

**RECEIVED**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeal

MAR 08 2016

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

**SC Court of Appeals**

C/A:2014-002532

Anthony Derone Richardson, ..... Appellant,

v.

Jackie Swindler chief of Police

Newberry County Municipal Police, ..... Respondent.

RECORD ON APPEAL

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

*Anthony Derone Richardson* Date 2-27-16

Morrison Law Firm

David L. Morrison, Esquire

Kassi B. Sandifer, Esquire

Robert G. Cooper, Esquire

7453 Irmo, Drive Suite B

Columbia, SC, 29212

(803) 661-6285

Attorney for Respondent

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STATEMENT OF ISSUES ON APPEAL

1. IN THE CASE BROUGHT PURSUANT TO 42 U.S.C 1983 FOR ALLEGED CIVIL RIGHTS VIOLATIONS THE TRIAL COURT IMPROPERLY GRANTED THE RESPONDENT MOTION FOR SUMMARY PURSUANT TO HECK V. HUMPREY HOWEVER IS NOT GOVERN UNDER HECK BUT UNDER YOUNG V HARRIS u.s 37 (1971)
2. THE TRIAL COURT IMPROPERLY DISMISSED THE APPELLANT 1983 RATHER THAN GRANTING THE APPELLANT REQUEST THAT A STAY SHOULD BE GRANTED PENDING THE POST CONVICTION RELIEF PERTAINING TO THE SAME CASE.....
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STATEMENT OF CASE

The Appellant initiated this action pursuant to 42 U.S.C 1983 against Jackie Swindler, former Chief of police, alleging Chief Swindler did violate my constitution rights under fifth, sixth, and fourteenth amendment. The respondent timely answered. Sometimes shortly before or after the Appellant filed complaint in civil court, he also filed post-conviction relief arising out of the same case alleged procedural due processed violation and subsequent conviction, which is captioned Anthony Richardson v. State South Carolina, case number: 2013-cp-36-0236. On October 14,2014, an evidentiary hearing on the appellant petition for post-conviction relief was heard, during which time the honorable frank r. Addy error in granting judgement in favor of the state of South Carolina. (transcript of hearing, pp. 12-13) The respondent file a Motion for summary judgement on or about May 30, 2014. However, the Judge Addy granted the summary while the post-conviction and civil case was pending and the Judge Addy heard post-conviction relief and

the civil case which was running parallel. October 24, 2014 in which the respondent moved for summary judgement on additional ground that the appellant claim was barred by heck v. Humphrey 512 u.s. 477 (1994) however the Appellant claim is not governing under heck but under young v. Harris because the same case was running parallel. The respondent amended motion for summary judgement was heard on November 5, 2014. The trial court error issued a form 4 order the same day granting summary judgement to respondent ruling the Appellant claim was barred by heck v. Humphrey was and trial court error because the lower court criminal case pertaining to the same case pending during the ruling of Judge Addy. Trial court Judge erred in denying Appellant request to stay the case.

#### STATEMENT OF FACTS

On or about the Appellant October 15, 2008, the Appellant was involved in an incident that occurred at Quick stop located at 1430 Drayton street in Newberry, sc. (Deposition of Anthony Richardson (plaintiff Dep. Pp-7-8 however I did admit receiving the trespass notice. On page 8 I admit the owner had me under trespass notice, which the Appellant admittedly received. (Plaintiff Dep. P.9 see also trespassing notice.) On or about Feb. 2, 2013 the Appellant appeared before Judge Partridge and pled not guilty to offense of trespass after notice and request a jury trial. Plaintiff Dep 20-21,25) (plaintiff Dep. Pp. 21-33) see also city of Newberry incident report.) The Appellant received a letter to appear at the Public Safety Complex on February 20, 2013, at 2 p.m for jury selection. (Plaintiff dep. 23) see also letter dated February 7, 2013 from cella dodgen to Plaintiff) Plaintiff appeared at Public safety complex and chief swindler. Dep. Pp-35-36) Chief swindler conducted a bench trial in which the Appellant into entering a agreement. ( Dep. Pg.69) The Appellant did not pay the fine 250 dollar fine for trespass after notice offense because the respondent was not a Judge under the law and the illegally sent Appellant notice advising that his

