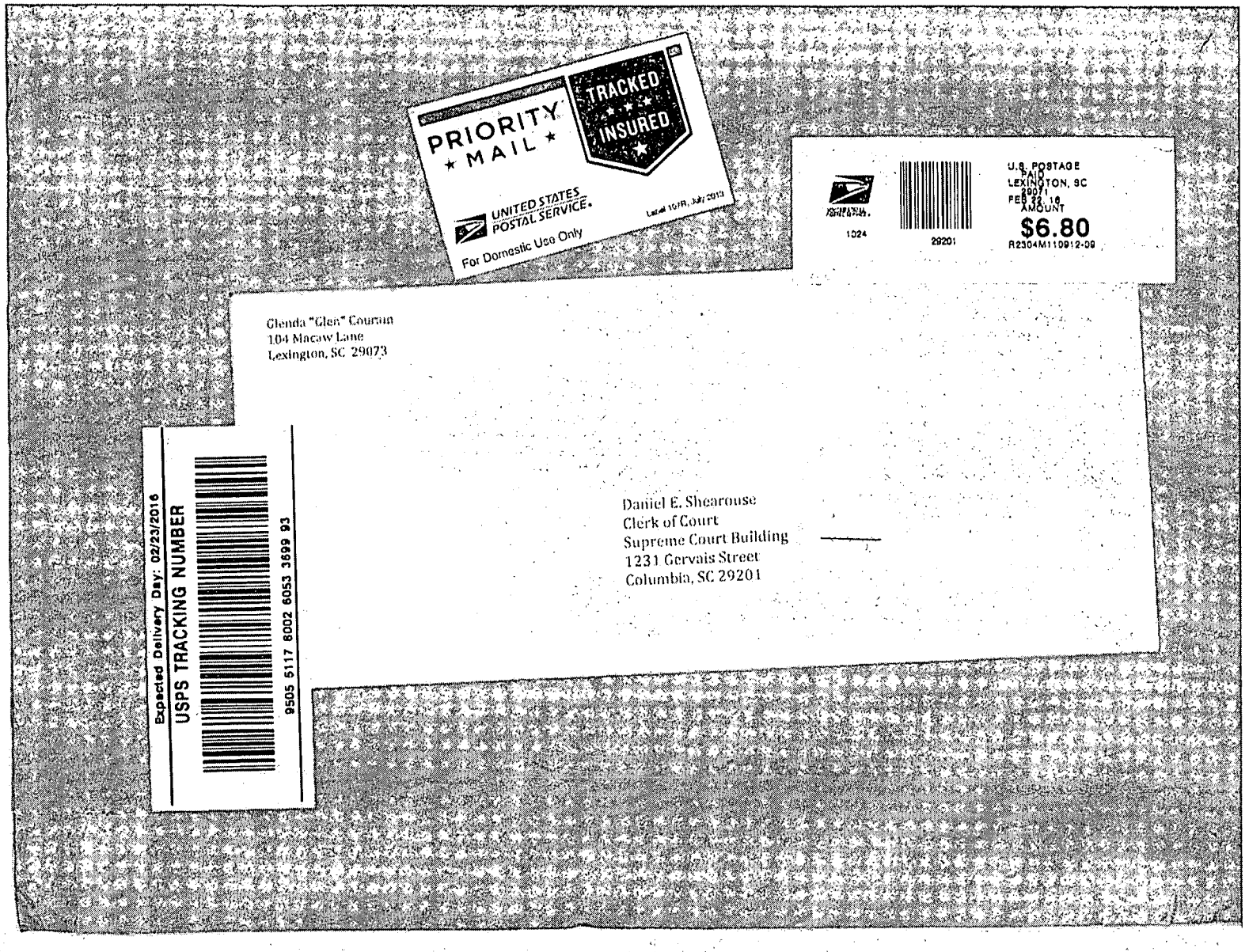
Dated this 21st day of February 2016
Lexington County, South Carolina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CERTIFICATE OF SERVICE

I Glenda Couram, pro se, certify on this date February 21, 2016, have served a copy of the *Motion to Recall Remittitur and Motion to Rehear /Reconsider En Banc* on the Clerk of Court of the South Carolina Supreme Court, Clerk of Court of The SC Court of Appeals and Richland County Clerk of Court,, Attorneys Matthews, Goodwyn and Peavy as listed below by depositing in the US Postal Service Mail in an envelope with sufficient postage as addressed as follows on this 21st day of February 2016.

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