

THE State OF South Carolina
IN THE COURT OF APPEALS
APPEAL FROM NEWBERRY COUNTY
FRANK ADDY, CIRCUIT T JUDGE
C/A NO. 2014-002532

RECEIVED
FEB 26 2016
SC Court of Appeals

ANTHONY DERONE RICHARDSON

APPELLANT

v.

JACKIS SWINDLER CHIEF OF POLICE
NEWBERRY COUNTY MUNICIPAL POLICE

RESPONDENT

RECORD OF APPEAL

PRO SE. ANTHONY DERONE RICHARDSON

P.O. BOX 221

NEWBERRY, SC 29108

Anthony Richardson.....DATE 2-24-2016

MORRISON LAW FIRM

KASSI B. SANDIFER, DAVID MOON, ROBERT G. COOPER

7453 IRMO DRIVE, SUITE B, COLA S.C. 29212

803-661-6285

ATTORNEY FOR RESPONDENT

INDEX

RECORD OF APPEAL.....1

CHARGE & SUBPOENA LETTER & DESPOSTION2

CIVIL ACTION COVERSHEET & SUMMOMS COMPLAINT

CERTICATE OF SERVICE.....2

Judgement.....3

TRAIL TRANSCRIPT.....4



Denms Edmonds 1-216-617-2350
6172350

CITY OF NEWBERRY
SOUTH CAROLINA

INDEX:2
P.92

POLICE DEPARTMENT

Appendix 2: A, B, C

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

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

[X] 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 of 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.

Handwritten signature of Carson M. Henderson

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 <input type="checkbox"/> YES <input type="checkbox"/> 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.

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

Appendix B
10/1

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,



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

Appendix A

Deland Smith
and Greg G. Perry
#2502 - d will pay
by March 15, 2013

ML

Jackie S. Bowers

JACKIE S. BOWERS
CLERK OF COURT

2013 JUN 24 PM 12 24

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,

Celia 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

Total Paid:

\$150.00

\$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 |
|-----------------------|-----------------|-----------------|---------------|

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

*mail into
2 all [unclear] 803 - 384-1465*

914 Grogg Street
Address

1134, S.C. 29108

To Be ANNOUNCE
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

Case# 2008-10167

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.

Mindy B. Smith

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

Ruth Harker

Notary Public for South Carolina

My Commission Expires: 5-23-2018

SERVED BY: Ruth Harker

DATE SERVED: 10-15-08

AGENCY I.D.
SC0360100

CITY OF NEWBERRY
INCIDENT REPORT

CASE NUMBER

2,0,0,8 - 1,0,1,6,7

NCIC

INQ. ENTD.