(4)

payment was delinquent and that failure to make payment in ten days will result in a bench warrant against him. (notice of past due payment dated March 22, 2013) The appellant did pay the fine on time because a jury trial was request was in progress and was not waived. May 6, 2013 bench warrant had been issued against him. (Dep. Pg. 62) (Receipt number 48896) The Appellant subsequently brought claiming that his right to a jury trial was violated when he plead guilty before respondent rather than a judge of municipal court. The trial court err in claiming the case was govern under heck however the case was not govern under Heck but young v. Harris because the Post-conviction relief involve the same case was pending. ( see post-conviction relief

ARUMENT

IN THIS CASE BROUGHT PURSUANT TO 43 U.S.C 183 FOR ALLEGED CIVIL RIGHTS VIOLATION THE TRIAL COURT IMPROPERLIY GRANTED THE RESPONDENT MOTION FOR SUMMARY JUDGEMENT PURSUANT TO HECK V HUMPHREY 521 U.S

Appellant files his Complaint pursuant 42 U.S.C 183 alleging respondent did violate his constitution right to jury trial. The trial court improperly granted summary judgement because the post relief was still pending and the case should have stayed until the verdict of the Post-conviction relief. The trial court should dismiss this summary judgement because the case is governing under young v. Harris because the post-conviction relief was pending when the civil case and the post-conviction relief was running parallel with each other. A stay should have been granted. The appellant chose to rather appeal but file post-conviction is a constitution right that the appellant chose, however the post-conviction was still pending the outcome of a lower court decision in which Judge frank Addy heard both cases the civil and the post-conviction relief. ( see post-conviction relief)

2. THE TRIAL COURT IMPROPRLY DISMISSED THE APPELLANT 1833 RATHER THAN GRANTING THE APPELLANT REQUEST TO STAY CASE PENDING LOWER

## COURT DECISION

The appellant maintains that the trial court erred in denying my request to stay this matter pending the outcome of his post conviction relief pursuant to *Young v. Harris* 401 U.S. 37 (1971). A notice of intent was filed but the mail came late in the mail therefore I could not provide at the hearing but the post conviction relief was pending and the same judge heard the case. (see post conviction relief) Per was running parallel with the civil case at the time and *Young v. Harris* has a remedy to two cases running parallel, *Young* abstention suggests the case should be stayed pending the outcome of the post-conviction relief however the judge should have stayed the case or given the appellant time to produce the notice of appeal but rather he ruled and the outcome of the lower court was effected by the civil judge decision.

### 3. THE TRIAL COURT ERRED IN DISMISSING RATHER STAYING THE APPELLANT CASE THE ERROR WAS VIOLATION BECAUSE APPELLANT IS ENTITLED TO STAY AT HIS REQUEST

Under *Young v. Harris* the Appellant is entitled to a stay if two cases pending and are running parallel with each other that the abstention is to stay the case until the post-conviction relief could be argued in court, however the Judge erred even after my request the judge denied my stay.

## CONCLUSION

The trial court improperly granted summary judgement. The trial court improperly dismissed the appellant 1983 claim pursuant to *heck v. Humphrey*. Furthermore, trial court improperly dismissed the appellant claim rather than stay the case pending the outcome of Post-Conviction relief. The notice of intent was file and the case is governing under *young v. harris*. Appellant for these reason, the appellant request that the court dismiss grant of summary judgement from lower court and grant summary judgement in favor of Appellant.

Anthony Richardson

P.O. Box 221

Newberry, SC. 29108

*Anthony Richardson* date *2-27-16*

Morrison Law Firm

David L. Morrison, Esquire

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Attorney for Respondent

STATE OF SOUTH CAROLINA  
COUNTY OF NEWBERRY

EIGHTH JUDICIAL CIRCUIT  
IN THE COURT OF COMMON PLEAS

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

8 (A)

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
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(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 20<sup>th</sup>. 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<sup>©</sup> 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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## Certificate of Reporter

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

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

August 25, 2015

S/ Tara T. Scott

Circuit Court Reporter



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](mailto:Depos@southernreporting.net)

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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

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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

Anthony Richardson  
Richardson vs. Swindler, et al

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

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

15  
 16 Reported by  
 Vickie M. Hester  
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# **EXHIBIT #1**

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

*Case Number: 13-CP-36-00321*

AGENCY I.D.  
SC0360100

CITY OF NEWBERRY  
INCIDENT REPORT

CASE NUMBER		NCIC	
2,008-10167		ING.	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 AIN'T 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... AINT NOBODY ELSE AROUND THIS NEIGHBORHOOD WILL."