| | | | | | | | | | | | | | | |
|----------------------------------|---|---|------|-------------------------|---|--|--------------|----------------------|--|---------------------|--------------|---------------|---------------|------|
| E V E N T | INCIDENT TYPE | | | | COMPLETED | FORCED ENTRY | PREMISE TYPE | UNITS ENTERED | TYPE VICTIM | | | | | |
| | 1. INF - DISORDERLY CONDUCT | | | | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | 07 | | <input type="checkbox"/> Individual Business <input type="checkbox"/> Financial Inst <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input checked="" type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off. | | | | | |
| | 2. | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | | | | | | | | |
| | 3. | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> 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 | | | LOCATION NO. | | | | | |
| | 10/16/2008 | 1050 | | 10/16/2008 | 1115 | DISP. DATE | DISP. TIME | TIME ARRIVED | DEPART. TIME | 4 | | | | |
| | COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) | | | RELATIONSHIP TO SUBJECT | | | RESIDENT | RACE | SEX | AGE | ETH. | DAYTIME PHONE | EVENING PHONE | |
| | SHEFCHICK, MICHAEL J | | | AQ | | | J | S | W | M | 42 | N | 803-321-0105 | |
| | ADDRESS | | | | CITY | | | STATE | ZIP CODE | LOCATION NO. | | | | |
| | 380 WYSES FERRY ROAD | | | | PROSPERITY | | | SC | 29127 | 99 | | | | |
| V I C T I M | VICTIM'S NAME (LAST, FIRST, MIDDLE) | | | RELATIONSHIP TO SUBJECT | | | RESIDENT | RACE | SEX | AGE | ETH. | DAYTIME PHONE | EVENING PHONE | |
| | SOCIETY, SOCIETY SOCIETY SOCIETY | | | | | | J | S | O | U | | SOCIETY | | |
| | HEIGHT | WEIGHT | HAIR | EYES | FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. | | | | | | | | | |
| | ADDRESS | | | | CITY | | | STATE | ZIP CODE | LOCATION NO. | | | | |
| | SOCIETY | | | | SOCIETY | | | SO | SOCIETY | | | | | |
| | VISIBLE INJURY (VICT. 1) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO EXPLAIN - | | | | | | | | | | | | | |
| # | VICTIM (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. | | | | | | | | | | | | | |
| | <input type="checkbox"/> TWO-MAN VEH. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> DETECTIVE/SPLASMT. <input type="checkbox"/> OTHER <input type="checkbox"/> ALONE <input type="checkbox"/> ASSISTED <input type="checkbox"/> J - This Jurisdiction S - State O - Out of State U - Unknown | | | | | | | | | | | | | |
| S U B J E C T | <input checked="" type="checkbox"/> SUSPECT | SUBJECT NAME (LAST, FIRST, MIDDLE) | | | | RACE | SEX | AGE | ETH. | DATE OF BIRTH | HEIGHT | WEIGHT | HAIR | EYES |
| | <input type="checkbox"/> RUNAWAY | JOHNSON, KENDRICK MARQUAEL | | | | B | M | .18 | N | 11/26/1989 | 5-8 | 140 | BLK | BRO |
| | <input type="checkbox"/> WANTED | FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. | | | | | | | | | | | | |
| <input type="checkbox"/> WARRANT | MOTHER (TARA NANCE) CP# 768-5290 | | | | ADDRESS | | | CITY | STATE | ZIP CODE | LOCATION NO. | | | |
| <input type="checkbox"/> ARREST | 632 BEISEL ROAD | | | | NEWBERRY | | | SC | 29108 | | | | | |
| <input type="checkbox"/> JAIL | SUBJECT (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK. | | | | ARRESTED NEAR OFFENSE SCENE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | | | DATE/TIME OF OFFENSE | | DATE/TIME OF ARREST | | | | |
| <input type="checkbox"/> SUMMONS | DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK. TYPE: | | | | TOTAL # ARRESTED | | | 10/16/2008 | | 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 R O P E R T Y | TYPE (GROUP) | | | | | | | | | | | TOTAL VALUE |
| | Burned | | | | | | | | | | | |
| | Count/Forged | | | | | | | | | | | |
| | Dist/Damaged | | | | | | | | | | | |
| | Recovered | | | | | | | | | | | |
| | Seized | | | | | | | | | | | |
| | | | | | | | | | | | | |
| A D M I N I S T | SUBJECT IDENTIFIED | | SUBJECT LOCATED | | <input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED | | <input type="checkbox"/> ARRESTED UNDER 18 | | <input type="checkbox"/> EX-CLEAR UNDER 18 | | | |
| | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | | <input type="checkbox"/> UNFOUNDED | | <input type="checkbox"/> ARRESTED 18 AND OVER | | <input type="checkbox"/> EX-CLEAR 18 AND OVER | | | |
| REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> 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 | | | | | | | |
| | | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO | | | | | | | |

AGENCY I.D.
SC0360100

CITY OF NEWBERRY
INCIDENT REPORT

| | | | |
|-------------|--|------|-------|
| CASE NUMBER | | NCIC | |
| 2,008-10167 | | INQ. | ENTO. |

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 | | |
|---|--|--|---|--|--|--|---|---|
| P | TYPE (GROUP) | | | | | | TOTAL VALUE | |
| R | Burned | | | | | | | |
| O | Count/Forged | | | | | | | |
| P | Dest./Damaged | | | | | | | |
| E | Recovered | | | | | | | |
| R | Seized | | | | | | | |
| T | Stolen | | | | | | | |
| Y | Unknown | | | | | | | |
| A | SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> UNFOUNDED | <input type="checkbox"/> ADM. CLOSED | <input type="checkbox"/> ARRESTED UNDER 18 | <input type="checkbox"/> EX-CLEAR UNDER 18 | <input type="checkbox"/> ARRESTED 18 AND OVER | <input type="checkbox"/> EX-CLEAR 18 AND OVER |
| M | REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY | | | | | | | |
| I | REPORTING OFFICER(S) | DATE | UNIT NUMBER | APPROVING OFFICER | DATE | UNIT NUMBER | | |
| I | MIKE HAWKINS | 10/16/2008 | 323 | JASON KYLE STUHR | 10/16/2008 | 314 | | |
| S | | | | FOLLOW-UP INVESTIGATION OFFICER | | | | |
| T | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO | | | | |

AGENCY I.D.
SC0360100

CITY OF NEWBERRY
SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
2,0,0,8 - 1,0,1,6,7

NCIC
INQ. ENTD.

ORIGINAL REPORT
 SUPPLEMENTAL REPORT
 ADDITIONAL VICTIMS
 ADDITIONAL STOLEN PROPERTY
 MODIFIES ORIGINAL
 CASE STATUS CHANGE
 ADDITIONAL OFFENDERS
 ADDITIONAL RECOVERED PROPERTY

PAGE 1

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

| | | | | | |
|--------------|--|---|---|--|--|
| ADMISSIST | SUBJECT IDENTIFIED | SUBJECT LOCATED | <input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED | <input type="checkbox"/> ARRESTED UNDER 18 <input type="checkbox"/> ARRESTED 18 AND OVER | <input type="checkbox"/> EX-CLEAR UNDER 18 <input type="checkbox"/> EX-CLEAR 18 AND OVER |
| | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> UNFOUNDED | | |
| | REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY | | | | |
| | REPORTING OFFICER(S) | DATE | UNIT NUMBER | APPROVING OFFICER | DATE |
| MIKE HAWKINS | 10/16/2008 | 323 | JASON KYLE STUHR | 10/16/2008 | 314 |
| | | | FOLLOW-UP INVESTIGATION OFFICER | | |
| | | | <input type="checkbox"/> YES <input type="checkbox"/> NO | | |

THE STATE OF SOUTH CAROLINA
NEWBERRY MUNICIPAL COURT
BENCH WARRANT

2013B3620200044

T 11642GF

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

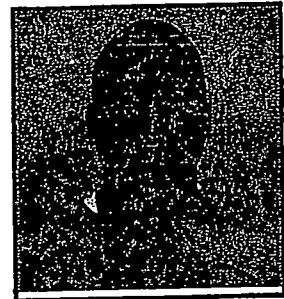
OFFICER'S NAME

Address: 914 GRAY ST
NEWBERRY, SC 29108

Height: 5 ft. 10 in.
Weight: 235
Hair: BLK
Eyes: BRO

Race: B
Sex: M
Age: 39
DOB: 07/24/1973

SSN: 251-47-4765
St. Lic: SC
Dr. Lic: 004048122
Phone: 321-9260



Withdrawn 5/6/13

AGENCY I.D.
SC0360100

CITY OF NEWBERRY
INCIDENT REPORT

CASE NUMBER

2,012-10708

NCIC

INC. INTD.