R/O CLEARED.

				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY	JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY		TOTAL VALUE
P R O P E R T Y	TYPE (GROUP)						
	Burned						
	Count/Forged						
	Dest./Damaged						
	Recovered						
	Seized						
A D M I N I S T	Unknown						
	SUBJECT IDENTIFIED	SUBJECT LOCATED	<input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> UNFOUNDED	<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	
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		10/15/2008	323	JASON KYLE STUHR		10/15/2008	314
				FOLLOW-UP INVESTIGATION OFFICER			
				<input type="checkbox"/> YES <input type="checkbox"/> NO			

AGENCY I.D.  
SC0360100

CITY OF NEWBERRY  
INCIDENT REPORT

CASE NUMBER

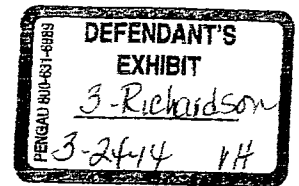
2,012-10708

INC. ENTD.  
X

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			
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	
12/11/2012	1658		12/11/2012	1715	DISP. DATE	DISP. TIME
					12/11/2012	1658
					TIME ARRIVED	DEPART. TIME
					1658	1715
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE
LOYNES, MAJOR LESLIE				#1 ST	<input checked="" type="checkbox"/> S	O
				#2	U	B
				#3	M	00
					AGE	ETH
					00	N
ADDRESS				CITY	STATE	ZIP CODE
1607 NANCE ST				NEWBERRY	SC	29108
VICTIM'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE
SHEFCHICK, MICHAEL J				#1	<input checked="" type="checkbox"/> J	O
				#2	U	W
				#3	M	46
					AGE	ETH
					46	N
HEIGHT				WEIGHT	HAIR	EYES
6-1				201	BLK	BRO
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
ADDRESS				CITY	STATE	ZIP CODE
380 WYSES FERRY RD				PROSPERITY	SC	29127
LOCATION NO.				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						
J - This Jurisdiction 8 - State O - Out of State U - Unknown						
<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						
SUBJECT NAME (LAST, FIRST, MIDDLE)						
RICHARDSON, ANTHONY DEROME						
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
POSSIBLY AT 540 BOUNDARY ST						
ADDRESS						
914 GRAY ST						
CITY						
NEWBERRY						
STATE						
SC						
ZIP CODE						
29108						
LOCATION NO.						
99						
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						
12/11/2012 1658						
DATE/TIME OF ARREST						
12/11/2012 1702						
TOTAL # ARRESTED						
1						
DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK TYPE:						

Offenses:  
TRESPASS OF REAL PROPERTY

WHILE ON PATROL ON DRAYTON STREET AND THE CORNER OF CROSSON STREET I NOTICED AN INDIVIDUAL FAMILIAR TO ME BY THE NAME (ANTHONY DERONE RICHARDSON) STANDING IN THE PARKING AREA IN FRONT OF THE QUICK STOP CONVENIENCE STORE. I ALSO KNOWN MR RICHARDSON TO HAVE AN ACTIVE TRESPASS NOTICE AT THAT LOCATION. I HAD POLICE OFFICIALS VERIFY THE NOTICE ON MR RICHARDSON (STATUS ACTIVE). I THEN APPROACHED MR RICHARDSON AND INFORMED HIM HE WAS UNDER ARREST FOR TRESPASS. MR RICHARDSON WAS HANDCUFFED DOUBLE LOCKED. THE SEARCHED INCIDENT TO ARREST (NO CONTRABAND FOUND). I THEN TRANSPORTED MR RICHARDSON TO THE N.C.D.C WHERE HE ISSUED A CITATION.