| | | | | | | | | | | | | | |
|--|--|---|---|---|--------------|---|---|--------------|---------------------|--------------|--------|------|------|
| E V E N T | INCIDENT TYPE | | COMPLETED | FORCED ENTRY | PREMISE TYPE | UNITS ENTERED | TYPE VICTIM | | | | | | |
| | 1. 90J - TRESPASS OF REAL PROPERTY | | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | 07 | | <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off. | | | | | | |
| | 2. | | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | | | | | | | | | |
| V I C T I M | 3. | | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> 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 | | | | |
| | | | | | | 12/11/2012 | 1656 | 1656 | 1715 | | | | |
| | COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) | | | RELATIONSHIP TO SUBJECT | | | RESIDENT | RACE | SEX | AGE | | | |
| | LOYNES, MAJOR LESLIE | | | ST | | | <input checked="" type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U | B | M | 00 | | | |
| | ADDRESS | | | CITY | | | STATE | ZIP CODE | LOCATION NO. | | | | |
| | 1507 NANCE ST | | | NEWBERRY | | | SC | 29108 | 4 | | | | |
| VICTIM'S NAME (LAST, FIRST, MIDDLE) | | | RELATIONSHIP TO SUBJECT | | | RESIDENT | RACE | SEX | AGE | | | | |
| SHEFCHICK, MICHAEL J | | | | | | <input checked="" type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U | W | M | 46 | | | | |
| 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) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO EXPLAIN - | | | | | | | | | | | | | |
| VICTIM (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. | | | | | | | | | | | | | |
| <input type="checkbox"/> TWO-MAN VEH. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> DETECTIVE/SPLASMT. <input type="checkbox"/> OTHER <input type="checkbox"/> ALONE <input type="checkbox"/> ASSISTED J - This Jurisdiction S - State O - Out of State U - Unknown | | | | | | | | | | | | | |
| # 1 | <input checked="" type="checkbox"/> SUSPECT | SUBJECT NAME (LAST, FIRST, MIDDLE) | | | RACE | SEX | AGE | ETH. | DATE OF BIRTH | HEIGHT | WEIGHT | HAIR | EYES |
| | <input type="checkbox"/> RUNAWAY | RICHARDSON, ANTHONY DEROME | | | B | M | 39 | N | 07/24/1973 | 6-10 | 235 | BLK | BRO |
| | <input type="checkbox"/> WANTED | FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. | | | | | | | | | | | |
| | <input type="checkbox"/> WARRANT | POSSIBLY AT 510 BOUNDARY ST | | | | | | | | | | | |
| | <input type="checkbox"/> ARREST | ADDRESS | | | CITY | | | STATE | ZIP CODE | LOCATION NO. | | | |
| | <input type="checkbox"/> JAIL | 914 GRAY ST | | | NEWBERRY | | | SC | 29108 | 99 | | | |
| <input type="checkbox"/> SUMMONS | SUBJECT (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. | | | ARRESTED NEAR OFFENSE SCENE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | | | DATE/TIME OF OFFENSE | | DATE/TIME OF ARREST | | | | |
| | DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. TYPE: | | | TOTAL # ARRESTED 1 | | | 12/11/2012 1656 | | 12/11/2012 1702 | | | | |
| N A R R A T I V E | 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 | | | | | | | | | | | |
| | Dist/Damaged | | | | | | | | | | | |
| | Recovered | | | | | | | | | | | |
| | Seized | | | | | | | | | | | |
| A D M I N I S T | SUBJECT IDENTIFIED | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | SUBJECT LOCATED | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> ACTIVE <input type="checkbox"/> UNFOUNDED | <input type="checkbox"/> ADM. CLOSED | <input type="checkbox"/> ARRESTED UNDER 18 | <input checked="" type="checkbox"/> ARRESTED 18 AND OVER | <input type="checkbox"/> EX-CLEAR UNDER 18 | <input type="checkbox"/> EX-CLEAR 18 AND OVER | | |
| | REASON FOR EXCEPTIONAL CLEARANCE: | 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> 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 | | | | | | | | |
| | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO | | | | | | | | |

I placed funds
and you to pay
\$250.00. I will pay
by March 15, 2013

Frank R. [unclear]

9/11

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

Copy

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**

Index: 1

Pg. : 1

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

BEFORE:

THE HONORABLE FRANK R. ADDY, JR.

APPEARANCES:

ATTORNEY FOR PLAINTIFF:
ANTHONY RICHARDSON, APPEARED PRO SE

ATTORNEY FOR DEFENDANT:

KASSI B. SANDIFER, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

INDEX

| <u>WITNESS</u> | <u>PAGE NO.</u> |
|-------------------------|-----------------|
| 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

AGENCY I.D.
SC0360100

CITY OF NEWBERRY
INCIDENT REPORT

CASE NUMBER

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

NCIC

INC. ENTD.
X

| | | | | | | |
|-------|------------------------------------|---|--|--------------|---------------|--|
| EVENT | INCIDENT TYPE | COMPLETED | FORCED ENTRY | PREMISE TYPE | UNITS ENTERED | TYPE VICTIM <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off. |
| | 1. 90J - TRESPASS OF REAL PROPERTY | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | 07 | | |
| | 2. | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | | | |