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

# EXHIBIT #2

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

*Case Number: 13-CP-36-00321*

Case # 2008-10167

## TRESPASSING NOTICE

TO: Anthony Richardson  
ADDRESS: 521 Brantley st  
Newberry SC 29105  
FROM: 1430 Drayton 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 Drayton  
(Quick Stop), in the City of Newberry.

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

M. M. G. Smith

Sworn to and subscribed before more  
this 15<sup>th</sup> day of October, 2008.

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

SERVED BY: R. W. Hawker  
DATE SERVED: 10-15-08

# **EXHIBIT #3**

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

*Case Number: 13-CP-36-00321*

AGENCY I.D.  
SC0360100

CITY OF NEWBERRY  
SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER  
**2008-10167**

NCIC  
INQ. ENTD.

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

PAGE 1

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

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	10/15/2008	323	JASON KYLE STUHR		10/15/2008	314
			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*

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

2013-CP-36-00321

Anthony Derone Richardson

Summons and Complaint &

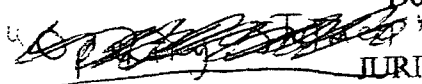
Plaintiff(s)

Appendix A, B, C

Vs.

Jackie Swindler,  
Chief Of Police,  
Newberry County Municipal Police

Defendant(s)



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 <sup>JURY</sup> IT please the COURT, and you. Ladies and Gentlemen of the

#### 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 5-24-2013

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 Derone Richardson* date 5-29-2013

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*

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



TO: ANTHONY DEROME RICHARDSON  
914 GRAY ST  
NEWBERRY SC 29108

DATE: 03/22/2013

SUBJECT: PAST DUE PAYMENT

WARRANT/TICKET NO.: 11842GF

AMOUNT DUE: 250.00

OFFENSE: TRESPASS AFTER NOTICE

YOUR PAYMENT TO THE COURT IS NOW DELINQUENT.

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

PAYMENT MUST BE MADE IN FULL TO AVOID YOUR ARREST.

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

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

SINCERELY,

# **EXHIBIT #6**

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

*Case Number: 13-CP-36-00321*

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

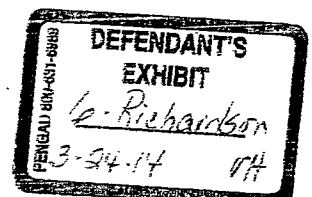
RE: Trespass after notice

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



# EXHIBIT #27

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

*Case Number: 13-CP-36-00321*

of Land Study  
and you is pay  
#250 - I will pay  
by March 15, 2013

Josh R. Smith

111

PERGAD 800-851-4888  
DEFENDANT'S  
EXHIBIT  
T. Richardson  
3244 VH

# EXHIBIT #4

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

*Case Number: 13-CP-36-00321*

CITY OF NEWBERRY  
1507 NANCE STREET  
NEWBERRY SC 29108

Date Paid: 05/06/2013

Receipt Number: 48896

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	11342GF	02/20/2013

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

Received By: MARZ

Date: 05/06/2013

Balance at Time of Receipt: 0.00

# EXHIBIT #5 7

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

*Case Number: 13-CP-36-00321*

CITY OF NEWBERRY  
1507 NANCE STREET  
NEWBERRY SC 29108

Date Paid: 05/06/2013

Receipt Number: 48896

Paid By: ANTHONY DEROME RICHARDSON

Paid With: Cash  M.O.  Check  Other  Credit Card   
Card # / Description:

Visa  American Express  
 MasterCard  Discover

Total Amount Applied: 250.00

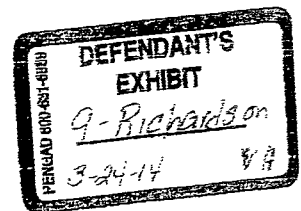
Applied To	Number	Trial Date
T Traffic Ticket	118420F	02/20/2013

Traffic Code: NT Statute: 00-10-0000 11-16  
TRESPASS AFTER NOTICE

Received By: MARY

Date: 05/06/2013

Balance at Time of Receipt: 0.00



~~7/13/13~~ 3

# EXHIBIT # ~~1~~ 8

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

*Case Number: 13-CP-36-00321*

EXHIBITS 8

Spencer Smith  
and  
Miss M. C. Smith  
by Mrs. M. C. Smith

11

Paul Fisher

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

**CITY OF NEWBERRY**  
1507 NANCE STREET  
NEWBERRY, SC 29108

**DISPOSITION SHEET**

---

Date Printed: 02/20/2013

Case #: 2012-10708

Case Type: Traffic Ticket 11842GF

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

Index: 1

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)

FILED  
NEWBERRY COUNTY  
JUN 24 PM 12:29  
JACKIE SWINDLER  
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.

#### 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 prevented Anthony Richardson from 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 Detone 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. 1, 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

AGENCY I.D.  
SC0360100

CITY OF NEWBERRY  
INCIDENT REPORT

CASE NUMBER  
**2012-10708**

INC. ENT. **X**

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			
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	
12/11/2012	1656		12/11/2012	1715	DISP. DATE	DISP. TIME
					12/11/2012	1656
					1656	1715
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE
LOYNES, MAJOR LESLIE				ST	<input checked="" type="checkbox"/> YES	O S O U
ADDRESS				CITY	STATE	ZIP CODE
1607 NANCE ST				NEWBERRY	SC	29108
VICTIM'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE
SHEFCHICK, MICHAEL J					<input checked="" type="checkbox"/> YES	O S O U
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		
5-1	201	BLK	BRO			
ADDRESS				CITY	STATE	ZIP CODE
380 WYSES FERRY RD				PROSPERITY	SC	29127
VISIBLE INJURY (VICT. I) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO EXPLAIN -				DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK.		
VICTIM (NO. I) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK.				OTHER: <input type="checkbox"/> ALONE <input type="checkbox"/> ASSISTED		
TWO-MAN VEH. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> DETECTIVE/SPL/SMT. <input type="checkbox"/>				J - This Jurisdiction S - State O - Out of State U - Unknown		
SUBJECT NAME (LAST, FIRST, MIDDLE)				PAGE	SEX	AGE
RICHARDSON, ANTHONY DEROME				E	M	39
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				ETH.	DATE OF BIRTH	HEIGHT
				N	07/24/1973	5-10
ADDRESS				WEIGHT	HAIR	EYES
914 GRAY ST				235	BLK	BRO
SUBJECT (NO. I) 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		
DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK TYPE:				TOTAL # ARRESTED		
				1		
DATE/TIME OF OFFENSE				DATE/TIME OF ARREST		
12/11/2012 1656				12/11/2012 1702		

Offenses:  
TRESPASS OF REAL PROPERTY

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

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  
3-24-14 14

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
TOTAL VALUE			
TYPE (GROUP)			
Burned			
Count/Forged			
Dist/Damaged			
Recovered			
Seized			
Stolen			
Unknown			
SUBJECT IDENTIFIED		SUBJECT LOCATED	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED	
		<input type="checkbox"/> UNFOUNDED	
REASON FOR EXCEPTIONAL CLEARANCE:		ARRESTED UNDER 18	
1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION		<input checked="" type="checkbox"/> ARRESTED 18 AND OVER	
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
MAJOR LOYNES	12/11/2012	332	MIKE WOOD
FOLLOW-UP INVESTIGATION OFFICER		DATE	UNIT NUMBER
TYES <input type="checkbox"/> NO			12/11/2012 330

Case # 2008-10167

# TRESPASSING NOTICE

TO: Anthony Richardson  
 ADDRESS: 571 Brantley St  
Newberry SC 29055  
 FROM: 1430 Drayton 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 Drayton  
(Quick Stop) in the City of Newberry.

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

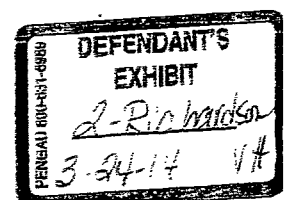
[Signature]

Sworn to and subscribed before me  
 this 15<sup>th</sup> day of October, 2008

[Signature]  
 Notary Public for South Carolina  
 My Commission Expires: 5-23-2018

SERVED BY: RM Harder

DATE SERVED: 10-15-08



Handwritten notes, possibly a list or set of instructions, including phrases like "1. ...", "2. ...", and "3. ...".