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) **1430 DRAYTON STREET (QUICK STOP), NEWBERRY SC** ZIP CODE **29108** WEAPON TYPE

| | | | | | | | | | |
|---------------|--------------|----|------------|--------------|------------|------------|--------------|--------------|--------------|
| INCIDENT DATE | 24 HR. CLOCK | TO | DATE | 24 HR. CLOCK | DISP. DATE | DISP. TIME | TIME ARRIVED | DEPART. TIME | LOCATION NO. |
| 12/11/2012 | 1658 | | 12/11/2012 | 1715 | 12/11/2012 | 1658 | 1658 | 1715 | 4 |

| | | | | | | | | |
|--|-------------------------|--|------|-----|-----|-----|---------------|---------------|
| COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) | RELATIONSHIP TO SUBJECT | RESIDENT | RACE | SEX | AGE | ETH | DAYTIME PHONE | EVENING PHONE |
| LOYNES, MAJOR LESLIE | #1 ST #2 #3 | <input checked="" type="checkbox"/> SO | U | B | M | 00 | N | |

| | | | | |
|---------------|----------|-------|----------|--------------|
| 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 | AGE | ETH | DAYTIME PHONE | EVENING PHONE |
| SHEPCHICK, MICHAEL J | #1 #2 #3 | <input checked="" type="checkbox"/> SO | U | W | M | 46 | N (803) 321-0105H | |

| | | | | |
|--------|--------|------|------|---|
| 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 | SUSPECT | SUBJECT NAME (LAST, FIRST, MIDDLE) | RACE | SEX | AGE | ETH. | DATE OF BIRTH | HEIGHT | WEIGHT | HAIR | EYES |
| | <input checked="" type="checkbox"/> SUSPECT | RICHARDSON, ANTHONY DEROME | B | M | 39 | N | 07/24/1973 | 5-10 | 235 | BLK | BRO |

| | |
|--|---|
| WANTED | FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. |
| <input checked="" type="checkbox"/> WANTED | POSSIBLY AT 510 BOUNDARY ST |

| | | | | | |
|--|-------------|----------|-------|----------|--------------|
| ARREST | ADDRESS | CITY | STATE | ZIP CODE | LOCATION NO. |
| <input checked="" type="checkbox"/> ARREST | 914 GRAY ST | NEWBERRY | SC | 29108 | 99 |

| | | | | |
|--|---|---|----------------------|---------------------|
| JAIL | SUBJECT (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. | ARRESTED NEAR OFFENSE SCENE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | DATE/TIME OF OFFENSE | DATE/TIME OF ARREST |
| <input checked="" type="checkbox"/> JAIL | DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. TYPE: | TOTAL # ARRESTED 1 | 12/11/2012 1658 | 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.

DEFENDANT'S EXHIBIT
3-Richardson
3-2414 VH

| | | | | | | |
|--------------|--|---|--|--|---|-------------|
| PROPERTY | TYPE (GROUP) | JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY | | JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY | | TOTAL VALUE |
| | Burned Count/Forged Dist/Damaged Recovered Rebeld Stolen Unknown | | | | | |
| MINIST | SUBJECT IDENTIFIED | SUBJECT LOCATED | <input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED | <input checked="" type="checkbox"/> ARRESTED UNDER 18 | <input type="checkbox"/> EX-CLEAR UNDER 18 | |
| | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> UNFOUNDED | <input checked="" type="checkbox"/> ARRESTED 18 AND OVER | <input type="checkbox"/> EX-CLEAR 18 AND OVER | |
| MINIST | REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINED COOPERATION 5. <input type="checkbox"/> 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 | | |
| | | | | <input type="checkbox"/> YES <input type="checkbox"/> 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 Plaintiff,) Deposition
6 vs.) of
7 Jackie Swindler, Chief 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
22
23
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

INDEX

9

10 Stipulations: 3
Examination by Ms. Sandifer: 3

11

12

EXHIBITS

13 Defendant's Exhibit No. 1, 10/15/08 Incident Report. 7
14 Defendant's Exhibit No. 2, Trespass Notice. 8
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

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

2013-CP-36-00321

Anthony Derone Richardson

Summons and Complaint &

Plaintiff(s)

Appendix A, B, C

Vs.

Jackie Swindler,
Chief Of Police,
Newberry County Municipal Police

Defendant(s)

~~Anthony Derone Richardson~~

FILED
NEWBERRY COUNTY
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 crueller 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 Swindier
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,)
) Deposition
6 vs.)
) of
7 Jackie Swindler, Chief of)
8 Police, Newberry County) Anthony Richardson
9 Municipal Police,)
10 Defendant.)

9
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.