Handwritten number "118" in the top right corner.

Handwritten signature or name, possibly "David ...".

THE STATE OF SOUTH CAROLINA  
NEWBERRY MUNICIPAL COURT  
BENCH WARRANT

T 11842GF

2012-10708

2013031520200044

To any Lawful Constable or Officers:

on the 20 day of February, 2013

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

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 5 day of May, 2013

WITHDRAWN

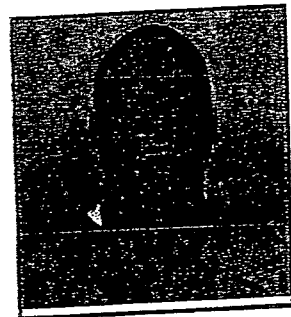
OFFICER'S NAME

Address: 414 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

ESN: 281-47-4758  
St. Lic: SC  
Dr. Lic: 004048122  
Phone: 321-9250



*Withdrawn 5/6/13*

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

State Of South Carolin

Anthony Derone  
Richardson

PLAINTIFF(S)

DEFENDANT(S)

Attorney for:  Plaintiff  Defendant  
 Self-Represented Litigant

Submitted by:

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.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):  Rule 12(b), SCRCP;  Rule 41(a), SCRCP (Vol. Nonsuit);  
 Rule 43(k), SCRCP (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):  Rule 40(j) SCRCP;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
 Affirmed;  Reversed;  Remanded;  Other: \_\_\_\_\_

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

IT IS ORDERED AND ADJUDGED:  See attached order; (formal order to follow)  Statement of Judgment by the Court;  
Order of Dismissal

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 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 judgment may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

S/ Frank R. Addy, Jr.  
Circuit Court Judge

2159  
Judge Code

11/07/2014  
Date

STATE OF SOUTH CAROLINA )  
COUNTY OF NEWBERRY )

IN THE COURT OF COMMON PLEAS )  
EIGHTH JUDICIAL CIRCUIT )

Anthony Derone Richardson, )  
Applicant, )

2013-CP-36-0352

v. )

State of South Carolina, )  
Respondent. )

ORDER OF DISMISSAL

JACKIE S. BOWERS  
CLERK OF COURT

2014 NOV 17 AM 11 07

FILED  
NEWBERRY COUNTY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed July 18, 2013. The Respondent made its Return on September 4, 2014. An evidentiary hearing into the matter was convened on October 14, 2014, at the Greenwood County Courthouse. Carson Henderson, Esquire, represented the Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. John Livingston and Travis Freeman also testified. This Court also had before it a copy of the records of the Newberry County Clerk of Court, records from the South Carolina Department of Corrections, and a recording of the guilty plea proceeding in Magistrate's Court.

#### PROCEDURAL HISTORY

The Applicant is not presently confined. The Applicant was charged with Petit Larceny and Trespassing. The Applicant was represented by Charles Verner, Esquire. On October 25, 2012, the Applicant pled guilty to trespassing in Newberry County Magistrate's Court. The Honorable Gordon Johnson sentenced the Applicant to credit for 1 day served in jail and dismissed the petit larceny

2M

charge. A Notice of Appeal was filed on Applicant's behalf and an appeal perfected in the Court of Common Pleas of Newberry County. This appeal was dismissed on May 30, 2013 for non-service.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
2. "Judge failure to swear under oath prior to sentencing defendant"

### SUMMARY OF TESTIMONY

John Livingston testified that he called law enforcement on May 27, 2012 because he had not seen Applicant's car in the area before. He testified he did not see Applicant driving erratically or see Applicant commit any crimes. Livingston also stated he saw Applicant on another's driveway. On cross-examination, Livingston testified he saw Applicant on Mr. Wessinger's property.