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16 Reported by
17 Vickie M. Hester
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APPEARANCES

For the Plaintiff: Plaintiff Appearing Pro Se

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

Also present: Delinda Turner

INDEX

| | |
|------------------------------|---|
| Stipulations: | 3 |
| Examination by Ms. Sandifer: | 3 |

EXHIBITS

| | |
|---|----|
| Defendant's Exhibit No. 1, 10/15/08 Incident Report. | 7 |
| Defendant's Exhibit No. 2, Trespass Notice. | 8 |
| Defendant's Exhibit No. 3, 12/11/12 Incident Report. | 11 |
| Defendant's Exhibit No. 4, Complaint. | 14 |
| Defendant's Exhibit No. 5, Letter from City of Newberry Regarding Delinquent Payment. | 23 |
| Defendant's Exhibit No. 6, Letter Regarding Jury Selection. | 23 |
| Defendant's Exhibit No. 7, Handwritten Statement. | 28 |
| Defendant's Exhibit No. 8, 6/24/13 Receipt for Payment of Fine. | 62 |
| Defendant's Exhibit No. 9, 5/8/13 Receipt for Payment of Fine. | 63 |

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

A large, stylized handwritten signature in black ink, appearing to read 'Copy'.

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

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APPEARANCES

For the Plaintiff: Plaintiff Appearing Pro Se

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

Also present: Delinda Turner

INDEX

Stipulations: 3

Examination by Ms. Sandifer: 3

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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

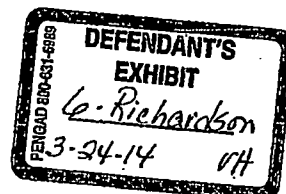
RE: Trespass after notice

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.....

STATE OF SOUTH CAROLINA

COUNTY OF Newberry

Anthony Penone Richardson
Plaintiff(s)

vs.

Jackie Swindler, Chief of Police
Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2013 -CP- 36 - 00321

(Please Print)
Submitted By: Anthony Richardson
Address: 914 GARY ST.
NB, S.C. 29108

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/Libel (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)
 - Transcript of Judgment (740)
 - Lis Pendens (750)
 - Transfer of Structured Settlement Payment Rights Application (760)
 - Confession of Judgment (770)
 - Petition for Workers Compensation Settlement Approval (780)
 - Other (799)

- Appeals
- Arbitration (900)
 - Magistrate-Civil (910)
 - Magistrate-Criminal (920)
 - Municipal (930)
 - Probate Court (940)
 - 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 Richardson

Date: 6-24-2013

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

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

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

2013-CP-36-00321

Anthony Derone Richardson

Summons and Complaint &

Plaintiff(s)

Appendix A, B, C

Vs.

Jackie Swindler,
Chief Of Police,
Newberry County Municipal Police

Defendant(s)

[Handwritten signature]

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 Anthony Richardson date 5-29-2013

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

INDEX: 2
P. 5: 3

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 Derone Richardson date 5-24-2013

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

~~INDEX~~ Index: 3
Pg - 3

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

RECEIVED

ANOTHONY D. RICHARDSON

STATE OF SOUTH CAROLINA JAN 06 2016

PLAINTIFF(S)

DEFENDANT(S)

SC Court of Appeals

| | |
|---------------------|--|
| Submitted by: COURT | Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> 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 13(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

FILED
NEWBERRY COUNTY
OCT 20 11 11 AM
CLERK OF COURT
S. BOWERS
TRIAL OR

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.

[Signature]
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

Ellenwood, 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 <input type="checkbox"/> YES <input type="checkbox"/> 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

[X] 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 of 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.

Handwritten signature of Carson M. Henderson

08/28/13
Date

CARSON M. HENDERSON
Print Name

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

15

1 Certificate of Reporter **SC Court of Appeals**

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

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

12 August 25, 2015

13

14

15

16

S/ Tara T. Scott

Circuit Court Reporter

~~JUDGES~~ Index: 3
Pg - 3

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: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> 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 38(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

FILED
NEWBERRY COUNTY
CLERK OF COURT
S. BOWERS
2013 OCT 20 AM 11:05

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.

[Signature]
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, 2014 and a copy mailed first class or placed in the appropriate attorney's box on this 20th day of Oct, 2014 to attorneys of record or to parties (when appearing pro se) as follows:

Carson M. Henderson

199-B Oak Lane

Blairwood, 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

Certificate of service3

~~Presiding Judge~~

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

Chrisdate *1-5-2016*

RECEIVED

FEB 26 2016

SC Court of Appeals

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Anthony D. Richardson
P.O. Box 221
NBY S.C. 29108




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