Travis Freeman testified he is employed with the Greenwood County Sheriff's Office but was employed with the Newberry County Sheriff's Office at the time of the incident. He stated he received a call and responded to the scene. This call, from Livingston, informed Freeman that there was a suspicious vehicle that was trespassing on a neighbor's property. Freeman testified he stopped the vehicle that Applicant was driving and that there was a female passenger. He also stated he did not see Applicant commit a crime and did not arrest Applicant. Freeman testified he asked to look in Applicant's trunk and Applicant obliged. In the trunk, Freeman found a tire, a "For Sale" sign and wire. Freeman further stated he found no physical signs of trespassing. On cross-examination, Freeman stated Livingston told Freeman that he saw Applicant driving on Wessinger's property. Freeman lastly testified that he saw a "No Trespassing" sign on Wessinger's property.

Applicant testified he was issued a Petit Larceny ticket in Newberry County which was

expunged. He also stated he was never given a trespassing ticket. Charles Verner, Esquire represented him in this case. Applicant testified he was found with junk in his trunk but convicted of trespassing. Applicant stated Counsel represented him well in this case and had no complaints about Counsel.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard a recording of the proceeding before the magistrate judge and the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

#### Ineffective Assistance of Counsel

This Court finds Applicant failed to allege any deficiencies on Counsel's part. Applicant stated he was satisfied with Counsel's assistance in this case. This Court finds under Rule 41 b, SCRPC, Applicant failed to prosecute his case and has not shown any right to relief.

Additionally, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these

allegations are denied.

### CONCLUSION

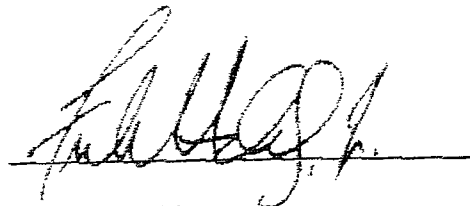
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal

### IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. ~~The Applicant must be remanded to the custody of the Respondent.~~ *AM*

### AND IT IS SO ORDERED!



Frank R. Addy, Jr.  
Presiding Circuit Court Judge  
Eighth Judicial Circuit

Nov. 7, 2014

Greenville, South Carolina



ALAN WILSON  
ATTORNEY GENERAL

November 13, 2014

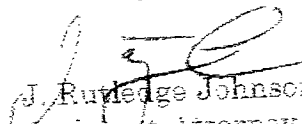
The Honorable Jackie S. Bowers  
Clerk of Court, Newberry County  
Post Office Drawer 10  
Newberry SC 29108

Re: Anthony Richardson v. State of South Carolina  
2013-CP-36-0352

Dear Ms. Bowers:

Enclosed please find an original and a copy of an Order of Dismissal in connection with the above referenced case. Please file the original and return a certified copy to me in the self-addressed envelope provided for your convenience.

Sincerely,

  
J. Rutledge Johnson  
Assistant Attorney General

JRJ:cey  
Enclosures

cc: Carson M. Henderson, Esquire

FILED  
NEWBERRY COUNTY  
2014 NOV 17 AM 11 07  
JACKIE S. BOWERS  
CLERK OF COURT

11-13-14 copies mailed MMH

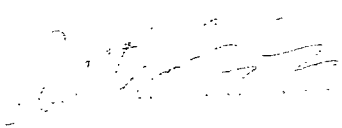
The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Anthony Derone Richardson

P.O. Box 221

Newberry, SC 29108

Pro. Se for Appellant

 Date 2.27.2016

Morrison Law Firm

David L. Morrison, Esquire

Kassi B. Sandifer, Esquire

Robert G. Cooper, Esquire

7453 Irmo, Drive Suite B

Columbia, SC. 29212

(803) 661-6285

Attorney for Respondent

**RECEIVED**

MAR 08 2016

Certificate of Counsel

**SC Court of Appeals**

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

*Anthony Derone Richardson*  
date 2/27/16

Morrison Law Firm

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Kassi B. Sandifer, Esquire

Robert G. Cooper, Esquire

7459 Irmao. Drive Suite B

Columbia, SC, 29212

(803) 661-6235

Attorney for Respondent

THE STATE OF SOUTH CAROLINA IN THE COURT OF APPEAL